

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: S1/23/13
A Bill

SENATE BILL 40

By: Senator B. Sample

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CHANGES TO THE LAW
CONCERNING THE ARKANSAS LOCAL POLICE AND FIRE
RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CHANGES TO THE LAW
CONCERNING THE ARKANSAS LOCAL POLICE AND
FIRE RETIREMENT SYSTEM.

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

SECTION 1. Arkansas Code § 24-10-102(17), concerning the definition of final average pay, is amended to read as follows:

(17)(A) "Final average pay" means the monthly average of the pays to an employee during the period of thirty-six (36) consecutive months of credited service producing the highest monthly average, but the period must be contained within the period of one hundred twenty (120) consecutive months of credited service immediately preceding his or her separation from covered employment.

(B) Should a member have less than thirty-six (36) months of credited service, "final average pay" means the monthly average of pays to ~~him or her~~ the member during ~~his or her~~ the member's total months of credited service.

(C)(i) In any event, pays usable in determining final average pay shall be limited by the test in subdivision ~~(17)(e)(ii)~~ (17)(C)(ii) of this section, considering the final average pay period in four ~~(4) contiguous segments~~ consecutive years.



(ii)(a) Pays during any ~~one (1) annual segment~~ twelve (12) consecutive months shall be usable only to the extent that the pays do not exceed thirty-one percent (31%) of the total pays in the final average pay period.

(b) However, if the final average pay period is less than four (4) full years, the maximum usable thirty-one percent (31%) shall be increased proportionately.

(D)(i) For the limited purposes of calculating final average pay for disability retirement benefits under § 24-10-607, pay shall include workers' compensation benefits received by the member.

(ii) However, the pay that is increased for any month for the limited purposes of calculating this final average pay shall not be greater than the current pay attached to the rank of the member;

SECTION 2. Arkansas Code § 24-10-201(a), concerning members and terms, is amended to read as follows:

(a) The general administration and the responsibility for the proper operation of the Arkansas Local Police and Fire Retirement System and for making effective the provisions of this chapter are vested in a board of trustees of seven (7) persons as follows:

(1) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Professional Fire Fighters Association and one (1) list ~~from the Arkansas Council of Professional Fire Fighters~~ State Firefighters Association;

(2) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Municipal Police Association and one (1) list from the Fraternal Order of Police;

(3) Two (2) persons to be appointed employer trustees by the Governor from a list of persons submitted to him or her by the Arkansas Municipal League;

(4) One (1) person who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision to be appointed trustee by the Governor from a list of persons submitted to him or her by the Joint Committee on Public Retirement and

Social Security Programs;

(5) One (1) person who is a retired municipal police officer to be appointed a member trustee by the Governor from a list of two (2) persons submitted to him or her by the cochairs of the Joint Committee on Public Retirement and Social Security Programs; and

(6) One (1) person who is a retired municipal firefighter to be appointed a member trustee by the Governor from a list of two (2) persons submitted to him or her by the cochairs of the Joint Committee on Public Retirement and Social Security Programs.

SECTION 3. Arkansas Code § 24-10-405 is amended to read as follows:

24-10-405. Employer accumulation account -- Contributions.

(a) The employer accumulation account as created by this section shall be the account ~~in~~ into which ~~shall be accumulated~~ the contributions made by employers for annuities shall be accumulated and from which ~~shall be made~~ transfers shall be made as provided in this chapter.

(b) ~~When paid to the Arkansas Local Police and Fire Retirement System,~~ the Employer contributions paid to the Arkansas Local Police and Fire Retirement System provided for in this section shall be credited to the employer accumulation fund account of the employer making the contributions.

(c) When an annuity ~~first~~ becomes due and payable to or on behalf of a member, there shall be transferred to the retirement reserve account from his or her employer's account in the employer accumulation account the difference between the reserve for the annuity and the accumulated contributions standing to his or her credit in the members' deposit account at the time the annuity first becomes due and payable.

(d)~~(1) A separate account shall be maintained in the employer accumulation account for each employer~~ An employer accumulation account shall be maintained to receive and hold employer contributions.

