

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

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: H2/16/23  
**A Bill**

HOUSE BILL 1186

By: Representative A. Collins

By: Senator K. Hammer

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

AN ACT TO AMEND AND UPDATE THE LAW CONCERNING ANNUITY OPTIONS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO ALLOW A RETIRANT TO DESIGNATE BOTH SURVIVING SPOUSE AND DEPENDENT CHILDREN AS OPTION BENEFICIARIES UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO CLARIFY WHEN A SURVIVING SPOUSE OF A DISABILITY RETIRANT IS ENTITLED TO BEGIN RECEIVING PAYMENTS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO AMEND AND UPDATE THE LAW CONCERNING ANNUITY OPTIONS UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-706(a)(2), concerning a member's annuity election and criteria that must be met for a member's nominated beneficiary to receive an annuity in accordance with the Option A – 100% Survivor Annuity option under the Arkansas Teacher Retirement System, is amended to read as follows:

(2) The member may ~~nominate~~ designate a beneficiary one (1) or more beneficiaries, in accordance with one (1) of the following options:

(A) Option A – 100% Survivor Annuity.



(i) Under Option A, upon the death of a ~~retirant~~ retiree, his or her reduced annuity shall be continued throughout the life of and paid ~~to such person as he or she shall have nominated~~ as provided under subdivision (a)(4) of this subsection to the persons that he or she nominates by written designation executed and filed with the Board of Trustees of the Arkansas Teacher Retirement System before the date the first payment of his or her annuity becomes due.

~~(ii)(a) The person designated as a beneficiary by the retirant shall be:~~ The designated beneficiary or beneficiaries of a retiree shall be either:

(1) The retiree's spouse;

(2) One (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(A)(ii)(c) of this section; or

(3) Both the retiree's spouse and one (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(A)(ii)(c) of this section.

~~(a)(b) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date; or spouse of a retiree may be designated as the retiree's beneficiary if the retiree has been married to the spouse for at least one (1) year immediately preceding the first annuity payment due date.~~

~~(b)(c) A dependent child of the retirant who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction~~ A child of a retiree qualifies as a dependent child and may be designated as an Option A beneficiary of the retiree if the child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction;

SECTION 2. Arkansas Code § 24-7-706(a)(2)(B), concerning the Option B – 50% Survivor Annuity option under the Arkansas Teacher Retirement System, is amended to read as follows:

(B) Option B – 50% Survivor Annuity.

(i) Under Option B, upon the death of a ~~retirant~~ retiree, one-half ( $\frac{1}{2}$ ) of his or her reduced annuity shall be continued throughout the life of and paid ~~to such person as he or she has nominated~~ as

provided under subdivision (a)(4) of this subsection to the persons that he or she nominates by written designation executed and filed with the board before the date the first payment of his or her annuity becomes due.

~~(ii)(a) The person designated as a beneficiary by the retirant shall be.~~ The designated beneficiary or beneficiaries of a retiree shall be either:

(1) The retiree's spouse;

(2) One (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(B)(ii)(c) of this section; or

(3) Both the retiree's spouse and one (1) or more of the retiree's children who qualify as a dependent child under subdivision (a)(2)(B)(ii)(c) of this section.

~~(a)(b) The retirant's spouse for not less than one (1) year immediately preceding the first payment due date; or~~ The spouse of a retiree may be designated as the retiree's beneficiary if the retiree has been married to the spouse for at least one (1) year immediately preceding the first annuity payment due date.

~~(b)(c) A dependent child of the retirant who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction~~ A dependent child of a retiree may be designated as an Option B beneficiary of the retiree if the dependent child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction; or

SECTION 3. Arkansas Code § 24-7-706(a), concerning annuity options under the Arkansas Teacher Retirement System, is amended to add new subdivisions to read as follows:

(4)(A)(i) Upon the death of a retiree, if both a spouse and one (1) dependent child are designated as the retiree's Option A beneficiaries, the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(ii) Upon the death of a retiree, if both a spouse and more than one (1) dependent child are designated as the retiree's Option A beneficiaries, the spouse shall receive fifty percent (50%) of the retiree's reduced annuity and the remaining fifty percent (50%) of the retiree's reduced annuity shall be paid in equal shares to the dependent

children.

