

AGENDA
Joint Committee on Public Retirement & Social Security Programs

Tuesday, December 13, 2011

09:30 AM

**Hilton Garden Inn - 2840 S. Caraway Road
Jonesboro, Arkansas**

Sen. Johnny Key, Chair
Sen. Joyce Elliott, Vice Chair
Sen. Jimmy Jeffress
Sen. Jim Luker
Sen. Gene Jeffress
Sen. David Wyatt
Sen. Jason Rapert
Sen. Bill Sample
Sen. Jeremy Hutchinson
Sen. Mike Fletcher

Rep. Les "Skip" Carnine, Chair
Rep. Butch Wilkins, Vice Chair
Rep. Johnnie J. Roebuck
Rep. Randy Stewart
Rep. Tim Summers
Rep. Mark Perry
Rep. Jim Nickels
Rep. Allen Kerr
Rep. Homer Lenderman
Rep. Gary Deffenbaugh
Rep. Tommy Wren, Non-Voting
Rep. John Catlett, Non-Voting

Rep. David L. Branscum, Non-Voting
Rep. Sheilla E. Lampkin, Non-Voting
Rep. Fred Allen, Alternate
Rep. Billy W. Gaskill, Alternate
Rep. Toni Bradford, Alternate
Rep. Duncan Baird, Alternate
Rep. Robert E. Dale, Alternate
Rep. Jody Dickinson, Alternate
Rep. James Ratliff, Alternate
Rep. Josh Johnston, Alternate
Rep. Nate Bell, Alternate
Rep. Efreem Elliott, Alternate

- A. Call to Order
- B. Approval of Minutes—October 17 & 18, 2011 **[Exhibit B, B-1]**
- C. Comments by Co-Chairs—Representative Les Carnine and Senator Johnny Key
- D. Welcome and Overview of the ASU System and Programs by Dr. G. Daniel "Dan" Howard, Interim Chancellor, Arkansas State University
- E. Notification of Openings and Description of Board Duties for the Arkansas Local Police and Fire Retirement System (LOPFI) **[Exhibit E]**
 - 1. David Clark, Executive Director, LOPFI
 - 2. Roger Smith, Arkansas State Fraternal Order of Police
 - 3. Committee discussion and action
- F. Notification of Opening and Description of Board Duties for the Arkansas Fire and Police Pension Review Board (PRB) **[Exhibit F]**
 - 1. David Clark, Executive Director, LOPFI
 - 2. Committee questions and discussion
- G. Notification of Openings and Description of Board Duties for the Arkansas Teacher Retirement System (ATRS) **[Exhibit G]**
 - 1. George Hopkins, Director, ATRS
 - 2. Committee questions and discussion

Notice: Silence your cell phones. Keep your personal conversations to a minimum. Observe restrictions designating areas as "Members and Staff Only"

H. Discussion of the Arkansas Teacher Retirement System's Actuarial Report for June 30, 2011 **[Exhibit H]**

1. George Hopkins, Director, ATRS
2. Committee questions and discussion

I. Other Business

J. Adjournment

MINUTES
JOINT COMMITTEE ON PUBLIC RETIREMENT
& SOCIAL SECURITY PROGRAMS
October 17, 2011

The Joint Committee on Public Retirement and Social Security Programs met Monday, October 17, 2011, at 4:30 p.m., at the DeGray Lake Resort State Park Lodge in Bismarck, Arkansas.

Committee members in attendance: Senators Johnny Key, Senate Co-Chair, Mike Fletcher, Gene Jeffress, Jimmy Jeffress, and Bill Sample; Representatives Les Carnine, House Co-Chair, Nate Bell, Gary Deffenbaugh, Billy Gaskill, Homer Lenderman, Johnnie Roebuck, Randy Stewart, Tim Summers, and Butch Wilkins.

Also attending: Representatives John Burris, David Fielding, Buddy Lovell, and Garry Smith.

Senator Johnny Key called the meeting to order.

Arkansas Diamond Deferred Compensation Plan (Exhibit D)

Mr. Jason Lee, Executive Director, Employee Benefits Division (EBD), Department of Finance and Administration, reviewed the 457 Deferred Compensation Plan available to state, county, and municipal employees. Plan information was provided in Exhibit D. He stated the 457 Plan is similar to 401k programs offered in the private sector. The 457 Plan is a supplemental retirement program which allows participants to deposit a portion of their pay into a pre-tax account. There are 14,500 participants, with the majority being state employees, and \$450 million in total assets. Investment options include fixed income, mutual funds, and bonds. A participant can withdraw money for additional income after retirement. Contribution limits are set by the Internal Revenue Service. A change in the plan will take place in the first quarter of 2012 with the addition of a ROTH 457 option, which allows a post-tax contribution.

Arkansas State Highway Employees Retirement System (ASHERS) (Exhibit E-1)

Mr. Larry Dickerson, Executive Secretary, ASHERS, gave a presentation. An actuarial report with updated liability amounts was shown on a chart in Exhibit E-1. Mr. Dickerson stated the report is important because the updated amounts are on the positive side of liabilities. The chart also shows tentative unfunded liabilities ending June 30, 2011, and the tentative liability position for the end of June 30, 2011. The liabilities had been expected to increase from \$50 million to \$80 million. Instead, liabilities increased to only \$37.7 million. There was discussion of the pros and cons of the smoothing of assets versus market value. Mr. Dickerson believes the focus should be on market value.

Arkansas Local Police and Fire Retirement System (LOPFI) (Handout 1)

Mr. David Clark, Executive Director, LOPFI, presented an overview of LOPFI and the Pension Review Board (PRB). LOPFI covers police officers and firefighters hired January 1, 1983, or later. The PRB, a regulatory board, monitors closed pension plans for police officers and firefighters hired on or before the last day of 1982. The handout is a summary of legislation passed in the 2011 legislative session, and a statewide map with the retirement

benefit amounts paid to members in each county, as of October 2011. Technical changes in legislation moved service credit purchases to actuarial calculations. If a member chooses to move purchase of cadet or military service time, they will pay the actual cost of the purchase. There are 12,400 active members, including paid/career members and volunteer members. Mr. Clark advised that 66% of the 5,900 paid/career members do not participate in Social Security, which means they rely on their benefits to sustain their retirement. The LOPFI system is based on a calendar year. For the year ending December 31, 2010, the system was 70% funded. Mr. Clark explained that LOPFI administers benefit structures for 141 of the 145 closed pension plans throughout the state. When the closed pension plans are factored in, the funding ratio for 2010 decreased to 65%.

Act 979 of 2011 revised the insurance premium tax formula (premium tax monies are distributed back to employers to help fund contribution costs to LOPFI). The PRB sent a memorandum to the closed pension plans with projections for the 2012 premium tax funds. Included in the memorandum is a new component of funding, an additional allocation of 10% of actuarial costs, which will be available to eligible plans. Eligibility will be determined by the pension plans' base benefits found in the annual financial reports the closed pension plans provide to LOPFI.

Arkansas Public Employees Retirement System (APERS) (Exhibit E-3)

Ms. Gail Stone, Executive Director, APERS, gave an overview of the system. She stated that APERS and the Arkansas State Police Retirement System (ASPRS) have combined assets totaling \$5.8 billion as of June 30, 2011, with \$2.3 billion in unfunded liabilities. The rate of return on investments was 26% for the past year, and 4.7% over the last five years. APERS has 45,135 active members and 28,000 retirees. APERS paid \$344 million in retirement benefits in 2011. Ms. Stone described the Deferred Retirement Option Plan (DROP) which allows retired employees to continue working for seven years after entering DROP. The employer contribution rate is currently 13.47% of the overall payroll, with an employee contribution rate of 5%. The majority of benefits come from the system's investment programs. Ms. Stone was asked to explain changes to the interest rates for DROP accounts. She stated the interest rate credited to the participant DROP balances had been 6% for a long time. But, due to the dramatic decline in the market in 2008 and 2009, the trustees chose to change the interest rate to 3% effective July 1, 2011. The trustees believe it was necessary to change the rate to ensure the core benefits remain safe. Exhibit E-3 includes a statewide map showing the total benefit amounts paid to members in each county.