~~(2) No paid service employer shall be responsible for the employer accumulation account liabilities of another paid service employer.~~

(e) ~~Each paid~~ Paid service employer's employer contributions to the system shall be the total of the contribution amounts provided for in subsections (f) and (g) of this section, and the contributions shall be subject to the provisions of subsection (h) of this section.

(f)(1) For ~~each~~ paid service ~~employer~~ employers, the actuary shall

annually compute the rate of contributions, expressed as a percent of active member pays, which will cover the benefit costs of ~~its~~ paid service employees participating in the system.

(2) ~~The actuarial valuation determining the contribution rate shall be based upon such financial assumptions as shall be established by the Board of Trustees of the Arkansas Local Police and Fire Retirement System after consulting with the actuary~~ The Board of Trustees of the Arkansas Local Police and Fire Retirement System in consultation with the actuary shall establish, based upon their financial assumptions, the actuarial valuation determining the contribution rate.

(3) The board shall ~~annually~~ certify annually to the governing body of each employer the contribution rate so determined, and each employer shall pay contributions based on that rate to the system during the employer's next fiscal year, which begins six (6) months or more after the date of the board certification.

(4) The payments shall be made in such manner and form, and in such frequency, and shall be accompanied by such supporting data, as the board shall determine.

(5) When received, the payments shall be credited to the ~~employer's account in the~~ employer accumulation account.

(g) Each employer shall provide its share as determined by the board of the administrative expenses of the system and shall pay that amount to the system to be credited to the income-expense account.

(h)(1) Except under subdivision (h)(2) of this section, the paid service employer's total contributions to the system, expressed as a ~~percent~~ percentage of active member pays, in any employer fiscal year beginning with the second fiscal year that the political subdivision is an employer shall not exceed its total contributions for the immediately preceding fiscal year, expressed as a percent of active member pays, by more than one percent (1%).

(2) However, an increase in the paid service employer's contributions to the system may exceed the limit of one percent (1%) per year imposed under subdivision (h)(1) of this section if the board certifies to the governing body of each paid service employer that the increase in the paid service employer's contribution rate is the direct result of increased benefit costs mandated by changes in the law made by the General Assembly.

(i)(1) For ~~each~~ volunteer service employers, the actuary shall

annually compute the rate of contributions that will cover the benefit costs of ~~its~~ volunteer service employees participating in the system as determined by policy established by the ~~Board of Trustees of the Arkansas Local Police and Fire Retirement System~~ board.

(2) The actuarial valuation determination of the contribution rate shall be based upon financial assumptions established by the board following consultation with the actuary.

(3) The board shall certify annually to the governing body of each employer the determined contribution rate, and each employer shall pay contributions based on the determined rate to the system during the employer's next fiscal year that begins six (6) months or more from the date of the board certification.

(4) The board shall determine required supporting data and the manner, form, and frequency in which payments shall be made.

(5) The board shall establish necessary additional policies regarding volunteer service employers that are required to meet the financial objective of the system under this subchapter.

(j) Beginning in fiscal year 2012, for each paid service employer the actuary shall annually compute the rate of contributions that will cover the benefit costs of its employees participating in the system as determined by policy established by the board.

SECTION 4. Arkansas Code § 24-10-407(d), concerning income-expense account, is amended to read as follows:

(d)(1) At the end of each system fiscal year, the board shall credit each member's individual account in the members' deposit account with regular interest on the average balance in the account for the fiscal year.

(2) At the end of each system fiscal year, the board shall credit to ~~each account in~~ the employer accumulation account regular interest on the average balance in the account for the fiscal year and similarly shall credit regular interest to the retirement reserve account.

(3) The regular interest shall be transferred from the income-expense account.

SECTION 5. Arkansas Code § 24-10-502(d), concerning military service, is amended to read as follows:

(d)(1)(A) Under ~~the requirements of~~ section 4312 of Pub. L. No. 103-353, the Uniformed Services Employment and Reemployment Rights Act of 1994 in effect October 13, 1996, a member who leaves covered employment to serve in the uniformed services of the United States after giving notice to the employer and who returns to employment shall be treated as not having incurred a break in service with the employer.

(B) The employer shall certify to the system that reemployment was in accordance with section 4312 of Pub. L. No. 103-353.

(2) Under this subsection, the uniformed services of the United States are limited to the armed forces of the United States, the Army and Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President of the United States in time of war or national emergency.

