

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: H2/4/13  
**A Bill**

HOUSE BILL 1136

By: Representative Lenderman

### For An Act To Be Entitled

AN ACT TO CLARIFY DISABILITY RETIREMENT REQUIREMENTS  
AND ELIGIBILITY FOR ADMINISTRATION IN THE ARKANSAS  
TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY;  
AND FOR OTHER PURPOSES.

### Subtitle

TO CLARIFY DISABILITY RETIREMENT  
REQUIREMENTS AND ELIGIBILITY FOR  
ADMINISTRATION IN THE ARKANSAS TEACHER  
RETIREMENT SYSTEM 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), concerning disability retirement, is amended to read as follows:

(a)(1)(A) ~~Except as provided under subdivision (a)(1)(B) of this section, an~~ 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 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.

(B) An active member who is eligible for retirement under § 24-7-701 is not eligible for disability retirement.

(C)(i) An active member who has met the eligibility



requirement of subdivision (a)(1)(A) of this section shall meet the termination of covered employment requirements under § 24-7-502 to be eligible for disability retirement benefits.

(ii) For eligibility under this section, a member is considered active for an additional fiscal year following the last fiscal year that the member renders actual service to a covered employer and obtains at least one-fourth ( $\frac{1}{4}$ ) year of service credit.

(iii) Service credit used in calculating any benefits paid under this section means days of service, including paid sick leave covered by the employer.

~~(C)~~(D) The member is qualified to receive disability retirement benefits if by majority opinion the medical committee reports to the board in writing that its review of the member's application and accompanying documentation finds:

(i) The member is physically or mentally incapacitated;

(ii) The member exhibits symptoms of physical or mental incapacitation while the member is employed by a system employer as an active member;

(iii) The member is unable to perform his or her current work duties;

(iv) The incapacity will most likely be permanent;

and

(v) The member should be retired.

(2) The disability retirement ~~shall be~~ is effective ~~the calendar month following the member's termination of active membership~~ from the date the written application is filed with the system and the member is no longer employed by an employer.

(3) To receive disability retirement, a member shall not:

(A) Be employed by a system-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.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System Act addressing the administration of disability retirement are in need of revision to maintain the teacher retirement laws in conformance with sound public pension policy and proper administration; that the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal year; and that this act is necessary to allow the provisions impacting disability retirement to begin on the first day of the fiscal year. 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, 2013.

*/s/Lenderman*