

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: S2/13/23 S2/21/23  
**A Bill**

SENATE BILL 127

By: Senator Hickey

By: Representative Maddox

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

AN ACT TO AMEND AND UPDATE LANGUAGE FOR THE PROPER ADMINISTRATION OF BENEFITS UNDER ARKANSAS CODE TITLE 24, CHAPTER 4 CONCERNING RETIREMENT AND PENSIONS UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO AMEND THE EXCEPTIONS TO THE PROHIBITION AGAINST SUBJECTION OF ANNUITY RIGHTS TO LEGAL PROCESSES UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO AMEND AND UPDATE LANGUAGE FOR THE PROPER ADMINISTRATION OF THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-4-101(11)(A), concerning the definition of "compensation" under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(11)(A) "Compensation" means the recurring remuneration, paid to a member and reported on a Form W-2 Wage and Tax Statement by a participating public employer for personal services rendered by ~~a~~ the member in a position covered by ~~an employer participating~~ a participating public employer in the Arkansas Public Employees' Retirement System.



SECTION 2. Arkansas Code § 24-4-101(12), concerning the definition of "contributory member" under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(12) "Contributory member" means:

(A) A person who was a member of the Arkansas Public Employees' Retirement System prior to January 1, 1978, and who continues to contribute ~~six percent (6%)~~ a percentage of his or her compensation to the system ~~under § 24-4-401. However, the rate will be five percent (5%) on and after July 1, 2005;~~ or

(B) A ~~member~~ person first hired on or after July 1, 2005, or a noncontributory member ~~who elects to become a contributory member~~ under § 24-4-1101 et seq.;

SECTION 3. Arkansas Code § 24-4-101(18), concerning the definition of "final average compensation" under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(18) "Final average compensation" means the average of the member's highest annual compensations ~~paid a member during any period of three (3) years of~~ on which credited service with a public employer ~~as is~~ is calculated under § 24-4-623;

SECTION 4. Arkansas Code § 24-4-101(34)(A), concerning the definition of "public safety member" under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(34)(A) "Public safety member" means, except public safety members covered under § 24-4-1004, a member whose covered employment under the Arkansas Public Employees' Retirement System:

(i) Is for personal services as a police officer or firefighter; and

(ii) Began before July 1, 1997.

SECTION 5. Arkansas Code § 24-4-101(34)(D)(i), concerning the definition of "public safety member" under the Arkansas Public Employees' Retirement System, is amended to read as follows:

(34)(D)(i) "Public safety member" shall not include a member

whose covered employment under the Arkansas Public Employees' Retirement System as a police officer or firefighter commenced on or after July 1, 1997, except as provided for public safety members covered under § 24-4-1004.

SECTION 6. Arkansas Code § 24-4-521 is amended to read as follows:

24-4-521. Credited service generally – Definition.

(a) The Board of Trustees of the Arkansas Public Employees' Retirement System shall establish the amounts of service to be credited its members subject to the provisions of subsection (b) of this section.

(b)(1)(A)(i) Noncontributory employment service by a person who was:

(a) Employed prior to July 1, 1997, as a public safety member shall be credited at one and one-half (1½) times the regular rate for crediting service; and

(b) Employed on and after July 1, 1997, shall be credited at the regular rate for crediting service.

(ii) A person receiving credit for service under subdivision (b)(1)(A)(i)(a) or subdivision (b)(1)(A)(i)(b) of this section shall be required to have five (5) years of actual service to meet the:

(a) Retirement eligibility requirements under §§ 24-4-510 – 24-4-512 and 24-4-601; and

(b) Eligibility requirements for ~~payment upon~~ death benefits under § 24-4-608.

(B)(i) Noncontributory or contributory employment service by a person who qualifies as a public safety member under § 24-4-1004 shall be credited at one and one-half (1½) times the regular rate for crediting service.

(ii) A person receiving credit for service under subdivision (b)(1)(B)(i) of this section shall be required to have five (5) years of actual service to meet the:

(a) Retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

(b) Eligibility requirements ~~of~~ for death benefits under §§ 24-4-608 and 24-4-1108.

(2)(A)(i) Noncontributory employment as the Governor by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at

three (3) times the regular rate for credited service.

(ii) Noncontributory or contributory employment as the Governor by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) A person receiving credit for service under subdivision (b)(2)(A)(i) or subdivision (b)(2)(A)(ii) of this section shall be required to have:

(i) Four (4) years of actual service to meet the retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

(ii) Five (5) years of actual service to meet the eligibility requirements for ~~payment upon~~ death benefits under §§ 24-4-608 and 24-4-1108.

(3)(A)(i) Noncontributory employment as an elected state constitutional officer by a person first elected to a public office covered by the system prior to July 1, 1999, shall be credited at two and one-half (2½) times the regular rate for crediting service.

(ii) Noncontributory or contributory employment as an elected state constitutional officer by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(B) A person receiving credit for service under subdivision (b)(3)(A)(i) or subdivision (b)(3)(A)(ii) of this section shall be required to have five (5) years of actual service to meet the:

(i) Retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

(ii) Eligibility requirements for payment of death benefits under §§ 24-4-608 and 24-4-1108.

(4)(A)(i) Noncontributory or contributory employment as a member of the General Assembly shall be credited at the regular rate for crediting service.

(ii) A person receiving credit for service under subdivision (b)(4)(A)(i) of this section shall be required to have:

(a) Ten (10) years of credited service to meet the retirement eligibility requirements of §§ 24-4-510, 24-4-511, ~~and 24-4-~~

~~609~~ 24-4-601, and 24-4-1103;

(b) Five (5) years of actual service to meet the eligibility requirements for the ~~payment upon~~ death benefits under §§ 24-4-608 and 24-4-1108; and

(c) Five (5) years of actual service to be eligible to purchase military service credit under § 24-2-502.

