

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 239

By: Senator E. Cheatham

For An Act To Be Entitled

AN ACT TO DEFINE "MANIFEST INJUSTICE" UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO AMEND THE LAW CONCERNING THE BOARD OF TRUSTEES OF THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

Subtitle

TO DEFINE "MANIFEST INJUSTICE" UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND TO AMEND THE LAW CONCERNING THE BOARD OF TRUSTEES OF THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM.

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

SECTION 1. Arkansas Code § 24-4-101, concerning definitions pertaining to the Arkansas Public Employees' Retirement System, is amended to add an additional subdivision to read as follows:

(46) "Manifest injustice" means an obvious unfairness that has a direct and observable unconscionable effect that will occur as a result of a technical error or error of judgment, when the error is made by the system, a benefit participant, or employer, and the disparity of outcome to the parties, when taken together and supported by clear and convincing evidence, shows a great harm to the integrity of the system as a whole, the benefit participant, or an employer, unless the system is afforded the discretion to resolve the matter in a fair manner.



SECTION 2. Arkansas Code § 24-4-105, concerning meetings, powers, and duties of the Board of Trustees of the Arkansas Public Employees' Retirement System, is amended to add an additional subsection to read as follows:

(c)(1) The board or its designee may waive or modify the impact of a rule, provision, or law that does not violate federal law or jeopardize the tax-qualified status of the system to correct or prevent a manifest injustice that would affect the system, benefit participant, or employer in a particular instance.

(2) In determining manifest injustice the system may consider:

(A) The degree of fault of the system, benefit participant, or employer;

(B) An ambiguity in the interpretation of the circumstances, rule, or law;

(C) The cost to the system of correcting the error that is far outweighed by the benefit afforded to the system, benefit participant, or employer;

(D) Whether or not an expedited decision is in the public interest;

(E) The fundamental fairness of a remedy in a particular situation; and

(F) Whether or not the status quo would result in an unconscionable outcome.

SECTION 3. DO NOT CODIFY. Retroactivity.

This act applies retroactively to January 1, 2017.