Arkansas Teacher Retirement System (ATRS) (Exhibit E-4)

Mr. George Hopkins, Executive Director, ATRS, explained the Teacher Deferred Retirement Option Plan (T-DROP), which is an optional program for teachers who have worked in the system for 28 years or more. There are close to 90,000 active members and 33,000 retirees, including surviving children and spouses. The program pays over \$59 million per month in benefits. In the past year there were 4,106 working retirees who worked either full-time or part-time. Mr. Hopkins stated that from a financial standpoint, working retirees help the program because there are no new retirement liabilities, and no additional costs to the state. A law passed in the 2009 legislative session extended the separation period from 30 days to 6 months, plus the ATRS board adopted stricter rules for the early application process. Teachers are now screened to ensure their return to work does not violate the laws. The T-DROP program encourages teachers to stay in the profession for longer periods of time,

which helps to retain quality teachers. Exhibit E-4 includes a statewide map with the number of working retirees, salaries, and retirement benefit amounts for each county. Several teachers spoke at the meeting and urged legislators not to change the current system. Senator Key explained the committee will continue to study the issues to determine what is most beneficial to the retirement systems' members and the overall system.

Arkansas State Police Retirement System (ASPRS). (Exhibit E-5)

Ms. Gail Stone, Executive Secretary, ASPRS, gave an overview of the system. Exhibit E-5 provides information detailing the number of participants and benefit amounts paid. ASPRS has 530 active state troopers and 630 retired state troopers, including 76 enrolled in DROP. The average monthly benefit amount is \$3,400. Total benefits paid for all participants in fiscal year 2011 was \$21.8 million with an unfunded liability of \$126.3 million. The required contribution rate is 45.85%, the employer contribution rate is 22%, and the remainder comes from court fines, drivers license reinstatement fees, and insurance premium tax.

Arkansas Judicial Retirement System (AJRS) (Exhibit E-6)

Ms. Gail Stone, Executive Director, AJRS, stated that the program serves circuit judges, appeals judges, and supreme court judges. Exhibit E-6 lists 136 sitting judges and 121 retirees. The total value of AJRS at the end of June 30, 2011, was \$171 million with \$165 million in unfunded liabilities. It is a two-tier program. Tier 1 has 35 members and Tier 2 has 101 members. The Tier 2 program benefit formula is similar to APERS.

There being no further business the meeting adjourned at 6:30 p.m.

**MINUTES
JOINT COMMITTEE ON PUBLIC RETIREMENT &
SOCIAL SECURITY PROGRAMS**

October 18, 2011

The Joint Committee on Public Retirement and Social Security Programs met Tuesday, October 18, 2011, at 10:00 a.m., at Henderson State University in Arkadelphia, Arkansas.

Committee members in attendance: Senators Johnny Key, Senate Co-Chair, and Jeremy Hutchinson; Representatives Les Carnine, House Co-Chair, Nate Bell, Gary Deffenbaugh, Homer Lenderman, Johnnie Roebuck, and Butch Wilkins.

Senator Key called the meeting to order. He thanked university officials for hosting the committee meeting. He introduced Mr. Bobby Jones, Interim President, Henderson State University who welcomed the members to his campus.

Approval of Minutes September 20 and 21, 2011 (Exhibits D-1, D-2)

- ✓ **Minutes of the September 20 and 21, 2011 meetings were approved without objection.**

Consideration to adopt Interim Study Proposal (ISP) 2011-185 by Representative David Sanders (Exhibit E)

Representative David Sanders, sponsor of the ISP, was unable to attend the meeting. Senator Key asked the committee to consider adoption of the ISP, with testimony to be given at a later time.

- ✓ **Without objection, the ISP was adopted unanimously.**

Senator Jeremy Hutchinson arrived after adoption of the ISP. He was recognized by Senator Key to discuss the ISP on behalf of Representative David Sanders. Senator Hutchinson is concerned about circuit judges who retire, then seek election as a district judge, enabling the retired circuit judge to receive retirement benefits, plus a salary as a district judge. Senator Hutchinson believes there is a perception by the public, and some members of the bar association, who view this as a form of "double dipping". The study of the ISP is to determine the number of judges involved, the impact on the various retirement systems, and what, if any, legislation may be needed.

Proposed Rules – Arkansas Public Employees Retirement System (APERS) (Exhibit F)

Ms. Gail Stone, Executive Director, summarized the proposed changes to several rules and regulations, which have been adopted by the APERS Board to conform with laws passed during the 2011 legislative session. The proposed changes include:

- Regulation 106 – Employer Contributions for Rehired Retirees. This is a new regulation to comply with Act 558 of 2011; which makes it clear that no additional service credit will be rendered to rehired retirees.

- Regulation 201 -- Proof of Age. The APERS Board has modified the proof of age policy to include accepting a valid United States passport as a form of identification.
- Regulation 210 -- Public Safety Credit. This change will acknowledge that firefighters and the state military department are considered public safety members for the purpose of retirement crediting, only if federal funds are available to pay the additional cost.
- Regulation 214 -- DROP Provision Amendments:
 - First amendment -- the APERS Board was asked to consider the interest rate credited to DROP accounts at its regular February meeting. The Board will vote to maintain, raise, or drop the interest rate, and the rate will be determined by the vote taken at the meeting. The agreed upon interest rate will take effect on July 1 of the same year.
 - Second amendment -- the eligibility of re-employment addressed in Act 38 of the 2011 legislative session states: "an employee is not eligible for re-employment with any public job that is otherwise covered by a state level retirement system after exiting DROP, if first enrolled in DROP in March of 2011, or later. Employees who do return to work must conform with the separation requirements." Ms. Stone explained that the formation of the DROP was intended as an end-of-career concept. She stated that passage of Regulation 214, plus its amendments will return the DROP program to its original concept.
- Regulation 220 -- Termination of Covered Employment Required for Retirement. The regulation ensures that employees who return to work must conform with the separation requirements. Employees cannot return to work in a part-time position, or as a contract worker, in an effort to avoid the law.
- Regulation 312 -- Contributions Required of New County and Municipal Elected Officials. This new regulation requires an additional 5% contribution to be paid for the newly elected county and municipal officials elected for the first time after July 1, 2011. The additional 5% contribution will be paid in equal amounts by the employer and the employee, each paying 2.5%.
- ✓ **Senator Key directed Legislative Staff to advise the ALC-Administrative Rules and Regulations Committee the rules have been reviewed.**

Arkansas Local Fire and Police Pension and Relief Funds summary report (Exhibit G)
Mr. Jody Carreiro, Committee Actuary, gave a presentation. Mr. Carreiro stressed the importance of the context of federal law in the discussions of DROP interest rates. He explained that interest rates for DROP accounts cannot be set based on a retirement system's yearly earnings because a sub-account of a retirement plan, which shares in its gains or losses, would be viewed as a defined contribution plan under federal law. An entirely different set of tax codes would be applied to that sub-account. Mr. Carreiro

suggests DROP interest rates be set using other factors. He recommended the use of the ten-year treasury rate as an example.

Senator Key asked Mr. Carreiro to prepare a memorandum with his suggestion and comments to be distributed to all the members of the Joint Retirement Committee.

