

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

State of Arkansas  
93rd General Assembly  
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# A Bill

SENATE BILL 85

By: Senators Irvin, Hickey, Beckham, L. Chesterfield, J. Dismang, Elliott, J. English, Flippo, Gilmore, Hill, K. Ingram, B. Johnson, G. Leding, Rice, B. Sample, D. Sullivan

By: Representatives Evans, Shepherd, Wardlaw, Beaty Jr., Beck, M. Berry, S. Berry, Bragg, Brown, C. Cooper, Crawford, Dalby, M. Davis, Dotson, Ennett, Eubanks, K. Ferguson, C. Fite, D. Garner, Godfrey, Hawks, M. Hodges, Hollowell, Hudson, Jett, Love, Maddox, McCullough, S. Meeks, Nicks, Perry, Scott, S. Smith, Speaks, Vaught, Warren, D. Whitaker, Wing, Wooten

## For An Act To Be Entitled

AN ACT TO CLARIFY THE DEFINITION OF "ELIGIBLE INACTIVE RETIREE"; TO MODIFY THE ELIGIBILITY OF RETIREEES TO PARTICIPATE IN THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO CLARIFY THE DEFINITION OF "ELIGIBLE INACTIVE RETIREE"; TO MODIFY THE ELIGIBILITY OF RETIREEES TO PARTICIPATE IN THE STATE AND PUBLIC SCHOOL LIFE AND HEALTH INSURANCE PROGRAM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 21-5-407(5), concerning the definition of "eligible inactive retiree" under the State and Public School Life and Health Insurance Program, is amended to read as follows:

(5)(A) "Eligible inactive retiree" means a former member of the General Assembly or a state-elected constitutional officer who has served a sufficient number of years of credited service to be eligible for retirement



benefits but who has not yet reached retirement age.

(B) An eligible inactive retiree is qualified to enroll in the program as a retiree if he or she participated in the program for at least five (5) cumulative years before retirement.

(C) An eligible inactive retiree who enrolls in the program shall pay the entire premium cost of the plan option selected under the program as set by the board;

SECTION 2. Arkansas Code § 21-5-411 is amended to read as follows:

21-5-411. Eligibility of certain retired employees – Definition.

(a)(1) ~~If qualified, state employee retirees and public school employee retirees may continue coverage and participate in the State and Public School Life and Health Insurance Program if the state employee retirees or public school employee retirees are~~ State employee retirees and public school retirees are qualified to enroll in the State and Public School Life and Health Insurance Program as retirees if they:

(A) ~~Participating~~ Have participated in the program for at least five (5) cumulative years before retirement as participating members of:

(i) The Arkansas Public Employees' Retirement System, including the members of the legislative division and the contract personnel of the Arkansas National Guard;

(ii) The Arkansas Teacher Retirement System;

(iii) The Arkansas State Highway Employees' Retirement System;

(iv) The Arkansas Judicial Retirement System; or

(v) An alternate retirement plan of a qualifying institution under § 24-7-801; and

(B) ~~Retired~~ Are retired and drawing benefits under one (1) or more of the retirement systems listed under subdivision (a)(1)(A) of this section.

(2)(A)(i) If a state employee retiree or a public school employee retiree who is a member of a retirement system listed under subdivision (a)(1)(A) of this section receives retirement benefits, thereby becoming an active retiree, and has participated in the program for at least five (5) cumulative years before retirement, the active retiree may elect to

enroll in the program.

(ii) The election to enroll in the program shall be made within thirty (30) days of the state employee retiree's or public school employee retiree's becoming an active retiree and shall be made in writing to the Employee Benefits Division on forms required by the division.

(B)(i) To be eligible to continue coverage or to qualify for coverage after electing to decline participation in the program, the retiree must have been covered ~~on the last day of~~ for at least five (5) cumulative years before the retiree's employment ended.

(ii) If a retiree declines to participate in the program at the time of retirement because the retiree is already covered under another employer-sponsored group health insurance policy, the retiree may make a one-time election to participate in the program if the retiree experiences a qualifying event with proof of continued insurance coverage at the time of open enrollment and documentation that the retiree was covered under the program for at least five (5) cumulative years before retirement ~~or if the retiree experiences a qualifying event~~.

