

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 4

By: Senator B. Sample

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING DISABILITY RETIREMENT, EMPLOYER ACCUMULATION ACCOUNTS, AND EMPLOYER CONTRIBUTIONS UNDER THE ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING DISABILITY RETIREMENT, EMPLOYER ACCUMULATION ACCOUNTS, AND EMPLOYER CONTRIBUTIONS UNDER THE ARKANSAS LOCAL POLICE AND FIRE RETIREMENT SYSTEM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-10-405, concerning employer accumulation accounts and contributions under the Arkansas Local Police and Fire Retirement System, is amended to add an additional subsection to read as follows:

(k)(1) Beginning January 1, 2022, the board may add an additional amount to a paid service employer contribution to account for the cost of providing a disability benefit for each employee of the employer as provided under § 24-10-607.

(2) In a time and manner prescribed by the system, an employer shall remit to the system the employer contribution charged to the employer.

(3) The employer contribution and any applicable penalty under



this subsection shall not be subject to a limitation imposed by subsections (f) and (h) of this section.

(4) The employer contribution and any applicable penalty charged or assessed under this subsection does not qualify for inclusion in funding with or the receipt of premium tax revenues provided under § 24-11-214.

(5) The board may establish rules necessary to implement this subsection.

SECTION 2. Arkansas Code § 24-10-503 is repealed.

~~24-10-503. Disability.~~

~~(a) In the event a member in covered employment becomes totally physically or mentally incapacitated for his or her duty as an employee as the natural and proximate result of a personal injury or disease which has arisen out of and in the course of his or her actual performance of duty as an employee, in the event the disability will probably not be permanent, and in the event periodic payments are payable under any workers' compensation or similar law on account of the same disability, then the disability time shall be credited as service under this subchapter upon proper application filed with the Board of Trustees of the Arkansas Local Police and Fire Retirement System by or on behalf of the member.~~

~~(b) All determinations concerning the nature of the disability shall be made by the board.~~

~~(c) During the period of disability, his or her contributions based on reportable pays to the Arkansas Local Police and Fire Retirement System shall continue, and any balance remaining to his or her credit in the system shall continue to accrue regular interest.~~

~~(d) Service credit granted under this section shall not be considered as credited service for the purpose of determining the member's final average pay.~~

~~(e) Should the member die while so disabled, he or she shall be considered a member in covered employment at the time of death.~~

SECTION 3. Arkansas Code § 24-10-607(a)(1)(A)(iii) and (iv), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, are repealed.

~~(iii)(a) As used in subdivision (a)(1)(A)(i) of this~~

~~section, "disease" includes without limitation cancer that a member or volunteer member is diagnosed with while he or she is in the line of duty.~~

~~(b) A finding that a member or volunteer member was diagnosed with cancer while he or she was in the line of duty may be rebutted by a preponderance of the evidence.~~

~~(iv) As used in subdivision (a)(1)(A)(iii) of this section, "cancer" means:~~

~~(a) Leukemia, lymphoma, mesothelioma, or multiple myeloma;~~

~~(b) Cancer of the brain, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, colon, or digestive tract; or~~

~~(c) A cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if the firefighter was exposed to a known carcinogen, as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer, while in the official line of duty.~~

SECTION 4. Arkansas Code § 24-10-607(a)(1)(B), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to the board in a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will ~~probably~~ be permanent, and that the member or former member should be retired.

SECTION 5. Arkansas Code § 24-10-607(c)(1)(B), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(B) The employee shall be retired only if, after a medical examination of the member or former member made by or under the direction of a physician or physicians designated by the board, the physician reports to

the plan in a manner prescribed by the board that the member or former member is physically or mentally totally incapacitated for the further performance of any suitable duty, that the incapacity will ~~probably~~ be permanent, and that the member or former member should be retired.

SECTION 6. Arkansas Code § 24-10-607(c), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to add an additional subdivision to read as follows:

(4)(A) A member who is hired on or after July 1, 2013, shall accrue ten (10) years of actual service to be eligible for retirement as provided in this subsection.

(B) As used in this subsection:

(i) "Cancer" means:

(a) Leukemia, lymphoma, mesothelioma, or multiple myeloma;

(b) Cancer of the brain, urinary tract, liver, skin, breast, cervix, thyroid, prostate, testicle, colon, or digestive tract; or

(c) A cancer that has been found by research and statistics to show higher instances of occurrence in firefighters than in the general population, if the firefighter was exposed to a known carcinogen, as determined by the Department of Health with consideration to the findings of the International Agency for Research on Cancer, while in the official line of duty; and

(ii) "Disease" includes without limitation a cancer that a member is diagnosed with while he or she is in the line of duty.

(C) A finding that a member was diagnosed with cancer while he or she was in the line of duty may be rebutted by a preponderance of the evidence.

