

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

SENATE BILL 113

By: Senator R. Thompson

## For An Act To Be Entitled

AN ACT TO COMPEL PAYMENT OF DELINQUENT EMPLOYER CONTRIBUTIONS FROM AN ARKANSAS TEACHER RETIREMENT SYSTEM EMPLOYER FOR AMOUNTS DUE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### Subtitle

TO COMPEL PAYMENT OF DELINQUENT EMPLOYER CONTRIBUTIONS FROM AN ARKANSAS TEACHER RETIREMENT SYSTEM EMPLOYER FOR AMOUNTS DUE AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-411 is amended to read as follows:  
24-7-411. Compelling payment upon delinquency of employer.

(a)(1) If any participating employer fails to remit to the Arkansas Teacher Retirement System contributions that are required by law or regulation by the fifteenth day of the month in which the moneys are due, then the system shall impose an interest penalty of ~~six~~ eight percent ~~(6%)~~ (8%) per annum with a daily interest accrual.

(2) For purposes of this subsection, an employer's remittance is not delinquent if the employer's remittance is:

(A) Received by the system by the fifteenth day of the month in which the payment is due; or

(B) Postmarked by the fourteenth day of the month in which the payment is due.

(3) The interest penalty shall be determined by the system on



the date the delinquent funds are received, and a statement of the interest penalty shall be sent to the participating public employer.

(4) If the interest penalty or delinquent moneys are not received by the system by the last business day of the month in which the moneys were originally due, then the system shall cause the sums of moneys, including the interest penalty, to be transferred from any moneys due the participating employer from the Treasurer of State and the Department of Education as provided in § 19-5-106(a)(5).

(5) This interest penalty shall be computed on the actual days of delinquency and shall be paid to the system to reimburse the trust fund for the money that would have been earned on the moneys had they been paid when due.

(b)(1) If a participating employer fails to file with the system a report required by the Board of Trustees of the Arkansas Teacher Retirement System by the fifteenth day of the month in which the report is due, then the system shall impose a penalty of one hundred fifty dollars (\$150) for each late report.

(2) For purposes of this subsection, a report is not late if the report is:

(A) Received by the system by the fifteenth day of the month in which the report is due; or

(B) Postmarked by the fourteenth day of the month in which the report is due.

(3) A statement of the penalty shall be sent to the participating employer.

(4) If the penalty is not received by the last business day of the month in which the report was due, then the system shall cause the penalty amount to be transferred from any moneys due the participating employer from the Treasurer of State and the Department of Education as provided in § 19-5-106(a)(5).

(5) The penalty amounts collected shall be deposited to the credit of the administrative funds of the system to help defray the cost of additional expenses incurred due to the additional work required to process late reports.

(6) In addition to the late report penalty under subdivision (b)(1) of this section, the system may impose an additional penalty of five

hundred dollars (\$500) for a report that is filed with the system over one (1) month late.

(c) The board or its designee may waive penalties and interest for an employer delinquency under this section if the board or its designee finds that:

(1) The delinquency was not the result of the employer's nondisclosure, fraud, or misrepresentation; and

(2) Under the circumstances, requiring payment of the delinquency by the employer would be unduly penal, burdensome, or result in a manifest injustice.

(d)(1) If an employer fails to remit system contributions and reports required under subsections (a) and (b) of this section, the amount of delinquent funds including contributions, penalties, and interest owed to the system may be deducted from the operating funds designated to the employer through the Department of Education and remitted directly by the department to the system's appropriate account for the use and benefits of the members.

(2) The operating funds from which delinquent funds may be deducted for a public school district or open-enrollment public charter school are limited to:

(A) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(B) Federal funding to the extent allowed under federal law; and

(C) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter.

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 related to funds and management of assets are in need of revision to maintain the teacher retirement laws in conformance with sound public pension policy; that the Arkansas Teacher Retirement System operates on a July 1 to June 30 fiscal year; and that this act is necessary 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, 2013.