

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: H4/6/21  
**A Bill**

HOUSE BILL 1325

By: Representative Warren

### **For An Act To Be Entitled**

AN ACT TO DEFINE AND CLARIFY RECIPROCAL SERVICE CREDIT AMONG THE PUBLIC EMPLOYMENT RETIREMENT SYSTEMS GENERALLY; TO AMEND THE LAW CONCERNING RECIPROCAL SERVICE CREDIT; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO DEFINE AND CLARIFY RECIPROCAL SERVICE CREDIT AMONG THE PUBLIC EMPLOYMENT RETIREMENT SYSTEMS GENERALLY; TO AMEND THE LAW CONCERNING RECIPROCAL SERVICE CREDIT; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-2-401, concerning definitions applicable to reciprocal service credits, is amended to add additional subdivisions to read as follows:

(5) "Member" means an employee of a state-retirement-plan-covered employer as defined under the plan of the retirement system;

(6)(A) "Retirement benefit" means a benefit that is offered to a retired member in accordance with the law applicable to the retirement system and includes without limitation a:

(i) Monthly retirement benefit; and

(ii) Deferred retirement plan benefit or annuity, if available.

(B) "Retirement benefit" does not exclusively mean a



monthly retirement benefit that is offered to a retired member in accordance with the law applicable to the retirement system; and

(7) "Service credit" means retirement credit earned by a member for time worked that is used as a factor that is applied to a retirement benefit formula under the law applicable to the retirement system in order to determine the monthly retirement benefit of the member.

SECTION 2. Arkansas Code § 24-2-402 is amended to read as follows:

24-2-402. Deferred annuity—Eligibility—Definition Retirement eligibility – Calculation of reciprocal service using deferred service credit.

~~If a member of a reciprocal system left or leaves a position covered by a reciprocal system, if an employee in a position covered by a reciprocal system left the employ of a state employer before the latter position was covered by a reciprocal system, or if an employee in a position later covered by a reciprocal system leaves that position before it is covered by a reciprocal system, which in this section in each case is called the "preceding system", and if that person entered or enters a position covered by a reciprocal system, which in this section is called the "succeeding system", and if the person is a member of the succeeding system after July 1, 1975, then the person shall be entitled to a deferred annuity payable by the preceding system subject to the following conditions:~~

~~(1) The person has credited service acquired in the employ of the preceding state employer;~~

~~(2)(A) The person does not withdraw his or her accumulated contributions from the preceding reciprocal system, or if he or she has withdrawn his or her accumulated contributions, he or she deposits with the preceding reciprocal system the amount he or she withdrew, together with interest from the date of withdrawal to the date of repayment at the rate in effect for the preceding reciprocal system, but that deposit must be made while he or she is an active member of a reciprocal system.~~

~~(B) In addition to the forfeited credited service, the active member of a reciprocal system shall receive credit for his or her previous employment with a public employer upon his or her paying the prescribed employee and employer contributions based upon the rate in effect during the previous employment, together with regular interest from the dates~~

~~for the previous service to the date of repayment.~~

~~(C) The provisions for determining a year of service credit shall be the prevailing rules of each reciprocal system;~~

~~(3) The person qualifies for age and service retirement in the succeeding reciprocal system using his or her credited service in force with the preceding reciprocal system plus his or her credited service acquired in the employ of succeeding state employers to meet the minimum service requirements of the succeeding systems;~~

~~(4)(A) The person's annuity payable by the preceding reciprocal system shall be upon the basis of the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system.~~

~~(B) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average compensation at the time of retirement, but each reciprocal system shall use the method of computing final average compensation stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.~~

~~(C) Any person retiring on or after July 1, 1982, with credited service in more than one (1) reciprocal system shall have his or her benefits recomputed based on the provisions of this section;~~

(a)(1) A member who maintains deferred service credit in one (1) or more reciprocal systems may combine the deferred service credit with service credit earned under a reciprocal system to meet the separate eligibility requirements for receiving a monthly retirement benefit under each reciprocal system.

(2) The combined service credit calculated under subdivision (a)(1) of this section shall:

(A) Be used for the purpose of establishing the eligibility of a member to receive a retirement benefit from a retirement system; and

(B) Not be used to calculate the monthly retirement benefit for service credit earned by a member under each retirement system.

(b)(1) To establish the eligibility of a member to receive a monthly retirement benefit from each retirement system, the credited service under

all reciprocal systems shall be totaled, and the total credited service shall be used to determine the eligibility of a member to receive a retirement benefit from each retirement system according to the eligibility requirements of that retirement system.

