

2
3 State of Arkansas
4 95th General Assembly

A Bill

LJH/LJH
HOUSE BILL

5
6
7 By: Representative Warren
8 By: Senator K. Hammer

9 Filed with: Joint Committee on Public Retirement and Social Security Programs
10 pursuant to A.C.A. §10-3-217.

11 **For An Act To Be Entitled**

12 AN ACT TO ESTABLISH THE ARKANSAS SAVE ACT; TO DECLARE
13 AN EMERGENCY; AND FOR OTHER PURPOSES.

14
15
16 **Subtitle**

17 TO ESTABLISH THE ARKANSAS SAVE ACT; AND
18 TO DECLARE AN EMERGENCY.

19
20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

21
22 SECTION 1. Arkansas Code Title 11 is amended to add an additional
23 chapter to read as follows:

24
25 CHAPTER 16 – ARKANSAS SAVE ACT

26
27 11-16-101. Title.

28 This chapter shall be known and may be cited as the "Arkansas Save
29 Act".

30
31 11-16-102. Definitions.

32 As used in this chapter:

33 (1)(A) "Covered employee" means an individual who is employed by
34 a covered employer and who has wages or other compensation allocable to the
35 state.

36 (B) "Covered employee" does not include:

1 (i) An individual who is an employee of the United
2 States Government, this state, another state, a county, a municipal
3 corporation, or any of the agencies or instrumentalities of this state or
4 another state;

5 (ii) An employee covered under the federal Railway
6 Labor Act, 45 U.S.C. § 151 et seq.;

7 (iii) An employee on whose behalf an employer makes
8 contributions to a Taft-Hartley multiemployer pension plan;

9 (iv) An employee who is ineligible for covered
10 employee status under rules promulgated by the Arkansas Retirement Savings
11 Board; or

12 (v) An employee under eighteen (18) years of age;

13 (3)(A) "Covered employer" means any person, partnership, limited
14 liability company, corporation, or other entity engaged in a business,
15 industry, profession, trade, or other enterprise in the state including
16 without limitation a nonprofit entity that:

17 (i) Employs, and employed during the previous
18 calendar year, at least five (5) covered employees; and

19 (ii) Has been in business in this state for at least
20 twenty-four (24) months.

21 (B) "Covered employer" does not include:

22 (i) The United States Government, this state,
23 another state, a county, a municipal corporation, or any of the agencies or
24 instrumentalities of this state or another state; or

25 (ii) Any employer that maintains a qualified
26 retirement plan;

27 (4) "Participant" means any individual who is contributing to,
28 or has a balance credited to, an individual retirement account under the
29 Arkansas Retirement Savings Program;

30 (5) "Participating employer" means a covered employer that
31 facilitates the participating of its employees in the Arkansas Retirement
32 Savings Program;

33 (6) "Qualified retirement plan" means a retirement plan
34 qualified under, or described in, and in compliance with 26 U.S.C. §§ 401(a),
35 401(k), 403(a), 403(b), 408(k), 408(p), and 457(b) of the Internal Revenue
36 Code, as it existed on January 1, 2025; and

1 (7) "Wages" means any commission, compensation, salary, or other
2 remuneration, as defined by 26 U.S.C. § 219(f)(1) of the Internal Revenue
3 Code, as it existed on January 1, 2025, received by a participant from a
4 participating employer.

5
6 11-16-103. Arkansas Retirement Savings Board – Creation.

7 (a) There is created the Arkansas Retirement Savings Board consisting
8 of five (5) members as follows:

9 (1) The Treasurer of State or his or her designee; and

10 (2) The following members, appointed by the Governor:

11 (A) A representative of covered employers;

12 (B) A representative with experience in the field of
13 investments;

14 (C) A representative of an association representing
15 employees; and

16 (D) A member of the public who is retired.

17 (b)(1) The members of the board shall be appointed for a term of
18 office of four (4) years or until their successors are appointed and
19 qualified.