(3) The cumulative length of the absence from a position of employment with the employer by reason of service in the ~~uniformed~~ uniformed services for which service credit will be given shall not exceed five (5) years.

(4) A member whose uniformed service is honorably terminated and who reports for reemployment under this subsection within the time provided in section 4312 of Pub. L. No. 103-353 shall be entitled to accrue benefits for the time the member served in the uniformed services by paying the employee contributions required by § 24-10-404, if any, within the time provided in section 4312 of Pub. L. No. 103-353, and by repaying any amount the member may have previously withdrawn from the system, with interest.

(5)(A) An employer reemploying a member under this subsection shall pay to the system the employer contributions due for the time the member served in the uniformed services as required by § 24-10-405.

(B) However, if a member does not pay the employee contributions due, then no employer contributions are due.

(6) For the purposes of determining the employee and employer contributions due, the member's compensation during the period of service in the uniformed services shall be computed at:

(A) The rate the member would have received if the member had not served in the uniformed services; or

(B) The member's average compensation level during the

twelve-month period, or shorter if applicable, immediately preceding the service.

(7) Unless both employee and employer contributions are paid, the member shall not be entitled to any accrued benefits for the time served in the uniformed services.

(8)(A) If a member dies on or after January 1, 2007, while performing ~~USERRA~~ Uniformed Services Employment and Reemployment Rights Act of 1994-qualified military service, the member shall be treated as though he or she resumed covered employment on the day before the day of death.

(B) For a member who had not attained a vested status in the system, sufficient service credit shall accrue to permit the member to become vested.

(C) For a member who had attained a vested status, additional service credit accrual shall not occur.

(D) In all cases, the eligible benefit awarded by the system under this section shall be a nonduty death benefit.

SECTION 6. Arkansas Code § 24-10-503 is amended to read as follows:
24-10-503. Disability.

(a) In the event a member in covered employment becomes totally physically or mentally incapacitated for his or her duty as an employee as the natural and proximate result of a personal injury or disease which has arisen out of and in the course of his or her actual performance of duty as an employee, in the event the disability will probably not be permanent, and in the event periodic payments are payable under any workers' compensation or similar law on account of the same disability, then the disability time shall be credited as service under this subchapter upon ~~written~~ proper application filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System by or on behalf of the member.

(b) All determinations concerning the nature of the disability shall be made by the board.

(c) During the period of disability, his or her contributions based on reportable pays to the Arkansas Local Police and Fire Retirement System shall ~~be suspended~~ continue, and any balance remaining to his or her credit in the system shall ~~be accumulated at~~ continue to accrue regular interest.

(d) Service credit granted under this section shall not be considered

as credited service for the purpose of determining the member's final average pay.

(e) Should the ~~person~~ member die while so disabled, he or she shall be considered a member in covered employment at the time of death.

SECTION 7. Arkansas Code § 24-10-504 is amended to read as follows:

24-10-504. Forfeiture and restoration.

(a)(1) When a member is no longer employed by any employer in covered employment, he or she shall cease to be a member of the Arkansas Local Police and Fire Retirement System.

(2) Except as otherwise provided in this chapter, upon termination of his or her membership his or her credited service shall be forfeited by him or her.

(3) If the person becomes reemployed by any employer in covered employment, he or she shall again become a member of the system under subdivision (a)(4) of this section.

(4) Upon his or her reemployment, his or her credited service last forfeited by him or her shall be restored to his or her credit, but only if he or she returns to the system the amount, if any, he or she withdrew from the system, together with regular interest from the date of withdrawal to the date of repayment.

(b)(1) Upon a member's retirement, he or she shall cease to be a member.

(2) Except under subdivision (b)(3) of this section or as otherwise provided in this chapter, he or she shall not again become a member of the system.

(3) Upon a member's retirement for a period of not less than ninety (90) days, the member may return to volunteer service with a covered employer and may continue to draw the retirant's annuity if the retirant desires to return to the covered employer and voluntarily ~~agrees to sign a waiver to earning any~~ waives further service credit in the system or in any other police or firefighter-related pension fund.

