

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H2/27/19
A Bill

HOUSE BILL 1320

By: Representative Maddox

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 24 OF
THE ARKANSAS CODE CONCERNING RETIREMENT AND PENSIONS
UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 24
OF THE ARKANSAS CODE CONCERNING
RETIREMENT AND PENSIONS 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 § 24-2-701(c)(1), concerning employer contribution rates to the state public employee retirement systems, is amended to read as follows:

(1)(A) For the Arkansas Teacher Retirement System, ~~for the fiscal years ending June 30, 2008, and June 30, 2009,~~ the Board of Trustees of the Arkansas Teacher Retirement System shall establish employer contribution rates prospectively each year.

(B) The employer contribution rates shall be based on the actuary's determination of the rate required to fund the plan ~~in accordance with the objectives~~ as necessary to meet the general financial objective set forth in subsection (a) of this section.

(C) The employer contribution rates shall be the rates determined by the Board of Trustees of the Arkansas Teacher Retirement System



under § 24-7-401(c) and based on the annual actuarial valuation of the Arkansas Teacher Retirement System.

~~(D) For the fiscal years ending June 30, 2008, and June 30, 2009, the employer contribution rate shall not exceed fourteen percent (14%).~~

SECTION 2. Arkansas Code § 24-7-202(18), concerning the definition of "final average salary" under the Arkansas Teacher Retirement System Act, is amended to read as follows:

(18)(A)(i) "Final average salary" means the average of the remuneration paid to a member by a participating employer during the fiscal year ending June 30 of not less than three (3) years nor more than five (5) years of credited service producing the highest annual average highest salaries earned by a member in state fiscal years determined in accordance with the rules and regulations of the board as is actuarially appropriate for the Arkansas Teacher Retirement System;

~~(ii) Before reducing the time period used to determine final average salary, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs, and the action shall be reviewed by the Joint Interim Committee on Public Retirement and Social Security Programs.~~

~~(B) If a member has less than the minimum of three (3) years of credited service, "final average salary" means the annual average of salaries paid to him or her during his or her total years of credited service, subject to the provisions of subdivision (32) of this section;~~

SECTION 3. Arkansas Code § 24-7-202(25), concerning the definition of "nonteacher" under the Arkansas Teacher Retirement System Act, is amended to read as follows:

(25) "Nonteacher" means ~~any member except a~~ member who is not a teacher;

SECTION 4. Arkansas Code § 24-7-202(30), concerning the definition of "retirant" under the Arkansas Teacher Retirement System Act, is amended to read as follows:

(30) ~~"Retirant"~~ "Retiree" or "retirant" means a member receiving

an Arkansas Teacher Retirement System annuity;

SECTION 5. Arkansas Code § 24-7-202, concerning definitions applicable to the Arkansas Teacher Retirement System Act, is amended to add an additional subdivision to read as follows:

(43) "Administrator" means:

(A) A person who is:

(i) Employed by an education related agency that participates in the Arkansas Teacher Retirement System;

(ii) An active member employed in a position that is a grade GS13, a grade above a GS13, or the equivalent of a grade GS13; or

(B) A person who is:

(i) Employed by a participating employer of the Arkansas Teacher Retirement System; and

(ii) Any one of the following:

(a) A public school superintendent, assistant superintendent, principal, or vice principal;

(b) A president, chancellor, or a director of an institution of higher education; or

(c) A president, vice president, or a director of a community college vocational, technical, or educational cooperative.

SECTION 6. Arkansas Code § 24-7-208 is amended to read as follows:
24-7-208. Benefit enhancements – Restrictions.

(a) No benefit enhancement provided for by this act shall be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-year amortization.

(b) No benefit enhancement provided for by this act shall be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding ~~thirty~~ eighteen (18) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

SECTION 7. Arkansas Code § 24-7-301(2)(C), concerning active member trustees employed in a position requiring an administrator's license as

members of the Board of Trustees of the Arkansas Teacher Retirement System, is amended to read as follows:

(C)(i) Two (2) active member trustees shall be employed in a position requiring an administrator's license, one (1) of whom ~~must~~ shall be ~~a superintendent or an educational cooperative director~~ an administrator.

