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2 95th General Assembly
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4

As Engrossed: H3/5/25

A Bill

HOUSE BILL 1304

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

For An Act To Be Entitled

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

Subtitle

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

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

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

28 24-4-112. Contact information – Lost payees.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

1 201 et seq.

2

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

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

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

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

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

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

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

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

33 ~~(B) However, no monthly adjustment of less than one dollar~~
34 ~~(\$1.00) shall be made.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 SECTION 3. Arkansas Code § 24-6-205 is amended to read as follows:
8 24-6-205. Correction of errors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) An ambiguity in the interpretation of the

1 circumstances, rule, or law;

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

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

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

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

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

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

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

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18 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that the provisions of the Arkansas
20 Code related to member, retiree, and designated beneficiary contact
21 information under the Arkansas Public Employees' Retirement System are in
22 need of revision in order to provide clarity and increase efficiency of the
23 system; that a limitation period is needed for the correction of errors of
24 records of members, retirees, and designated beneficiaries under the Arkansas
25 Public Employees' Retirement System and the State Police Retirement System in
26 order to provide clarity and increase efficiency of the systems; and that
27 this act is immediately necessary to achieve the goals of the respective
28 systems to safeguard and maintain an orderly system of benefits. Therefore,
29 an emergency is declared to exist, and this act being immediately necessary
30 for the preservation of the public peace, health, and safety shall become
31 effective on:

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

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

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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/s/Warren

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