(2)(A) The separate retirement system's eligibility requirements for receiving a monthly retirement benefit, the calculation of a monthly retirement benefit, or a deferred retirement option plan, if available, under one (1) retirement system shall not apply to the eligibility requirements for receiving a monthly retirement benefit or a deferred retirement option plan, if available, under a reciprocal system.

(B) Any interest credited to the deferred retirement account shall be paid to the member's account under the deferred retirement option benefit program in effect for that retirement system.

(c)(1) Once a member meets the eligibility requirements to receive a retirement benefit, the monthly retirement benefit received by the member from a reciprocal system shall be limited to the member's service credit under the reciprocal system and calculated separately under the retirement benefit formula of that reciprocal system.

(2) A retirement system shall not use a member's service credit from a reciprocal system to calculate or increase the monthly retirement benefit of the member.

(d)(1) Service credit earned by a member under a retirement system shall not be combined with service credit earned by the member under a reciprocal system if the member withdraws his or her employee contributions from either the retirement system or the reciprocal systems.

(2) Service credit may be combined under this section if:

(A) A member withdraws his or her employee contributions from a retirement system; and

(B) After the withdrawal of his or her employee contributions from the retirement system, the member reestablishes service credit by depositing the amount required in accordance with the law applicable to the retirement system from which the employee contributions were withdrawn.

(e)(1) The final average compensation used to determine a monthly retirement benefit payable to a member by a reciprocal system shall be the final average compensation calculated for credited service under the

reciprocal system as provided by the law applicable to the reciprocal system.

(2)(A) A retirement system is not required to calculate a monthly retirement benefit based on the final highest salary or final average compensation under the reciprocal system in which the member has service credit.

(B) If a retirement system uses the highest final average compensation of the reciprocal system to determine a monthly benefit payable to a member, the final average compensation shall be computed as prescribed by the law of the reciprocal system.

(3) Compensation and salary earned in the Arkansas Judicial Retirement System shall not be used to determine the final highest salary of a member who has service credit in both the Arkansas Judicial Retirement System and a reciprocal system under this section.

(4)(A) A member who has earned service credit in more than one (1) reciprocal system on or before June 30, 2021, shall have his or her monthly benefit calculated by using the highest final average compensation the member has earned from any reciprocal system, excepting compensation and salary earned under subdivision (e)(3) of this section.

(B) The final average compensation under subdivision (e)(4)(A) of this section shall be computed as prescribed by the law of each reciprocal system at the time of the member's retirement.

(f) Each reciprocal system that has a minimum benefit provision in the plan of the reciprocal system shall pay only a proportionate share of the minimum benefit amount based on the ratio of service credit in the reciprocal system to the total service in all reciprocal systems.

~~(5)(A)(g)(1) It is the expressed intention of this subdivision (5) to provide the~~ This section does not prohibit providing the same death-in-service benefits to a member that would have been payable had the member died while an active member of a reciprocal ~~retirement~~ system.

~~(B)(2)~~ (2) A member who dies in service while a member of one (1) reciprocal system shall be considered as currently employed by all reciprocal systems in which the member retains credited service.

~~(C)(3)~~ (3) If a member has accrued credited service under the provisions of this subchapter but dies before retirement or before becoming eligible to retire, then the benefits payable shall be those provided by the reciprocal ~~retirement~~ system ~~named in this subchapter~~ in which the member has

deferred service, with ~~each~~ the reciprocal system being responsible for the payment of the death-in-service benefits provided by the applicable provisions of ~~its~~ the reciprocal system's retirement laws.

~~(D)~~(4) If death-in-service benefits are payable by more than one (1) reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more, as a percentage of the deceased member's final pay or as a minimum dollar amount, than the largest amount payable by any single reciprocal system.

~~(E)~~(5) Each reciprocal system that has a minimum benefit provision in its plan shall pay only a proportionate share of that minimum amount based on the ratio of service in that reciprocal system to the total service in all reciprocal systems.

~~(F)~~(6) If the reciprocal system is an alternate retirement plan under § 24-7-801 et seq. or § 24-7-901 et seq., death-in-service benefits shall be contingent on ~~provision of that benefit~~ death-in-service benefits having been provided by the alternate retirement plan and having been selected by the member as a benefit~~+~~.

~~(6)~~(h)(1) Both service in the Arkansas Public Employees' Retirement System as a member of the General Assembly and service in another reciprocal system during the same period of time may be counted to meet the service requirements for benefits from the reciprocal system ~~subject to the following+~~.

