

Stricken language would be deleted from and underlined language would be added to present law.
Act 107 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: H2/7/23
A Bill

HOUSE BILL 1201

By: Representative Warren

By: Senator K. Hammer

For An Act To Be Entitled

AN ACT TO ENACT THE ARKANSAS TEACHER RETIREMENT SYSTEM'S GENERAL OMNIBUS ACT; TO CORRECT CERTAIN REFERENCES TO "ALTERNATE RETIREMENT PLAN", "COVERED EMPLOYER", "CREDITED SERVICE", "RETIRANT", "SERVICE CREDIT", AND "THE SYSTEM"; TO AMEND AND ADD CERTAIN DEFINITIONS APPLICABLE TO THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO CLARIFY THE LAW CONCERNING BENEFIT INCREASES AND COMPUTATION, DEADLINES, SYSTEM ASSETS, TERMINATION SEPARATION PERIOD, SERVICE CREDIT, SECOND REVIEWS OF DISABILITY RETIREMENT APPLICATIONS, A MEMBER'S RESIDUE, CONTRACT BUYOUT SETTLEMENT AGREEMENTS, THE DE MINIMIS AMOUNT, AND OTHER VARIOUS PROVISIONS APPLICABLE TO THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ENACT THE ARKANSAS TEACHER RETIREMENT SYSTEM'S GENERAL OMNIBUS ACT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 21-5-411(a)(1)(A)(v), concerning the eligibility of certain retired employees to participate in the State and Public School Life and Health Insurance Program, is amended to read as



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follows:

(v) An alternate retirement plan ~~of a qualifying institution under~~ as defined in § 24-7-202; and

SECTION 2. Arkansas Code § 24-2-302(3)(D), concerning the classification under the Arkansas Teacher Retirement System of a person employed in a position requiring professional training or certification with an area vocational-technical school or employed by the Arkansas Educational Television Commission, is amended to read as follows:

(D) Any person employed in a position requiring professional training or certification with an area vocational-technical school or employed by the Arkansas Educational Television Commission, except that employees of area vocational-technical schools and the Division of Career and Technical Education, the Adult Education Section, and the Office of Skills Development, who have elected to participate in an alternate retirement plan established by ~~§§ 24-7-901 and 24-7-903—24-7-908~~ § 24-7-901 et seq. shall be active members of the alternate retirement plan; and

SECTION 3. Arkansas Code § 24-2-401(3)(F), concerning the definition of "reciprocal system" that is applicable to public employee retirement plans, is amended to read as follows:

(F) An alternate retirement plan ~~for:~~

- ~~(i) A college, university, or the Division of Higher Education provided for under § 24-7-801 et seq.; or~~
- ~~(ii) A vocational-technical school or the Division of Career and Technical Education, the Adult Education Section of the Division of Workforce Services, the Division of Higher Education, and the Office of Skills Development, with respect to plans provided for under § 24-7-901 et seq. as defined in § 24-7-202; or~~

SECTION 4. Arkansas Code § 24-2-401(4)(D), concerning the definition of "state employer" that is applicable to public employee retirement plans, is amended to read as follows:

(D) A public employer ~~who is:~~

- ~~(i) A college, university, or the Division of Higher Education whose employees are covered by an alternate retirement plan~~

~~provided for under § 24-7-801 et seq., or~~

~~(ii) A vocational technical school or the Division of Career and Technical Education, the Adult Education Section, and the Office of Skills Development, whose employees are covered by an alternate retirement plan provided for under § 24-7-901 et seq., that has an alternate retirement plan as defined in § 24-7-202;~~

SECTION 5. Arkansas Code § 24-2-402(g)(6), concerning death-in-service benefits as to an alternate retirement plan, is amended to read as follows:

(6) If the reciprocal system is an alternate retirement plan ~~under § 24-7-801 et seq. or § 24-7-901 et seq.~~ as defined in § 24-7-202, death-in-service benefits shall be contingent on death-in-service benefits having been provided by the alternate retirement plan and having been selected by the member as a benefit.

SECTION 6. Arkansas Code § 24-2-402(k), concerning the payment of payable benefits in accordance with terms specified in a written alternate retirement plan document, is amended to read as follows:

(k) If the reciprocal system is an alternate retirement plan ~~for a college, a university, or the Division of Higher Education provided for under § 24-7-801 et seq., or for a vocational technical school or the Department of Career Education provided for under § 24-7-901 et seq.~~ as defined in § 24-7-202, the benefits payable shall be in accordance with terms specified in the written alternate retirement plan document for purchasing the insurance policies or annuity contracts, both fixed and variable in nature, for the participants.

SECTION 7. Arkansas Code § 24-4-901(a)(1)(F), concerning credited service and reciprocity under the Arkansas Public Employees' Retirement System and the amount of annuity awarded to a member employed by an alternate retirement plan, is amended to read as follows:

(F) An alternate retirement plan ~~under § 24-8-101 et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202; or

SECTION 8. Arkansas Code § 24-4-901(a)(3)(B), concerning credited service and reciprocity under the Arkansas Public Employees' Retirement

System and the computation of final average compensation for credited service in the Arkansas Judicial Retirement System or an alternate retirement plan, is amended to read as follows:

(B) Compensation for credited service in the Arkansas Judicial Retirement System or an alternate retirement plan ~~under § 24-8-101 et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202 shall not be used to determine final average compensation.

