

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

State of Arkansas
95th General Assembly
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As Engrossed: H3/5/25

A Bill

HOUSE BILL 1304

By: Representative Warren

By: Senator J. Dotson

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS REGARDING MEMBER, RETIREE,
AND DESIGNATED BENEFICIARY CONTACT INFORMATION UNDER
THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO
SET A LIMITATION PERIOD FOR THE CORRECTION OF ERRORS
UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT
SYSTEM AND THE STATE POLICE RETIREMENT SYSTEM; AND
FOR OTHER PURPOSES.

Subtitle

TO SET A LIMITATION PERIOD FOR THE
CORRECTION OF ERRORS UNDER THE ARKANSAS
PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND
THE STATE POLICE RETIREMENT SYSTEM.

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

SECTION 1. Arkansas Code Title 24, Chapter 4, Subchapter 1, is amended
to add an additional section to read as follows:

24-4-112. Contact information – Lost payees.

(a)(1) A member, retiree, or the designated beneficiary of a deceased
member or retiree shall:

(A) File his or her contact information in writing with
the Arkansas Public Employees' Retirement System; and

(B) Update any change of contact information on the forms
and in the manner requested by the system.

(2) As used in this section, "contact information" includes
without limitation:



(A) The physical or post office address, telephone number, and an email address for the member, retiree, or the designated beneficiary of the deceased member or retiree; and

(B) The bank information of a member, retiree, or the designated beneficiary of the deceased member or retiree.

(3) The member, retiree, or designated beneficiary of the deceased member or retiree shall be responsible for ensuring the accuracy of his or her contact information for all purposes of the system.

(b) The system shall address correspondence to the member, retiree, or designated beneficiary at the last address provided in the contact information filed with the system or, if no contact information has been filed with the system, to an address provided by the covered employer.

(c)(1) If the system is unable to make a payment to a member, retiree, or designated beneficiary within five (5) years after payment of a benefit is due to the member, retiree, or designated beneficiary because the system does not receive a response after notifying the member, retiree, or designated beneficiary using the contact information provided to the system, then upon the expiration of the five (5) years, the system may direct that:

(A) Any amount due to the member, retiree, or designated beneficiary shall be transferred to the general trust assets of the system; and

(B) Any liabilities to the member, retiree, or designated beneficiary be removed from the system's records of liabilities and subsequent actuarial valuations.

(2)(A) If the member, retiree, or designated beneficiary later submits all documentation required by the system and demonstrates to the satisfaction of the system his or her entitlement to the payment of any amounts transferred to the general trust assets of the system, the system may direct payment to the member, retiree, or designated beneficiary from the general trust assets of the system.

(B) No interest shall be paid on any amount directed to be paid to a member, retiree, or designated beneficiary under subdivision (c)(2)(A) of this section.

(d) If a provision of this section conflicts with a provision of the Unclaimed Property Act, § 18-28-201 et seq., the provision of this section supersedes the conflicting provision of the Unclaimed Property Act, § 18-28-

201 et seq.

SECTION 2. Arkansas Code § 24-4-207 is amended to read as follows:

24-4-207. Bonds – Payments on vouchers and warrants – ~~Adjustment of erroneous payments~~ Correction of errors – Statute of limitations.

(a)(1) The Executive Director of the Arkansas Public Employees' Retirement System and other designated employees shall make bonds to cover their liability for the faithful performance of their duties, from time to time as provided for by law.

(2) The cost of the bonds shall be paid from moneys provided for the administrative expenses of the Arkansas Public Employees' Retirement System.

(3) The Secretary of the Department of Finance and Administration is authorized and directed to designate such additional personnel within his or her office and to provide for such services as are necessary for the proper operation of the system.

(b)(1) The Treasurer of State shall pay annuities and make other disbursements authorized by this act only on vouchers signed by the Executive Director of the Arkansas Public Employees' Retirement System and on warrants issued thereon by the Auditor of State.