20 (2) A member of the board may be removed by the Governor for
21 cause after a hearing.

22 (3) Vacancies shall be filled by appointment by the Governor for
23 the unexpired term.

24 (c) The Treasurer of State or his or her designee appointed to the
25 board under subdivision (a)(1) shall serve as chair of the board.

26 (d) A majority of the voting members of the board constitutes a quorum
27 for the transaction of business.

28 (e) The Treasurer of State shall provide staff for the board.

29
30 11-16-104. Arkansas Retirement Savings Board – Duties and powers.

31 (a) The Arkansas Retirement Savings Board shall establish the Arkansas
32 Retirement Savings Program, which shall be a defined contribution retirement
33 program for residents of this state who are covered employees.

34 (b) The Arkansas Retirement Savings Board has the following powers:

35 (1) To establish, implement, and maintain the Arkansas
36 Retirement Savings Program developed under this section;

1 (2) To promulgate rules to carry out the purpose and intent of
2 this chapter;

3 (3) To ensure that the Arkansas Retirement Savings Program
4 complies with applicable federal and state laws, rules, notices, and
5 interpretations;

6 (4)(A) To direct the investment of the funds contributed to
7 accounts in the Arkansas Retirement Savings Program consistent with the
8 investment policy established by the Arkansas Retirement Savings Board.

9 (B) The board shall exercise the judgment and care that a
10 person of prudence, discretion, and intelligence exercises in the management
11 of his or her own affairs with due regard to the probable income and level of
12 risk from certain types of investments of money and in accordance with the
13 policies established by the Arkansas Retirement Savings Board;

14 (5) To collect application, account, or administrative fees to
15 defray the costs of administering the Arkansas Retirement Savings Program;

16 (6)(A) To make or enter into contracts or agreements with:

17 (i) Financial institutions, depositories,
18 consultants, actuaries, auditors, investment advisers, investment managers,
19 third-party administrators, or other consultants and professionals as
20 necessary to carry out the duties and responsibilities under this chapter and
21 the Arkansas Retirement Savings Program established by the Arkansas
22 Retirement Savings Board;

23 (ii) Individuals or entities providing research,
24 technical assistance, or technology; and

25 (iii) State agencies of this state to assist the
26 Arkansas Retirement Savings Board in the fulfilment of the Arkansas
27 Retirement Savings Board's duties.

28 (B) The board may enter into intergovernmental
29 agreements or memoranda of understanding with this state and any agency or
30 instrumentality of this state in order to further the successful
31 implementation and operation of the Arkansas Retirement Savings Program
32 through the provision, receipt, or other sharing of data, technical
33 assistance, enforcement, compliance, collection, and other services or
34 assistance to the Arkansas Retirement Savings Program, and all such agencies
35 and instrumentalities shall cooperate with the Arkansas Retirement Savings
36 Board in achieving those ends;

1 (7) To develop and implement an outreach plan regarding the
2 Arkansas Retirement Savings Program and retirement savings in general;

3 (8) To delegate to the Treasurer of State the day-to-day
4 administration, operations, and responsibilities of the Arkansas Retirement
5 Savings Program; and

6 (9) To enter into a consortium, alliance, joint venture,
7 partnership, compact, or contract with another state or other states or their
8 programs or boards, which may modify the Arkansas Retirement Savings Board's
9 duties under this section.

10 (c) The Arkansas Retirement Savings Program developed and established
11 by the Arkansas Retirement Savings Board shall:

12 (1) Allow covered employees in this state to contribute to an
13 individual retirement account established under the Arkansas Retirement
14 Savings Program through payroll deduction;

15 (2) Require a covered employer with at least five (5) covered
16 employees to facilitate payroll deduction contributions by the covered
17 employer's covered employees to the Arkansas Retirement Savings Program
18 unless the covered employer offers a qualified retirement plan;

19 (3) Automatically enroll covered employees and allow covered
20 employees to opt out of the Arkansas Retirement Savings Program;