SECTION 9. Arkansas Code § 24-4-901(b)(1)(F), concerning credited service and reciprocity under the Arkansas Public Employees' Retirement System and what criteria an annuity is determined from when a member of an alternate retirement plan retires due to disability or dies in service, is amended to read as follows:

(F) An alternate retirement plan ~~under § 24-8-101 et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202; or

SECTION 10. Arkansas Code § 24-4-901(b)(4), concerning credited service and reciprocity under the Arkansas Public Employees' Retirement System and the contingency of disability and death-in-service benefits being awarded if provision of the benefits were provided to the alternate retirement plan and were selected by the member as a benefit, is amended to read as follows:

(4) If a member has service credit in an alternate retirement plan ~~under § 24-8-101 et seq. or § 24-9-201 et seq.~~ as defined in § 24-7-202, disability and death-in-service benefits shall be contingent on provision of those benefits having been provided by the alternate retirement plan and having been selected by the member as a benefit.

SECTION 11. Arkansas Code § 24-4-901(d)(6), concerning credited service and reciprocity under the Arkansas Public Employees' Retirement System and the provision of reciprocal service credits between contributory and noncontributory members of an alternate retirement plan, is amended to read as follows:

(6) An alternate retirement plan ~~for a college, university, or the Division of Higher Education provided for under § 24-8-101 et seq. or for a vocational technical school or the Division of Career and Technical~~

~~Education, the Adult Education Section, and the Office of Skills Development, provided for under § 24-9-201 et seq., as defined in § 24-7-202; and~~

SECTION 12. Arkansas Code § 24-7-202(6), concerning the definition of "alternate retirement plan" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(6) "Alternate retirement plan" means a retirement plan based on the purchase of contracts providing retirement and death benefits for employees under ~~§ 24-7-801 et seq. or § 24-7-901 et seq.~~ § 24-7-801 et seq., § 24-7-901 et seq., or § 24-7-1001 et seq.;

SECTION 13. Arkansas Code § 24-7-202(7), concerning the definition of "annuity" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(7) "Annuity" means an amount payable to a ~~retirant~~ retiree each fiscal year by the Arkansas Teacher Retirement System in equal monthly installments;

SECTION 14. Arkansas Code § 24-7-202(14), concerning the definition of "credited service" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(14) "Credited service" means service which is ~~creditable~~ credited as service by the Arkansas Teacher Retirement System;

SECTION 15. Arkansas Code § 24-7-202(19)(D)(iii), concerning the definition of "employment with a school" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(iii) Each education-related agency or organization shall ~~be~~:

(a) ~~Approved~~ Be approved according to rules established by the ~~board~~ Board of Trustees of the Arkansas Teacher Retirement System;

(b) ~~Considered an employer under subdivision (18) of this section~~ Become a covered employer at the time that an employee elects to become or remain a member of the Arkansas Teacher Retirement System; and

(c) Be considered a covered employer only for

each employee who elects to become or remain a member of the Arkansas Teacher Retirement System; and

(d) ~~Responsible~~ Be responsible for all required employer contributions;

SECTION 16. Arkansas Code § 24-7-202(21)(B), concerning the definition of "inactive member" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(B) Not a ~~retirant~~ retiree;

SECTION 17. Arkansas Code § 24-7-202(28), concerning the definition of "normal retirement age" applicable to the Arkansas Teacher Retirement System, is amended to read as follows:

(28) "Normal retirement age" means:

(A) Sixty-five (65) years of age if the member has at least five (5) years of actual service or reciprocal service; or

(B) ~~At least sixty (60) years of age if the member has a combined total of thirty-eight (38) years or more of credited service in the Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan, or reciprocal service in another eligible state retirement system~~ Sixty (60) years of age or older if the member's age and the member's combined years of credited service in the Arkansas Teacher Retirement System, Teacher Deferred Retirement Option Plan, or reciprocal service in another eligible state retirement system total ninety-eight (98);

SECTION 18. Arkansas Code § 24-7-202(32), concerning the definition of "retiree" or "retirant" under the Arkansas Teacher Retirement System, is amended to read as follows:

(32) "Retiree" ~~or "retirant"~~ means a member receiving an Arkansas Teacher Retirement System annuity;

SECTION 19. Arkansas Code § 24-7-202, concerning definitions applicable to the Arkansas Teacher Retirement System, is amended to add additional subdivisions to read as follows:

(45)(A) "Benefit enhancement" means any change to the current benefit policy for a retired, active, or inactive member of the Arkansas

Teacher Retirement System or T-DROP participant that increases the amortization period by one (1) year or more.

(B) Benefit enhancement does not include any change that is required to comply with federal law, prevent a manifest injustice, correct an error, avoid an unintended consequence of an existing statutory provision, or prevent undue hardship on any benefit participant or class of benefit participants.

(46) "Employment with a covered employer" means the employment of an employee that would require a covered employer to pay employer contributions to the system; and

(47) "Residue" for the purposes of § 24-7-701 et seq. means the difference between the accumulated contributions and regular interest credited to the retirement reserve account as of the member's effective date of retirement and the total amount of retirement annuities paid.

SECTION 20. Arkansas Code § 24-7-207 is amended to read as follows:
24-7-207. Increase in benefit amount.

(a)(1) ~~The Board of Trustees of the Arkansas Teacher Retirement System is authorized by this act to raise the level of benefits provided to the current ~~retirants~~ retirees and other beneficiaries of the Arkansas Teacher Retirement System to a comparable level increase to match the increase in benefits that would accrue to active members as a result of any reduction of the calculation of "final average salary" to not less than a three year period nor more than the five year period in accordance with any rules the board might promulgate.~~

(2) The board may raise the level of benefits to a comparable level increase that matches the increase in benefits that would accrue to active members as a result of any reduction caused by setting the applicable number of years used in computing final average salary for retirement benefits at not less than three (3) years and not more than five (5) years in accordance with any rules that the board may promulgate.

(b) The amount of any increase for ~~retirants~~ retirees and other beneficiaries shall also be determined in accordance with the rules of the board as is actuarially appropriate for the system.

