

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: S2/21/23
A Bill

SENATE BILL 126

By: Senator Hickey

By: Representative Maddox

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN REGARDING SURVIVOR BENEFITS; TO SIMPLIFY THE POSTRETIREMENT MARRIAGE PERIOD FOR ELECTION OF SPOUSAL BENEFITS; TO STREAMLINE THE ADMINISTRATION OF SURVIVOR BENEFITS FOR MEMBERS' AND FORMER MEMBERS' CHILDREN; TO CLARIFY THE EFFECTIVE DATE OF SURVIVORS' BENEFITS; TO REMOVE OBSOLETE LAW REGARDING THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN REGARDING SURVIVOR BENEFITS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-4-606 is amended to read as follows:
24-4-606. Annuity options.

(a) ~~Before the date the first payment of a member's annuity becomes due, but not thereafter,~~ a A member may elect to receive his or her annuity as a straight life annuity or ~~may~~ elect to have ~~his or her~~ that annuity reduced and ~~nominate~~ designate a beneficiary in writing and file the election with the Arkansas Public Employees' Retirement System before that annuity starting date ~~in accordance with the provisions of~~ under one (1) of the



following options:

(1) Option A60 – 60 Months Certain and Life Annuity.

(A) Under Option A60, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before sixty (60) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the sixty (60) months to such persons and in such shares as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan.~~ If there is no ~~payee~~ beneficiary surviving, the lump-sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated ~~persons~~ beneficiary.

(B) The reduced annuity shall be ninety-eight percent (98%) of the straight life annuity;

(2) Option A120 – 120 Months Certain and Life Annuity.

(A) Under Option A120, the retirant shall be paid a reduced annuity for life with the provision that if the retirant's death occurs before one hundred twenty (120) monthly payments have been made, the full reduced annuity shall continue to be paid for the remainder of the one hundred twenty (120) months to such persons and in such shares as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan.~~ If there is no ~~payee~~ beneficiary surviving, the lump sum actuarial equivalent of the remaining monthly payments shall be paid to the estate of the last survivor among the retirant and the designated ~~persons~~ beneficiary.

(B) The reduced annuity shall be ninety-four percent (94%) of the straight life annuity;

(3) Option B50 – ~~50~~ Fifty Percent (50%) Survivor Beneficiary Annuity.

(A)(i) Under Option B50, the retirant shall be paid a reduced annuity for life ~~with the provision that,~~ and upon the retirant's death, one-half ($\frac{1}{2}$) of the reduced annuity shall ~~be continued~~ continue throughout the future lifetime of and paid to such person as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan before his or her annuity's starting date.~~

(ii) ~~However, the person must be~~ The member may elect either ~~his~~:

(a) His or her spouse, to whom the member has

been married for not less than six (6) months immediately preceding the first payment due date; or ~~another person~~

(b) A dependent child aged forty (40) or older ~~receiving more than one half ($\frac{1}{2}$) support from the retirant~~ who is claimed as a dependent on the retirant's federal tax return for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-eight percent (88%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by one-half of one percent (0.5%), for each year that the beneficiary's age is less than the retirant's age, or which shall be increased by one-half of one percent (0.5%), up to a maximum of ninety-five percent (95%), for each year that the beneficiary's age is more than the retirant's age.

(C) ~~However, if~~ If the named beneficiary under Option B50 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively; or

(4) Option B75 – ~~75~~ Seventy-Five Percent (75%) Survivor Beneficiary Annuity.

(A)(i) Under Option B75, the retirant shall be paid a reduced annuity for life ~~with the provision that, and upon his or her the~~ retirant's death, three-fourths ($\frac{3}{4}$) of the reduced annuity shall be continued throughout the future lifetime of, and paid to, such person as the retirant ~~shall have~~ has designated ~~in writing and filed with the plan before his or her annuity's starting date.~~

(ii) ~~However, the person must be~~ The member may elect either:

(a) ~~the retirant's~~ His or her spouse to whom the member has been married for not less than six (6) months immediately preceding the first payment due date; or ~~another person~~

(b) A dependent child aged forty (40) or older ~~receiving~~ who is claimed as a dependent on the retirant's federal tax return ~~more than one half ($\frac{1}{2}$) support from the retirant~~ for not less than one (1) year immediately preceding the first payment due date.

(B) The reduced annuity to the retirant shall be eighty-three percent (83%) if the retirant's age and his or her beneficiary's age are the same on the first payment due date, which shall be decreased by

seven-tenths of one percent (0.7%) for each year that the beneficiary's age is less than the retirant's age or which shall be increased by seven-tenths of one percent (0.7%) up to a maximum of ninety percent (90%) for each year that the beneficiary's age is more than the retirant's age.

(C) ~~However, if~~ If the named beneficiary under Option B75 predeceases the retirant, the original unreduced benefit shall be paid to the retirant prospectively.

(b)(1)(A) The member may elect to cancel the designation of a beneficiary under Option B50 or Option B75 in writing and file with the system upon:

(i) A The death, of a spouse or divorce, or other marriage dissolution from the member's spouse; or the

(ii) The death of a person the member's dependent child forty (40) years of age or older who is the has been designated as a beneficiary under Option B50 or Option B75 shall cancel, at the written election of the retirant, Option B50 or Option B75 at retirement, providing continuing lifetime benefits to the designated person, and § 24-4-606(a).