(c)(1) Should a former member entitled to a vested annuity provided for in § 24-10-611 reenter covered employment before becoming a retirant, he or she shall cease to be entitled to a vested annuity and shall become a member, with his or her previous credited service reactivated and to be

increased by the reemployment.

(2)(A) If a former member entitled to a vested annuity under § 24-10-611 reenters covered employment after becoming a retirant, the former member may again become a member with previous credited service restored and increased by the period of reemployment, but only if the former member:

(i) Was not a participant in the Deferred Retirement Option Plan under § 24-10-701;

(ii) Was a retirant for at least thirty (30) days;
and

(iii) Remains reemployed for at least twelve (12) months.

(B) During the time of reemployment, the retirement benefits shall not be paid.

(C) The former member may exercise the reemployment option under this subdivision (c)(2) one (1) time only.

(D)~~(1)~~(i) At the end of the period of reemployment, the retirement benefit will be recalculated using service time, including the reemployment service, and final average pay.

~~(2)~~(ii) However, the final average pay shall be the same final average pay used initially to calculate the retirement benefit unless the period of reemployment lasts at least thirty-six (36) months, in which case the final average pay will be recalculated as defined under § ~~24-10-102(15)~~ 24-10-102(17).

(d)(1) Upon the retirement of a member whose credited service results from employment with more than one (1) employer, the amount of his or her annuity shall be based upon his or her total credited service in force at the time of his or her retirement and his or her final average pay during the total credited service.

(2) Each employer shall be responsible financially, within the provisions of this chapter, for the portion of the annuity based upon the service credited the member for employment with the employer, and the benefit program to be applied to each portion of credited service shall be the benefit program the employer had in effect at the time the member left the employment of the employer.

~~(e) If it is determined by the Board of Trustees of the Arkansas Local Police and Fire Retirement System at any time that continuous employment to~~

~~the time of retirement will leave a member with less than the minimum number of years of credited service specified in § 24-10-604, then the member shall cease to be a member.~~

SECTION 8. Arkansas Code § 24-10-603 is amended to read as follows:

24-10-603. Annuity options.

(a) Before the date the first payment of a member's annuity becomes due, but not thereafter, a member may elect in ~~writing~~ a manner prescribed by the system to receive his or her annuity as an Option A60 annuity under this section, or the member may elect to have his or her life annuity reduced, excepting any temporary annuity that may be payable. The member may nominate a beneficiary in accordance with the provisions of one (1) of the following options:

(1) Option A60 – Sixty (60) Months Certain and Life Annuity.

(A)(i) Under Option A60, the retirant shall be paid ~~a reduced~~ an annuity for life with the provision that if the retirant's death occurs before sixty (60) monthly payments have been made, the full ~~reduced~~ annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant shall have designated in ~~writing~~ a manner prescribed by the system and filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(ii) If there is no payee surviving, the lump-sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety-six percent (96%) of the life annuity if the first payment due date is before July 1, 2001, ninety-seven percent (97%) of the life annuity if the first payment due date is on or after July 1, 2001, or one hundred percent (100%) of the life annuity if the first payment due date is on or after July 1, 2003.

(2) Option A120 – One Hundred Twenty (120) Months Certain and Life Annuity.

(A)(i) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the

retirant shall have designated in ~~writing~~ a manner prescribed by the system and filed with the board.

(ii) If there is no payee surviving, the lump-sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated persons.

(B) The reduced annuity shall be ninety percent (90%) of the life annuity if the first payment due date is before July 1, 2001, ninety-five percent (95%) of the life annuity if the first payment due date is on or after July 1, 2001, or ninety-eight percent (98%) of the life annuity if the first payment due date is on or after July 1, 2003.

(3) Option B50 -- Fifty Percent (50%) Survivor Beneficiary Annuity.

(A)(i) Under Option B50, the retirant shall be paid a reduced annuity for life with the provision that upon the retirant's death, one-half (1/2) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person ~~as~~ the retirant ~~shall have~~ has designated in ~~writing~~ a manner prescribed by the system and filed with the board before his or her annuity starting date.

(ii) However, the person must be either:

(a) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date;

(b) Another person receiving more than one-half (1/2) support from the retirant for not less than one (1) year immediately preceding the first payment due date; or

(c) A dependent child as defined under § 24-10-102~~(11)(B)(ii)~~(13).