SECTION 21. Arkansas Code § 24-7-301(4) and (5), concerning the

membership of the Board of Trustees of the Arkansas Teacher Retirement System and the election thereof, are amended to read as follows:

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

(B) Each ~~retirant~~ retiree trustee shall be a ~~retirant~~ retiree with an annuity being paid by the system at the beginning of his or her term of office;

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

SECTION 22. Arkansas Code § 24-7-302(a)(2)(B), concerning the ineligibility of a retirant trustee to serve on the Board of Trustees of the Arkansas Teacher Retirement System after becoming active, is amended to read as follows:

(B) A ~~retirant~~ retiree trustee is ineligible to serve after becoming active.

SECTION 23. Arkansas Code § 24-7-305(b)(5), concerning the ability of the Board of Trustees of the Arkansas Teacher Retirement System to set a de minimis amount to charge for distributing or collecting various moneys, is amended to read as follows:

(5) 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.

SECTION 24. Arkansas Code § 24-7-403(b), concerning the restriction of trustees, officers, and employees of the Board of Trustees of the Arkansas Teacher Retirement System from holding an interest in the gains or profits of any of the board's investments, is amended to read as follows:

(b)(1) Except as to the rights of a member, ~~retirant~~ retiree, or beneficiary, ~~no trustee and no officer or employee~~ a trustee, officer, or employee of the board shall not have any direct or indirect interest, ~~direct or indirect~~, in the gains or profits of any investment made by the board.

~~(2) Nor shall any of them, directly or indirectly, for himself~~

~~or herself or as an agent, in any manner use the assets of the system except to make such current and necessary payments as are authorized by the board; nor shall any of them become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the board~~ A trustee, officer, or employee of the board shall not directly or indirectly use the assets of the system in any manner for himself or herself or as an agent.

(3) A trustee, officer, or employee of the board shall not in any manner become an endorser, surety, or obligor for moneys loaned by or borrowed from the board.

(4) A trustee, officer, or employee of the board may make such current and necessary payments as are authorized by the board.

SECTION 25. Arkansas Code § 24-7-408 is amended to read as follows:

24-7-408. Retirement fund assets accounts – Retirement reserve account.

(a) The retirement reserve account shall be the account from which shall be paid all annuities and benefits in lieu of annuities payable as provided in this act to ~~retirants~~ retirees who retired on account of superannuation or disability and to beneficiaries of such ~~retirants~~ retirees.

(b) If a disability ~~retirant~~ retiree returns to teaching service:

(1) The amount of his or her accumulated contributions at the time of his or her disability retirement shall be transferred from the retirement reserve account to the members' deposit account; and

(2) The remainder of his or her annuity reserve at the time of return shall be transferred from the retirement reserve account to the employer accumulation account.

SECTION 26. Arkansas Code § 24-7-501(a)(2)(B)(iii), concerning the employer contribution rate under the Arkansas Teacher Retirement System being established at a rate necessary to fund liabilities, is amended to read as follows:

(iii) The employer contribution rate for this closed system shall be established at a rate necessary to fund all present and future liabilities until such time as there are no longer members, ~~retirants~~ retirees, or deferred annuitants.

SECTION 27. Arkansas Code § 24-7-502(a)(6), concerning restrictions on a member during his or her termination separation period under the Arkansas Teacher Retirement System, is amended to read as follows:

(6) During the termination separation period, the member shall remain terminated and shall not:

(A) Form an employment relationship with ~~any system-covered employer~~ a covered employer;

(B) Render any compensable services to or on behalf of ~~any system-covered employer~~ a covered employer, except that a member may ~~provide~~ perform volunteer activities ~~at a system-covered employer~~ for a covered employer that ~~does~~ do not have the effect of holding a position open for the member during a termination separation period; ~~and~~

(C) Exercise any authority to act as a representative of ~~any system-covered employer~~ a covered employer or exercise any authority over employees of ~~any system-covered employer~~ a covered employer; or

(D) Be indirectly employed by or through an independent contractor, limited liability company, partnership, corporation, or legal entity that is employed by a covered employer if the member has substantial control of the employer-employee relationship, including without limitation the ability to negotiate rates of pay with the covered employer or assign work and work hours to the member.

SECTION 28. Arkansas Code § 24-7-601(e)(5), concerning the provision of a benefit amount that is not dependent on length of credited service under the Arkansas Teacher Retirement System, is amended to read as follows:

(5) When the Arkansas Teacher Retirement System provides a benefit amount that is not dependent on length of credited service, the benefit amount shall be reduced to the proportion that actual system service bears to total ~~reciprocal-system-credited~~ service credited by a reciprocal system.

SECTION 29. Arkansas Code § 24-7-601(g)(1), concerning concurrent service earned in the Arkansas Teacher Retirement System and reciprocal systems, is amended to add an additional subdivision to read as follows:

(C) A member's part-time employment with a PSHE employer or an employer covered by the Arkansas Public Employees' Retirement System

shall not prevent the member from earning service credit under the Arkansas Teacher Retirement System if the member does not earn service credit in an alternate retirement plan or the Arkansas Public Employees' Retirement System.

SECTION 30. Arkansas Code § 24-7-602(c)(1), concerning military service credit under the Arkansas Teacher Retirement System when a member leaves employment with a school to serve in the uniformed services of the United States and later returns to employment with a school, is amended to read as follows:

(c)(1)(A) ~~Effective December 12, 1994, a~~ A member who leaves employment with a school or employment with a covered employer to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to employment with a school or employment with a covered employer shall be treated as not having incurred a break in service with the employer.

(B) The employer shall certify to the system that reemployment was in accordance with the requirements set forth in section 4312 of the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. No. 103-353.