(iii) Upon the death of a retiree, if more than one (1) dependent child is designated as the retiree's Option A beneficiary and a spouse is not designated as the retiree's Option A beneficiary, the retiree's reduced annuity shall be paid in equal shares to each dependent child designated as the retiree's Option A beneficiary.

(B)(i) Upon the death of a retiree, if both a spouse and one (1) dependent child are designated as the retiree's Option B beneficiaries, one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(ii) Upon the death of a retiree, if both a spouse and more than one (1) dependent child are designated as the retiree's Option B beneficiaries, the spouse shall receive fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity and the remaining fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the dependent children.

(iii) Upon the death of a retiree, if more than one (1) dependent child is designated as the retiree's Option B beneficiary and a spouse is not designated as the retiree's Option B beneficiary, the retiree's reduced annuity shall be paid in equal shares to each dependent child designated as the retiree's Option B beneficiary.

(5) If both a spouse and one (1) or more dependent children are designated as the Option A or Option B beneficiaries of a retiree and annuity payments to either the spouse or one (1) or more of the dependent children have begun, the following shall apply:

(A) A dependent child's portion of the annuity shall not revert to the spouse or any other dependent children if the dependent child:

(i) Predeceases the spouse or any other dependent children; or

(ii) Otherwise becomes ineligible to continue receiving annuity payments; and

(B) The spouse's portion of the annuity shall not revert to any dependent child if the spouse:

(i) Predeceases one (1) or more dependent children;

or

(ii) Otherwise becomes ineligible to continue

receiving annuity payments.

SECTION 4. Arkansas Code § 24-7-706(d), concerning the ability of a residue beneficiary under § 24-7-709 to cancel the form of annuity in effect and elect Option A – 100% Survivor Annuity option under certain conditions, is amended to add additional subdivisions to read as follows:

(4) A surviving spouse who is eligible to receive an annuity under this section may elect to receive a lump-sum distribution of the retiree's residue in lieu of the spousal annuity if:

(A) The retiree did not designate one (1) or more dependent children as a beneficiary; and

(B) The surviving spouse files a written waiver of his or her right to the spousal annuity with the system.

(5) If a residue beneficiary elects the Option A – 100% Survivor Annuity under this subsection and is the surviving spouse of a disability retiree, the same procedures used under § 24-7-710 to determine when an active member's surviving spouse is entitled to begin receiving benefit payments shall be used to determine when the residue beneficiary is entitled to begin receiving benefit payments.

SECTION 5. Arkansas Code § 24-7-706, concerning annuity options, is amended to add an additional subsection to read as follows:

(g) A retiree's effective retirement date and the date when survivor benefits under this section are payable shall be determined by the law in effect at the time of the retiree's death.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the operations of a state public retirement system are complex; that the Arkansas Teacher Retirement System must be able to meet the needs of its members as anticipated by the General Assembly; that certain provisions of the Arkansas Teacher Retirement System Act need revision and updating to bring them into conformance with sound public pension policy and actuarial requirements; that the current provisions of the Arkansas Teacher Retirement System Act do not allow a retirant to provide for both his or her surviving spouse and dependent children in the event of the retirant's death by designating both his or her

surviving spouse and dependent children as option beneficiaries; that the current provisions of the Arkansas Teacher Retirement System Act do not clearly address when the surviving spouse of a disability retiree is entitled to begin receiving benefit payments; that the revisions and updates are of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that the Arkansas Teacher Retirement System operates on a fiscal year of July 1 to June 30; that a July 1, 2023, effective date is necessary to allow the provisions within this act to begin on the first day of the fiscal year to provide for the proper administration of the procedures referenced in this act; that the updates and revisions to the Arkansas Teacher Retirement System Act are of great importance for actuarial purposes and for the improvement and protection of member benefits under the Arkansas Teacher Retirement System; and that this act is necessary in order to maintain an orderly system of benefits for the members of the Arkansas Teacher Retirement System. 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, 2023.

*/s/A. Collins*