(B) If the first payment due date is before July 1, 2001, the reduced annuity to the retirant shall be eighty-five percent (85%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half of one percent (0.5%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by one-half of one percent (0.5%) up to a maximum of ninety-five percent (95%) for each year that the beneficiary's age is more than the retirant's age.

(C) If the first payment due date is on or after July 1, 2001, the reduced annuity to the retirant shall be ninety-one percent (91%)

if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half of one percent (0.5%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by one-half of one percent (0.5%) up to a maximum of ninety-five percent (95%) for each year that the beneficiary's age is more than the retirant's age.

(D) If the first payment due date is on or after July 1, 2003, the reduced annuity to the retirant shall be ninety-four percent (94%) if the retirant's age and retirant's beneficiary's age are the same on the first payment due date, which shall be decreased by ~~five-tenths~~ one half of one percent (0.5%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by ~~five-tenths~~ one half of one percent (0.5%) up to a maximum of ninety-eight percent (98%) for each year that the beneficiary's age is more than the retirant's age.

(4) Option B75 -- Seventy-Five Percent (75%) Survivor Beneficiary Annuity.

(A)(i) Under Option B75, the retirant shall be paid a reduced annuity for life with the provision that upon the retirant's death, three-quarters (3/4) of the reduced annuity shall be continued throughout the future lifetime of and paid to such person as the retirant shall have designated in ~~writing~~ a manner prescribed by the system and filed with the board before the retirant's annuity starting date.

(ii) However, the person must be either:

(a) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date;

(b) Another person receiving more than one-half (1/2) support from the retirant for not less than one (1) year immediately preceding the first payment due date; or

(c) A dependent child as defined under § 24-10-102(11)(B)(ii)(13).

(B) If the first payment due date is before July 1, 2001, the reduced annuity to the retirant shall be eighty percent (80%) if the retirant's age and his or her beneficiary's age are the same on the first due date, which shall be decreased by ~~three-quarters~~ three-fourths of one percent (0.75%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by ~~three-quarters~~ three-fourths of one

percent (0.75%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(C) If the first payment due date is on or after July 1, 2001, the reduced annuity to the retirant shall be eighty-six percent (86%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by ~~three-quarters~~ three-fourths of one percent (0.75%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by ~~three-quarters~~ three-fourths of one percent (0.75%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(D) If the first payment due date is on or after July 1, 2003, the reduced annuity to the retirant shall be eighty-nine percent (89%) if the retirant's age and the retirant's beneficiary's age are the same on the first payment due date, which shall be decreased by ~~seventy-five hundredths~~ three-fourths of one percent (0.75%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by ~~seventy-five hundredths~~ three-fourths of one percent (0.75%) up to a maximum of ninety-four percent (94%) for each year that the beneficiary's age is more than the retirant's age.

(b)(1)(A) At the ~~written~~ election of the retirant, a death of the beneficiary or the divorce or other marriage dissolution after retirement from a spouse designated as beneficiary shall cancel any optional plan elected at retirement to provide continuing lifetime benefits to the beneficiary and shall return the retirant to his or her single lifetime benefit equivalent, to be effective the month following receipt of the retirant's election by the plan.

(B) The election shall be in a manner prescribed by the system.

(2) A retirant who is receiving a single lifetime benefit and who marries after retirement or within the one (1) year immediately preceding retirement may elect to cancel his or her single lifetime benefit and to elect an optional plan providing continuing lifetime benefits to his or her spouse, but only if the election is ~~on a form~~ in a manner approved by the board and is received by the board not earlier than one (1) year after the date of the marriage and not later than eighteen (18) months thereafter.

(3) The election shall be effective the first day of the month

following its receipt.

(c) If a member does not elect an option, his or her annuity shall be paid to him or her as an Option A60 annuity provided for under subdivision (a)(1) of this section.

SECTION 9. Arkansas Code § 24-10-606 is amended to read as follows:
24-10-606. Early retirement.