Mr. Carreiro gave an overview of the closed pension plans for police officers and firefighters hired before 1983. He referenced a table found on page 1 of Exhibit G, which includes:

- ♦ 150 locally operated plans, as of December 31, 2010
- ♦ 79 active members, the majority being volunteer firefighters
- ♦ 64 members in DROP
- ♦ 3,102 total or retired members
- ♦ \$656 million total assets and accrued liabilities

Mr. Carreiro discussed plan contributions. Working plan members are required to make contributions. But, as there are a limited number of working members, the closed plan contributions have become limited. Mr. Carreiro explained that some plan locations have access to a dedicated millage. Plus, police pension funds receive a portion of fines and fees, which helps support those plans. Mr. Carreiro indicated that the majority of municipalities only budget the minimum contribution amounts required by law, which leaves many of the closed pension plans poorly funded.

Mr. Marc Watts with the Arkansas State Employees Association was recognized. He thanked the committee for holding the regional meetings. He said ASEA members appreciate the opportunity to hear the discussions and ask questions.

There being no further business, the meeting adjourned at 11:25 a.m.

LOPFI

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December 1, 2011

Senator Johnny Key
Representative Les "Skip" Carmine
Co-Chairs, Joint Committee on Public Retirement
and Social Security Programs
State Capitol, Room 315
Little Rock, AR 72201

Dear Mr. Chairmen:

On behalf of the trustees of the Arkansas Local Police and Fire Retirement System (LOPFI), please be advised that as of January 1, 2012 an appointment will open in the retired municipal police representative position on the LOPFI board.

Arkansas Code Annotated 24-10-201 directs the Governor to appoint the retired police representative from a list of names submitted to him by the Joint Committee on Public Retirement and Social Security Programs. The trustee who currently holds this position, Donna Adkins, respectfully requests that he name not be submitted. Ms. Adkins has enjoyed her tenure on the Board; however, she looks forward to spending more time with her family.

As always, we appreciate your assistance.

Respectfully,



David B. Clark
Executive Director

Cc: LOPFI Board of Trustees

LOPFI

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December 1, 2011

Senator Johnny Key
Representative Les "Skip" Carnine
Co-Chairs, Joint Committee on Public Retirement
and Social Security Programs
State Capitol, Room 315
Little Rock, AR 72201

Dear Mr. Chairmen:

On behalf of the trustees of the Arkansas Local Police and Fire Retirement System (LOPFI), please be advised that as of January 1, 2012 an appointment will open in the retired municipal firefighter representative position on the LOPFI board.

Arkansas Code Annotated 24-10-201 directs the Governor to appoint the retired firefighter representative from a list of names submitted to him by the Joint Committee on Public Retirement and Social Security Programs. The trustee who currently holds this position, Dan Curtner, respectfully asks that his name not be submitted. While Mr. Curtner has enjoyed his tenure on the Board, he looks forward to spending more time with his family.

As always, we appreciate your assistance.

Respectfully,



David B. Clark
Executive Director

Cc: LOPFI Board of Trustees

LOPFI

Subchapter 2

— Board of Trustees

- 24-10-201. Members and terms.
- 24-10-202. Vacancies.
- 24-10-203. Proceedings.
- 24-10-204. Employees.
- 24-10-205. Records and reports.
- 24-10-206. Federal taxation.

Effective Dates. Acts 1985, No. 547, § 3: Mar. 25, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that current law providing for the election of member trustees is unclear and cumbersome, and that this Act is necessary to ensure the timely replacement of representatives of the covered members of the System. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1989, No. 152, § 7: Feb. 21, 1989. Emergency clause provided: "It is hereby found and determined by the General Assembly that confusion exists regarding whether bank trust officers may serve as investment advisers to local police and fire pension funds; that it was never the intent that bank trust officers not be authorized to so act; that this Act clarifies the law to specifically authorize bank trust officers to serve as investment advisers to the local police and fire pension funds; and that this Act should be given effect immediately in order to eliminate the confusion. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. 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 the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1277, § 2: amendment effective by its own terms on Jan. 1, 2004.

Acts 2011, No. 17, § 7: Feb. 9, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Local Police and Fire Retirement System is in place to provide economic security for eligible citizens of Arkansas, that the statutes need amending to account for changes in the economy, and that these citizens need to be immediately covered by these changes. 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: (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."

Acts 2011, No. 556, § 6: Mar. 22, 2011. Emergency clause provided: "It is found and determined by the General Assembly that the Arkansas Fire and Police Pension Review Board is in place to provide economic security for eligible citizens of Arkansas, that the statutes need amending to account for changes in the economy, and that these citizens need to be immediately covered by these changes. 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."

→ **24-10-201. Members and terms.**

(a) The general administration and the responsibility for the proper operation of the Arkansas Local Police and Fire Retirement System and for making effective the provisions of this chapter are vested in a board of trustees of seven (7) persons as follows:

(1) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Professional Fire Fighters Association and one (1) list from the Arkansas Council of Professional Fire Fighters;

(2) One (1) person to be appointed member trustee by the Governor from two (2) lists of persons submitted to him or her, one (1) list from the Arkansas Municipal Police Association and one (1) list from the Fraternal Order of Police;

(3) Two (2) persons to be appointed employer trustees by the Governor from a list of persons submitted to him or her by the Arkansas Municipal League;

(4) One (1) person who is not a member, retirant, or beneficiary of the system and who is not a member of the governing body of any political subdivision to be appointed trustee by the Governor from a list of persons submitted to him or her by the Joint Committee on Public Retirement and Social Security Programs;

(5) One (1) person who is a retired municipal police officer to be appointed a member trustee by the Governor from a list of two (2) persons submitted to him or her by the cochair of the Joint Committee on Public Retirement and Social Security Programs; and

(6) One (1) person who is a retired municipal firefighter to be appointed a member trustee by the Governor from a list of two (2) persons submitted to him or her by the cochair of the Joint Committee on Public Retirement and Social Security Programs.

(b)(1) The normal term of office for a trustee shall be four (4) years from January 1 next following his or her election or appointment, as the case may be.

(2) Each trustee shall continue to serve as trustee until a successor is appointed and has qualified.

(c) Trustees elected or appointed as member trustees shall be retired or active members of the system, but:

(1) Not more than one (1) member trustee shall be employed or formerly employed by any one (1) employer;

(2) Not more than two (2) member trustees shall be police officers or retired police officers; and

(3) Not more than two (2) member trustees shall be firefighters or retired firefighters.

(d) Trustees appointed as employer trustees shall be elected or appointed officials of employers with management experience and shall not be members of the system, but not more than one (1) employer trustee shall be from any one (1) employer.

(e) Whenever the Governor is to appoint a trustee, the list of persons submitted to him or her shall consist of the names of two (2) persons.

History. Acts 1981, No. 364, § 7; 1985, No. 547, § 1; A.S.A. 1947, § 12-3807; Acts 2003, No. 1277, § 1.

A.C.R.C. Notes. Acts 2003, No. 1277, § 2 provided:

“(a) This act is effective January 1, 2004.

“(b)(1) Under section 1 of this act, the initial new two (2) member trustees to be appointed by Governor from lists submitted by the cochair of the Joint Committee on Public Retirement and Social Security Programs shall be appointed for staggered terms to expire each year over a two-year period and the terms shall be designated by the Governor.

“(2) After the initial terms, the two (2) member trustees to be appointed by Governor from lists submitted by the cochair of the Joint Committee on Public Retirement and Social Security Programs shall serve terms as the other trustees for four (4) years.”