SECTION 7. Arkansas Code § 24-10-607(d), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(d)(1)(A) Upon disability retirement as provided in subsection (c) of this section, a member shall receive an annuity provided for in § 24-10-602.

(B) However, for the sole purpose of computing the amount

of the annuity from volunteer service for such a retirant who does not have twenty-five (25) years of credited service in force at the beginning of the disability retirement, credited service shall be granted for the period from the date of disability retirement to the date the retirant would have completed twenty-five (25) years of credited service.

(C)(i) An approved duty disability retirement that is effective on or after April 1, 2021, shall be classified as catastrophic duty disability, hazardous duty disability, or ordinary duty disability in accordance with the criteria in the rules for disability retirement established by the board.

(ii) A catastrophic duty disability annuity shall be equal to the greater of the following:

(a) The annuity paid to a retirant with twenty-eight (28) years of accrued paid service credit; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided under § 24-10-602.

(iii) A hazardous duty disability annuity shall be equal to the greater of the following:

(a) Sixty-five percent (65%) of the final average pay of the member; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided for in § 24-10-602.

(iv) An ordinary duty disability annuity shall be equal to the greater of the following:

(a) Fifteen percent (15%) of the final average pay of the member; or

(b) The annuity paid to a retirant for each year of paid service resulting from employment as provided under § 24-10-602.

~~(2)(A) Upon disability retirement as provided in subsection (c) of this section for members in paid service, a member shall receive an annuity provided for in § 24-10-602.~~

~~(B) However, for determining the amount of the annuity, the retirant's annuity amount shall either be equal to sixty five percent (65%) of the final average salary of the member or shall be equal to the annuity paid to retirants for each year of paid service resulting from~~

~~employment as provided for in § 24-10-602, whichever is greater.~~

~~(3)~~(2) The retirant shall have the right to elect an option provided for in § 24-10-603.

~~(4)~~(3) The retirant's disability retirement and annuity shall be subject to the provisions of subsection (e) of this section and to the provisions of § 24-10-610.

SECTION 8. Arkansas Code § 24-10-607(e)(1)-(3), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, are amended to read as follows:

(e)(1) At least one (1) time each year ~~during the first five (5) years~~ following a member's retirement on account of disability ~~and at least one (1) time in each three-year period thereafter~~, the board may require ~~any a~~ a disability retirant who has not attained age fifty-five (55) to undergo a medical examination to be made by or under the direction of a physician or physicians designated by the board.

(2) If the retirant refuses to submit to the medical examination ~~in any period~~, his or her disability annuity may be suspended by the board until his or her withdrawal of his or her refusal.

(3) If ~~his or her~~ the refusal of the retirant continues for ~~one (1) year~~ ninety (90) calendar days, all ~~his or her~~ the rights of the retirant in and to a disability annuity may be revoked by the board.

SECTION 9. Arkansas Code § 24-10-607(f)(1), concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is amended to read as follows:

(f)(1) Beginning July 1, 2003, ~~subdivision (d)(2) of this section shall apply retroactively to allow members~~ a member of the Arkansas Local Police and Fire Retirement System who received a disability retirement before July 1, 2001, ~~to~~ shall receive the greater benefit of sixty-five percent (65%) of the final average ~~salary pay~~ of the member or an amount equal to the annuity paid to retirants for each year of paid service resulting from employment.

SECTION 10. Arkansas Code § 24-10-607, concerning disability retirement under the Arkansas Local Police and Fire Retirement System, is

amended to add additional subsections to read as follows:

(g) Except for a disability retirant, a retirant who again becomes an employee of an employer covered by the system shall not be eligible to apply for or receive benefits under this section if her or she becomes disabled.

(h) An approved disability annuity shall be forfeited immediately if a retirant becomes employed in a position that has the retirant perform a duty similar to his or her former employment:

- (1) As a certified law enforcement officer;
- (2) As a certified firefighter;
- (3) As a first responder; or
- (4) Performing an emergency medical service function.

(i) When determining eligibility to apply for or receive a benefit under this section, the following shall not be considered:

- (1) Workers' compensation laws;
- (2) Workers' compensation rules;
- (3) An opinion regarding workers' compensation; or
- (4) A determination regarding workers' compensation.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of the Arkansas Local Police and Fire Retirement System are complex; that the system must be able to meet the needs of its members; that the statutes concerning disability retirement and employer accumulation accounts and contributions under the system are imminently in need of revision and updating to conform with competent public pension policy and prevent exploitation of the benefit structure of the system; that the calculation of certain retirement benefits is in need of clarification; that there is a need for certainty with regard to benefit accruals that are applicable to members of the system; 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 Sections 2 through 10 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on April 1, 2021.