(a) ~~Any~~ An active member in covered employment who has not attained his or her normal retirement age may retire with an early annuity as provided in this section upon his or her ~~written~~ proper application to the Board of Trustees of the Arkansas Local Police and Fire Retirement System setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing of his or her application, he or she desires to be retired, but only if, at the time of his or her separation from employment and at the time so specified for his or her retirement, the member ~~shall have~~ has:

(1) Attained age fifty (50) and ~~have~~ has twenty (20) years of credited service in force; or

(2) Twenty-five (25) years of actual credited paid service in the Arkansas Local Police and Fire Retirement System at any age.

(b) He or she shall have the right to elect an option provided for in § 24-10-603.

(c)(1) Upon early retirement, a member shall receive a certain percent of an annuity for life as provided for in § 24-10-602.

(2) The percent shall be one hundred percent (100%) reduced by one-half of one percent (0.5%) multiplied by the number of months by which his or her age at early retirement is less than his or her normal retirement age.

SECTION 10. Arkansas Code § 24-10-607 is amended to read as follows:
24-10-607. Disability retirement.

(a)(1)(A) ~~Any~~ An active member with five (5) years of credited service, including credited service for seventy-five percent (75%) of the two (2) years immediately preceding his or her disability, who while an active member becomes totally and permanently physically or mentally incapacitated for any suitable duty as an employee as a result of a personal injury or

disease may be retired by the Board of Trustees of the Arkansas Local Police and Fire Retirement System upon ~~written~~ proper application filed with the board by or on behalf of the member or former member.

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in ~~writing~~ a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member or former member should be retired.

(2) A ~~written~~ proper application to the board by the member or former member or on behalf of the member shall be filed with the board not later than one (1) year after the termination of active membership.

(3) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the ~~written~~ proper application is filed with the board.

(b)(1)(A) Upon disability retirement as provided in subsection (a) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B)(i) For purposes of calculating the amount of an annuity for disability retirement, a member's final average pay shall include workers' compensation benefits received by the member as set forth under § ~~24-10-102(15)(D)~~ 24-10-102(17)(D).

(ii) Disability benefits awarded to members, ~~prior to~~ before July 16, 2003, shall be adjusted to include workers' compensation benefits in calculating final average pay upon application to the system by the affected member.

(iii) ~~No~~ An adjustment shall not be made in monthly benefits paid before January 1, 2003.

(2) ~~He or she~~ The member shall have the right to elect an option provided for in § 24-10-603.

(3) ~~His or her~~ The member's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(c)(1)(A) Any active member who while an active member becomes totally

and permanently physically or mentally incapacitated for any suitable duty as an employee as the result of a personal injury or disease that the board finds to have arisen out of and in the course of his or her actual performance of duty as an employee may be retired by the board upon ~~written~~ proper application filed with the board by or on behalf of the member or former member.

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to the plan in ~~writing~~ a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will probably be permanent, and that the member or former member should be retired.

(2) A ~~written~~ proper application to the board by the member or former member or on behalf of the member shall be filed with the board not later than one (1) year after the termination of active membership.

(3) The disability annuity shall be effective the first day of the calendar month next following the later of:

(A) His or her termination of active membership; or

(B) Six (6) months before the date the ~~written~~ proper application is filed with the board.

(d)(1)(A) Upon disability retirement as provided in subsection (c) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for the sole purpose of computing the amount of the annuity for such a retirant who does not have twenty-five (25) years of credited service in force at the beginning of the disability retirement, credited service shall be granted for the period from the date of disability retirement to the date the retirant would have completed twenty-five (25) years of credited service.

(2)(A) Upon disability retirement as provided in subsection (c) of this section for members in paid service, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for determining the amount of the annuity, the retirant's annuity amount shall either be equal to sixty-five percent (65%) of the final average salary of the member or shall be equal to the annuity paid to retirants for each year of paid service resulting from

employment as provided for in § 24-10-602, whichever is greater.

(3) The retirant shall have the right to elect an option provided for in § 24-10-603.

(4) The retirant's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

(e)(1) At least one (1) time each year during the first five (5) years following a member's retirement on account of disability and at least one (1) time in each three-year period thereafter, the board may require any disability retirant who has not attained age fifty-five (55) to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If the retirant refuses to submit to the medical examination in any period, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.

(3) If his or her refusal continues for one (1) year, all his or her rights in and to a disability annuity may be revoked by the board.

(4) If, upon the medical examination of the retirant, the physician reports to the board that the retirant is physically and mentally able and capable of resuming suitable duty as an employee, his or her disability retirement shall terminate.

