

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

1 State of Arkansas As Engrossed: S2/13/23 S2/21/23

2 94th General Assembly

A Bill

3 Regular Session, 2023

SENATE BILL 127

4

5 By: Senator Hickey

6 By: Representative Maddox

7

8

For An Act To Be Entitled

9 AN ACT TO AMEND AND UPDATE LANGUAGE FOR THE PROPER
10 ADMINISTRATION OF BENEFITS UNDER ARKANSAS CODE TITLE
11 24, CHAPTER 4 CONCERNING RETIREMENT AND PENSIONS
12 UNDER THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT
13 SYSTEM; TO AMEND THE EXCEPTIONS TO THE PROHIBITION
14 AGAINST SUBJECTION OF ANNUITY RIGHTS TO LEGAL
15 PROCESSES UNDER THE ARKANSAS PUBLIC EMPLOYEES'
16 RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR
17 OTHER PURPOSES.

18

19

20

Subtitle

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

25

26

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

28

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

32

33

34

35

36

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



1
2 SECTION 2. Arkansas Code § 24-4-101(12), concerning the definition of
3 "contributory member" under the Arkansas Public Employees' Retirement System,
4 is amended to read as follows:

5 (12) "Contributory member" means:

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

11 (B) A ~~member~~ person first hired on or after July 1, 2005,
12 or a noncontributory member ~~who elects to become a contributory member~~ under
13 § 24-4-1101 et seq.;

14
15 SECTION 3. Arkansas Code § 24-4-101(18), concerning the definition of
16 "final average compensation" under the Arkansas Public Employees' Retirement
17 System, is amended to read as follows:

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

22
23 SECTION 4. Arkansas Code § 24-4-101(34)(A), concerning the definition
24 of "public safety member" under the Arkansas Public Employees' Retirement
25 System, is amended to read as follows:

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

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

31 (ii) Began before July 1, 1997.

32
33 SECTION 5. Arkansas Code § 24-4-101(34)(D)(i), concerning the
34 definition of "public safety member" under the Arkansas Public Employees'
35 Retirement System, is amended to read as follows:

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

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

4
 5 SECTION 6. Arkansas Code § 24-4-521 is amended to read as follows:
 6 24-4-521. Credited service generally – Definition.

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

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

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

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

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

19 (a) Retirement eligibility requirements under
 20 §§ 24-4-510 – 24-4-512 and 24-4-601; and

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

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

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

30 (a) Retirement eligibility requirements under
 31 §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

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

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

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

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

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

9 (i) Four (4) years of actual service to meet the
10 retirement eligibility requirements under §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-
11 601, and 24-4-1103; and

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

15 (3)(A)(i) Noncontributory employment as an elected state
16 constitutional officer by a person first elected to a public office covered
17 by the system prior to July 1, 1999, shall be credited at two and one-half
18 ($2\frac{1}{2}$) times the regular rate for crediting service.

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

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

26 (i) Retirement eligibility requirements under §§ 24-
27 4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

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

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

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

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

1 ~~609~~ 24-4-601, and 24-4-1103;

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

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

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

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

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

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

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

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

31 (i) The retirement eligibility requirements of §§
32 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

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

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

36 (i) The Governor;

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

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

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

15 (a) Retirement eligibility requirements under
 16 §§ 24-4-510 – 24-4-512, ~~and~~ 24-4-601, and 24-4-1103; and

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

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

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

28
 29 SECTION 7. Arkansas Code § 24-4-603, concerning the refund of a former
 30 member's contributions under the Arkansas Public Employees' Retirement
 31 System, is amended to add an additional subsection to read as follows:

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

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

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

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

7
8 SECTION 8. Arkansas Code § 24-4-611 is amended to read as follows:

9 24-4-611. Minimum monthly benefit ~~– Lump sum payment of reserve value.~~

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

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

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

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

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

26
27 SECTION 9. Arkansas Code § 24-4-1002 is amended to read as follows:

28 24-4-1002. Benefit provisions – Subjection of annuity rights to
29 process of law.

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

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

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

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

11
12 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that certain provisions of the
14 Arkansas Public Employees' Retirement System law are in need of revision and
15 updating to maintain the retirement laws in conformance with sound public
16 pension policy; that the Arkansas Public Employees' Retirement System
17 operates on a fiscal year of July 1 to June 30; that having a July 1, 2023
18 effective date is necessary to allow the provisions within this act to begin
19 on the first day of the fiscal year to provide proper administration of the
20 procedures herein; that such revisions and updating are of great importance
21 for actuarial purposes and to protect the benefits to members of the Arkansas
22 Public Employees' Retirement System; and that a July 1, 2023 effective date
23 is necessary in order to maintain an orderly system of benefits for the
24 members of the Arkansas Public Employees' Retirement System. Therefore, an
25 emergency is declared to exist, and this act being necessary for the
26 preservation of the public peace, health, and safety shall become effective
27 on July 1, 2023.

28
29 /s/Hickey
30
31
32
33
34
35
36