

1 State of Arkansas
2 88th General Assembly
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4

A Bill

HOUSE BILL 1262

5 By: Representative English
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE REEMPLOYMENT OF MEMBERS OF THE
9 ARKANSAS PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE
10 ARKANSAS TEACHER RETIREMENT SYSTEM; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 CONCERNING THE REEMPLOYMENT OF MEMBERS OF
15 THE ARKANSAS PUBLIC EMPLOYEES' RETIREMENT
16 SYSTEM AND THE ARKANSAS TEACHER
17 RETIREMENT SYSTEM.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code § 24-4-402(d), concerning the accounts of the
24 Arkansas Public Employees' Retirement System, is amended to add an additional
25 subdivision to read as follows:

26 (3) If a member returns to the employment of a public employer within
27 six (6) months of the effective date of his or her retirement, the retirant's
28 annuity reserve at that time shall be transferred from the retirement reserve
29 account to the members' deposit account and the employers' accumulation
30 account in the same proportion as the annuity reserve was originally
31 transferred to the retirement reserve account.
32

33 SECTION 2. Arkansas Code § 24-4-520 is amended to read as follows:
34 24-4-520. Termination required for retirement -- Reemployment.

35 (a) As used in this section:

36 (1) "Full-time" means employment requiring twenty (20) or more



1 hours of work per week; and

2 (2) "Reemployed", "reemploy", or "reemployment" means service
 3 after retirement in exchange for compensation.

4 ~~(a)(b)~~ Except as provided in subsection ~~(e)(d)~~ of this section, a
 5 member of the Arkansas Public Employees' Retirement System shall terminate
 6 covered employment to be eligible for retirement.

7 ~~(b)(c)~~ For a member who was retired or in the Arkansas Public
 8 Employees' Retirement System Deferred Retirement Option Plan on July 1, 2011:

9 (1) ~~A~~The member shall not be terminated from employment for
 10 retirement purposes if the person:

11 (A) Returns to employment in a position covered under the
 12 ~~system~~ Arkansas Public Employees' Retirement System within one hundred eighty
 13 (180) days of the person's effective date of retirement; or

14 (B) Is a member with service credit under § 24-4-521 at a
 15 rate of two (2) or more years of credited service for each year of actual
 16 service and the person returns to employment in a position covered under the
 17 ~~system~~ Arkansas Public Employees' Retirement System within one hundred eighty
 18 (180) days of the person's effective date of retirement-;

19 (2) A member participating in the Arkansas Public Employees'
 20 Retirement System Deferred Retirement Option Plan on January 1, 2009, shall
 21 have the one-hundred-eighty-day separation requirement waived and may return
 22 to employment otherwise covered by the ~~system~~ Arkansas Public Employees'
 23 Retirement System no sooner than thirty (30) calendar days from the
 24 commencement of his or her retirement-; and

25 (3) A member who has retired and commenced receiving benefits in
 26 any month between January 2009 and June 2009, inclusive, shall have the one-
 27 hundred-eighty-day separation requirement waived and may return to employment
 28 otherwise covered by the ~~system~~ Arkansas Public Employees' Retirement System
 29 no sooner than thirty (30) calendar days from the commencement of his or her
 30 retirement.

31 ~~(e)(1)(d)(1)~~ An elected public official may retire and begin receiving
 32 retirement benefits if the elected public official is a member:

33 (A) Whose current service in public office in one (1) form
 34 of government is covered by § 24-4-521(b)(5); and

35 (B) Who is elected to public office in a different form of
 36 government and will begin serving in that public office immediately after the

1 expiration of his or her term of public office described in subdivision
2 ~~(e)(1)(A)~~ (d)(1)(A) of this section.

3 (2) The member shall notify the ~~retirement system~~ Arkansas
4 Public Employees' Retirement System of his or her impending service in
5 another form of government at least thirty (30) days prior to the first day
6 of the month in which that service will begin. A completed retirement
7 application shall be submitted at that time.

8 (3) As used in this subsection, "form of government" means city
9 government, county government, or state government.

10 (e) Beginning on or after an effective retirement date from the
11 Arkansas Public Employees' Retirement System of July 1, 2011, or on or after
12 a participation date in the Arkansas Public Employees' Retirement System
13 Deferred Retirement Option Plan of July 1, 2011:

14 (1)(A) A retiree of the Arkansas Public Employees' Retirement
15 System who is reemployed shall not earn additional service credit if the
16 retiree is reemployed by:

17 (i) A different public retirement system; or

18 (ii) The Arkansas Public Employees' Retirement
19 System after six (6) months from the retirement date.