SECTION 31. Arkansas Code § 24-7-701(a)(1)(B), concerning the time frame necessary for a member to submit a complete application for voluntary retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(B) If a member fails to submit a complete retirement application ~~within six (6) calendar months after~~ by the end of the sixth full calendar month immediately following the effective date of benefits, including all additional documentation required by the system, the application shall be void unless an extension has been granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

SECTION 32. Arkansas Code § 24-7-701(e)(1), concerning when a member may cancel an application for voluntary retirement benefits under the Arkansas Teacher Retirement System, is amended to read as follows:

(e)(1) A member may cancel an application for voluntary retirement

benefits ~~up to two (2) calendar months after~~ any time before the end of the second full calendar month immediately following the effective date of benefits.

SECTION 33. Arkansas Code § 24-7-702(a)(1)(A) and (B), concerning a member's application for voluntary early retirement under the Arkansas Teacher Retirement System, are amended to read as follows:

(a)(1)(A) Except as provided under subdivision (a)(2) of this section, an active or inactive member who has a combined total of twenty-five (25) or more years of actual and reciprocal service, including purchased or free credited service, but has not attained sixty (60) years of age and is not eligible for retirement under § 24-7-701 may voluntarily retire early by filing a written application with the ~~Board of Trustees of the Arkansas Teacher Retirement System~~ Arkansas Teacher Retirement System.

(B) If a member fails to submit a complete retirement application ~~within six (6) calendar months of~~ by the end of the sixth full calendar month immediately following the effective date of benefits, including all additional documentation required by the Arkansas Teacher Retirement System, the application shall be void unless an extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

SECTION 34. Arkansas Code § 24-7-702(f)(1), concerning when a member may cancel an application for early voluntary retirement benefits under the Arkansas Teacher Retirement System, is amended to read as follows:

(f)(1) A member may cancel an application for early voluntary retirement benefits up to two (2) full calendar months after the effective date of benefits.

SECTION 35. Arkansas Code § 24-7-704(a)(1)(D)(i) and (ii), concerning when a member must submit an application and accompanying documentation for disability retirement under the Arkansas Teacher Retirement System, are amended to read as follows:

(D)(i) A member has ~~six (6) calendar months from~~ until the end of the sixth full calendar month immediately following the date of his or her application for disability retirement to submit a completed application

and accompanying documentation.

(ii) If a member does not provide all accompanying documentation requested by the system ~~within the six (6) calendar months~~ by the end of the sixth full calendar month immediately following the date of his or her application for disability retirement, the system shall:

(a) Submit the application to the medical committee for review as complete; or

(b) Withdraw the application at the request of the member unless an extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

SECTION 36. Arkansas Code § 24-7-704(a)(1)(G) and (H), concerning actions by the medical committee related to when a member submits an application for disability retirement under the Arkansas Teacher Retirement System, are amended to read as follows:

(G) If the medical committee requests additional documentation upon initial review, a member has ~~six (6) calendar months from~~ until the end of the sixth full calendar month immediately following the date of a medical committee request to submit any additional accompanying documentation unless an extension is granted by the ~~system~~ executive director.

(H)(i) If the medical committee finds that a member is not qualified to receive disability benefits, written notice of the medical committee's finding shall be sent to the member and the member may request a second review provided the member submits additional medical documentation.

(ii)(a) ~~A second review may be requested one (1) time~~ A member may request a second review one (1) time for each application for disability retirement filed by the member.

(b) A member's option to request a second review does not apply to a disability retiree who applies for a review under subsection (b) of this section.

(iii) The member has ~~six (6) calendar months~~ until the end of the sixth full calendar month immediately following the date of the written notice to submit additional medical documentation unless an extension is granted by the ~~system~~ executive director.

SECTION 37. Arkansas Code § 24-7-704(a)(3)(B), concerning when a member must submit all documents and election forms required to begin annuity payments for disability retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(B) If a member does not submit the required documents ~~within six (6) calendar months after~~ by the end of the sixth full calendar month immediately following the date on which the medical committee finds that the member qualifies to receive disability benefits, the member's application shall be void unless an extension has been granted by the ~~system~~ executive director.

SECTION 38. Arkansas Code § 24-7-704(a)(4), concerning restrictions on when a member is eligible to begin receiving disability retirement payments under the Arkansas Teacher Retirement System, is amended to read as follows:

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

(A) Be employed by a ~~system-covered employer~~ covered employer; or

(B) ~~Be indirectly employed by or through an independent contractor, limited liability company, partnership, corporation, or legal entity that is employed by a system-covered employer if the member has substantial control of the employer-employee relationship, including without limitation the ability to negotiate rates of pay with the system-covered employer or assign work and work hours to the member~~ Unless otherwise provided by law, perform any action described in § 24-7-502(a)(6).

SECTION 39. Arkansas Code § 24-7-704(b)(3)(C)(iii), concerning actions not taken by a disability retiree under the Arkansas Teacher Retirement System that will cause termination of disability retirement benefits, is amended to read as follows:

(iii) Apply for a review by the system's medical committee ~~within three (3) months of disability benefits ceasing~~ by the end of the third full calendar month immediately following the cessation of disability benefits due to the lack of a Social Security Administration determination letter finding that the disability retiree is unable to perform his or her former work duties as described in subdivision (a)(1)(E)(iii) of

this section.

SECTION 40. Arkansas Code § 24-7-704(b)(3)(D)(i), concerning certain conditions that allow a disability retiree under the Arkansas Teacher Retirement System to seek a review by the system's medical committee, is amended to read as follows:

(D)(i) A disability retiree who seeks and fails to receive a determination letter finding the disability retiree is unable to perform his or her former work duties as described in subdivision (a)(1)(E)(iii) of this section by the Social Security Administration may seek a review permitted under subdivision (b)(3)(C)(iii) of this section no earlier than three (3) full calendar months before the date on which the member's disability retirement would otherwise end and no later than ~~three (3) months after the end of the third full calendar month immediately following the~~ termination of disability retirement.