Publisher's Notes. Acts 1985, No. 547, § 1, provided, in part, that the first two member trustees should be appointed by the Governor from a list of persons submitted by the Joint Committee on Public Retirement, one for a term expiring January 1, 1986 and one for a term expiring January 1, 1988. At the first meeting of the board, the first two member trustees were to determine by lot who would serve the term expiring in 1986 and who would serve the term expiring in 1988. The Arkansas Municipal League was authorized to nominate persons for the two employer trustee positions, one for a term expiring January 1, 1985 and one for a term expiring January 1, 1987. The first citizen trustee was to be appointed for a term expiring January 1, 1987.

Amendments. The 2003 amendment substituted “seven (7)” for “five (5)” in the introductory paragraph of (a); added (a)(5) and (a)(6); inserted the present subdivision designations in (c); inserted “retired or active” in the introductory language in (c); inserted “or formerly employed” in (c)(1); substituted “two (2) member trustees” for “one (1) member trustee” in (c)(2) and (c)(3); substituted “firefighters or retired firefighters” for “a fire fighter” in (c)(3); and made stylistic and minor punctuation changes.

24-10-202. Vacancies.

(a) In the event any member trustee ceases to be a member of the Arkansas Local Police and Fire Retirement System, or if any employer trustee ceases to be an appointed or elected official of an employer or becomes a member of the system, or if the citizen trustee becomes a member of the system or an elected or appointed official of an employer, or if any trustee fails to attend three (3) consecutive meetings of the Board of Trustees of the Arkansas Local Police and Fire Retirement System, unless in each case excused for cause by the remaining trustees attending the meetings, he or she shall be considered as having resigned from the board, and the board by resolution shall declare his or her office of trustee vacated.

(b) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(c) From the time a vacancy in the office of trustee occurs and the board has begun the steps to see that the vacancy will be filled, and before the time the vacancy is filled, the trustees in office by majority vote may elect a person to fill temporarily the vacancy for the interim period but in no event for a period longer than one (1) year.

History. Acts 1981, No. 364, § 7; A.S.A. 1947, § 12-3807.

24-10-203. Proceedings.

(a)(1)(A) Each trustee shall be entitled to one (1) vote on the Board of Trustees of the Arkansas Local Police and Fire Retirement System.

(B) Three (3) votes shall be necessary for a decision by the trustees at any meeting of the board.

(2) Three (3) trustees, of whom at least one (1) shall be a member trustee and at least one (1) shall be an employer trustee, shall constitute a quorum at any meeting of the board.

(3) Unless otherwise expressly provided in this section, a meeting need not be called or held to make any decision on a matter before the board. Each member must be sent, by the Executive Director of the Arkansas Local Police and Fire Retirement System, a copy of the matter to be decided with full information from the files of the board. The concurring decisions of three (3) trustees may decide the issue by signing a document declaring their decision and sending the written instrument to the executive director, but only if no other trustee shall send a dissenting decision to the executive director within fifteen (15) days after the document and information were mailed to him or her. If any trustee is not in agreement with the three (3) trustees, the matter is to be passed on at a regular board meeting or a special meeting called for that purpose.

(4) Meetings of the board may be called by the chair or by a majority of the members in a manner established by the board.

(b)(1) The board shall serve as trustees without compensation for their services as such.

(2) However, each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(c) Subject to the limitations of this chapter, the board shall formulate and adopt rules and regulations for the government of its own proceedings and for the administration of the system.

(d) The board shall elect one (1) of its members as chair and one (1) of its members as vice chair.

History. Acts 1981, No. 364, § 7; A.S.A. 1947, § 12-3807; Acts 1995, No. 514, § 3; 1997, No. 250, § 233.

Amendments. The 1997 amendment rewrote (b)(2).

Cross References. Mileage reimbursement, § 25-16-901 et seq.

Case Notes

Cited: Rothbaum v. Arkansas Local Police & Fire Ret. Sys., 346 Ark. 171, 55 S.W.3d 760 (2001).



ARKANSAS FIRE & POLICE PENSION REVIEW BOARD

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December 6, 2011

Senator Johnny Key
Representative Les "Skip" Carnine
Co-Chairs, Joint Committee on Public Retirement
and Social Security Programs
State Capitol, Room 315
Little Rock, AR 72201

Dear Mr. Chairman:

On behalf of the members of the Arkansas Fire and Police Pension Review Board (PRB), please be advised that as of January 1, 2012 an appointment will open in the public representative position on the PRB.

Arkansas Code Annotated 24-11-203 directs the Governor to appoint the public representative from a list of names submitted to him by the Joint Committee on Public Retirement and Social Security Programs. The law specifies that this representative is not a member, retirant, or beneficiary of the Arkansas Local Police and Fire Retirement System and who is not a current or former member of the governing body of any political subdivision. The Board respectfully requests that one of the names submitted be that of the person who currently holds this position, Buddy Ledford, of Fayetteville.

As always, we appreciate your assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "David B. Clark".

David B. Clark
Executive Director

Cc: PRB Members

Subchapter 2

— Disclosure of Financial Condition — Arkansas Fire and Police Pension Review Board

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Effective Dates. Acts 1979, No. 700, § 6: July 1, 1979. Emergency clause provided: "It is hereby found and determined by the Seventy-Second General Assembly that there exists a severe need for a more adequate system of disclosure of financial condition of Firemen's and Policemen's Pension Funds. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after July 1, 1979."

Acts 1983, No. 45, § 3: Feb. 3, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current requirement of an accountant's certification of the financial report places an extreme hardship on small funds and that this Act is necessary to provide needed relief while ensuring fiscal responsibility. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 512, § 5: July 1, 1983.

Acts 1985, No. 898, § 3: Apr. 15, 1985. Emergency clause provided: "It is hereby found and determined by the General Assembly that the current requirement of an accountant's certification of the financial report places an extreme hardship on small funds and that this Act is necessary to provide needed relief while ensuring fiscal responsibility. Therefore, an emergency is declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1985, No. 992, § 7: Jan 1, 1986.

Acts 1995, No. 1266, § 7: Jan. 1, 1995.

Acts 1997, No. 250, § 258: Feb. 24, 1997. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 1211 of 1995 established the procedure for all state boards and commissions to follow regarding reimbursement of expenses and stipends for board members; that this act amends various sections of the Arkansas Code which are in conflict with the Act 1211 of 1995; and that until this cleanup act becomes effective conflicting laws will exist. 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 the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 1999, No. 1452, § 7: July 1, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that many of the retired police officers are not receiving adequate benefits, that often times, these officers have few financial resources outside of their pensions, that the policemen's pension and relief funds are often not able to pay full benefits to these officers because of their unfounded liabilities, and that a program which supplements the benefits of these retired officers which does not come from revenues of the pension funds themselves will benefit all citizens of the state and it is necessary to implement the changes in benefits at the beginning of the current fiscal year and therefore this act should have effect at that time. 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 July 1, 1999."

Acts 2001, No. 1701, § 10: April 17, 2001. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the provisions of this act must be implemented before the funds described herein are next disbursed in order to insure the fiscal well-being of the beneficiaries of the Police and Fire Pension and Relief Funds. 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 the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2003, No. 1373, § 2: Apr. 15, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the benefits for members of the police and fire pension and relief funds are inadequate; that the benefits are supplemented by the Future Supplement Fund; that those supplemental benefits should be increased to continue to motivate the emergency service employees of our local governments; and that this act is immediately necessary to continue that motivation. 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."

Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. 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, 2003."

Acts 2003, No. 1797, § 7: Apr. 23, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that premium tax distribution formula is directing state revenues to areas without the need for priority fire and police protection; that police and fire protection services are of extreme importance in the protection of property values and individual lives; that the distribution of premium tax revenues to the areas of the highest need is a top priority; that implementation of a revised distribution formula must be implemented before the normal time for the effectiveness of other laws; and that this act needs to be immediately effective to fulfill that priority. 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."