(B) A member of the General Assembly who at any time has served at least six (6) months in the General Assembly shall be credited with no more than one (1) year's actual service.

(5)(A) A person who is employed as an elected public official covered by the system and:

(i) Who has served in a noncontributory elected position covered by the system before July 1, 2011, shall be credited as service at two (2) times the regular rate for crediting service;

(ii) Who has never served in a noncontributory elected position covered by the system before July 1, 2011, shall be credited as service at two (2) times the regular rate for crediting service, and the employee shall contribute an additional two and one-half percent (2.5%) of the gross payroll, and the employer shall contribute an additional two and one-half percent (2.5%) of the gross payroll for the additional service that exceeds the regular rate of service; or

(iii) Who has never served in a contributory elected position covered by the system before January 1, 2014, shall be credited as service at two (2) times the regular rate for crediting service, and the employee shall contribute an additional two and one-half percent (2.5%) of the gross payroll, and the employer shall contribute an additional two and one-half percent (2.5%) of the gross payroll for the additional service that exceeds the regular rate of service.

(B) However, at least five (5) years of actual service shall be required to meet:

(i) The retirement eligibility requirements of §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

(ii) The eligibility requirements ~~of~~ for death benefits under §§ 24-4-608 and 24-4-1108.

(C) This subdivision (b)(5) does not apply to:

(i) The Governor;

(ii) An elected state constitutional officer;  
 (iii) A member of the General Assembly; or  
 (iv) An elected public official under the State Division of the Arkansas Public Employees' Retirement System.

(6)(A)(i) Noncontributory employment as an elected public official under the ~~state division of the system~~ State Division of the Arkansas Public Employees' Retirement System other than the Governor, an elected state constitutional officer, or a member of the General Assembly by a person first elected to a public office covered by the Arkansas Public Employees' Retirement System prior to July 1, 1999, shall be credited as service at two (2) times the regular rate for crediting service.

(ii) A person receiving credit for service under subdivision (b)(6)(A)(i) of this section shall have five (5) years of actual service to meet the:

(a) Retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and 24-4-601, and 24-4-1103~~; and

(b) Eligibility requirements for ~~payment upon~~ death benefits under §§ 24-4-608 ~~and 24-4-1108~~.

(B) Noncontributory or contributory employment as an elected public official under the ~~state division of the system~~ State Division of the Arkansas Public Employees' Retirement System other than the Governor, an elected state constitutional officer, or a member of the General Assembly by a person first elected to a public office covered by the system on or after July 1, 1999, shall be credited at the regular rate for crediting service.

(c) As used in this section, "elected state constitutional officer" means the Lieutenant Governor, Attorney General, Secretary of State, Auditor of State, Treasurer of State, and Commissioner of State Lands.

SECTION 7. Arkansas Code § 24-4-603, concerning the refund of a former member's contributions under the Arkansas Public Employees' Retirement System, is amended to add an additional subsection to read as follows:

(f)(1) If a member receives a refund of contributions from the Arkansas Public Employees' Retirement System upon termination of covered employment and is reemployed by a participating public employer, then the member is considered first hired under this subchapter as of the date of reemployment.

(2)(A) Upon reemployment, the member may reestablish forfeited

service credit in the Arkansas Public Employees' Retirement System by depositing the total amount of the refund with regular interest from the date of withdrawal to the date of deposit.

(B) A member who has reestablished service credit is restored to the date of hire that corresponds to the reestablished actual service.

SECTION 8. Arkansas Code § 24-4-611 is amended to read as follows:

24-4-611. Minimum monthly benefit ~~– Lump sum payment of reserve value.~~

(a) ~~All persons~~ A member who are now is vested or who hereafter vests under the Arkansas Public Employees' Retirement System ~~or the Arkansas State Highway Employees' Retirement System~~ shall be entitled to a minimum monthly benefit of one hundred fifty dollars (\$150).

(b)(1) Before the first monthly benefit payment, the Arkansas Public Employees' Retirement System may pay the reserve value in lieu of the monthly benefit as a lump sum to a retiree, or to a beneficiary in the event of the death of a member before retirement, if the monthly benefit is less than one hundred fifty dollars (\$150).

(2) The reserve value shall be the actuarial equivalent of the annuity otherwise payable.

(3) A lump-sum payment of the reserve value is a complete discharge of all liability under the Arkansas Public Employees' Retirement System for the member's annuity.

(c) The Arkansas Public Employees' Retirement System shall obtain the consent of the member before the reserve value is paid.

SECTION 9. Arkansas Code § 24-4-1002 is amended to read as follows:

24-4-1002. Benefit provisions – Subjection of annuity rights to process of law.

(a) The right of a person to an annuity, to the return of accumulated contributions, the annuity itself, any annuity option, any other right accrued or accruing under the provisions of § 24-4-101 et seq., and all moneys belonging to a plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever and shall be unassignable, except as is specifically provided in this chapter.

(b) An exception to the prohibition against the subjection of annuity rights to any process of law applies to the following:

(1) An employer shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary; and

(2) A court of competent jurisdiction of this state may order the monthly benefit of a retirant to be paid into the registry of the court for disposition as the court deems just and proper if the retirant is found by the court to be willfully refusing or failing to support his or her minor dependent children in violation of a court order providing for such support.

SECTION 10. 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; and that a July 1, 2023 effective date is necessary in order to maintain an orderly system of benefits for the 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*