SECTION 41. Arkansas Code § 24-7-706(a)-(e), concerning annuity options under the Arkansas Teacher Retirement System, are amended to read as follows:

(a)(1) Before the date the first payment of his or her annuity becomes due, 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.

(2) The member may nominate a beneficiary, in accordance with one (1) of the following options:

(A) Option A – 100% Survivor Annuity.

(i) Under Option A, upon the death of a ~~retirant~~ retiree, his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she shall have nominated by written designation executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System before the date the first payment of his or her annuity becomes due.

(ii) The person designated as a beneficiary by the ~~retirant~~ retiree shall be:

(a) The ~~retirant's~~ retiree's spouse for not

less than one (1) year immediately preceding the first payment due date; or

(b) A dependent child of the ~~retirant~~ retiree who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

(B) Option B – 50% Survivor Annuity.

(i) Under Option B, upon the death of a ~~retirant~~ retiree, one-half ($\frac{1}{2}$) of his or her reduced annuity shall be continued throughout the life of and paid to such person as he or she has nominated by written designation executed and filed with the board before the date the first payment of his or her annuity becomes due.

(ii) The person designated as a beneficiary by the ~~retirant~~ retiree shall be:

(a) The ~~retirant's~~ retiree's spouse for not less than one (1) year immediately preceding the first payment due date; or

(b) A dependent child of the ~~retirant~~ retiree who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction; or

(C) Option C – Annuity for Ten (10) Years Certain and Life Thereafter.

(i) Under Option C, a ~~retirant~~ retiree shall receive a reduced annuity payable throughout his or her life with the provision that if he or she dies before he or she has received one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to such persons in equal shares as the ~~retirant~~ retiree has nominated by written designation executed and filed with the board.

(ii) If the designated beneficiaries predecease the ~~retirant~~ retiree, the ~~retirant~~ retiree may nominate successor beneficiaries or may elect to return to his or her single lifetime benefit equivalent by written designation executed and filed with the board, to be effective the month following receipt of his or her election by the Arkansas Teacher Retirement System.

(iii)(a) If the designated beneficiary is the spouse of the ~~retirant~~ retiree and the marriage ends in divorce or other marriage dissolution, the ~~retirant~~ retiree may:

(1) Nominate a successor beneficiary; or

(2) Elect to return to his or her single lifetime benefit equivalent.

(b) The nomination or election made under subdivision (a)(2)(C)(iii)(a) of this section shall be in writing, executed by the ~~retirant~~ retiree, and filed with the board, to be effective the month following receipt of his or her election by the system.

(iv) If no designated beneficiary survives the ~~retirant~~ retiree, the annuity reserve for the remainder of the annuity payments shall be paid to the ~~retirant's~~ retiree's estate.

(v) If the last designated beneficiary receiving annuity payments dies before all annuity payments are made, the annuity reserve for the remainder of the annuity payments shall be paid to the beneficiary's estate.

(vi) Effective the month following completion of the one-hundred-twenty-month period, the ~~retirant's~~ retiree's annuity shall return to his or her single lifetime benefit equivalent.

(3) In addition to the persons eligible to be designated as a beneficiary under either Option A or Option B in subdivision (a)(2) of this section, the board may promulgate rules concerning the addition of classes of eligible persons to be designated as a beneficiary under this section and for the rights of option beneficiaries of deceased disability retirees under § 24-7-704.

(b)(1)(A) If a member's marital status changes after retirement due to the death of the member's spouse, or a divorce or marriage dissolution from the member's spouse who is also the member's designated beneficiary, then the member may elect to cancel any optional plan designating the former spouse as a beneficiary.

(B) A member's election under subdivision (b)(1)(A) of this section shall cause the member to return to his or her lifetime benefit equivalent, to be effective the month following the system's receipt of the approved form.

(2) A ~~retirant~~ retiree who is receiving a single lifetime benefit and who marries after retirement may elect to cancel his or her single lifetime benefit and may elect an annuity providing continuing lifetime benefits to his or her spouse under rules promulgated by the board.

(c) If a member fails to elect an option, his or her annuity shall be

paid to him or her as a straight life annuity.

(d)(1) Notwithstanding anything contained in this section to the contrary, the residue beneficiary under § 24-7-709 may elect to cancel the form of annuity in effect and elect Option A – 100% Survivor Annuity upon the death of a ~~retirant~~ retiree on or after July 1, 1989, if:

(A) The ~~retirant~~ retiree died within one (1) year following the effective date of retirement;

(B) The ~~retirant~~ retiree was receiving a straight life annuity; and

(C) The residue beneficiary otherwise qualifies for an Option A – 100% Survivor Annuity.

(2) The election to change may be made only one (1) time and shall be on a form approved by the system.

(3) The election form must be received by the system within one hundred twenty (120) days of the death of the retiree.

(e)(1) Notwithstanding anything in this section to the contrary, a ~~retirant~~ retiree who retired on or after July 1, 1994, may elect to cancel his or her election made at retirement for receiving an annuity and elect another option, provided that he or she:

(A) Does so within one (1) year after July 1, 1995, or within one (1) year of retirement;

(B) Files with the system a new election form approved by the system; and

(C)(i) Repays to the system the difference between the amount of the annuity received when he or she retired and the new annuity due as a result of the election change, plus interest from July 1, 1994, or his or her retirement date, whichever is later, to the date of payment in full.

(ii) The difference shall be calculated retroactively to July 1, 1994, or his or her retirement date, whichever is later.

(2) The election to change shall be made only one (1) time.

(3) The election change shall be effective retroactively to the effective date of his or her annuity.