~~(A)~~(2) The benefit payable by a reciprocal system ~~will~~ shall be based on the credited service in ~~that~~ the reciprocal system and the final average compensation under ~~that~~ the reciprocal system. ~~However, nothing in this subdivision (6)(A) shall diminish the General Assembly member's right to a benefit for which the person is qualified under the provisions of § 24-4-706 [repealed]; and~~

~~(B)(i)~~ "Final average compensation" as used in this section means ~~the combined highest salaries from the preceding and succeeding systems equaling thirty six (36) complete months divided by three (3) if a member has+~~

~~(a) Fewer than twenty (20) years of credited service on July 1, 2009; and~~

~~(b) Fewer than three (3) years of service in a succeeding reciprocal system.~~

~~(ii) If the member is a state police officer covered under § 24-6-401 et seq., the combined salaries shall be from the preceding system and State Police Retirement System equaling forty-eight (48) months divided by four (4);~~

~~(7)(A)(i)(1)~~ If the ~~preceding or succeeding~~ reciprocal system is the Arkansas Judicial Retirement System and the member's benefits are determined under § 24-8-201 et seq., the benefit payable by the Arkansas Judicial Retirement System shall be determined by multiplying the benefit provided by § 24-8-218 by the following fraction:

~~(i)(A)~~ The numerator shall be the number of the actual years of service credited in the Arkansas Judicial Retirement System as a justice of the Supreme Court or judge of the circuit or chancery courts or the Court of Appeals; and

~~(ii)(B)~~ The denominator shall be fourteen (14) years.

~~(B)(2)~~ In no instance shall the benefit payable by the Arkansas Judicial Retirement System exceed the benefit provided by § 24-8-218.

~~(8)(A)(i) If the preceding or succeeding reciprocal system offers a deferred retirement option plan for its members, both service in the preceding and the succeeding reciprocal system may be counted to meet the minimum service credit requirements for benefits under a system's deferred retirement option plan.~~

~~(ii) The benefit payable by the preceding reciprocal system shall be based on the annuity formula of the preceding reciprocal system, exclusive of any minimum amount at the time the person begins to receive monthly retirement benefits from that system under its deferred retirement option provisions.~~

~~(iii) The final average compensation to be used to determine monthly benefits payable to that person shall be that of the reciprocal system which furnishes the highest final average compensation at the time of retirement, but each reciprocal system shall use the method of computing final average compensation stipulated by its law, and compensation in the Arkansas Judicial Retirement System shall not be used to determine final average compensation.~~

~~(iv) Any interest credited to the deferred~~

~~retirement account will be paid to the member's account under the deferred retirement option benefit program in effect for that system.~~

~~(B) The boards of trustees of each preceding or succeeding system shall promulgate such rules as are necessary to coordinate their benefits with any system providing a deferred retirement option plan; and~~

(9)(j)(1) In accordance with the law applicable to a retirement system, the board of trustees of each retirement system shall establish the eligibility requirements for a member to receive a monthly retirement benefit or deferred retirement option plan, if available, for service credit earned under their respective retirement system.

(2) The board of trustees of each reciprocal system shall promulgate rules necessary to coordinate the retirement benefits of the reciprocal system with any other reciprocal system.

(k) If the preceding or succeeding reciprocal system is an alternate retirement plan for a college, a university, or the Division of Higher Education provided for under § 24-7-801 et seq., or for a vocational-technical school or the Department of Career Education provided for under § 24-7-901 et seq., the benefits payable shall be in accordance with terms specified in the written alternate retirement plan document for purchasing the insurance policies or annuity contracts, both fixed and variable in nature, for the participants.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions concerning the use of reciprocal service credit for the purpose of providing retirement benefits to public employees of the state are in need of revision and updating to maintain the retirement laws in conformance with sound public pension policy; that the law concerning reciprocal service credit uses archaic language that is in need of updating so that retirement benefits may be administered between each reciprocal retirement system; that the retirement systems of this state operate on a fiscal year of July 1 to June 30; that a July 1, 2021, effective date is necessary to allow the provisions of this act to take effect on the first day of the fiscal year and enable the proper administration of the procedures required under this act; that revising and updating the provisions concerning reciprocal service credit is of great importance to the actuarial process and the protection of retirement

benefits payable to members of the retirement systems of this state; and that this act is necessary to maintain an orderly system of retirement benefits for the members of the retirement systems of this state. 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, 2021.

*/s/Warren*