21 (4) Have a default contribution rate as established by the
22 Arkansas Retirement Savings Board in the Arkansas Retirement Savings Board's
23 discretion, but the default contribution rate shall not be less than three
24 percent (3%) nor more than six percent (6%) of wages;

25 (5) Allow for default escalation of contribution levels that can
26 be increased or decreased within the individual retirement account limits
27 allowed by 26 U.S.C. § 401 et seq.;

28 (6) Directly deposit contributions into an individual retirement
29 account with the investment administrator for the Arkansas Retirement Savings
30 Program;

31 (7) Have a Roth individual retirement account as the default
32 account type, but participants can elect to establish only a traditional
33 individual retirement account or a Roth individual retirement account, or
34 both;

35 (8) Maintain separate records and accounting for each individual
36 retirement account of the Arkansas Retirement Savings Program;

1 (9) Provide statements on the status of Arkansas Retirement
2 Savings Program accounts at least annually;

3 (10) Allow participants to maintain an individual retirement
4 account regardless of place of employment and to roll over funds into other
5 retirement accounts as permitted by state and federal law;

6 (11) Pool accounts established under the Arkansas Retirement
7 Savings Program for investment;

8 (12) Provide that the state and covered employers that
9 participate in the Arkansas Retirement Savings Program have no proprietary
10 interest in the contributions to or earnings on amounts contributed to
11 individual retirement accounts established under the Arkansas Retirement
12 Savings Program;

13 (13) Provide that the investment administrator for the Arkansas
14 Retirement Savings Program is the trustee of all contributions and earnings
15 on amounts contributed to individual retirement accounts established under
16 the Arkansas Retirement Savings Program;

17 (14) Not impose any duties under the Employee Retirement Income
18 Security Act of 1974, 29 U.S.C. § 1001 et seq., as it existed on January 1,
19 2025, on employers;

20 (15) Keep administrative fees of the Arkansas Retirement Savings
21 Program low;

22 (16) Allow private sector partnerships to administer and invest
23 the participant contributions under the supervision of the Arkansas
24 Retirement Savings Board;

25 (17) Allow covered employers to establish a qualified retirement
26 plan at any time and cease to facilitate the Arkansas Retirement Savings
27 Program;

28 (18) Select investment options, including a default investment
29 if a participant does not select an investment, consistent with the
30 objectives of the Arkansas Retirement Savings Program; and

31 (19) Investigate how to allow individuals to opt in to the
32 Arkansas Retirement Savings Program without being employed at a covered
33 employer, including self-employed individuals and independent contractors,
34 and make contributions to an account, either through payroll contributions or
35 another method of contribution.

36 (d) Under the Arkansas Retirement Savings Program developed and

1 established by the Arkansas Retirement Savings Board, covered employers:

2 (1) Shall not contribute to a participant's individual
3 retirement account;

4 (2) Shall not have any authority or legal liability for the
5 decisions or actions of the Arkansas Retirement Savings Board in implementing
6 and maintaining the Arkansas Retirement Savings Program;

7 (3) Shall not be responsible for Arkansas Retirement Savings
8 Program communications or required disclosures to covered employees, although
9 a covered employer can, at the employer's option, assist the Arkansas
10 Retirement Savings Program in communicating about the Arkansas Retirement
11 Savings Program to covered employees;

12 (4) Shall not be legally liable as a Arkansas Retirement Savings
13 Program fiduciary;

14 (5) Shall not be responsible for any fees or costs associated
15 with the administration of the Arkansas Retirement Savings Program or
16 management of Arkansas Retirement Savings Program investments; and

17 (6) Are not legally liable for any rate of return, for any
18 interest rate on any contribution or investment in individual retirement
19 accounts under the Arkansas Retirement Savings Program, or for any loss
20 incurred by a participant in the Arkansas Retirement Savings Program.