(5) If the former disability retirant does not immediately again become an employee, then, for the purpose of determining his or her eligibility for any other system benefit, he or she shall be considered to have terminated active membership as of the time of disability retirement, but for a reason other than disability or death.

(6)(A) If the former disability retirant immediately again becomes an employee, he or she shall immediately again become a member of the system, and his or her credited service at the time of his or her disability retirement shall be restored to his or her credit.

(B) He or she shall be given service credit for the period he or she was in receipt of the disability annuity.

(C) Should the former disability retirant again become totally and permanently disabled within two (2) years immediately following his or her return to membership, the seventy-five percent (75%) credited service requirement specified in subsection (a) of this section shall be

waived.

(f)(1) Beginning July 1, 2003, subdivision (d)(2) of this section shall apply retroactively to allow members of the Arkansas Local Police and Fire Retirement System who received a disability retirement before July 1, 2001, to receive the greater benefit of sixty-five percent (65%) of the final average salary of the member or an amount equal to the annuity paid to retirants for each year of paid service resulting from employment.

(2) However, the system shall not be responsible for making benefit payments retroactive to the effective date of the disability.

SECTION 11. Arkansas Code § 24-10-610 is amended to read as follows:
24-10-610. Limitations on death and disability annuities.

~~(a) If a death annuity is payable on behalf of a member who dies in employer service before retirement, or for the portion of a disability annuity payable before a disability retirant's attainment of age fifty-five (55), in no event shall the total amount of the system annuities based on paid service shall not exceed one hundred percent (100%) of the amount of his or her final average pay at the time of death or disability, as the case may be, less the total of the following amounts:~~

~~(1) Workers' compensation, if any, on account of the death or disability; and~~

~~(2) Benefits, if any, from social security on account of the death or disability.~~

~~(b)(1) Beginning with the January 1 which is at least twelve (12) full months after the effective date of an annuity, an amount of final average pay usable for the purposes of this section shall be redetermined each January 1, and the redetermined amount shall be applicable for the ensuing year.~~

~~(2) The redetermined amount shall be the amount of final average pay at the time of termination of covered employment increased by any percentage increase in the inflation index for the period from the October immediately preceding the effective date of the benefit to the October immediately preceding the January 1.~~

SECTION 12. Arkansas Code § 24-10-611(a), concerning termination of covered employment, is amended to read as follows:

(a) A member who terminates covered employment before attaining his or

her normal retirement age, for a reason other than death, early retirement, or disability retirement, shall be entitled to an annuity computed in accordance with the provisions of this section, as it provides at the time of the last termination of covered employment, subject to the member's satisfying all of the following conditions:

- (1) The member has five (5) years of credited service;
- (2) The member lives to his or her annuity starting date;
- (3) The member makes ~~written~~ proper application for retirement and payment of the annuity to the Arkansas Local Police and Fire Retirement System ~~on or after the date that is six (6) months~~ not less than thirty (30) days nor more than ninety (90) days before the date he or she attains his or her normal retirement age; and
- (4) The annuity starting date shall be the first day of the calendar month next following the later of:
 - (A) The date the member attains his or her normal retirement age; and
 - (B) The date the ~~written~~ proper application is received by the system.

SECTION 13. Arkansas Code § 24-10-613 is amended to read as follows:

24-10-613. Disposition of accumulated contributions.

(a)(1) If a retirant and his or her eligible beneficiary, if any, both die before they have received in annuity payments a total amount equal to the accumulated contributions, including any interest credits standing to the retirant's credit in the Arkansas Local Police and Fire Retirement System at the time of his or her retirement, the difference between the accumulated contributions and the total amount of annuities received by them shall be paid to the persons the retirant nominated ~~by written designation duly executed~~ in a manner prescribed by the system and filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(2) If no designated person survives the retirant and his or her beneficiary, the difference shall be paid to the ~~estate~~ estates of the survivor of the retirant and his or her beneficiary.

(b) In the event a member ceases to be a member, other than by death, before the date he or she becomes vested to receive an annuity payable by the system, he or she shall be paid the accumulated contributions standing to his

or her credit in the members' deposit account upon his or her ~~written~~ proper application filed with the board.