(ii) These two (2) active member trustees shall be elected by members employed in positions requiring ~~administrator licensure~~ an administrator's license.

SECTION 8. Arkansas Code § 24-7-406(b)(5), concerning members who left covered employment under the Arkansas Teacher Retirement System before July 1, 1985, is amended to read as follows:

(5) Members who ~~left~~ leave covered employment ~~before July 1, 1985,~~ and who had annual compensation of seven thousand eight hundred dollars (\$7,800) or less shall have, upon their return to covered employment, full salary considered for purposes of the system.

SECTION 9. Arkansas Code § 24-7-601(c)(2)(A), concerning when days of paid sick leave cannot be considered service under the Arkansas Teacher Retirement System, is amended to read as follows:

(2)(A) Except as provided under subdivision (c)(2)(B) of this section, ~~days of paid sick leave shall not be considered service if the payment is for unused sick leave~~ paid or unpaid accrued, unused sick leave shall not be credited as service in the Arkansas Teacher Retirement System.

SECTION 10. Arkansas Code § 24-7-605 is amended to read as follows:

24-7-605. Service in General Assembly.

(a)(1)(A)(i) Any member of the Senate or House of Representatives of the General Assembly who is a member of the Arkansas Teacher Retirement System shall be eligible, upon application, to receive credited service and salary in the system for his or her full contract salary in the event that a cut in pay is required by the school district during his or her attendance at regular or extraordinary sessions of the General Assembly or during his or her attendance at meetings of regular or special committees of the General Assembly during the interim.

(ii) These meetings shall include, but not be limited to, the Legislative Council, the Legislative Joint Auditing Committee, the interim committees, and special legislative committees.

(B) The member shall receive credited service and salary upon payment by him or her of the necessary member contribution and upon appropriation from the Public School Fund of the necessary employer contribution for the amount of the salary reduction during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(2) The amount of credited ~~service~~ salary shall not exceed the contract salary of the member for the school year contract period.

(3)(A) Any member of the House of Representatives or the Senate currently serving in the General Assembly or the legislative committees for any year prior to July 6, 1977, not to exceed five (5) years, may make application for and receive credited service and salary in the system for his or her full contract salary as an employee with respect to any reduction therein during attendance at regular or extraordinary sessions of the General Assembly or sessions of legislative committees in which he or she served.

(B) This shall be done only if he or she pays to the system the member contribution required by law, and if appropriation is made from the Public School Fund for the necessary employer contribution required by law for that portion of his or her contract salary for any period for which he or she suffered a reduction in pay during legislative service.

(b)(1) Any member of the Senate or House of Representatives of the General Assembly who is an employee and is a member of the system shall be eligible, upon application, to receive credited service and salary in the system for his or her full contract salary in the event that either the member or the school district decides it is in the best interest of the school district for the member to take a leave of absence for up to one (1) full calendar year at a time to attend to his or her duties as a General Assembly member.

(2) Service and salary shall be credited upon payment by the member of the necessary member contribution and the necessary employer contribution for the amount of the member's contract salary during periods of attending regular or extraordinary sessions of the General Assembly or sessions of legislative committees.

(3) The amount of credited ~~service~~ salary shall not exceed the member's contract salary for the school year contract period.

SECTION 11. Arkansas Code § 24-7-608 is amended to read as follows:

24-7-608. Limitation on benefit enhancement.

(a) ~~No~~ A benefit enhancement provided for by this act shall not be implemented if it would cause the publicly supported retirement system's unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-year amortization.

(b) ~~No~~ A benefit enhancement provided for by this act shall not be implemented by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding ~~thirty~~ (30) eighteen (18) years until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

SECTION 12. Arkansas Code § 24-7-610(c), concerning the amount of purchased service credit a member receives for service in the National Guard or armed forces reserve under the Arkansas Teacher Retirement System, is amended to read as follows:

(c) ~~Members shall receive one (1) year of purchased service credit for each one (1) year of service in the National Guard or the armed forces reserve~~ A member may, one (1) time each fiscal year, purchase up to one (1) year of service credit for each one (1) year of service in the National Guard or armed forces reserve.

