

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: S2/5/13 S2/19/13

## A Bill

SENATE BILL 232

By: Senators J. Key, J. English, Rapert, B. Sample, R. Thompson

By: Representatives Carnine, Catlett, Kerr

### For An Act To Be Entitled

AN ACT TO REQUIRE AUTOMATIC ENROLLMENT OF A NEW STATE EMPLOYEE IN A DEFERRED COMPENSATION PLAN; TO PROVIDE OPT-OUT PROVISIONS FOR A NEW STATE EMPLOYEE; AND FOR OTHER PURPOSES.

### Subtitle

TO REQUIRE AUTOMATIC ENROLLMENT OF A NEW STATE EMPLOYEE IN A DEFERRED COMPENSATION PLAN; AND TO PROVIDE OPT-OUT PROVISIONS FOR A NEW STATE EMPLOYEE.

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

*SECTION 1. Arkansas Code § 21-5-504(a), regarding the requirement of an employee contract to defer compensation to a deferred compensation plan, is amended to read as follows:*

*(a)(1) The state or ~~any~~ a county, city, town, or other political subdivision may agree, by contract, with ~~any~~ an employee to defer, in whole or in part, ~~any~~ a portion of that employee's future compensation to a deferred compensation program.*

*(2)(A) The participation of an employee in the automatic enrollment in a deferred compensation plan under § 21-5-511 is a term of an employee's employment contract.*

*(B) A separate contract is not required to be executed for an employee to be enrolled in a deferred compensation plan under § 21-5-511.*



*SECTION 2. Arkansas Code § 21-5-508 is amended to read as follows:  
21-5-508. Taxation of deferred income.*

*Any A sum deferred under the deferred compensation program ~~shall~~ is not be subject to income taxation until a distribution is ~~actually~~ made to the employee or beneficiary unless an employee has by contract directed that his or her contribution is to be deposited into a Roth deferred compensation plan.*

*SECTION 3. Arkansas Code Title 21, Chapter 5, Subchapter 5, is amended to add an additional section to read as follows:*

*21-5-511. Automatic enrollment in deferred compensation plan.*

*(a) As used in this section:*

*(1) "Deferred compensation plan" means the Arkansas Diamond Deferred Compensation Plan or subsequent deferred compensation plan administered by the Executive Director of the Employee Benefits Division of the Department of Finance and Administration under this subchapter; and*

*(2)(A) "Employee" means a person employed full time by the state and the state employer participates in the Arkansas Diamond Deferred Compensation Plan on or after January 1, 2014.*

*(B) "Employee" does not mean a person employed by a city, county, town, or other political subdivision that has adopted the Arkansas Diamond Deferred Compensation Plan.*

*(b)(1) An employee beginning employment or reemployment on or after January 1, 2014, shall be enrolled in the deferred compensation plan.*

*(2) However, an employee may elect not to participate in the deferred compensation plan.*

*(c)(1) The amount of the contribution for an employee participating in the deferred compensation plan under subdivision (b)(1) of this section is three percent (3%) of the employee's annual compensation.*

*(2) An employee may elect to contribute an amount greater than or less than the amount required under subdivision (c)(1) of this section; or*

*(d) If an employee elects not to participate in the deferred compensation plan within ninety (90) days of the employee's first contribution, the Executive Director of the Employee Benefits Division of the Department of Finance and Administration may refund to the employee the*

balance of the employee's deferred compensation plan account.

(e) The Executive Director of the Employee Benefits Division of the Department of Finance and Administration shall provide notice to each employee subject to this section:

(1) Within thirty (30) days of an employee's first contribution;

and

(2) At the beginning of each plan year.

(f) The Director of the Department of Finance and Administration shall promulgate rules to:

(1) Implement this section; and

(2) Comply with federal law to:

(A) Maintain the deferred compensation plan's tax qualification status by the federal government to remain tax exempt and tax qualified; and

(B) Protect an employee's deferred compensation plan account.

/s/J. Key