

Stricken language would be deleted from and underlined language would be added to present law.  
Act 687 of the Regular Session

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H3/2/21 H3/16/21

# A Bill

HOUSE BILL 1274

By: Representative S. Smith

## For An Act To Be Entitled

*AN ACT CONCERNING THE MEMBERSHIP OF VOLUNTEER  
FIREFIGHTERS AND VOLUNTEER POLICE OFFICERS IN THE  
ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND FOR  
OTHER PURPOSES.*

### Subtitle

*CONCERNING THE MEMBERSHIP OF VOLUNTEER  
FIREFIGHTERS AND VOLUNTEER POLICE  
OFFICERS IN THE ARKANSAS PUBLIC  
EMPLOYEES' RETIREMENT SYSTEM.*

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

SECTION 1. Arkansas Code § 24-4-101(17)(B), concerning the definition of "employees" as applicable to the Arkansas Public Employees' Retirement System, is amended to read as follows:

(B) Excepting members of the General Assembly and those persons participating in a local firemen's relief and pension fund because of their status as volunteer firefighters, those persons who otherwise meet the definition of employees in positions covered by the Arkansas Public Employees' Retirement System while also serving as volunteer firefighters or volunteer police officers in a separate position covered by the Arkansas Local Police and Fire Retirement System, and those persons who have dual full-time employment in separate positions covered by the Arkansas Public Employees' Retirement System and the Arkansas Local Police and Fire Retirement System respectively, the term "employees" shall not include persons who are members of any other retirement system, excepting Social



Security, which retirement system is supported by state funds or is authorized by the laws of the state. In addition, the term "employees" specifically shall not include the following:

(i) Persons in the employ of the Division of Arkansas State Police who are members of the State Police Retirement System;

(ii) Persons in the employ of the Department of Education or the Arkansas Teacher Retirement System, except as otherwise provided by law;

(iii) Persons in the employ of the University of Arkansas or any other state-supported institution of higher learning, except as otherwise provided by law;

(iv) Justices of the Supreme Court, judges of circuit courts, or judges of chancery courts;

(v) Persons in the employ of the General Assembly who are employed on a less than full-time regular annual salary basis, except that any person who has served or who shall serve during at least six (6) legislative sessions as Chief Clerk of the House of Representatives and who has served in the employ of the General Assembly during at least twelve (12) previous legislative sessions shall be eligible to receive credited service in the Arkansas Public Employees' Retirement System for any period of employment with the General Assembly since July 1, 1957, but only if the employee is, or was, an active member of the system with at least ten (10) years of credited service and only if the employee pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member of the system during those periods of time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during those periods of time, and regular interest on the employee and employer contributions computed from the date of service to the date the payment is received by the system;

(vi) Persons who are in the employ of the Arkansas Department of Transportation;

(vii) Persons employed with the intent of working less than ninety (90) calendar days;

(viii) Persons who are employed for a period of more

than ninety (90) consecutive calendar days but who do not qualify as full-time employees shall be excluded from membership. A person shall be considered a full-time employee if that person works at least eighty (80) hours per month during a period of ninety (90) consecutive calendar days;

(ix)(a)(1) Persons whose rate of pay does not constitute employment that is substantially gainful shall be excluded from membership.

(2) A rate of pay less than the federal minimum wage for the year shall not be considered employment that is substantially gainful.

(b) A tipped food service employee of the Department of Parks, Heritage, and Tourism who is guaranteed the prevailing minimum wage by the Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., as it existed on January 1, 2009, is in employment that is substantially gainful.

(c) The employee and employer contributions for a tipped food service employee of the Department of Parks, Heritage, and Tourism is computed based on the tipped food service employee's hourly rate of pay;

(x) Persons who are first employed or those who are reemployed as participants on or after July 1, 1979, under the Comprehensive Employment and Training Act [repealed]. However, those persons participating in the program prior to July 1, 1979, shall continue to be members of the Arkansas Public Employees' Retirement System while employed by a participating public employer;

(xi) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for membership in but did not participate in another retirement system that is supported by state funds or that is authorized by the laws of the state, shall become a member of the Arkansas Public Employees' Retirement System from the date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer. Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was eligible for or receiving benefits from another retirement system supported by state funds or that is authorized by the laws of the state shall become a member of the Arkansas Public Employees' Retirement System from the

date of July 1, 1999, if in an otherwise eligible position due to employment with a participating employer. That person may receive, at the employee's option, credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had he or she been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had he or she been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum;

(xii) The surviving spouse of any person deemed erroneously enrolled due to receipt of a benefit from another retirement system supported by state funds or that is authorized by the laws of the state but whose service had not been refunded at or before the date of death shall be eligible to receive a benefit under the provisions of § 24-4-608, provided that the person was an employee of the participating employer on the date of death. The monthly annuity shall be payable on the first day of the month following the month of application and shall be retroactive to the date the benefit would have been otherwise payable as provided for in § 24-4-608; and

(xiii) Any person previously denied coverage by the Arkansas Public Employees' Retirement System because that person was employed in dual full-time positions covered by the Arkansas Public Employees'

Retirement System and the Arkansas Local Police and Fire Retirement System, respectively, shall become a member of both systems from and after the date of July 1, 2001, if in otherwise eligible positions with participating employers. The person may receive at the employee's option credit for service rendered to a participating public employer before that date, subject to the following conditions:

(a) The member is a participating employee covered under the Arkansas Public Employees' Retirement System at the time of the purchase;

(b) The member furnishes proof in a form required by the Arkansas Public Employees' Retirement System of the service and compensation received;

(c) The member pays or causes to be paid all employee contributions at the rate and on the compensation that would have been paid had the person been a member during that time, all employer contributions based on the employer normal cost from the most recently completed regular annual actuarial valuation and the compensation that would have been paid had the person been a member during that time, and regular interest on the employee and employer contributions. The interest shall be computed from the date the service was rendered to the date the payment is received by the Arkansas Public Employees' Retirement System. The member may purchase all of the service or any portion thereof in multiples of one (1) year; and

(d) The payment of funds shall be made in one (1) lump sum.

*/s/S. Smith*

**APPROVED: 4/13/21**