SECTION 13. Arkansas Code § 24-7-710(d), concerning amounts received in the form of a survivor annuity from the deposit account of a member of the Arkansas Teacher Retirement System, is amended to read as follows:

(d) For the purposes of § 24-7-709 related to the disposition of a member's residue amount, any amounts a survivor annuity received from the member's deposit account ~~in the form of a survivor annuity~~ under this section shall be considered annuity payments received by the member or his or her designated beneficiary and shall offset any disposition of residue payable under § 24-7-709 to the estate of the member or to an alternate payee.

SECTION 14. Arkansas Code § 24-7-713(b), concerning a modification of

the amount of a benefit stipend by the Board of Trustees of the Arkansas Teacher Retirement System, is amended to read as follows:

(b)(1) A member with at least ten (10) years of actual service in the Arkansas Teacher Retirement System is eligible to receive a benefit stipend in addition to his or her monthly retirement benefit.

~~(2)~~ Effective July 1, 2013, the The Board of Trustees of the Arkansas Teacher Retirement System may modify the amount of the benefit stipend from a maximum of seventy-five dollars (\$75.00) per month to not less than one dollar (\$1.00) per month for eligible benefit participants as a benefit supplement in addition to the cost of living adjustment under subsection (a) of this section.

~~(2)~~~~(3)~~ A benefit stipend increase or decrease adopted by the board shall apply to a complete fiscal year and shall remain in effect until adjusted by the board subject to the limitations under subdivision ~~(b)~~~~(4)~~ (b)(5) of this section.

~~(3)~~~~(4)~~ The board may adjust the benefit stipend amount by resolution at a meeting of the board.

~~(4)~~~~(5)~~ The board shall not reduce the benefit stipend unless the:

(A) Arkansas Teacher Retirement System's actuary certifies to the board that the amortization period exceeds eighteen (18) years; and

(B) Board determines that a reduction in the benefit stipend is prudent to maintain actuarial soundness.

~~(5)~~~~(6)~~ The board may phase in an increase or decrease of the benefit stipend.

(7) If a member was eligible for a benefit stipend, the benefit stipend shall be applied to the monthly benefit of the member's designated survivor and option beneficiary.

SECTION 15. Arkansas Code § 24-7-718(a), concerning the requirements for an increase in benefit formulas to be effective under the Arkansas Teacher Retirement System, is amended to read as follows:

(a) For an increase in benefit formulas to be effective, the regular annual actuarial valuation for the calendar year immediately preceding the *effective date of the increase shall be based upon an investment rate assumption of no more than eight percent (8%)* as recommended by the system's

actuary as financially sound for the Arkansas Teacher Retirement System and set by the Board of Trustees of the Arkansas Teacher Retirement System and shall indicate that up to and including a fourteen percent (14%) of pay employer contribution rate is sufficient to amortize all unfunded actuarial accrued liabilities for members over a period of ~~thirty (30)~~ eighteen (18) years or less unless the required contribution rate would exceed fourteen percent (14%).

SECTION 16. Arkansas Code § 24-7-720(e), concerning the implementation of a benefit enhancement under the Arkansas Teacher Retirement System, is amended to read as follows:

(e)(1) ~~No~~ A benefit enhancement provided for ~~by~~ under this section shall not be implemented if it would cause the ~~publicly supported retirement~~ system's unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-year amortization.

(2) ~~No~~ If the system's unfunded actuarial accrued liabilities exceed an eighteen-year amortization, a benefit enhancement provided for ~~by~~ under this section shall not be implemented ~~by any publicly supported system that has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years~~ until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

SECTION 17. Arkansas Code § 24-7-725 is amended to read as follows:
24-7-725. Limitation on benefit enhancement of § 24-7-702.

(a) ~~No~~ A benefit enhancement provided by § 24-7-702 shall not be implemented if it would cause the ~~publicly supported retirement system's~~ unfunded actuarial accrued liabilities of the Arkansas Teacher Retirement System to exceed ~~a thirty-year~~ an eighteen-year amortization.

(b) ~~No~~ If the system's unfunded actuarial accrued liabilities exceed an eighteen-year amortization, a benefit enhancement provided for by § 24-7-702 shall not be implemented ~~by any publicly supported system which has unfunded actuarial accrued liabilities being amortized over a period exceeding thirty (30) years~~ until the unfunded actuarial accrued liability is reduced to a level less than the standards prescribed by § 24-1-101 et seq.