20 (B) A retiree of the Arkansas Public Employees' Retirement
21 System who participates in the Arkansas Public Employees' Retirement System
22 Deferred Retirement Option Plan shall not earn additional service credit.

23 (C) A retiree of the Arkansas Public Employees' Retirement
24 System who is reemployed by an employer covered under the Arkansas Public
25 Employees' Retirement System more than six (6) months from the retiree's
26 retirement date or who ceases participating in the Arkansas Public Employees'
27 Retirement System Deferred Retirement Option Plan shall have his or her
28 retirement benefits cease during the term of employment and be reinstated
29 once employment with the covered employer has ceased;

30 (2) A retiree of the Arkansas Public Employees' Retirement
31 System who is reemployed on a full-time basis within six (6) months of the
32 date of retirement by an employer covered by the Arkansas Public Employees'
33 Retirement System is subject to the following:

34 (A) The Arkansas Public Employees' Retirement System shall
35 cancel the retiree's retirement benefits and reinstate the retiree to active
36 member status;

1 (B) The retirement benefits cancellation and reinstatement
2 to active member status is effective on the first day of the month following
3 the date of reemployment;

4 (C) A reinstated retiree who retires again within a two-
5 year period from the date of cancellation of the original benefit allowance
6 will not receive a recalculated retirement benefit; and

7 (D) A reinstated retiree who retires again after a two-
8 year period of reemployment with the Arkansas Public Employees' Retirement
9 System from the date of cancellation of the original benefit allowance shall
10 receive credit in the retiree's account at the time of the first retirement
11 and from that time on be treated as a member of the Arkansas Public
12 Employees' Retirement System, including:

13 (i) The accrual of additional service credits; and

14 (ii) A recalculated retirement benefit upon the
15 second retirement from the employer covered by the Arkansas Public Employees'
16 Retirement System;

17 (3) A retiree of the Arkansas Public Employees' Retirement
18 System who is reemployed on a less than full-time basis within six (6) months
19 of the date of retirement by an employer that is covered by the Arkansas
20 Public Employees' Retirement System is subject to the following:

21 (A) The retiree may earn, without penalty, compensation
22 from that position that is not in excess of the exempt earnings permitted by
23 the federal Social Security Act;

24 (B) A twenty-five percent (25%) suspension of benefits, if
25 the retiree receives compensation in a calendar year in excess of the federal
26 Social Security Act limitation;

27 (C) The effective date of a suspension and reinstatement
28 of benefits shall be set by the Arkansas Public Employees' Retirement System;
29 and

30 (D) Any suspension of a retiree's benefits under this
31 subdivision (e)(3) shall be applied on a calendar-year basis;

32 (4) If an employer covered by the Arkansas Public Employees'
33 Retirement System hires a retiree who does not earn additional service credit
34 under subdivision (e)(1) of this section, the employer shall contribute the
35 amortized rate for the retiree to the Arkansas Public Employees' Retirement
36 System to be credited to the Arkansas Public Employees' Retirement System

1 that would have covered the retiree in the new position;

2 (5) A retiree who has returned to work, accrued additional
 3 service credit, and again retires shall have the retiree's allowance
 4 recalculated using:

5 (A) The formula in effect at the date of the retiree's
 6 original retirement for all service credit accrued before that date; and

7 (B) The formula in effect at the date of the subsequent
 8 retirement for all service credit accrued between the first and subsequent
 9 retirement dates;

10 (6) This subsection does not apply to elected positions;

11 (7)(A) As used in this subsection (e), "retirement date" means
 12 the date the member terminated covered employment and became eligible to
 13 receive retirement benefits under the Arkansas Public Employees' Retirement
 14 System or began participation in the Arkansas Public Employees' Retirement
 15 System Deferred Retirement Option Plan.

16 (B) "Retirement date" does not mean the date the member
 17 ceased participation in the Arkansas Public Employees' Retirement System; and

18 (8) The Board of Trustees of the Arkansas Public Employees'
 19 Retirement System may promulgate rules to implement this section.

20 ~~(d)~~(f) Persons failing to meet termination requirements shall forfeit
 21 their benefits until requirements are met.