Acts 2007, No. 609, § 4: Mar. 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the current laws applicable to the local police and fire pension and relief funds regarding retirement funding allocations require revision; and that revisions are necessary to ensure the effective and efficient operation of the system. Therefore, an immediate emergency is declared to exist and this act being 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."

Acts 2007, No. 849, § 2: Apr. 3, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that that this act modifies the payment of supplement funds to certain pension funds to provide equitable benefits to the members of those funds; that these funds will be distributed to local police and fire pension and relief funds to be paid to their retired members and beneficiaries; that the payment of these funds will be beneficial to those persons; and that the payments should occur as soon as possible to effectuate the intent of this act. 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."

Acts 2011, No. 556, § 6: Mar. 22, 2011. Emergency clause provided: "It is found and determined by the General Assembly that the Arkansas Fire and Police Pension Review Board is in place to provide economic security for eligible citizens of Arkansas, that the statutes need amending to account for changes in the economy, and that these citizens need to be immediately covered by these changes. 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."

24-11-201. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Accountant" means an accountant who is authorized by Arkansas law to practice public accounting in Arkansas;

(2) "Actuary" means an actuary:

(A) Who is a member of the American Academy of Actuaries or who meets other criteria for qualification which may be established by the General Assembly; and

(B) Who is experienced in retirement plan financing; and

(3) "Plan" means any Arkansas municipal policemen's pension and relief fund or any Arkansas municipal firemen's pension and relief fund, including pension and relief funds of volunteer fire departments.

History. Acts 1979, No. 700, § 1; 1981, No. 286, § 1; A.S.A. 1947, § 19-5701.

24-11-202. Noncompliance with subchapter.

(a) If it is determined that a plan is not complying with the provisions of this subchapter, the Executive Director of the Arkansas Fire and Police Pension Review Board shall certify the noncompliance to the Director of the Department of Finance and Administration, who shall withhold all moneys otherwise due the plan from the state until compliance is achieved.

(b) All actions taken by the Executive Director of the Arkansas Fire and Police Pension Review Board shall be subject to review and acceptance by the Arkansas Fire and Police Pension Review Board.

History. Acts 1979, No. 700, § 5; 1981, No. 286, § 5; 1983, No. 512, § 4; 1985, No. 383, § 1; A.S.A. 1947, § 19-5705; Acts 2001, No. 1701, § 1.

Amendments. The 2001 amendment substituted "Director of the Department of Finance and Administration" for "Insurance Commissioner" in (a); and substituted "Executive Director of the Arkansas Fire and Police Pension Review Board" for "executive director" in (b).

→ **24-11-203. Arkansas Fire and Police Pension Review Board.**

(a) The purpose of this section, which creates and establishes the Arkansas Fire and Police Pension Review Board, is to establish a state pension review board for all municipal fire and police pension funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810 [repealed], 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821, which shall oversee all requests for benefit increases and review the

annual accountant's reports and biennial actuarial valuations required by this subchapter and which shall oversee, invest, and administer the Arkansas Fire and Police Pension Guarantee Fund as established by law.

(b)(1) The board shall be composed of nine (9) persons as follows:

(A) Two (2) firefighters, an active member, retired member, or a deferred retirement option plan participant, one (1) of whom shall be appointed by the Governor from a list submitted by the Arkansas Council of Professional Fire Fighters and the other from a list submitted by the Arkansas Professional Fire Fighters Association;

(B) Two (2) police officers, an active member, retired member, or a deferred retirement option plan participant, to be appointed by the Governor, one (1) from a list submitted by the Arkansas Municipal Police Association and the other from a list submitted by the Fraternal Order of Police;

(C) Three (3) persons to be appointed by the Governor from a list submitted by the Arkansas Municipal League;

(D) One (1) person who is not a member, retirant, or beneficiary of the Arkansas Local Police and Fire Retirement System and who is not a current or former member of the governing body of any political subdivision, to be appointed by the Governor from a list of persons submitted to the Governor by the Joint Committee on Public Retirement and Social Security Programs; and

(E) The Director of the Department of Finance and Administration.

(2) The board shall elect one (1) of its members as chair.

(c) Board members appointed as employee members must be active members, retired firefighters or police officers, or deferred retirement option plan participants of local firemen's and policemen's pension and relief funds established under §§ 14-52-106, 24-11-401 — 24-11-403, 24-11-405 — 24-11-413, 24-11-416, 24-11-417, 24-11-422, 24-11-423, 24-11-425, 24-11-428 — 24-11-430, 24-11-801 — 24-11-807, 24-11-809, 24-11-810 [repealed], 24-11-813 — 24-11-815, and 24-11-818 — 24-11-821.

(d) Board members appointed as employer members shall be elected or appointed officials of municipalities or fire protection districts with established firemen's or policemen's pension and relief funds. However, both employer members shall not be from the same municipality or fire protection district.

(e) Whenever the Governor is to appoint a board member, the list of persons submitted to the Governor shall consist of the names of at least two (2) persons.

(f)(1) The normal term of office shall be four (4) years from January 1 next following the appointment.

(2) Each board member shall continue to serve until a successor has been appointed and has qualified.

(g)(1) In the event any employee board member ceases to be an active or retired member or a deferred retirement option plan participant of a local pension fund, or any employer board member ceases to be an appointed or elected official of an employer or becomes a member of a local pension fund, or if the citizen board member becomes a member of a local pension fund or an elected or appointed official of an employer, or if any board member fails to attend three (3) consecutive meetings of the board, unless in each case excused for cause by the remaining board members attending the meeting or meetings, the member shall be considered as having resigned from the board, and the board shall declare by resolution the office of that member vacated.

(2) If a vacancy occurs in the office of a member, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(3) From the time a vacancy in the office of a member occurs and the board has begun the steps to see that the vacancy will be filled and before the time the vacancy is filled, the members in office may elect a person by majority vote to fill temporarily the vacancy for the interim period, but in no event for a period longer than one (1) year.

(h)(1) The executive director and staff of the Arkansas Local Police and Fire Retirement System shall serve as executive director and staff for the Arkansas Fire and Police Pension Review Board.

(2)(A) The Arkansas Fire and Police Pension Review Board or its designated members may meet in executive session with the Board of Trustees of the Arkansas Local Police and Fire Retirement System or its designated members for the purposes stated in and subject to the provisions of § 25-19-106(c) concerning the boards' executive director, staff, or persons being considered for any of those positions.

(B)(i) When applicable, records created by or at the instruction of the Arkansas Fire and Police Pension Review Board concerning the boards' executive director or staff shall be considered personnel records or job evaluation or performance records for purposes of and subject to the provisions of §§ 25-19-105(b)(12) and 25-19-105(c).

(ii) The records in subdivision (h)(2)(B)(i) of this section may be made available to the Arkansas Fire and Police Pension Review Board or its designated members and the boards' executive director.

(i)(1) The board shall be responsible for reviewing and approving at least one (1) time annually all actions taken by the staff in regard to benefit increase requests and administration of the disclosure and reporting requirements under this subchapter.

(2) All benefit increase determinations shall be made in compliance with the provisions

of §§ 24-11-101 — 24-11-103.

(j)(1) The board shall have the power to make all rules and regulations necessary to enforce the laws governing funding standards and benefit levels for fire and police pension and relief funds. Further, the board shall have the authority to make all rules and regulations necessary to assure continued tax qualification of each firemen's and policemen's pension and relief fund that is subject to this subchapter.

