

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: S2/13/13  
**A Bill**

SENATE BILL 105

By: Senator J. Key

**For An Act To Be Entitled**

*AN ACT TO AMEND STATE EMPLOYEE RETIREMENT LAW; TO CLARIFY DEFINITIONS; TO REQUIRE THE TERMINATION OF QUALIFIED EMPLOYMENT PRIOR TO THE PAYMENT OF AN ANNUITY; TO REQUIRE EMPLOYERS PARTICIPATING IN THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE INFORMATION; TO DETERMINE ELIGIBILITY REQUIREMENTS OF AN EMPLOYEE TO RECEIVE DISABILITY BENEFITS; TO CLARIFY THAT AN EMPLOYEE'S FAILURE TO TERMINATE EMPLOYMENT DOES NOT REVOKE THE EMPLOYEE'S RETIREMENT ELECTION; TO REPEAL THE LAW CONCERNING THE CONVERSION OF AN EMPLOYEE FROM A CONTRIBUTORY TO A NONCONTRIBUTORY MEMBER OF THE SYSTEM; TO DEFINE WHO MAY BE A MEMBER OF THE SYSTEM; TO MAKE TECHNICAL CORRECTIONS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.*

**Subtitle**

*TO DETERMINE DISABILITY BENEFITS; TO CLARIFY WHO MAY BE A MEMBER; TO REPEAL THE CONVERSION FROM CONTRIBUTORY TO NONCONTRIBUTORY; AND TO DECLARE AN EMERGENCY.*

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

SECTION 1. Arkansas Code § 24-4-101(28)(A), concerning the definition of normal retirement age, is amended to read as follows:



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(A) Age sixty (60) and with twenty (20) or more years of actual service commencing before January 1, 1978, for a contributory member; or

SECTION 2. Arkansas Code § 24-4-101(34)(A), concerning the definition of a public safety member, is amended to read as follows:

(34)(A) "Public safety member" means, except public safety members covered under § 24-4-1004, a ~~noncontributory~~ member whose covered employment:

(i) ~~is~~ Is for personal services as a police officer or firefighter; and

(ii) ~~his or her employment commenced prior to~~ Began before July 1, 1997, ~~except as provided for public safety members covered under § 24-4-1004.~~

SECTION 3. Arkansas Code § 24-4-101(34)(B)(i) and (ii), concerning the definition of a police officer, is amended to read as follows:

(B)(i)(a) "Police officer" means ~~any regular or a~~ permanent employee whose primary duty is law enforcement of a municipal police department, a county sheriff's office, or the Department of Arkansas State Police, including a probationary police ~~officers~~ officer.

(b) "Police officer" includes a wildlife ~~officers~~ officer of the Arkansas State Game and Fish Commission, a drug enforcement ~~officers~~ officer of a judicial drug taskforce, a civilian ~~firefighters~~ firefighter of the State Military Department covered under § 24-4-1004, and all officers and the ~~Director~~ Chief of the State Capitol Police within the office of the Secretary of State.

(c) "Police officer" does not include a person who has not satisfied the training requirements to be a police officer established by the Arkansas Commission on Law Enforcement Standards and Training under § 12-9-106.

(ii) ~~An~~ A police officer who, although assigned to administrative duties, is still subject to call for service at patrol duty or duty in the field or is subject to call for duties in emergency situations requiring the officer to be armed with a firearm shall be considered to have the primary duty of law enforcement for the purpose of this subdivision

(34)(B).

SECTION 4. Arkansas Code § 24-4-101(39), concerning the definition of a retirant, is amended to read as follows:

(39) "Retirant" means a person who: ~~receiving a plan annuity by reason of having been a member of the Arkansas Public Employees' Retirement System;~~

(A) Is a vested member of the Arkansas Public Employees' Retirement System;

(B) Has filed an effective retirement application with the system that has not been cancelled; and

(C) Is entitled to a plan annuity upon properly terminating employment under § 24-4-520;

SECTION 5. Arkansas Code § 24-4-101(40)(B), concerning the definition of retirement, is repealed.

~~(B) Failure to meet termination requirements shall not operate to revoke a member's retirement election;~~

SECTION 6. Arkansas Code Title 24, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

24-4-110. Failure to terminate – Commencement of annuity payments – Election to retire.

