

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 110

By: Senator R. Thompson

For An Act To Be Entitled

AN ACT TO CLARIFY THE MEANING OF MANIFEST INJUSTICE
AS IT APPLIES TO DECISIONS OF THE ARKANSAS TEACHER
RETIREMENT SYSTEM IN CORRECTING ERRORS; AND FOR OTHER
PURPOSES.

Subtitle

TO CLARIFY THE MEANING OF MANIFEST
INJUSTICE AS IT APPLIES TO DECISIONS OF
THE ARKANSAS TEACHER RETIREMENT SYSTEM IN
CORRECTING ERRORS.

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

SECTION 1. Arkansas Code § 24-7-202 is amended to add an additional subdivision to read as follows:

(40)(A) "Manifest injustice" means an obvious unfairness that has a direct and observable unconscionable effect that will occur as a result of a technical error or error of judgment, when the error made by the system, a benefit participant, or employer, and the disparity of outcome to the parties, when taken together and supported by clear and convincing evidence, show a great harm to the integrity of the system as a whole, the benefit participant, or an employer, unless the system is afforded the discretion to resolve the matter in a fair manner.

(B) In determining manifest injustice the system may consider:

(i) The degree of fault of the system, benefit participant, or employer;



- (ii) An ambiguity in the interpretation of the circumstances, rule, or law;
- (iii) The cost to the system of correcting the error that is far outweighed by the benefit afforded to the system, benefit participant, or employer;
- (iv) Whether or not an expedited decision is in the public interest;
- (v) The fundamental fairness of a remedy in a particular situation; and
- (vi) Whether or not the status quo would result in an unconscionable outcome.

SECTION 2. Arkansas Code § 24-7-205 is amended to add an additional subsection to read as follows:

(e) The board or its designee may waive or modify the impact of a rule, provision, or law that does not violate federal law or jeopardize the tax-qualified status of the system to correct or prevent a manifest injustice that would affect the system, benefit participant, or employer in a particular instance.