22
 23 SECTION 3. Arkansas Code Title 24, Chapter 4, Subchapter 5 is amended
 24 to add a new section to read as follows:

25 24-4-524. Reemployment of a retiree.

26 (a)(1) This section applies to a member who retires from the Arkansas
 27 Public Employees' Retirement System or enters the Arkansas Public Employees'
 28 Retirement System Deferred Retirement Plan on or after July 1, 2011.

29 (2) This section does not apply to persons in elected positions.

30 (b)(1) An employer covered by the system that hires a retired member
 31 of the system on a full-time basis shall notify the system within three (3)
 32 business days.

33 (2) The system shall:

34 (A) Cancel the retiree's benefits on the first day of the
 35 month following the date of employment;

36 (B) For members who are reemployed by an employer covered

1 by the system within six (6) months of the effective retirement date,
2 reinstate the retiree to active member status effective on the first day of
3 the month following the date of reemployment;

4 (C) Not reinstate the member to active status if the
5 member is reemployed by an employer covered by the system after six (6)
6 months have elapsed from the effective retirement date; and

7 (D) Not reinstate the member to active status if the
8 member is reemployed after participating in the system's Deferred Retirement
9 Option Plan.

10 (c)(1) A retiree subject to subdivision (b)(2)(B) of this section who
11 retires within two (2) years from the date of reemployment:

12 (A) Shall not receive a recalculated retirement benefit;

13 (B) Shall resume the allowance that was being paid at the
14 time of cancellation; and

15 (C) Shall be refunded any employee contributions made
16 during the term of reemployment.

17 (2) A retiree subject to this section who retires two (2) or
18 more years after the date of reemployment shall be credited with additional
19 service credit as a member of the system.

20 (d) A retiree who has returned to work, accrued additional service
21 credit, and again retires shall:

22 (1) Resume receiving the retirement benefit that was being paid
23 at the time of cancellation; and

24 (2) Receive an additional retirement benefit based on the
25 formula in effect on the date of the subsequent retirement for all service
26 credit accrued between the first and subsequent retirement dates.

27 (e) A retiree of an employer covered by the system who is reemployed
28 on a less than full-time basis, as defined in § 24-4-520(a), is subject to
29 the following:

30 (1) The retiree may earn, without penalty, compensation from
31 that position that is not in excess of the exempt earnings permitted by the
32 federal Social Security Act;

33 (2) If a retiree receives compensation from a participating
34 employer in a calendar year in excess of the federal Social Security Act
35 limitation, twenty-five percent (25%) of the retirement benefit shall be
36 suspended;

1 (3) The effective date of a suspension and reinstatement of a
 2 retirement benefit shall be set by the system; and

3 (4) Any suspension of a retiree's benefit under this subsection
 4 shall be applied on a calendar-year basis.

5 (f) A retiree and participating employer who are subject to subsection
 6 (e) of this section shall:

7 (1) Maintain an accurate record of gross earnings in the
 8 employment;

9 (2) Report the gross earnings at least monthly to the system;

10 (3) Immediately notify the system in writing of any
 11 postretirement earnings; and

12 (4) Immediately notify the system in writing if the
 13 postretirement earnings are equal or exceeding the exempt earnings under
 14 subsection (e) of this section.

15 (g) The Board of Trustees of the Arkansas Public Employees' Retirement
 16 System shall promulgate rules to implement this section.

17
 18 SECTION 4. Arkansas Code § 24-7-502 is amended to read as follows:
 19 24-7-502. Termination of active membership. -- Reemployment.

20 (a) As used in this section:

21 (1) "Full-time" means employment requiring twenty (20) or more
 22 hours of work per week; and

23 (2) "Reemployed", "reemploy", or "reemployment" means service
 24 after retirement in exchange for compensation.

25 ~~(a)~~(b)(1) A member of the Arkansas Teacher Retirement System shall
 26 terminate covered employment to be eligible for retirement.

27 (2) For a person who is a member of the Arkansas Teacher
 28 Retirement System on July 2, 2009, and before July 1, 2011:

29 ~~(A) Effective July 2, 2009, a~~ The member shall not be
 30 terminated from employment for purposes of retirement eligibility if within
 31 one hundred eighty (180) days of the member's effective date of retirement
 32 the member:

33 (i) Meets both of the following requirements:

34 (a) Becomes employed with an employer covered
 35 by the system; and

36 (b) Has not attained the system's normal

1 retirement age; or

2 (ii) Does not have total or a combined total of
3 thirty-eight (38) years or more of credited service in the system, T-DROP, or
4 reciprocal service in another eligible state retirement system.