A retirant shall not begin receiving annuity payments until all requirements for terminating qualified employment are satisfied.

SECTION 7. Arkansas Code Title 24, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

24-4-111. Failure to meet termination requirements – Member's retirement election.

The failure to meet termination requirements does not revoke a member's retirement election.

SECTION 8. Arkansas Code § 24-4-202, concerning a public employer's contribution to the Arkansas Public Employees' Retirement System, is amended to add an additional subsection to read as follows:

(g) A participating public employer shall promptly upon request by the Arkansas Public Employees' Retirement System provide all information requested concerning the status of an employee to the system.

SECTION 9. Arkansas Code § 24-4-511(a)(2), concerning the eligibility requirements to receive disability benefits, is amended to read as follows:

(2) Upon filing the proper application and meeting the requirements stated in this section, the disability annuity shall be effective the first day of the calendar month ~~next~~ following the ~~later of either the member's termination of active membership or the onset date of the qualifying disability~~ Arkansas Public Employees' Retirement System's approval of the disability application.

SECTION 10. Arkansas Code § 24-4-523 is repealed.

~~24-4-523. Conversion from contributory to noncontributory plan—  
Extension of time.~~

~~Any person who, under § 24-3-101 et seq. [repealed], or any other act, was authorized to convert from the contributory plan of the Arkansas Public Employees' Retirement System to the noncontributory plan of the Arkansas Public Employees' Retirement System prior to January 1, 1985, may convert from the contributory plan to the noncontributory plan at any time.~~

SECTION 11. Arkansas Code § 24-4-749(a)(1), concerning the purchase of out-of-state governmental service, is amended to read as follows:

(1) The member has at least+

~~(A) Five (5) years of credited service at the time of application; or~~

~~(B) Two (2) years of actual service with the Arkansas Public Employees' Retirement System, at least seven (7) years of actual service credit with a retirement system outside of the State of Arkansas, and is at least sixty five (65) years of age;~~

SECTION 12. Arkansas Code § 24-4-1101 is amended to read as follows:

24-4-1101. Membership.

(a) ~~All public employees~~ A public employee, as defined in § 24-4-101(17), first hired on or after July 1, 2005, ~~are~~ is subject to the benefit

provisions of this subchapter.

~~(b)(1)(A) All public employees~~ A public employee ~~hired prior to July 1, 2005, and who are~~ remains an active members member of the Arkansas Public Employees' Retirement System ~~on July 1, 2009, shall have six (6) months from July 1, 2009, to~~ may elect coverage under the benefit provisions of this subchapter.

(B) If the member elects contributory coverage, the effective date of the member's contributory coverage shall be:

(i) ~~The first payroll period that is paid and reported in January 2010~~ in the next month after the contributory election; and

(ii) Prospective only.

(2) ~~No~~ A conversion or purchase of noncontributory service into contributory service under this subchapter is not allowed.

(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees' Retirement System and is irrevocable.

~~(c)(1)(A) A public employee hired prior to July 1, 2005, and who is an active member of the Arkansas Public Employees' Retirement System on July 1, 2011, shall have six (6) months from July 1, 2011, to elect coverage under the benefit provisions of this subchapter.~~

~~(B) If the member elects contributory coverage, the effective date of the member's contributory coverage shall be:~~

~~(i) The first payroll period that is paid and reported in January 2012; and~~

~~(ii) Prospective only.~~

~~(2) Conversion or purchase of noncontributory service into contributory service under this subchapter is prohibited.~~

~~(3) The election shall be made as directed by the Board of Trustees of the Arkansas Public Employees' Retirement System and is irrevocable.~~

~~(d)(c)~~ Noncontributory members who terminate covered service for a period of more than six (6) months and subsequently return to covered service will be subject to the provisions of this subchapter.

SECTION 13. EMERGENCY CLAUSE. It is found and determined by the

General Assembly of the State of Arkansas that it is vital that the Arkansas Public Employees' Retirement System be permitted to immediately implement policies regarding the termination of employment, eligibility of employees to receive benefits, availability of information, and when to pay interest on employee contributions; and to clarify the meaning of terms in the Arkansas Code of 1987 Annotated to avoid the undue consumption of the system's resources. 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/J. Key*