(2) All rules and regulations must be promulgated in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq. In addition, all rules and regulations relating to continued tax qualification of such plans shall be specifically presented to the Joint Committee on Public Retirement and Social Security Programs or the Legislative Council when the General Assembly is not in session for review prior to final adoption.

(k)(1) Expenses incurred by the board for performing biennial actuarial valuations and for all other administrative services to local pension funds shall be paid from the revenues derived from premium taxes levied by the state on insurers for the support of fire and police retirement programs.

(2) The board shall report its administrative and actuarial expenses budgeted for the current year to the Department of Finance and Administration by or on April 30 of each year.

(3) The board shall establish a portion of the insurance tax revenues to use to meet its proper administrative expenses each year, but in no event shall the board be entitled to more than one percent (1%) of the insurance tax revenues.

(4) Each member of the board may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

History. Acts 1983, No. 381, §§ 1, 2; 1985, No. 383, § 2; 1985, No. 992, § 2; A.S.A. 1947, §§ 19-5706, 19-5707; Acts 1987, No. 142, § 1; 1995, No. 132, § 1; 1995, No. 1266, § 1; 1997, No. 250, § 234; 1999, No. 543, § 1; 1999, No. 670, § 1; 2001, No. 1542, § 1; 2005, No. 161, § 1; 2007, No. 73, § 1.

A.C.R.C. Notes. The operation of subdivision (k)(6) may be superseded in part by Acts 1995, No. 1211, codified as § 25-16-901 et seq.

Acts 2010, No. 238, § 61, provided: "FUNDING TRANSFER.

On or before June 15 of each fiscal year, the Arkansas Fire and Police Pension Review Board shall certify to the Chief Fiscal Officer of the State the amount of funding it recommends for disbursement in the ensuing fiscal year to under-funded municipal fire and police relief and pension plans as defined in Arkansas Code 24-11-209. The Chief Fiscal Officer of the State shall then immediately transfer on his books and those of the State Treasurer amounts not to exceed the total amount recommended by the Board or the amount appropriated herein for the ensuing fiscal year, whichever is the lesser amount, from

the Revenue Holding Fund Account to the Arkansas Fire and Police Pension Guarantee Fund for distribution to the recommended under-funded plans.

"The provisions of this section shall be in effect only from July 1, 2010 through June 30, 2011."

Acts 2011, No. 1103, § 62, provided: "FUNDING TRANSFER — FIRE AND POLICE PENSION.

On or before June 15 of each fiscal year, the Arkansas Fire and Police Pension Review Board shall certify to the Chief Fiscal Officer of the State the amount of funding it recommends for disbursement in the ensuing fiscal year to under-funded municipal fire and police relief and pension plans as defined in Arkansas Code 24-11-209. The Chief Fiscal Officer of the State shall then immediately transfer on his books and those of the State Treasurer amounts not to exceed the total amount recommended by the Board or the amount appropriated herein for the ensuing fiscal year, whichever is the lesser amount, from the Revenue Holding Fund Account to the Arkansas Fire and Police Pension Guarantee Fund for distribution to the recommended under-funded plans.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Publisher's Notes. Acts 1985, No. 383, § 2, provided, in part, that the terms of office of the first members should begin on July 1, 1983, and that the first members should determine by lot which of them would serve terms expiring either January 1, 1986, or January 1, 1988. One fire fighter and one police officer were to serve terms expiring in 1986 and the other employee members were to serve terms expiring in 1988. One employer member was to serve a term expiring in 1986 and the other was to serve a term expiring in 1988.

Amendments. The 1997 amendment rewrote (k)(6).

The 1999 amendment by No. 543 substituted "nine (9) persons" for "seven (7) persons" in the introductory language of (b)(1); substituted "Three (3)" for "Two (2)" in (b)(1)(C); inserted "current or former" in (b)(1)(D); and added (b)(1)(E) and made related changes.

The 1999 amendment by No. 670 added the second sentences in (j)(1) and (j)(2).

The 2001 amendment inserted "an active member, retired member or a deferred retirement option plan participant" in (b)(1)(A) and (b)(1)(B); inserted "(1)" in (b)(2); inserted "retired fire fighters or police officers, or deferred retirement option plan participants" in (c); substituted "an active or retired member or a deferred retirement option plan participant" for "member" in (g)(1); deleted "review" preceding "board" in (g)(3), (h), (i)(1), (j)(1), (k)(1), (k)(2), and (k)(3); substituted "system" for "Arkansas Local Police and Fire Retirement System" in (h); substituted "Commissioner" for "Commission" in (k)(2); substituted "commissioner to report the amount that" for "Insurance Commissioner to report the amount which" in (k)(3); and made gender neutral changes throughout.

The 2005 amendment added the subdivision (1) designation in (h); and added (h)(2).

The 2007 amendment rewrote (k)(2); deleted former (k)(3) and (4) and redesignated the remaining subdivisions accordingly; and substituted "portion" for "certain percentage" in (k)(3).

Cross References. Local police and fire retirement system, § 24-10-101 et seq.

24-11-204. General financial objective of plan.

Subchapter 3

— Arkansas Teacher Retirement System — Board of Trustees

- 24-7-301. Board of trustees — Members.
- 24-7-302. Term of office and vacancies.
- 24-7-303. Board of trustees — Officers — Committees.
- 24-7-304. Meetings.
- 24-7-305. Board of trustees — Duties and responsibilities.

Effective Dates. Acts 1973, No. 427, § 11, as added by Acts 1973, No. 878, § 1: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that the provisions of this Act would substantially revise the provisions and benefits provided in the Teacher Retirement System law; that it is essential that such revision be given effect on July 1, 1973 in order that the effective date of the Act will coincide with the beginning of a new fiscal year; that under the Constitution of Arkansas, Acts without an emergency clause do not take effect until ninety days after adjournment of the General Assembly and that unless an emergency is declared, extension of the regular session of the General Assembly will result in a delay in the effectiveness of this Act beyond July 1 and would work irreparable harm upon the teachers of this State. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1973, No. 878, § 2: Apr. 16, 1973. Emergency clause provided: "It is hereby found and determined by the General Assembly that Act 427 of 1973 relating to and making substantial revisions in the Teacher Retirement System did not contain an Emergency Clause; that it is essential to the proper administration of the Teacher Retirement System that the new provisions be given effect on July 1, 1973; that this Act is immediately necessary to amend Act 427 of 1973 to declare an emergency in order that said Act may be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force from and after its passage and approval."

Acts 1983, No. 126, § 4: Feb. 8, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that the services of a Board of Trustees that is representative of both active and retired teachers is essential to orderly and effective management of the Teacher Retirement System. Therefore, an emergency is hereby declared to exist and this Act, being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval."

Acts 1983, No. 619, § 14 and No. 665, § 14: July 1, 1983. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy and that such correction and updating is of great importance to members of the Teacher Retirement System and to all other citizens of the state of Arkansas. Therefore, an emergency is hereby declared to exist and this act, being necessary for the immediate preservation of the public peace, health, and safety, shall be in full force and effect from and after July 1, 1983."

Acts 1987, No. 4, § 6: July 1, 1987. Emergency clause provided: "It is hereby found and determined by the General Assembly that certain provisions of the Teacher Retirement Law are badly in need of revision and updating to bring them into conformance with sound public pension policy."

Acts 2011, No. 975, § 3: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that provisions of the Arkansas Teacher Retirement System statutes are in urgent need of revision to bring them into conformance with sound public pension policy; that this revision is of great importance to members of the Arkansas Teacher Retirement System and to other citizens of the State of Arkansas; that when an unexpected vacancy occurs in a trustee position, the Board of Trustees of the Arkansas Teacher Retirement System must be able to appoint a trustee until a special election is called; that trustees are called away from their regular job duties and responsibilities to attend system board meetings and should be encouraged to attend and accommodated in their attendance to fulfill their elected board functions; and that this act is immediately necessary in order to maintain an orderly system of benefits for members of the Arkansas Teacher Retirement System. 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."

