

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

SENATE BILL 233

By: Senator Caldwell

## For An Act To Be Entitled

AN ACT TO PROHIBIT PENSION ADVANCES UNDER THE  
ARKANSAS TEACHER RETIREMENT SYSTEM; TO DECLARE AN  
EMERGENCY; AND FOR OTHER PURPOSES.

### Subtitle

TO PROHIBIT PENSION ADVANCES UNDER THE  
ARKANSAS TEACHER RETIREMENT SYSTEM; AND  
TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-715 is amended to read as follows:

24-7-715. Benefit rights not subject to legal process - Definitions.

(a) As used in this section, "pension assignee" means an individual or entity that is not a designated beneficiary and:

(1) Is assigned some or all of a benefit participant's pension benefits by the benefit participant; or

(2) Claims an interest in, or control over, a benefit participant's plan benefit or an account to which a benefit participant's plan benefit is deposited.

(b)(1) The Except as provided in this act, a benefit participant's right of a person to an annuity, to the return of accumulated contributions, to the annuity itself, to any annuity option, to a plan benefit, and to any other right accrued or accruing under the provisions of this act, and all moneys belonging to the Arkansas Teacher Retirement System, shall not be:

(A) subject Subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law



~~whatsoever legal or equitable process; and or~~

~~(B) shall be unassignable Assignable or transferable, except as is specifically provided in this act.~~

(2) ~~However, the An~~ employer shall have the right of setoff for any claim arising from embezzlement by, or fraud of, a ~~member, retirant, or beneficiary~~ benefit participant.

(3) This subsection does not prevent the right of the system to:

(A) Correct errors under § 24-7-205 in any manner provided by law; or

(B) Collect any moneys due from or related to a member account associated with a benefit participant.

(4) This subsection does not apply to the rollover of distributions as allowed under § 24-7-719.

~~(b)(c)~~ In the event an individual is no longer an active teacher or employee of ~~any~~ a public school district in this state, nor on leave of absence, and is found by any court of competent jurisdiction of this state to be willfully refusing or failing to support minor dependent children of the individual in violation of a court order providing for such support, although the individual is financially able to do so, then the court may, in its discretion, order the accumulated contributions, annuity or annuity options, or any other funds accruing under the provisions of this act to be paid into the registry of the court for such further disposition as the court ~~shall deem~~ deems just and proper.

~~(e)(d)~~(1) If, under the provisions of subsection ~~(b)~~ (c) of this section, ~~there is created a court order which directs payment of~~ orders all, or a portion of, a person's accumulated contributions to be paid into the registry of the court, the payment shall be made by the system to the court.

(2) ~~The person shall be notified by the system shall notify the person~~ of the payment and ~~shall be given~~ give the person an opportunity to redeposit the amount of the payment with in the system ~~the amount of the payment~~.

(3) If the payment is not redeposited, then any system annuity otherwise payable to, or on behalf of, the person shall be reduced in the proportion that the payment bears to the person's accumulated contributions before the payment.

(e)(1) A pension assignee shall not use any device, transfer, or other

related scheme to circumvent the prohibition against the assignment or transfer of a plan benefit.

(2) A device, transfer, or other related scheme under subdivision (e)(1) of this section includes without limitation:

(A) The deposit of a plan benefit into a joint account held by a benefit recipient and a pension assignee; and

(B) A pension assignee's authorization under a power of attorney or other instrument to access, or obtain funds from, an account to which plan benefits are deposited.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the operations of the Arkansas Teacher Retirement System are complex; that the system must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act are imminently in need of revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that such revision and updating is of great importance to members of the system and to other citizens of the State of Arkansas; that the system needs to have the ability to make immediate changes to maintain and improve its actuarial status; and that this act is immediately necessary in order to maintain an orderly management of benefits for the members of the system. 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.