

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: H2/25/21  
**A Bill**

HOUSE BILL 1346

By: Representative Warren  
By: Senator K. Hammer

### For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING FINAL AVERAGE  
COMPENSATION UNDER THE ARKANSAS PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE LAW CONCERNING FINAL AVERAGE  
COMPENSATION UNDER 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(18), concerning definitions applicable to the Arkansas Public Employees' Retirement System, is amended to read as follows:*

*(18)(A)(i) "Final average compensation" means the average of the highest annual compensations paid a member during any period of three (3) years of credited service with a public employer as calculated under § 24-4-623.*

*~~(ii) The three-year average shall be the greatest of the following:~~*

*~~(a) One third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal years when added to the total third highest compensation paid during the completed fiscal year; or~~*

*~~(b) One third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal~~*



~~years added to the total of the compensation paid for the months of credited service within the incomplete fiscal year in which the member retires, provided there are some, and the total third highest compensation paid during the completed fiscal year which has been multiplied by the number of months remaining in the fiscal year in which retirement occurs and divided by twelve (12).~~

~~(iii) Should the member have less than the minimum three (3) years of credited service, "average compensation" means the annual average compensations to the member during his or her total years of actual service.~~

~~(B) Any other provision to the contrary notwithstanding:~~

~~(i) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's rate of pay at the time of separation from covered employment;~~

~~(ii) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's highest rate of such pay; or~~

~~(iii) If a member served at any time in an office whose rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that member was a member of the General Assembly on December 31, 1978, then the member's "average compensation" shall not be less than the rate of pay currently set for the highest legislative office the member held;~~

SECTION 2. Arkansas Code Title 24, Chapter 4, Subchapter 6, is amended to add an additional section to read as follows:

24-4-623. Final average compensation.

(a)(1) For a member first hired by a system-covered employer on July 1, 2022, or after, the average of the five (5) highest annual compensations paid to the member during a completed fiscal year of credited service with a public employer shall determine the final average compensation that shall be used to determine the member's monthly retirement benefit.

(2) The five-year average shall be the greatest of the following:

(A) One-fifth (1/5) of the following: The total of the highest compensations paid during the four (4) completed fiscal years when

added to the total fifth-highest compensation paid during the completed fiscal year; or

(B) One-fifth (1/5) of the following: The total of the highest compensations paid during the four (4) completed fiscal years added to the total of the compensation paid for the months of credited service within the incomplete fiscal year in which the member retires, provided there are some, and the total fifth highest compensation paid during the completed fiscal year which has been multiplied by the number of months remaining in the fiscal year in which retirement occurs and divided by twelve (12).

(3) Should the member have less than the minimum five (5) years of credited service, "average compensation" means the annual average compensations to the member during his or her total years of actual service.

(b)(1) For a member first hired by a system-covered employer before July 1, 2022, the average of the three (3) highest annual compensations paid during a completed fiscal year of credited service with a public employer determines the final average compensation to be used in determining a member's monthly retirement benefit.

(2) The three-year average shall be the greatest of the following:

(A) One-third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal years when added to the total third highest compensation paid during the completed fiscal year; or

(B) One-third (1/3) of the following: The total of the highest compensations paid during the two (2) completed fiscal years added to the total of the compensation paid for the months of credited service within the incomplete fiscal year in which the member retires, provided there are some, and the total third highest compensation paid during the completed fiscal year which has been multiplied by the number of months remaining in the fiscal year in which retirement occurs and divided by twelve (12).

(3) Should the member have less than the minimum three (3) years of credited service, "average compensation" means the annual average compensations to the member during his or her total years of actual service.

(c)(1) If a member's rate of pay is set by Arkansas Constitution, Amendment 70, § 1, then the member's "average compensation" shall not be less than the member's:

(A) Rate of pay at the time of separation from covered employment; and

(B) Highest rate of such pay.

(2) If a member served at any time in an office whose rate of pay is set by Arkansas Constitution, Amendment 70, § 1, and that member was a member of the General Assembly on December 31, 1978, then the member's "average compensation" shall not be less than the rate of pay currently set for the highest legislative office the member held.

/s/Warren