SECTION 18. Arkansas Code § 24-7-736(c)(1) and (2), concerning the

computation of a final average salary for retirement benefits received under the Arkansas Teacher Retirement System, are amended to read as follows:

(c)(1) The Board of Trustees of the Arkansas Teacher Retirement System shall set annually the applicable number of years to be used in computing final average salary for retirement benefits at not less than three (3) years and not more than five (5) years.

(2)(A) Full service years that are recorded as service credit shall be used in the calculation ~~unless the member has a partial service year that is higher than a full service year~~ of the final average salary.

(B) If the member does not have full service years for the total years of service used in the calculation of final average salary, then the board may establish by rule a fair base year for a member's final average salary for purposes of comparison under subdivision (c)(3) of this section.

(C) If a member has less than the minimum number of years of credited service required for the final average salary formula, the final average salary of the member shall be the total salary paid to the member for his or her years of credited service divided by the member's total credited years of service.

(D) Before reducing the number of years that is used to determine the final average salary, the board shall file relevant information concerning the actuarial appropriateness of the action with the Joint Interim Committee on Public Retirement and Social Security Programs for review by the Joint Interim Committee on Public Retirement and Social Security Programs.

SECTION 19. Arkansas Code § 24-7-736(f), concerning final average salary calculations under the Arkansas Teacher Retirement System, is amended to read as follows:

(f)(1) The board may adjust the final average salary calculated in accordance with subsection (c) of this section by board resolution provided that:

~~(1)~~(A) The percentage increase under subdivision (c)(3)(D) of this section is adjusted no lower than one hundred five percent (105%) per year and no higher than one hundred twenty percent (120%) per year; and

~~(2)~~(B) The salary differential permitted under subdivision (c)(3)(D) of this section is set no lower than one thousand two hundred fifty dollars (\$1,250) per year and no higher than five thousand dollars (\$5,000)

per year.

(2) A partial service year is excluded from the calculation of the final average salary under this subsection.

SECTION 20. Arkansas Code § 24-7-1307(d), concerning interest applied to the Teacher Deferred Retirement Option Plan account of a participant, is amended to read as follows:

(d) If a participant continues covered employment after completing ten (10) consecutive years in the plan, the participant's plan account shall be credited on June 30 of each year or through the date of retirement, whichever occurs first, with ten (10) year plus plan interest as set by the board.

SECTION 21. Arkansas Code § 24-7-1313 is amended to read as follows:

24-7-1313. Limitation on benefit enhancement – Acts 1997, No. 953.

(a) ~~No~~ A benefit enhancement provided for by § 24-7-1306 shall not be implemented if it would cause the ~~publicly supported retirement system's~~ Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-year amortization.

(b) ~~No~~ A benefit enhancement provided for by § 24-7-1306 shall not be implemented by ~~any publicly supported~~ the system which has unfunded actuarial accrued liabilities being amortized over a period exceeding ~~thirty (30) years~~ until the unfunded actuarial accrued liability is reduced to a level less than ~~the standards prescribed by § 24-1-101 et seq.~~ an eighteen-year amortization.

SECTION 22. Arkansas Code § 24-7-1504(b), concerning the implementation of ad hoc benefits under the Retirants' Ad Hoc Increase Act, is amended to read as follows:

(b) An ad hoc benefit under this subchapter shall not be implemented if the ad hoc benefit would cause the Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities to exceed ~~a thirty-year~~ an eighteen-year amortization.

SECTION 23. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Teacher Retirement System Act, an act that created a state agency

for the purpose of providing retirement benefits to school employees of the state, are in need of revision and updating to maintain the teacher retirement laws in conformance with sound public pension policy; that the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30; that a July 1, 2019 effective date is necessary to allow the provisions of this act to begin on the first day of the fiscal year and to provide for the proper administration of the Arkansas Teacher Retirement System; that the updates and revisions to the Arkansas Teacher Retirement System Act are of great importance for actuarial purposes and the protection of member benefits under the Arkansas Teacher Retirement System; and that this act is necessary in order 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, 2019.

/s/Maddox