(C)(i) Except as provided in subdivision (a)(2)(C)(ii) of this section, an active retiree's failure to make an election to participate in the program during the thirty-day election period or an active retiree's election to decline participation in the program is final.

(ii) If an active retiree declines participation in the program because the active retiree has health insurance coverage through another employer group health plan and the active retiree's coverage was subsequently terminated because of a loss of eligibility, as defined by Internal Revenue Service regulations, and provides information from the former insurance company of the loss of eligibility, then the active retiree shall qualify for participation in the program upon confirmation that the active retiree participated in the program for at least five (5) cumulative years before retirement and payment of the appropriate premium as determined by the State Board of Finance under subdivision (a)(5) of this section if the active retiree applies for participation in the program within thirty (30) days of the loss of eligibility.

(3)(A) Notwithstanding any other provision to the contrary in this section, a state employee or public school employee ~~with~~ who has five (5) cumulative years of participation in the program before retirement and

ten (10) or more years of creditable service under the terms of a retirement plan listed in this section shall qualify for continued participation in the program if the state employee or public school employee is separated from employment because of the expiration of a fixed period of employment.

(B)(i) A state employee or public school employee qualifying for continued participation in the program under this subsection shall be considered an inactive retiree and shall have thirty-one (31) days from the effective date of termination to elect to continue participation in the program under this section by notifying the division.

(ii) The election to continue participation in the program shall be made in writing on forms required by the division.

(C)(i) Except as provided in subdivision (a)(2)(B)(ii) of this section, an inactive retiree's failure to elect to continue participation in the program during the thirty-day election period or an inactive retiree's election to decline participation in the program is final.

(ii) If an inactive retiree as described in subdivision (a)(3)(B) of this section declines participation in the program because the inactive retiree has health insurance coverage through another employer-sponsored group health plan and the inactive retiree's coverage is subsequently terminated because of a loss of eligibility, then the inactive retiree and any dependents shall qualify for participation in the program if, within thirty (30) days of the inactive retiree's involuntary loss of coverage, the inactive retiree submits to the board:

(a) Payment of the appropriate premium as determined by the board under subdivision (a)(5) of this section; ~~and~~

(b) Proof that, until the inactive retiree's involuntary loss of coverage through another employer-sponsored group health plan, the coverage had been continuous; and

(c) Proof that the inactive retiree participated in the program for at least five (5) cumulative years before retirement.

(D) An eligible inactive retiree shall be reclassified as an active retiree upon electing to receive a retirement benefit by a retirement system listed under subdivision (a)(1)(A) of this section and shall be charged the premium rate appropriate for his or her rating category as an active retiree as determined by the board under subdivision (a)(5) of

this section.

(4)(A) As used in this subsection, “loss of eligibility” means a loss of coverage as a result of:

- (i) A legal separation;
- (ii) Divorce;
- (iii) Death of the insured;
- (iv) Termination of employment; or
- (v) A reduction in the number of hours of

employment.

(B) “Loss of eligibility” does not include:

- (i) A loss of coverage from a failure to pay premiums on a timely basis;
- (ii) Voluntary termination of coverage; or
- (iii) A termination of coverage for cause, such as making a fraudulent claim.

(5)(A) A qualified retiree hired as a new employee or elected as a public official after December 31, 2015, who applies for participation in the program shall pay a premium as determined by the board that includes:

(i) If a retiree enrolled in the program within the first three (3) years of employment with a participating entity, an appropriate premium rate for a retiree;

(ii) If a retiree enrolled in the program between the fourth and thirteenth year of employment with a participating entity, an additional five percent (5%) of the premium rate;

(iii) If a retiree enrolled in the program between the fourteenth and twenty-third year of employment with a participating entity, an additional ten percent (10%) of the premium rate; and

(iv) If a retiree enrolled in the program after the twenty-third year of employment with a participating entity, an additional fifteen percent (15%) of the premium rate.

(B)(i) A retiree shall be continuously enrolled in the program if actively employed in a position that is eligible to participate in the program.