(c)(1) In the event a member dies and no annuity becomes or will become payable by the system on account of his or her death, ~~his or her~~ the accumulated contributions standing to his or her credit in the members' deposit account at the time of his or her death shall be paid to the persons he or she nominated ~~by written designation duly executed~~ in a manner prescribed by the system and filed with the board.

(2) If there are no designated persons surviving the member, the accumulated contributions shall be paid to his or her surviving spouse, or to his or her estate, if there is no surviving spouse.

(d)(1) In the event a member's membership in the system terminates and no annuity becomes or will become payable on his or her account, any accumulated contributions standing to his or her credit in the members' deposit account and unclaimed by the member or his or her legal representative within three (3) years from and after the date his or her membership terminated shall be transferred to the income-expense account.

(2) If, thereafter, proper application is made for the accumulated contributions, the board shall pay them from the income-expense account but without interest after the date payment was first due.

SECTION 14. Arkansas Code § 24-10-615 is amended to read as follows:
24-10-615. Suspension of payments upon request.

(a) Notwithstanding any other provision of a plan, a person entitled to receive a plan benefit may request ~~the plan in writing~~ in a manner prescribed by the system, for personal reasons and without disclosure thereof, to suspend for any period the payment of all or any part of the benefit otherwise payable to him or her under this chapter.

(b) Upon receipt of ~~the request~~ proper notice, the plan shall authorize the suspension, and the person shall be deemed to have forfeited all rights to the amount of benefits so suspended but shall have the right to have the full benefit otherwise payable reinstated as to future monthly payments upon ~~written~~ proper notice to the plan to revoke the prior request for a suspension under this section.

SECTION 15. Arkansas Code § 24-10-701 is amended to read as follows:

24-10-701. Election to participate.

(a) In lieu of terminating employment and accepting a paid service retirement benefit, a police officer or firefighter who is a member in paid service with the Arkansas Local Police and Fire Retirement System may elect in a manner prescribed by the system to participate in the Local Police and Fire Deferred Retirement Option Plan and defer the receipt of benefits in accordance with the provisions of this subchapter, provided that the member meets one (1) of the following requirements:

(1) The member has at least twenty-eight (28) years of service;

or

(2) The member has at least twenty (20) years of service and is at least fifty-five (55) years of age

(b) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall approve the participation in the plan.

SECTION 16. Arkansas Code § 24-10-707 is amended to read as follows:

24-10-707. Death of participant.

(a) If the participant dies during the period of participation in the Local Police and Fire Deferred Retirement Option Plan, a lump-sum payment equal to the account balance of the participant shall be paid to the participant's survivors or if none, to the participant's estate.

(b) A survivor is entitled to the annuity provided under § ~~24-10-709~~ 24-10-603 based on the service and final average salary at the time the member elected to participate in the plan.

SECTION 17. Arkansas Code § 24-10-709 is amended to read as follows:

24-10-709. Partial-annuity-and-lump-sum option.

(a) If a member does not terminate employment and retire on the date the member meets the service requirements of § 24-10-604 for an unreduced annuity and was not eligible for or has not elected to participate in the Local Police and Fire Deferred Retirement Option Plan as provided in this subchapter, the member may elect, in a manner prescribed by the system, at the time of retirement to participate in the partial-annuity-and-lump-sum option under this section.

(b)(1)(A) At the time of retirement, a member electing to participate shall be eligible to receive a lump-sum distribution in an amount not

exceeding one (1) month of benefit for each completed month of service beyond eligibility for an unreduced benefit.

(B) The lump sum shall not exceed an amount equal to sixty (60) months of benefits.

(2) The member electing to participate in the partial-annuity-and-lump-sum option shall then have the member's annuity reduced by an amount that is an actuarially determined equivalent of the withdrawal amount.

(c) The Board of Trustees of the Arkansas Local Police and Fire Retirement System shall adopt rules ~~and regulations~~ under this section governing the application for the partial-annuity-and-lump-sum option and the determination of the actuarially equivalent amount of the withdrawal.

SECTION 18. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the local police and fire retirement systems provide economic security for eligible citizens of Arkansas; that the statutes need amending to update and clarify existing law; and that these changes need to be made immediately. 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/B. Sample