24-7-301. Board of trustees — Members.

The general administration and responsibility for the proper operation of the system and for making effective the provisions of this act are vested in a board of trustees of fifteen (15) persons as follows:

(1) The Bank Commissioner, the Treasurer of State, the Auditor of State, and the Commissioner of Education shall be ex officio trustees;

(2)(A) Seven (7) members shall be elected member trustees, each of whom shall have at least five (5) years of actual service in force and be an active member. For the purpose of this section and § 24-7-302, participants in the Teacher Deferred Retirement Option Plan shall be considered active members.

(B) Four (4) member trustees shall be employed in a position that requires state licensure, but not an administrator's license. One (1) member trustee will be elected from each of the four (4) congressional districts. The four (4) member trustees shall be elected by the members employed in positions that require state licensure, but not an administrator's license.

(C) Two (2) member trustees shall be employed in a position requiring an administrator's license, one (1) of whom must be a superintendent. These two (2) member trustees shall be elected by members employed in positions requiring administrator licensure.

(D) One (1) member trustee shall be employed in a position not requiring state licensure. This member trustee shall be elected by members employed in positions not requiring state licensure;

(3) One (1) trustee shall be a person of a minority racial ethnic group who is either an active or retired member of the Arkansas Teacher Retirement System and shall be elected from the active and retired membership of the system;

(4)(A) Three (3) retirants shall be elected retirant trustees by the retirees of the system.

(B) Each retirant trustee shall be a retirant with an annuity being paid by the system at the beginning of his or her term of office; and

(5) The member and retirant trustees shall be elected in accordance with rules as have been adopted by the board to govern the elections.

History. Acts 1973, No. 427, § 3; 1983, No. 126, § 1; A.S.A. 1947, § 80-1438; Acts 1995, No. 523, § 1; 1997, No. 418, § 1; 1999, No. 866, § 1; 2007, No. 97, § 3.

Amendments. The 1995 amendment substituted "thirteen (13) persons" for "twelve (12) persons" in the introductory paragraph; substituted "the Treasurer of State, the Auditor of State, and the Director of General Education" for "the State Treasurer, and the State Director of Education" in (1)(A); added (1)(B); and added the subdivision designations in (2) and (3).

The 1997 amendment rewrote this section.

The 1999 amendment redesignated former (2)(A)(i) through (2)(A)(iii) as present (2)(B) through (2)(D), redesignated former (2)(A)(iv) as present (3), and redesignated former (3) and (4) as present (4)(A), (4)(B) and (5); substituted "Seven (7) members" for "Eight (8) members" in (2)(A); made a related change; and made stylistic changes.

The 2007 amendment substituted "licensure" for "certification" and "license" for "certificate" throughout the section; substituted "Commissioner of Education" for "Director of the Department of Education" in (1); substituted "actual service" for "credited service" in (2)(A); and substituted "rules" for "such rules and regulations" in (5).

Meaning of "this act". Acts 1973, No. 427, codified as §§ 24-7-201 — 24-7-205, 24-7-301 — 24-7-305, 24-7-401 — 24-7-411, 24-7-501, 24-7-502, 24-7-601 — 24-7-604, 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, 24-7-716.

24-7-302. Term of office and vacancies.

(a)(1) The term of office of each member-elected trustee shall be six (6) years.

(2)(A)(i) A member trustee shall be ineligible to serve after becoming inactive or upon retiring.

(ii) A member trustee who participates in the Teacher Deferred Retirement Option Plan is considered active for purposes of this subsection.

(B) A retirant trustee is ineligible to serve after becoming active.

(b)(1)(A) If any member trustee fails to attend three (3) consecutive regular meetings of the Board of Trustees of the Arkansas Teacher Retirement System, unless in each case excused for

cause by the remaining trustees attending the meetings, the member trustee shall be considered to have resigned from the board, and the board shall by resolution declare his or her office of trustee vacated.

(B) A regular meeting of the board shall include one (1) or more days of official business to be considered by the board.

(2) If a vacancy occurs in the office of an elected trustee, the board by majority vote may fill the vacancy by:

(A) A special election; or

(B) Appointment of a trustee until the next system election.

(c) The board shall adopt its own rules and regulations pertaining to attendance and vacancies as provided in subsection (b) of this section.

History. Acts 1973, No. 427, § 3; 1983, No. 126, § 2; A.S.A. 1947, § 80-1438; Acts 1991, No. 43, § 1; 1997, No. 418, § 2; 2001, No. 156, § 1; 2003, No. 196, § 1; 2009, No. 468, § 3; 2011, No. 975, § 1.

Publisher's Notes. Acts 1983, No. 126, § 2, provided, in part, that the term of office of each member trustee in office on July 1, 1983 should continue to the expiration of his term; the terms of the retirant trustees are arranged so that one term expires every year.

Amendments. The 1997 amendment, in (a)(1), inserted "and retirant"; inserted "elected after July 1, 1997"; substituted "six (6) years" for "five (5) years"; and substituted the present two sentences for the former sentence in (a)(2).

The 2001 amendment redesignated the former (a)(2) as (a)(2)(A) and (a)(2)(B); added "except if the retirement is due to a member trustee's reaching normal retirement age" in (a)(2)(A); redesignated the former (b)(1) as the present (b)(1)(A); inserted "regular" in (b)(1)(A); inserted (b)(1)(B); added (c); and made gender neutral changes throughout.

The 2003 amendment deleted "except if the retirement is due to a member trustee's reaching normal retirement age" at the end of (a)(2)(A); deleted (a)(3); and substituted "the vacancy shall be filled ... requirements for the position" for "the remaining trustees shall fill the vacancy for the remainder of the unexpired term" in (b)(2).

The 2009 amendment, in (a), substituted "member-elected trustee" for "member and retirant trustee elected after July 1, 1997" in (a)(1), inserted (a)(2)(A)(ii), and redesignated the remainder of (a)(2)(A) accordingly; subdivided and rewrote (b)(2); and made related and minor stylistic changes.

The 2011 amendment subdivided and rewrote (b)(2).

24-7-303. Board of trustees — Officers — Committees.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall select from its own number a chair and a vice chair.

(b)(1) The trustees shall serve as trustees without compensation for their services as such, except that:

(A) Each trustee may receive expense reimbursement in accordance with § 25-16-901 et seq.

(B) The system shall reimburse a trustee for reasonable expenses incurred in the performance of his or her duties as trustee, including without limitation, the cost of:

(i) A substitute teacher for a trustee;

(ii) Communication services required for paperless board meetings.

(2) Trustees are authorized to attend all system committee meetings, board meetings, and other official system functions without negative impact on his or her employment status.

(c) The board shall appoint the executive director of the system, and he or she shall serve as its chief executive officer. He or she shall perform, or cause to be performed, such duties as are required of him or her under this act and as the board shall delegate to him or her.

(d) The board shall appoint an actuary or a firm of actuaries to be technical advisor to the board on matters regarding the operation of the system on an actuarial basis. The actuary shall perform such duties as are required of him or her under this act and as are required of him or her by the board from time to time.

(e)(1) The board shall appoint a professional investment counsel to be investment advisor to the board.

(2)(A) No investment shall be made by the board until it has received the advice of its investment advisor.

(B) However, if the contemplated investment involves anything other than financial assets, as defined in § 4-8-102(a)(9), then in lieu of seeking advice from its investment advisor, the board shall seek and receive advice from a person having recognized expertise with respect to the type of investment contemplated.