SECTION 42. Arkansas Code § 24-7-707(d), concerning when a member must submit an application for deferred retirement under the Arkansas Teacher

Retirement System, is amended to read as follows:

(d) If a member fails to submit a complete deferred retirement application ~~within six (6) calendar months of~~ by the end of the sixth full calendar month immediately following the effective date of benefits, including all additional documentation required by the system, the application shall be void unless an extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

SECTION 43. Arkansas Code § 24-7-707(e)(1), concerning when a member may cancel an application for deferred retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

(e)(1) A member may cancel an application for deferred retirement benefits any time before ~~two (2) calendar months from~~ the end of the second full calendar month immediately following the effective date of benefits.

SECTION 44. Arkansas Code § 24-7-709 is amended to read as follows:

24-7-709. Disposition of ~~member~~ retiree contributions – Residue.

(a)(1)~~(A)~~ If a retiree and his or her option annuitants, if any, die before receiving annuity payments equal to the ~~member's~~ retiree's residue amount, then the residue amount shall be paid to ~~such persons as the retiree shall have nominated by written designation~~ one (1) or more beneficiaries nominated by the retiree in a written designation that is executed and filed with the Arkansas Teacher Retirement System.

~~(B) As used in this subchapter, "residue" means the difference between the accumulated contributions and regular interest credited to the retirement reserve account as of the member's retirement effective date and the total amount of retirement annuities paid.~~

(2) If a retiree designates more than one (1) beneficiary, the residue shall be divided equally among each designated beneficiary.

(3) If a retiree and his or her option annuitants die and the member has failed to designate a beneficiary or if all designated beneficiaries have predeceased the retiree, the residue shall be paid to the retiree's estate.

(4) If all designated beneficiaries predecease the retiree, the residue shall be paid to the estate of the most recently deceased designated beneficiary.

(b) If upon the termination of the option annuity no surviving beneficiary designated by the ~~member~~ retiree survives and it is impracticable to make payment to the ~~member's~~ retiree's estate, the residue shall be forfeited to the trust assets of the system subject to any valid claim of the ~~member's~~ retiree's estate under § 24-7-734.

SECTION 45. Arkansas Code § 24-7-710(a)(2)(B), concerning when an eligible survivor or a minor survivor's guardian or legal representative must complete an application for survivor annuity benefits under the Arkansas Teacher Retirement System, is amended to read as follows:

(B) If an immediately eligible survivor or the minor survivor's guardian or legal representative fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the application required under subdivision (a)(2)(A) of this section is filed, including the submission of any additional documentation required by the system, the application shall be void unless an extension is granted by the ~~system~~ Executive Director of the Arkansas Teacher Retirement System.

SECTION 46. Arkansas Code § 24-7-710(b)(1)(A)(i), concerning a member's survivor annuity under the Arkansas Teacher Retirement System and when it is received by a member's surviving spouse who was married to the member for at least the two (2) years immediately preceding the member's death, is amended to read as follows:

(b)(1)(A)(i) Unless the member otherwise directs an alternative beneficiary to receive the member's residue amount by using a beneficiary form approved by the system, a member's surviving spouse, who was married to the member for at least the two (2) years immediately preceding the member's death, shall receive an annuity computed in the same manner in all respects as if the member had retired on the date of the member's death and elected Option A under § 24-7-706 to provide one hundred percent (100%) survivor annuity benefits, including benefits applicable under § 24-7-713, for his or her spouse.

SECTION 47. Arkansas Code § 24-7-710(b)(1)(B)(ii), concerning when an immediately eligible spouse must complete an application process for a

survivor annuity benefit under the Arkansas Teacher Retirement System, is amended to read as follows:

(ii) If an immediately eligible spouse fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the application required under subdivision (b)(1)(B)(i) of this section is filed, including the submission of all additional documentation required by the system, the application shall be void unless an extension is granted by the ~~system~~ executive director.

SECTION 48. Arkansas Code § 24-7-710(b)(1)(C)(ii), concerning when a surviving spouse's application for surviving spouse benefits becomes void under the Arkansas Teacher Retirement System, is amended to read as follows:

(ii) If a surviving spouse becomes eligible for surviving spouse benefits and fails to complete the application process ~~within six (6) calendar months after~~ by the end of the sixth full calendar month following the date on which the application required under subdivision (b)(1)(B)(i) of this section is filed, including the submission of any additional documentation required by the system, the application shall be void unless an extension is granted by the ~~system~~ executive director.

SECTION 49. Arkansas Code § 24-7-713(a)(1), concerning when certain persons receiving benefits under the Arkansas Teacher Retirement System receive a simple cost of living adjustment, is amended to read as follows:

(a)(1) July 1 of each year, ~~retirants~~ retirees, survivors, participants in the Teacher Deferred Retirement Option Plan, and annuity beneficiaries who have been receiving monthly benefits for the previous twelve (12) months shall receive a simple cost of living adjustment.

SECTION 50. Arkansas Code § 24-7-713(d), concerning the administration of the Arkansas Teacher Retirement System benefit stipend by the Board of Trustees of the Arkansas Teacher Retirement System, is amended to read as follows:

(d)(1) The board may remove by board resolution the benefit stipend from the base amount of current ~~retirants~~ retirees and option beneficiaries if the board determines that the removal of the benefit stipend from the base

amount is prudent in order to maintain actuarial soundness.

(2) The board may phase in the removal of the benefit stipend from the base amount of current ~~retirant~~ retiree and option beneficiaries by board resolution.

SECTION 51. Arkansas Code § 24-7-714 is amended to read as follows:

24-7-714. Increase in monthly benefits – Acts 1979, No. 655, and Acts 1981, No. 885.