21 (e) The Arkansas Retirement Savings Program, the Arkansas Retirement
22 Savings Board, the members of the Arkansas Retirement Savings Board, and this
23 state shall not guarantee any rate of return or any interest rate on any
24 contribution.

25 (f) The Arkansas Retirement Savings Program, the Arkansas Retirement
26 Savings Board, the members of the Arkansas Retirement Savings Board, and this
27 state are not liable for any loss incurred by a person as a result of
28 participating in the Arkansas Retirement Savings Program.

29
30 11-16-105. Arkansas Retirement Savings Board – Rules.

31 The Arkansas Retirement Savings Board shall adopt rules that:

32 (1) Establish the process for enrollment in the Arkansas
33 Retirement Savings Program, including for automatic enrollment of covered
34 employees and for covered employees to opt out of the Arkansas Retirement
35 Savings Program;

36 (2) Establish the process for participants to make contributions

1 to Arkansas Retirement Savings Program accounts and to adjust contribution
2 levels;

3 (3) Establish the process for participating employers to
4 withhold participants' contributions to their individual retirement accounts
5 from the participants' wages and send the contributions to the investment
6 administrator for the Arkansas Retirement Savings Program;

7 (4) Set minimum, maximum, and default contribution levels in
8 accordance with limits established by 26 U.S.C., the Internal Revenue Code;

9 (5) Establish the process for withdrawals;

10 (6) Establish the process and requirements for a covered
11 employer to obtain an exemption from offering the Arkansas Retirement Savings
12 Program if the covered employer offers a qualified retirement plan;

13 (7) Determine the contents and frequency of required disclosures
14 to covered employees, covered employers, and other Arkansas Retirement
15 Savings Program participants; and

16 (8) Establish civil penalties for a covered employer's or
17 participating employer's noncompliance with its participation in the Arkansas
18 Retirement Savings Program as provided in the Arkansas Retirement Savings
19 Board rules, including development of enforcement mechanisms and penalties
20 not to exceed two hundred dollars (\$200) per covered employee annually.

21
22 11-16-106. Arkansas Retirement Savings Board – Limitations –
23 Definitions.

24 (a) Notwithstanding any law to the contrary, the state shall not
25 disclose personal information about a participant obtained in connection with
26 an account established under the Arkansas Retirement Savings Program except
27 under the following circumstances:

28 (1) To an individual or entity authorized by the respective
29 participant;

30 (2) In compliance with a subpoena or a court order;

31 (3) To the Treasurer of State or his or her designee solely for
32 the purpose of an audit;

33 (4) To the Internal Revenue Service or the United States
34 Department of the Treasury;

35 (5) To the participant's covered employer as may be necessary to
36 administer the Arkansas Retirement Savings Program; or

1 (6) In an administrative proceeding or court action involving
2 the state, the Treasurer of State, or the Arkansas Retirement Savings Board
3 relative to a program account established under the Arkansas Retirement
4 Savings Program.

5 (b) As used in this section, "personal information" includes without
6 limitation:

- 7 (1) Social Security numbers;
- 8 (2) Bank account numbers;
- 9 (3) Transit routing numbers;
- 10 (4) Credit card numbers;
- 11 (5) Debit card numbers;
- 12 (6) Business or residential addresses;
- 13 (7) Telephone numbers;
- 14 (8) Email addresses;
- 15 (9) Amounts contributed; and
- 16 (10) Earnings on amounts contributed.

17 (c) Notwithstanding any law to the contrary and except as provided in
18 subsection (d) of this section:

19 (1) All assets, income, and distributions of the Arkansas
20 Retirement Savings Program are protected against the claims of creditors of
21 the state, plan administrator, and plan participants and are not subject to
22 execution, attachment, garnishment, the operation of bankruptcy, insolvency
23 laws, or other processes; and

24 (2) An assignment of the items described in subdivision (c)(1)
25 of this section is not enforceable in a court.