(2) No voucher or warrant shall be drawn on funds of the system unless it has been previously authorized by a specific or general resolution adopted by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(c)(1)~~(A)~~ Should ~~any a~~ a change or error in the records of the system or ~~any an~~ an audit of a member's annuity calculations result in ~~any person's receiving more or less than the person would have been entitled to receive had the records or the calculations been correct~~ an incorrect calculation, the board shall correct the error and, as far as is equitable and practicable, shall adjust the payment in accordance with the provisions of this subsection and in such a manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

~~(B) However, no monthly adjustment of less than one dollar (\$1.00) shall be made.~~

(2)(A) The board shall have the right to recover any overpayment that any person may have received from funds of the system, ~~provided~~ if the

overpayment is determined and the person is ~~so~~ notified of the error within ~~one (1) year of the date of the last overpayment~~ the limitation period set forth in subdivision (c)(7) of this section.

(B) ~~If the An~~ overpayment is determined at a date later than ~~one (1) year after the date of the last overpayment~~ beyond the limitation period, the overpayment shall not be recouped by the board unless the overpayment is a result of an error ~~on the part of a member, retirant, or beneficiary~~ caused or created through intentional nondisclosure, fraud, misrepresentation, or gross negligence by the person receiving the overpayment.

(C) ~~In all instances where an overpayment is determined,~~ any From the date of correction of the error, subsequent payments shall be adjusted to the correct amount.

(3) If it is determined that any person has received an underpayment from the funds of the system, ~~regardless of the date of the determination,~~ the system shall pay in a lump sum to the person the total of any underpayments ~~made prior to the date of determination,~~ and any subsequent ~~payments~~ annuity amount shall be adjusted to the correct amount.

(4)(A) If the annuity amount is decreased upon ~~the reconsideration~~ correction of the error, the ~~matters involved in the decrease~~ shall be system shall set forth in writing the reason for the adjustment and shall be ~~subject to review upon the filing of an appeal thereof by~~ promptly notify the member or annuity recipient.

(B) The ~~redetermination~~ adjustment of the annuity amount shall be deemed to be final and binding on all parties unless, within ~~twenty (20)~~ thirty (30) days after the mailing of ~~notice of the redetermination to the member's last known address~~ written notification using the contact information filed with the system, or ~~twenty (20)~~ thirty (30) days after personal delivery of the notice to the ~~member~~ person, ~~an appeal thereof is filed~~ the person files a request with the Executive Director of the Arkansas Public Employees' Retirement System with the executive director for the executive director's determination of the adjustment.

(C) ~~The Secretary of the Department of Finance and Administration shall promptly hear all appeals~~ An appeal of annuity ~~determinations or redeterminations and~~ the executive director's determination shall ~~conduct such hearings~~ be heard at an administrative hearing in

accordance with procedures set forth by the board and the Arkansas Administrative Procedures Act, § 25-15-201 et seq.

(5) An action or request to change a record of the system, including without limitation an attempt to establish service with the system or add service to a member's record, shall be commenced within the limitation period unless the system determines:

(A) There is an error within the system's records;

(B) The error was a result of an obvious or documented error by an employer or the system; and

(C) The member could not have discovered the error with reasonable due diligence at the time the error occurred.

(6)(A) When the system determines that there is an error in the records, the director shall have the discretion to resolve the matter in a fair manner to all parties affected by the error and may waive or modify the impact of a rule, provision, or law, including without limitation interest and penalties, if a determination provides clear and convincing evidence that the error:

(i) Creates an undue hardship to the system, member, person, or employer that is direct and observable; and

(ii) Was not a result of intentional nondisclosure, fraud, misrepresentation, or gross negligence.

(B) The executive director's determination may consider:

(i) The degree of fault of the system, member, retiree, designated beneficiary, person, or employer;

(ii) Any ambiguity in the interpretation of the circumstances, rule, or law;

(iii) Whether the cost to the system of correcting the error is outweighed by the benefit afforded to the system, member, retiree, designated beneficiary, person, or employer;

(iv) Whether or not an expedited decision serves public interest; and

(v) The fundamental fairness of a remedy in a particular situation.

(C) The executive director's determination shall not:

(i) Substantially impact the actuarial soundness of the system; or

(ii) Conflict with federal law concerning the tax-qualified status of the system.

(7) As used in subsection (c) of this section, "limitation period" means a period of time beginning the fiscal year an error occurred or is alleged to have occurred and the four (4) immediately following fiscal years.