(B) The member's election under subsection (b) of this section shall return the retirant to his or her straight life, or the member may elect the Option A60, or Option A120 annuity, to be effective the month following receipt by the system of his or her election by the Arkansas Public Employees' Retirement System.

(2)(A) A retirant who is receiving a straight life, Option A60, or Option A120 annuity and who marries after retirement or within ~~the one (1) year~~ six (6) months immediately preceding retirement may elect to cancel his or her straight life, Option A60, or Option A120 annuity and may elect Option B50 or Option B75, ~~providing~~ to provide continuing lifetime benefits to his or her spouse, ~~but only~~ if the election is:

(i) Submitted on a form approved by the system; and ~~is received~~

(ii) Received by the system ~~not no~~ no earlier than ~~one (1) year~~ six (6) months after the date of the marriage and ~~not no~~ no later than ~~eighteen (18) months~~ one (1) year after that date.

(B) The election shall be effective the first day of the month following the receipt of the notice.

(c) If a member fails to elect an option, his or her annuity shall be

paid to him or her as a straight life annuity.

~~(d)(1) The surviving spouse of a system member who retired prior to July 1, 1967, shall receive a monthly survivor's annuity equal to seventy-five percent (75%) of the retirant's monthly benefit at the time of death, provided that the surviving spouse was married to the retirant on the date of retirement, the surviving spouse is unmarried, and the surviving spouse makes application to the system on or before June 30, 1995.~~

~~(2) The monthly survivor's annuity shall be effective the first day of the month following the month of application, and no annuity will be paid the surviving spouse for any period prior to the first of the month following the month of application.~~

~~(e)(d)~~ The surviving spouse of a member of the system who retired on or after February 1, 1991, and who elected a straight life annuity shall be entitled to receive a survivor's annuity equal to the amount that would have been received had the member elected Option B75, provided:

(1) The member dies within twelve (12) months of the effective date of retirement; and

(2) The surviving spouse makes application to the system within twelve (12) months of the date of the member's death.

SECTION 2. Arkansas Code § 24-4-608 is amended to read as follows:

24-4-608. ~~Payment of benefits upon death of member before retirement~~
Death before retirement - Exception.

(a) Effective July 1, 2001, if ~~an active a~~ a member or former member with five (5) or more years of actual service dies before retirement, the applicable benefits provided in this section shall be ~~paid~~ allowed upon the survivor's written application ~~to filed with the Board of Trustees of the~~ filed with the Board of Trustees of the Arkansas Public Employees' Retirement System.

(b) ~~For purposes of computing~~ To compute benefits provided by this section, the deceased member's or deceased former member's compensation at the time of death shall be the member's compensation for the year immediately preceding the cessation of his or her pay.

(c)(1) A deceased member's or deceased former member's surviving spouse who was married to the member at least six (6) months immediately preceding ~~his or her~~ the member's death shall receive an annuity computed in the same manner in all respects as if the member or former member had:

(A) Retired the date of his or her death with entitlement to an annuity provided for in § 24-4-601;

(B) Elected the Option B75 survivor annuity provided for in § 24-4-606(a)(4); and

(C) Nominated his or her spouse as joint beneficiary.

(2)(A)(i) If the deceased member or deceased former member had satisfied the age and service requirements provided for in § 24-4-101 or had acquired twenty (20) years of actual service, then the ~~spouse~~ spousal annuity shall ~~commence immediately and~~ be payable for life.

(ii) If the deceased member or deceased former member had not satisfied the age and service requirement provided for in § 24-4-101 or had not acquired twenty (20) years of actual service, then the ~~spouse~~ spousal annuity shall ~~commence immediately and~~ be payable until the earlier of his or her remarriage or death.

(B)(i) A surviving spouse who is otherwise eligible but whose benefit has been deferred because the spouse did not meet the age requirements in effect before July 1, 1999, shall be eligible to commence a ~~spouse~~ spousal annuity effective July 1, 1999. ~~The spouse annuity shall not be retroactive.~~

(ii) However, the spousal annuity in subdivision (c)(2)(B)(i) of this section shall not be retroactive.

(3) The ~~spouse~~ spousal annuity shall not be less than ten percent (10%) of the deceased member's or deceased former member's covered compensation at the time of death.

(4) ~~In any event,~~ For as long as the surviving spouse has in his or her care any of the deceased member's or deceased former member's dependent children ~~receiving~~ who receive a benefit provided for in this section, there shall be payable to him or her a ~~spouse~~ spousal annuity as indicated in this section which shall not be less than ten percent (10%) of the deceased member's or deceased former member's compensation at the time of death.

(d)(1)(A) A deceased member's or deceased former member's dependent child or dependent children shall each receive an annuity of the greater of either ten percent (10%) of the deceased member's or deceased former member's covered compensation at the time of death or an equal share of one hundred fifty dollars (\$150) monthly.