(a) The monthly retirement benefit payable to ~~retirants~~ retirees and beneficiaries of the Arkansas Teacher Retirement System who were retired on or before July 1, 1978, and who were receiving benefits on July 1, 1979, shall be increased as follows:

(1) For all benefits to ~~retirants~~ retirees and beneficiaries of the system whose total credited service is before July 1, 1961, a monthly benefit increase equal to one dollar (\$1.00) per each year of credited service;

(2) For all benefits to ~~retirants~~ retirees and beneficiaries of the system which are based in whole or in part upon credited service rendered after July 1, 1961, a monthly benefit increase equal to seventy-five cents (75¢) per each year of credited service;

(3) For benefit increases authorized by subdivisions (a)(1) and (2) of this section, fractional years of service shall be disregarded, and the increase shall be added to the monthly annuity after the annual postretirement increase based on the consumer price index has been applied to the ~~retirant's~~ retiree's base annuity; and

(4) In the event that there is more than one (1) beneficiary or survivor of a member or ~~retirant~~ retiree receiving benefits, the increases in subdivisions (a)(1) and (2) of this section shall be based upon the member's total credited service. The benefit increase so determined shall be divided between the survivors or beneficiaries in proportion to their base annuities.

(b) For retirements effective after July 1, 1978, for which a monthly benefit is payable for the month of July 1981 or later, calculations shall be made as provided in subdivisions (b)(1) and (2) of this section. If the monthly benefit calculated using subdivision (b)(1) of this section is more than the monthly benefit calculated using subdivision (b)(2) of this section, then the difference shall be paid to the ~~retirant~~ retiree as a monthly

benefit increase, subject to the provisions of subdivisions (b)(3)-(6) of this section, as follows:

(1) Calculate the monthly annuity payable to the member under § 24-7-705, based on the provisions of § 24-7-705, his or her salary record, and his or her service record, all as of July 1, 1978, and add seventy-five cents (75¢) for each year of the member's credited service rendered before July 1, 1978;

(2) Calculate the monthly annuity payable to the member under the provisions of § 24-7-705 in effect at the time of the member's retirement;

(3) For benefit increases authorized by this subsection, fractional years of service shall be disregarded. The increase shall be added to the monthly annuity after the annual postretirement increase based on the consumer price index has been applied to the ~~retirant's~~ retiree's base annuity;

(4) In the event that there is more than one (1) beneficiary or survivor of a member or ~~retirant~~ retiree receiving benefits, the increases in this subsection shall be based upon the member's total credited service, and the benefit increase so determined shall be divided between the survivors or beneficiaries in proportion to their base annuities;

(5) Any benefit increase created by this subsection shall be effective at retirement but not for any month before July 1981; and

(6) If there is any change in § 24-7-705 after the member's retirement, the amount under subdivision (b)(2) of this section shall be recalculated using the changed provisions, and the benefit increase provided by this subsection shall be changed correspondingly.

SECTION 52. Arkansas Code § 24-7-727(a)(1), concerning when the Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for retirants and participants in the Teacher Deferred Retirement Option Plan, is amended to read as follows:

(a)(1) ~~After July 1, 1999, the~~ The Board of Trustees of the Arkansas Teacher Retirement System may compound the cost of living adjustment for all ~~retirants~~ retirees and participants in the Teacher Deferred Retirement Option Plan who have received a monthly retirement benefit for the prior twelve-month period.

SECTION 53. Arkansas Code § 24-7-727(b)(3)(A), concerning when the Board of Trustees of the Arkansas Teacher Retirement System may reverse a compounding of the cost of living adjustment for retirants and participants in the Teacher Deferred Retirement Option Plan, is amended to read as follows:

(3)(A) The board may reverse a compounding of the cost of living adjustment for all ~~retirants~~ retirees and participants in the Teacher Deferred Retirement Option Plan who benefit from the compounding.

SECTION 54. Arkansas Code § 24-7-728 is amended to read as follows:
24-7-728. Computation of benefits based on life annuity.

(a)(1) The Board of Trustees of the Arkansas Teacher Retirement System is authorized ~~by this section~~ to raise the level of benefit to the current ~~retirants~~ retirees and other beneficiaries of the Arkansas Teacher Retirement System ~~to a comparable level increase to match the increase in benefits that would accrue to active members as a result of any increase in the calculation of a life annuity as provided in § 24-7-705(a)(1) in accordance with any rules the board might promulgate.~~

(2) The board may raise the level of benefit to a comparable level increase that matches the increase in benefits that would accrue to active members as a result of any increase in the calculation of a life annuity as provided in § 24-7-705(a)(1) in accordance with any rules the board might promulgate.

(b)(1) The amount of any increase for ~~retirants~~ retirees and other beneficiaries shall also be determined in accordance with the rules of the board as is actuarially appropriate for the system.

(2) ~~Prior to~~ Before increasing a benefit as provided in this section, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the Joint Committee on Public Retirement and Social Security Programs.

SECTION 55. Arkansas Code § 24-7-730(a)(1), concerning the required dates of distributions of member benefits under the Arkansas Teacher Retirement System, is amended to read as follows:

(a)(1)(A) Notwithstanding the provisions of this subchapter regarding the required dates of distribution of benefits under the Arkansas Teacher Retirement System to former members, the distribution of a former member's benefits under the system shall in any event be made or begun by April 1 of the calendar year following the ~~later of the calendar year~~ latter of the calendar year in which the member ~~attains age seventy-two (72) or the calendar year in which the member retires~~ or the calendar year in which the member attains the applicable age.

(B) The applicable age for a member is as follows:

(i) In the case of a member who attains seventy-two (72) years of age after December 31, 2022, and seventy-three (73) years of age before January 1, 2030, the applicable age is seventy-three (73) years of age;

(ii) In the case of a member who attains seventy-three (73) years of age after December 31, 2029, and seventy-four (74) years of age before January 1, 2033, the applicable age is seventy-four (74) years of age; and

(iii) In the case of a member who attains seventy-four (74) years of age after December 31, 2032, the applicable age is seventy-five (75) years of age.