SECTION 3. Arkansas Code § 24-6-205 is amended to read as follows:
24-6-205. Correction of errors.

(a) Should any change or error in the records of the State Police Retirement System or the Division of Arkansas State Police result in ~~any person's receiving from the system more or less than he or she would have been entitled to receive had the records been correct~~ an incorrect calculation, the Board of Trustees of the State Police Retirement System shall correct the error and, as far as is equitable and practicable, shall adjust the payment in accordance with the provisions of this section and in such manner that the actuarial equivalent of the benefit to which the person was correctly entitled shall be paid.

(b)(1) The board shall have the right to recover any overpayment any person may have received from funds of the system if an overpayment is determined and the recipient is notified of the error within the limitation period set out in subsection (g) of this section.

(2) An overpayment determined beyond the limitation period shall not be recouped by the board unless the overpayment is a result of an error caused or created through intentional nondisclosure, fraud, misrepresentation, or gross negligence by the person receiving the overpayment.

(3) Subsequent payments shall be adjusted to the correct amount from the date of correction of the error.

(c) If it is determined that any person has received an underpayment from the funds of the system:

(1) The system shall pay in a lump sum to the person the total of the corrected amount; and

(2) Any subsequent annuity amount shall be adjusted to the correct amount.

(d)(1) If the annuity amount is decreased upon correction of the error, the system shall:

(A) Set forth in writing the reason for the adjustment;
and

(B) Promptly notify the member or annuity recipient.

(2) The adjustment of the annuity amount shall be deemed to be final and binding on all parties unless, within thirty (30) days after the mailing of notification to the person's last address on file with the system, or thirty (30) days after personal delivery of the notice to the person, the person files a request with the Executive Secretary of the State Police Retirement System for the executive secretary's determination.

(3) An appeal of the executive secretary's determination shall be heard at an administrative hearing in accordance with procedures set forth by the board and the Arkansas Administrative Procedures Act, § 25-15-201 et seq.

(e) An action or request to change a record of the system, including without limitation an attempt to establish service with the system or add service to a member's record, shall be commenced within the limitation period unless the system determines:

(1) There is an error within the system's records;

(2) The error was a result of an obvious or documented error by the Division of Arkansas State Police or the system; and

(3) The member could not have discovered the error with reasonable due diligence at the time the error occurred.

(f)(1) When the system determines that an error exists in the records, the executive secretary shall have the discretion to resolve the matter in a fair manner to all parties affected by the error and may waive or modify the impact of a rule, provision, or law, including interest and penalties, if a determination provides clear and convincing evidence that:

(A) The error creates an undue hardship to the system, member, retiree, designated beneficiary, person, or the Division of Arkansas State Police that is direct and observable; and

(B) The error was not a result of intentional nondisclosure, fraud, misrepresentation, or gross negligence.

(2) The executive secretary's determination may consider:

(A) The degree of fault of the system, member, retiree, designated beneficiary, person, or the Division of the Arkansas State Police;

(B) An ambiguity in the interpretation of the

circumstances, rule, or law;

(C) Whether the cost to the system of correcting the error is outweighed by the benefit afforded to the system, member, retiree, designated beneficiary, person, or the Division of the Arkansas State Police;

(D) Whether or not an expedited decision serves the public interest; and

(E) The fundamental fairness of a remedy in a particular situation.

(3) The executive secretary's determination shall not:

(A) Substantially impact the actuarial soundness of the system; or

(B) Conflict with federal law concerning the tax-qualified status of the system.

(g) As used in this section, "limitation period" means a period of time beginning the fiscal year an error occurred or is alleged to have occurred and the four (4) immediately following fiscal years.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the provisions of the Arkansas Code related to member, retiree, and designated beneficiary contact information under the Arkansas Public Employees' Retirement System are in need of revision in order to provide clarity and increase efficiency of the system; that a limitation period is needed for the correction of errors of records of members, retirees, and designated beneficiaries under the Arkansas Public Employees' Retirement System and the State Police Retirement System in order to provide clarity and increase efficiency of the systems; and that this act is immediately necessary to achieve the goals of the respective systems to safeguard and maintain an orderly system of benefits. 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.

/s/Warren