

1 State of Arkansas
2 95th General Assembly
3 Regular Session, 2025
4

A Bill

HOUSE BILL 1304

5 By: Representative Warren
6 By: Senator J. Dotson
7

For An Act To Be Entitled

9 AN ACT TO AMEND PROVISIONS REGARDING MEMBER, RETIREE,
10 AND DESIGNATED BENEFICIARY CONTACT INFORMATION UNDER
11 THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO
12 SET A LIMITATION PERIOD FOR THE CORRECTION OF ERRORS
13 UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT
14 SYSTEM AND THE STATE POLICE RETIREMENT SYSTEM; AND
15 FOR OTHER PURPOSES.
16
17

Subtitle

18
19 TO SET A LIMITATION PERIOD FOR THE
20 CORRECTION OF ERRORS UNDER THE ARKANSAS
21 PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND
22 THE STATE POLICE RETIREMENT SYSTEM.
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

28 24-4-112. Member, retiree, and designated beneficiary contact
29 information – Forfeited amounts.

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

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

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

36 (2) As used in this section, "contact information" includes



1 without limitation:

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

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

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

11 (c)(1) If the system is unable to make a payment to a member, retiree,
 12 or designated beneficiary within five (5) years after payment of a benefit is
 13 due to the member, retiree, or designated beneficiary because the system does
 14 not receive a response after notifying the member, retiree, or designated
 15 beneficiary using the contact information provided to the system, then any
 16 amount due the member, retiree, or designated beneficiary shall be forfeited
 17 to the trust assets of the system upon the expiration of the five (5) years
 18 from the last correspondence sent to the member, retiree, or designated
 19 beneficiary.

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

23 (d) If a provision of this section conflicts with a provision of the
 24 Unclaimed Property Act, § 18-28-201 et seq., the provision of this section
 25 supersedes the conflicting provision of the Unclaimed Property Act, § 18-28-
 26 201 et seq.

27
 28 SECTION 2. Arkansas Code § 24-4-207 is amended to read as follows:

29 24-4-207. Bonds – Payments on vouchers and warrants – ~~Adjustment of~~
 30 ~~erroneous payments~~ Correction of errors and adjustment of annuity amount.

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

35 (2) The cost of the bonds shall be paid from moneys provided for
 36 the administrative expenses of the Arkansas Public Employees’ Retirement

1 System.

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

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

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

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

22 ~~(B) However, no monthly adjustment of less than one dollar~~
 23 ~~(\$1.00) shall be made.~~

24 (2)(A) The board shall have the right to recover any overpayment
 25 that any person may have received from funds of the system, ~~provided if~~ if
 26 the overpayment is determined and the person is ~~so~~ notified of the error within
 27 ~~one (1) year of the date of the last overpayment~~ the limitation period set
 28 forth in subdivision (c)(7) of this section.

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

36 (C) ~~In all instances where an overpayment is determined,~~

1 ~~any~~ From the date of correction of the error, subsequent payments shall be
2 adjusted to the correct amount.

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

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

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

22 (C) ~~The Secretary of the Department of Finance and~~
23 ~~Administration shall promptly hear all appeals~~ An appeal of annuity
24 ~~determinations or redeterminations and~~ the executive director's determination
25 shall ~~conduct such hearings~~ be heard at an administrative hearing in
26 accordance with procedures set forth by the board and the Arkansas
27 Administrative Procedures Act, § 25-15-201 et seq.

28 (5) Any action to enforce or create an obligation, duty, or
29 right arising under this chapter, or a request to change a record of the
30 system, including without limitation an attempt to establish service with the
31 system or add service to a member's record shall be commenced within the
32 limitation period.

33 (6)(A) When the system determines that there is an error in the
34 records, the director shall have the discretion to resolve the matter in a
35 fair manner to all parties affected by the error and may waive or modify the
36 impact of a rule, provision, or law, including without limitation interest

1 and penalties, if a determination provides clear and convincing evidence that
 2 the error:

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

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

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

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

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

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

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

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

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

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

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

24 (7) As used in this subsection, "limitation period" means a
 25 period of time that includes the fiscal year and the four (4) fiscal years
 26 immediately following in which the system, member, person, or employer
 27 discovers or should have discovered the error in the system's records.

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

30 24-6-205. Correction of errors.

31 (a) Should any change or error in the records of the State Police
 32 Retirement System or the Division of Arkansas State Police result in ~~any~~
 33 ~~person's receiving from the system more or less than he or she would have~~
 34 ~~been entitled to receive had the records been correct~~ an incorrect
 35 calculation, the Board of Trustees of the State Police Retirement System
 36 shall correct the error and, as far as is equitable and practicable, shall

1 adjust the payment in accordance with the provisions of this section and in
2 such manner that the actuarial equivalent of the benefit to which the person
3 was correctly entitled shall be paid.

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

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

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

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

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

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

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

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

25 (B) Promptly notify the member or annuity recipient.

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

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

36 (e) Any action to enforce or create an obligation, duty, or right

1 arising under this chapter, or a request to change a record of the system,
2 including without limitation an attempt to establish service with the system
3 or add service to a member's record, shall be commenced within the limitation
4 period.

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

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

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

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

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

18 (B) An ambiguity in the interpretation of the
19 circumstances, rule, or law;

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

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

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

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

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

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

32 (g) As used in this section, "limitation period" means a period of
33 time that includes the fiscal year and the four (4) fiscal years immediately
34 following in which the system, member, retiree, designated beneficiary,
35 person, or the Division of the Arkansas State Police discovers or should have
36 discovered the error in the system's records.

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2 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
3 General Assembly of the State of Arkansas that the provisions of the Arkansas
4 Code related to member, retiree, and designated beneficiary contact
5 information under the Arkansas Public Employees' Retirement System are in
6 need of revision in order to provide clarity and increase efficiency of the
7 system; that a limitation period is needed for the correction of errors of
8 records of members, retirees, and designated beneficiaries under the Arkansas
9 Public Employees' Retirement System and the State Police Retirement System in
10 order to provide clarity and increase efficiency of the systems; and that
11 this act is immediately necessary to achieve the goals of the respective
12 systems to safeguard and maintain an orderly system of benefits. Therefore,
13 an emergency is declared to exist, and this act being immediately necessary
14 for the preservation of the public peace, health, and safety shall become
15 effective on:

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

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

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

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