SECTION 56. Arkansas Code § 24-7-733(a)(2), concerning the requirement that annual benefits under the Arkansas Teacher Retirement System shall not violate limitations under the Internal Revenue Code, 26 U.S.C. 415(b), is amended to read as follows:

(2) The annual benefits, as may be increased in subsequent years, that are paid to ~~retirants~~ retirees by the system shall not 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 57. Arkansas Code § 24-7-735(c), concerning a member or employer's ability to purchase service credit, additional salary, or both for a member under the Arkansas Teacher Retirement System, is amended to add an additional subdivision to read as follows:

(4)(A) Service credit purchased under a settlement agreement or court order shall offset service credit that is earned by the member as an employee of another covered employer during the same period of time covered by the service credit purchased under the settlement agreement or court order.

(B) Service credit purchased under a settlement agreement or court order shall not be applied by the system in a manner that allows the member to earn more than one (1) year of service credit in a fiscal year.

SECTION 58. Arkansas Code § 24-7-738(b)(2), concerning the recovery of an erroneously paid disability retirement benefit for a month in which a member receives salary from a covered employer under the Arkansas Teacher Retirement System, is amended to read as follows:

(2) Any disability retirement benefit erroneously paid to the member or ~~retirant~~ retiree 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 59. Arkansas Code § 24-7-1302(c), concerning when a member may withdraw his or her application for the Teacher Deferred Retirement Option Plan under the Arkansas Teacher Retirement System, is amended to read as follows:

(c) The member may withdraw his or her plan application if notice to withdraw is received by the system ~~no later than two (2) calendar months after~~ by the end of the second full calendar month immediately following the member's plan date.

SECTION 60. Arkansas Code Title 24, Chapter 7, Subchapter 15 is amended to read as follows:

Subchapter 15 – ~~Retirants'~~ Retirees' Ad Hoc Increase Act

24-7-1501. Title.

This subchapter shall be known and may be cited as the "~~Retirants'~~ Retirees' Ad Hoc Increase Act".

24-7-1502. Benefit generally.

(a)(1) The annual benefit payable to eligible retirees, survivors, and beneficiaries of ~~retirants~~ retirees of the Arkansas Teacher Retirement System shall be subject to a one-time ad hoc increase based on the ~~retirant's~~ retiree's years of credited service that is grouped within descending decades as calculated by subtracting the total years of credited service from the date of retirement.

(2) A break in credited service is not considered under this subchapter.

(3) Teacher Deferred Retirement Option Plan participants shall have the total years of credited service subtracted from the date of entry into the plan.

(b)(1) One-half ($\frac{1}{2}$) of the annual dollar increase per year of credited service shall be calculated and provided to all retirees, survivors, and beneficiaries of ~~retirants~~ retirees that are eligible to receive this increase.

(2) One-half ($\frac{1}{2}$) of the annual dollar increase per year of credited service shall be calculated then prorated based on the amount of contributory service credit to total service on the ~~retirant's~~ retiree's:

- (A) Retirement date; or
- (B) Plan entry date.

(3) The amounts under this subsection shall be calculated and provided to all retirees, survivors, and beneficiaries of ~~retirants~~ retirees.

(c) The ad hoc benefit is payable to the retirees, survivors, and beneficiaries of ~~retirants~~ retirees of the system beginning on a July 1 that is at least twelve (12) full months after the effective date of a monthly benefit.

(d) The ad hoc benefit for a ~~retirant~~ retiree, survivor, and beneficiary of a ~~retirant~~ retiree shall not increase the ~~retirant's~~ retiree's current benefit by more than twenty-five percent (25%) of the annuity benefit payable as of the prior June 30.

24-7-1503. Ad hoc benefit formula.

The schedule of decade dollar amounts per year of credited service is:

Formula Decades in Which Credited Service Was Accrued Service	Annual \$ Increase Per Year of Credited Service
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2000 – and later	\$5
1990–1999	\$10
1980–1989	\$20
1970–1979	\$30
1960–1969	\$40
1950–1959	\$50
1940–1949	\$60
1930–1939	\$70
1920–1929	\$80
1910–1919	\$90

24-7-1504. Promulgation of rules – Duty of board.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules for the ad hoc benefit under this subchapter.

(b) An ad hoc benefit under this subchapter shall not be implemented if the ad hoc benefit would cause the Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities to exceed an eighteen-year amortization.

(c) The board shall only authorize an ad hoc benefit that is actuarially appropriate for the system.

(d) Before an increase of retirement benefit through an ad hoc benefit is authorized, the board shall file relevant information with the Joint Interim Committee on Public Retirement and Social Security Programs regarding the actuarial appropriateness of the increase.

(e) The board may reduce the decade increase formula under § 24-7-1503 proportionately on a one-to-one formula basis for each decade when the reduction is actuarially feasible to implement.

(f) The ad hoc benefit increase is a one-time adjustment and shall also be used to increase the base amount of a ~~retirant's~~ retiree's benefits when calculating any future additional benefit increases.

SECTION 61. 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; that the Arkansas Teacher Retirement 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 need revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that the revisions and updates are of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that as the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30, a July 1, 2023, effective date is necessary in order to allow the provisions within this act to begin on the first day of the fiscal year and to allow for a structured and proper administration of the procedures referenced in this act; that the updates and revisions to the Arkansas Teacher Retirement System Act are of great importance for actuarial purposes and for the improvement and protection of member benefits under the Arkansas Teacher Retirement System; and that this act is 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 July 1, 2023.

/s/Warren

APPROVED: 2/21/23