26 (d)(1) The Arkansas Retirement Savings Board may adopt rules to permit
27 the Arkansas Retirement Savings Program to honor claims under a qualified
28 domestic relations order.

29 (2) As used in this subsection (d), "qualified domestic
30 relations order":

31 (A) Has the same meaning as provided in 26 U.S.C., the
32 Internal Revenue Code, as it existed on January 1, 2025; and

33 (B) Only relates to the provision of marital property
34 rights relating to the Arkansas Retirement Savings Program for the benefit of
35 a Arkansas Retirement Savings Program participant's former spouse.

36

1 11-16-107. Arkansas Retirement Savings Program Administrative Fund.

2 (a) The Arkansas Retirement Savings Program Administrative Fund is
3 established in the Office of the Treasurer of State, separate and distinct
4 from the general fund.

5 (b) Interest earned by the Arkansas Retirement Savings Program
6 Administrative Fund shall be credited to the Arkansas Retirement Savings
7 Program Administrative Fund.

8 (c) Moneys in the Arkansas Retirement Savings Program Administrative
9 Fund are continuously appropriated to the Arkansas Retirement Savings Board.

10 (d) The Arkansas Retirement Savings Program Administrative Fund shall
11 consist of:

12 (1) Moneys appropriated to the Arkansas Retirement Savings
13 Program Administrative Fund by the General Assembly;

14 (2) Moneys transferred to the Arkansas Retirement Savings
15 Program Administrative Fund from the federal government, state agencies, or
16 local governments;

17 (3) Moneys from the payment of fees and the payment of other
18 moneys due the board;

19 (4) Any gifts or donations made to the state for deposit in the
20 Arkansas Retirement Savings Program Administrative Fund; and

21 (5) Earnings on moneys in the Arkansas Retirement Savings
22 Program Administrative Fund.

23 (e) The Arkansas Retirement Savings Board may use the moneys in the
24 Arkansas Retirement Savings Program Administrative Fund to pay the
25 administrative costs and expenses of the board and the Arkansas Retirement
26 Savings Program and for any other purpose described in this chapter.

27 (f) Subject to appropriation, the state may pay administrative costs
28 associated with the creation and management of the Arkansas Retirement
29 Savings Program until sufficient assets are available in the Arkansas
30 Retirement Savings Program Administrative Fund for that purpose.

31
32 11-16-108. Arkansas Retirement Savings Board – Reporting.

33 The Arkansas Retirement Savings Board shall report no later than
34 February 1 of each year to the Governor and to the House of Representatives
35 and the Senate detailing the board’s activities.

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1 11-16-109. Arkansas Retirement Savings Board – Interagency agreement.

2 (a) Each state agency that enters into an interagency agreement with
3 the Arkansas Retirement Savings Board to provide outreach, technical
4 assistance, or compliance services shall collaborate with other state
5 agencies to develop a plan to provide these services to the board.

6 (b) All states agencies shall cooperate as requested by the Arkansas
7 Retirement Savings Board, including sharing relevant data as the parties
8 mutually agree.

9
10 SECTION 2. DO NOT CODIFY. Temporary language.

11 The Arkansas Retirement Savings Board shall establish the Arkansas
12 Retirement Savings Program no later than July 1, 2027, so that individuals
13 may begin making contributions to the plan.

14
15 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that millions of Arkansans will be
17 left with insufficient or no retirement savings over the course of the next
18 twenty (20) years; that there is a critical need to support and bolster the
19 residents of this state regarding their ability to comfortably retire and for
20 the sake of the state’s economy; and that this act is immediately necessary
21 because, without the establishment of the Arkansas Retirement Savings
22 Program, Arkansans will suffer both in their ability to retire and survive in
23 retirement and in the impact the retirement insecurity will have on the
24 state’s economy. Therefore, an emergency is declared to exist, and this act
25 being immediately necessary for the preservation of the public peace, health,
26 and safety shall become effective on:

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

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

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

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34 Referred by Representative Warren

35 Prepared by: LJH/LJH

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