(f) The board shall appoint a medical committee consisting of three (3) physicians to review applications for disability retirement.

(g) The executive director may employ such other professional and clerical services and purchase such equipment and supplies as are required for the proper operation of the system, subject to the approval of the board.

(h)(1) The compensation of the persons engaged by the board shall be consistent with the pay plan of the state.

(2)(A) All other expenses of the board necessary for the operation of the system shall be paid at such rates and in such amounts as the board shall approve.

(B) The board may create additional committees as necessary and appropriate to fulfill the duties and responsibilities of the board under this chapter.

History. Acts 1973, No. 427, § 3; A.S.A. 1947, § 80-1438; Acts 1997, No. 250, § 231; 1999, No. 555, § 12; 2009, No. 468, § 4; 2011, No. 975, § 2.

Publisher's Notes. The reimbursement provision in subsection (b) of this section may be affected by § 25-16-802 and § 25-16-901 et seq. concerning mileage reimbursement for members of state boards and commissions.

Amendments. The 1997 amendment rewrote (b).

The 1999 amendment added the proviso in (e)(2); and made stylistic changes.

The 2009 amendment subdivided (e); inserted "to review applications for disability retirement" in (f); inserted (h)(2)(B) and redesignated the remainder of (h)(2) accordingly; and made minor stylistic changes.

The 2011 amendment subdivided former (b); and inserted (b)(1)(B) and (b)(2).

Meaning of "this act". See note to § 24-7-301.

Cross References. Investments, § 24-3-401 et seq.

24-7-304. Meetings.

(a) The Board of Trustees of the Arkansas Teacher Retirement System shall hold regular meetings at least quarterly.

(b) Eight (8) trustees constitute a quorum at any meeting of the board.

(c) Each trustee shall be entitled to one (1) vote on each question before the board, and at least eight (8) concurring votes shall be required for a decision by the board at any meeting.

(d) The board shall adopt its own rules of procedure and shall keep a record of its proceedings.

(e) All meetings of the board shall be public.

History. Acts 1973, No. 427, § 3; A.S.A. 1947, § 80-1438; Acts 1987, No. 4, § 1; 1995, No. 523, § 2; 1997, No. 418, § 3.

Amendments. The 1995 amendment, in (b), substituted "Seven (7) trustees" for "Six (6) trustees" and inserted "or his designee"; and substituted "seven (7) concurring votes" for "six (6) concurring votes" in (c).

The 1997 amendment, substituted "Eight (8) trustees" for "Seven (7) trustees, of whom at least one (1) shall be an ex officio trustee or his designee" in (a); substituted "eight (8) concurring votes" for "seven (7) concurring votes" in (c).

24-7-305. Board of trustees — Duties and responsibilities.

(a)(1) Both the contributory plan provided by this act and the noncontributory plan established by §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716 shall be under the administration and control of the Board of Trustees of the Arkansas Teacher Retirement System as provided by § 24-7-301.

(2) It is the intent of the General Assembly that neither the composition, responsibilities, nor the authority of the board be changed as a result of §§ 24-7-401 — 24-7-411 and 24-7-701, 24-7-702, 24-7-704 — 24-7-713, 24-7-715, and 24-7-716.

(b)(1) The board shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the Arkansas Teacher Retirement System.

(2) In order to fully comply with federal requirements that may affect the members or the members' benefits under this subchapter, the board may promulgate rules to:

(A) Establish the regular retirement age for members consistent with the provisions of Section 411 of the Internal Revenue Code; and

(B) Maintain the system's retirement plan tax qualification status by the federal government to remain tax exempt and tax qualified under Section 401(a) of the Internal Revenue Code.

(c) The board shall adopt from time to time such reasonable mortality and other tables of experience and a rate or rates of regular interest as shall be necessary for the actuarial requirements of the Arkansas Teacher Retirement System.

(d) The Executive Director of the Arkansas Teacher Retirement System shall keep, or cause to be kept, in convenient form such data as shall be necessary for actuarial investigations of the experiences of the system, and such data as shall be necessary for annual actuarial valuations of the system.

(e)(1) The board shall annually, not later than April 1 of each year, render a report to each employer showing the financial condition of the system as of the preceding June 30.

(2) The report shall contain, but shall not be limited to:

(A) A financial balance sheet;

(B) A statement of income and disbursements;

(C) A detailed statement of investments acquired and disposed of during the year, together with a detailed statement of the annual rates of investment income from all assets and from each type of investment;

(D) An actuarial balance sheet prepared by means of the last valuation of the system; and

(E) Such other data as the board shall deem necessary to comply with § 24-2-702.

(3) In addition to the distribution of the report provided by this subsection, it shall also be distributed to the Legislative Council and to the Governor.

(f) All records of the system shall be kept and maintained in the office of the system.

(g)(1) The board shall arrange for adequate surety bonds covering the executive director and any other custodian of the funds or investments of the board.

(2) When approved by the board, the bonds shall be deposited in the office of the Treasurer of State.

(h) The records and accounts of the system shall be audited by the Division of Legislative Audit.

(i) The headquarters of the system shall be in Little Rock.

History. Acts 1973, No. 427, § 3; 1983, No. 619, § 2; 1983, No. 665, § 2; 1985, No. 504, § 1; A.S.A. 1947, § 80-1438; Acts 1993, No. 403, § 18; 2005, No. 385, § 1; 2007, No. 97, § 4; 2009, No. 745, § 2.

A.C.R.C. Notes. The operation of subsection (f) of this section was suspended by adoption of a self-insured fidelity bond program for public officers, officials and employees, effective July 20, 1987, pursuant to § 21-2-701 et seq. The subsection may again become effective upon cessation of coverage under that program. See § 21-2-703.

Amendments. The 1993 amendment substituted "the Governor" for "Legislative Joint Auditing Committee" in (d)(3).

The 2007 amendment inserted present (b) and redesignated the remaining subsections accordingly; and deleted "as provided by § 24-2-702" at the end of (e)(3);

The 2009 amendment inserted (b)(2) and redesignated the remaining text of (b) accordingly.

Meaning of "this act". See note to § 24-7-301.



ACTUARY UPDATE

ATRS just completed an experience study that indicates the average retiree is living longer. The preliminary annual actuarial valuation conducted by Gabriel Roeder Smith & Company for the June 30, 2011, was presented to the Board of Trustees on December 5, 2011. The actuarial valuation included the four year smoothing and other factors to reach the result. The bottom line result for June 30, 2011, is a 66 year amortization period with a funded ratio of 72%. If the smoothing were removed, (real deal numbers), then ATRS would have an amortization period of 34 years and would be 77% funded.

Saving of only one cost-cutting act from the 2011 legislative session is reflected in the actuarial valuation for June 30, 2011. That was Act 69 of 2011, the actuarial equivalent of service purchases. The other cost savings acts from the 2009 and 2011 legislative sessions will be incrementally amortized over time as reflected in experience studies. Over time, as these gains are recognized by reduced costs, it will be reflected in a reduction of the amortization period annually as the savings occur. Due to actuarial standard procedures, the savings could not be included in a "forward looking" analysis.

Comparisons for June 30, 2010 and June 30, 2011 with Smoothing:

	2010	2011
Accrued Liabilities	\$3.8 billion	\$4.3 billion
Percent Funded	74%	72%
Amortization Years	52 years	66 years

Comparisons for June 30, 2010 and June 30, 2011 without Smoothing:

	2010	2011	Difference
Accrued Liabilities	\$4.8 billion	\$3.7 billion	(\$1.1 billion)
Percent Funded	67% funded	77% funded	10%
Amortization Years	>100 years	34 years	66+ years