(B) ~~Where there are~~ For three (3) or more dependent children, each dependent child shall receive an annuity of an equal share of the greater of either twenty-five percent (25%) of the covered compensation or one hundred fifty dollars (\$150) monthly.

(2)(A) A child ~~shall be~~ is considered a dependent child as used in subdivision (d)(1) of this section and for purposes of receiving a child survivor's annuity until the child's death, marriage, or attainment of ~~age~~ eighteen (18) years of age, whichever occurs first.

(B)(i) However, the age-eighteen maximum shall be extended as long as the child continues uninterruptedly being a full-time student at an accredited secondary school, college, or university, but in no event beyond his or her attainment of ~~age~~ twenty-three (23) years of age.

(ii) In addition, the age-eighteen maximum shall be extended for any child who has been deemed physically or mentally incompetent by an Arkansas court of competent jurisdiction or by the ~~board~~ Board of Trustees of the Arkansas Public Employees' Retirement System, for as long as the incompetency exists.

(3) ~~Upon a child's ceasing~~ Once a child ceases to be a dependent child, his or her annuity shall terminate, and there shall be a redetermination of the amounts payable to any remaining dependent children.

(e)(1) If at the time of the deceased member's or deceased former member's death there is neither a spouse nor a dependent child, each dependent parent shall receive an allowance of the greater of ten percent (10%) of the covered compensation or an equal share of one hundred fifty dollars (\$150) monthly, ~~but only if the board finds that the parent was dependent for at least fifty percent (50%) of his or her financial support upon the member or former member.~~

(2) A dependent parent eligible for a survivor benefit under this section shall be claimed as a dependent on the deceased member's or deceased former member's federal tax return for not less than one (1) year immediately preceding the member's death.

(f)(1) If no annuity can become payable to a dependent child due to the death of the member or former member ~~and a,~~ the surviving spouse or dependent parents may elect to receive a refund of the member's or former member's accumulated contributions as provided in § 24-4-602(d) in lieu of any benefits which could become payable under this plan if:

(A) The surviving spouse or dependent parents are the only persons who will be eligible for monthly benefits; and ~~the~~

(B) The spouse or dependent parents are also the designated beneficiaries of the deceased member or deceased former member, ~~then, in that event, the surviving spouse or dependent parents may elect to receive a refund of the member's or former member's accumulated contributions as provided in § 24-4-602(d) in lieu of any benefits which could become payable under this act.~~

(2) The option to choose a refund of the deceased member's or deceased former member's contributions shall also be afforded to any spouse or dependent parent qualified under this section whose eligibility for the benefit occurred before the passage of this act and who could not exercise the option.

(3) ~~Once the~~ A refund of the deceased member's or deceased former member's accumulated contributions ~~has been~~ made to the surviving spouse or dependent parents under this section, ~~the person shall have no~~ precludes any right or future claim to monthly retirement benefits due to the death of the member or former member.

(g)(1) In the event that all the annuities provided for in this section payable on account of the member's or former member's death ~~of a member or former member~~ terminate before there has been paid an aggregate amount equal to his or her accumulated contributions standing to his or her credit in the ~~members'~~ member's or former member's deposit account at the time of his or her death, the difference between the accumulated contributions and the aggregate amount of annuity payments shall be paid to such person as he or she shall have nominated by written designation duly executed and filed with the ~~board~~ system.

(2) If there is no designated person surviving at termination, the difference shall be paid to the deceased member's or deceased former member's estate.

~~(h) Annuities payable under the provisions of this section shall be effective the first day of the calendar month next following the date of the member's or former member's death or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law.~~

~~(i)~~ (h) The provisions of this section shall not be applicable in determining survivor benefits under the General Assembly Division or the

State Constitutional Officers' Division of the Arkansas Public Employees' Retirement System if a benefit is provided to the surviving spouse by other laws applicable to the Arkansas Public Employees' Retirement System.

~~(j)~~(i) The benefits provided in this section for former members shall not apply to former members who terminated covered employment prior to July 1, 1997, with less than ten (10) years of service or whose death occurred before July 1, 2001.

SECTION 3. Arkansas Code § 24-4-609 is amended to read as follows:

24-4-609. Effective date of benefits – Survivors and beneficiaries.

~~All monthly benefits payable to survivors of deceased members or retirants of the Arkansas Public Employees' Retirement System shall be effective the first day of the month following the month in which the member or retirant died or the first day of the month following the month in which the survivor becomes eligible for benefits as provided by law.~~

(a) The effective date of monthly benefits payable to a survivor of a deceased member under § 24-4-608 is the first day of the calendar month next following the month in which the member died.

(b) The effective date of monthly benefits payable to a beneficiary of a retirant under § 24-4-606 is the first day of the calendar month next following the month in which the retirant died.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public Employees' Retirement System law are in need of revision and updating to maintain the retirement laws in conformance with sound public pension policy; that the Arkansas Public Employees' Retirement System operates on a fiscal year of July 1 to June 30; that having 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 proper administration of the procedures herein; that such revisions and updating are of great importance for actuarial purposes and to protect the benefits to members of the Arkansas Public Employees' 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/Hickey