(ii)(a) A retiree who has a break in enrollment in the program may be considered to be continuously enrolled in the program if the retiree:

(1) Applies for participation in the program within thirty-one (31) days of returning to active employment; ~~and~~

(2) Is employed in a position that is eligible to participate in the program; and

(3) Was a participant in the program for at least five (5) cumulative years before retirement.

(b) If a retiree declines to participate in the program upon returning to active employment under subdivision (a)(5)(B)(ii)(a) of this section, the retiree may participate in the program based on the year of the retiree's most recent enrollment in the program if the retiree has participated in the program for at least five (5) cumulative years before retirement.

(iii) A retiree who declines to participate in the program at the time of retirement is not considered continuously enrolled in the program.

(b)(1) ~~Retirees~~ Qualified retirees who draw retirement benefits under the Arkansas Public Employees' Retirement System, the Arkansas Teacher Retirement System, or the Arkansas State Highway Employees' Retirement System and retired contract employees of the Arkansas National Guard who wish to participate in the program shall pay the retiree amount of the premium as determined by the board under subdivision (a)(5) of this section or the cost of the policy issued to the retired participant.

(2)(A) The retiree portion of the premium shall be deducted from:

(i) The retirement benefit check of the retired participant; or

(ii) A bank account of the retired participant, to be paid by a monthly bank draft on the date designated by the division.

(B) If the retirement benefit is to be withheld from a retirement benefit check and the retirement benefit check is not large enough for the premium deduction, the premium shall be paid by monthly bank draft on a designated date prescribed by the division.

(c) Members of the Arkansas Public Employees' Retirement System and the Arkansas State Highway Employees' Retirement System who retire before January 2, 1988, under ~~the Incentives for Early Retirement Act~~, §§ 24-4-732, 24-5-122, and 24-6-102, shall not pay the full amount of the premium but

shall pay a portion of the cost of the policy as set forth by ~~the Incentives for Early Retirement Act, §§ 24-4-732, 24-5-122, and 24-6-102.~~

(d)(1) Except as provided in subdivision (d)(2) of this section, any future change in program participation other than cancellation shall be allowed only for newly acquired dependents.

(2) A dependent may be added to ~~an~~ a qualified active or inactive retiree's health insurance coverage by payment of the appropriate premium as established by the board if:

(A) The active or inactive retiree declined health insurance coverage for the dependent at the time of election to be an active or inactive retiree because the dependent had other employer-sponsored group health insurance coverage;

(B) Subsequent to the active or inactive retiree's declination of health insurance coverage for the dependent under subdivision (d)(2)(A) of this section, the dependent involuntarily lost his or her employer-sponsored group health insurance coverage and the loss of health insurance coverage was not the result of:

(i) Fraud; or

(ii) Voluntary cessation of premium payment while the active or inactive retiree was covered by a plan option offered under the program; and

(C) Within thirty (30) days of a dependent's involuntary loss of health insurance coverage under subdivision (d)(2)(B) of this section, the active or inactive retiree submits to the board proof that:

(i) The dependent involuntarily lost health insurance coverage; ~~and~~

(ii) Until the dependent's loss of health insurance coverage, the coverage had been continuous; and

(iii) The retiree was a participant in the program for at least five (5) cumulative years before the active or inactive retiree's retirement.

(e)(1) If a retiree dies and has covered dependents at the time of death, the dependents have the right to continue participation in the program.

(2) Dependent children may continue to participate in the program until marriage or until the maximum age limit for a dependent child

has been reached.

(3) A surviving spouse may continue participation in the program.

(4) If a surviving spouse or dependent declines participation in the program or cancels existing participation, then the surviving spouse or dependent has no further privileges under the program.

SECTION 3. DO NOT CODIFY. Applicability. This act does not apply to a public school employee or a state employee who is employed on the effective date of this act.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State and Public School Life and Health Insurance Program is inadequate to provide sustainable affordable health benefits for public school employees and state employees; that an urgent need exists to address the state's funding and administration of benefits for public school employees and state employees in order for the program to remain viable and to avoid severe financial hardship to plan participants; and that this act is immediately necessary to provide affordable health benefit options in a timely manner to the state's public school employees participating in the program and state employees participating in the program. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.