5 (B) If a member has a combined total of thirty-eight (38)
6 years or more of credited service in the system, T-DROP, or reciprocal
7 credited service in another eligible state retirement system, then the member
8 shall not be terminated from employment for purposes of retirement
9 eligibility if within thirty (30) days of the member's effective date of
10 retirement the member:

11 (i) Becomes employed with an employer covered by the
12 system; and

13 (ii) Has not attained the system's normal retirement
14 age.

15 (3) A member who fails to meet the termination requirement of
16 this subsection shall forfeit all retirement benefits until the termination
17 requirement is met.

18 (4)(A) A member shall repay to the system any retirement
19 benefits that are paid to the member by the system during the waiting period
20 of one hundred eighty (180) days in subdivision ~~(a)~~(b)(2) of this section.

21 (B) The system may require the repayment of retirement
22 benefits from the member indirectly under the system's standard withholding
23 rule.

24 (5) For a member who fails to meet the termination requirement
25 in subdivisions ~~(a)~~(b)(1) and (2) of this section, the member shall
26 immediately become an active member of the system upon reemployment by a
27 covered employer.

28 ~~(b)~~(c)(1) When a member is no longer employed by an employer in a
29 position covered by the system, the person shall cease to be an active member
30 of the system.

31 (2) If an inactive member has not retired and later becomes
32 reemployed by an employer in a position covered by the system, the person
33 shall become an active member and be eligible to accrue additional service
34 credit.

35 (3) If the member's service during reemployment is for less than
36 thirty (30) days, he or she shall be considered to be an inactive member at

1 the termination of the reemployed service, and the only monthly benefits
2 payable shall be those provided by § 24-7-707.

3 (4)(A) An active member shall receive credit for any previous
4 unreported service after July 1, 1937, upon paying to the system the member
5 contributions in effect during the previous service, together with interest
6 from the dates of the service to the date of payment in full.

7 (B) For previous service rendered before July 1, 1971,
8 service credit shall be permitted for service in a fiscal school year only if
9 at least one hundred twenty (120) days of service were rendered in the fiscal
10 school year.

11 ~~(e)(d)~~ Upon a member's retirement, the person shall cease to be an
12 active member and, except as otherwise provided in this act, he or she shall
13 not accrue additional service credit or make contributions to the system.

14 (e) Beginning on or after an effective retirement date from the
15 Arkansas Teacher Retirement System of July 1, 2011, or on or after a
16 participation date in the Teacher Deferred Retirement Option Plan of July 1,
17 2011:

18 (1)(A) A retiree of the system who is reemployed shall not earn
19 additional service credit if the retiree is reemployed by:

20 (i) A different public retirement system; or

21 (ii) The Arkansas Teacher Retirement System after
22 six (6) months from the retirement date.

23 (B) A retiree of the system who participated in the
24 Teacher Deferred Retirement Option Plan shall not earn additional service
25 credit.

26 (C) A retiree of the system who is reemployed by an
27 employer covered under the system more than six (6) months from the retiree's
28 retirement date or who ceases participation in the Deferred Retirement Option
29 Plan shall have his or her retirement benefits cease during the term of
30 employment and be reinstated once employment with the covered employer has
31 ceased;

32 (2) A retiree of the system who is reemployed on a full-time
33 basis within six (6) months of the retirement date by an employer that is
34 covered by the system is subject to the following:

35 (A) The system shall cancel the retiree's retirement
36 benefits and reinstate the retiree to active member status;

1 (B) The retirement benefits cancellation and reinstatement
2 to active member status is effective on the first day of the month following
3 the date of reemployment;

4 (C) A reinstated retiree who retires again within a two-
5 year period from the date of cancellation of the original benefit allowance
6 shall not receive a recalculated retirement benefit; and

7 (D) A reinstated retiree who retires again after a two-
8 year period of reemployment with the system from the date of cancellation of
9 the original benefit allowance shall receive credit in the retiree's account
10 at the time of the first retirement and from that time on be treated as a
11 member of the system, including:

12 (i) The accrual of additional service credits; and

13 (ii) A recalculated retirement benefit upon the
14 second retirement from the covered employer of the system;

15 (3) A retiree of the system who is reemployed on a less than
16 full-time basis within six (6) months of the date of retirement by an
17 employer that is covered by the system is subject to the following:

18 (A) The retiree may earn, without penalty, compensation
19 from that position that is not in excess of the exempt earnings permitted by
20 the federal Social Security Act;

21 (B) A twenty-five percent (25%) suspension of benefits if
22 the retiree receives compensation in a calendar year in excess of the federal
23 Social Security Act limitation;

24 (C) The effective date of a suspension and reinstatement
25 of benefits shall be set by the system; and

26 (D) Any suspension of a retiree's benefits under this
27 subdivision (e)(3) shall be applied on a calendar-year basis;

28 (4) If an employer covered by the system hires a retiree who
29 does not earn additional service credit under subdivision (e)(1) of this
30 section, the employer shall contribute the amortized rate for the retiree to
31 the system to be credited to the system that would have covered the retiree
32 in the new position;

33 (5) A retiree who has returned to work, accrued additional
34 service credit, and again retires shall have the retiree's allowance
35 recalculated using:

36 (A) The formula in effect at the date of the retiree's

1 original retirement for all service credit accrued before that date; and

2 (B) The formula in effect at the date of the subsequent
 3 retirement for all service credit accrued between the first and subsequent
 4 retirement dates;

5 (6)(A) As used in this subsection (e), "retirement date" means
 6 the date the member terminated covered employment and became eligible to
 7 receive retirement benefits under the system or began participation in the
 8 Teacher Deferred Retirement Option Plan.

9 (B) "Retirement date" does not mean the date the member
 10 ceased participation in the Arkansas Public Employees' Retirement System; and

11 (7) The Board of Trustees of the Arkansas Teacher Retirement
 12 System may promulgate rules to implement this section.

13
 14 SECTION 5. Arkansas Code § 24-7-708 is amended to read as follows:

15 24-7-708. Employment of retired members by covered employers.

16 (a)(1) Effective July 1, 2009, after terminating employment under §
 17 24-7-502 or reaching the age of normal retirement, a retirant may:

18 ~~(1)(A)~~ Accept employment with an employer covered by the
 19 Arkansas Teacher Retirement System without a limitation of his or her
 20 retirement annuity; and

21 ~~(2)(B)~~ Continue to receive his or her monthly retirement
 22 annuity.

23 ~~(b)(2)~~ Employers covered by the system that hire an employee who meets
 24 the conditions under ~~subsection~~ subdivision (a)(1) of this section shall
 25 report the hiring of the retirant to the system in a time and a manner that
 26 the system may reasonably require.

27 ~~(e)(3)~~ A retirant who receives monthly benefits and is employed by a
 28 covered employer shall not accrue additional service credit.

29 ~~(d)(1)(4)(A)~~ For a retired member employed in a position covered by
 30 the system, the covered employer shall remit the contributions on all salary
 31 paid to the retirant in an amount equal to the employer contribution rate
 32 applicable to active members.

33 ~~(2)(B)~~ Contributions shall be paid by the employer and are not
 34 the responsibility of the retirant.

35 (b)(1)(A) This section applies to a member who retires from the system
 36 or enters the Teacher Deferred Retirement Option Plan on or after July 1,

1 2011.

2 (B) This section does not apply to elected positions.

3 (2)(A) An employer covered by the system that hires a retired
4 member of the system on a full-time basis shall notify the system within
5 three (3) business days.

6 (B) The system shall:

7 (i) Cancel the retiree's benefits on the first day
8 of the month following the date of employment;

9 (ii) For members who are reemployed by an employer
10 covered by the system within six (6) months of the effective retirement date,
11 reinstate the retiree to active member status effective on the first day of
12 the month following the date of reemployment;

13 (iii) Not reinstate the member to active status if
14 the member is reemployed by an employer covered by the system after six (6)
15 months have elapsed from the effective retirement date; and

16 (iv) Not reinstate the member to active status if
17 the member is reemployed after participating in the system's Deferred
18 Retirement Option Plan.

19 (3)(A) A retiree subject to subdivision (b)(2)(B)(ii) of this
20 section who retires within two (2) years from the date of reemployment:

21 (i) Shall not receive a recalculated retirement
22 benefit;

23 (ii) Shall resume the allowance that was being paid
24 at the time of cancellation; and

25 (iii) Shall be refunded any employee contributions
26 made during the term of reemployment.

27 (B) A retiree subject to subdivision (b)(2) of this
28 section who retires two (2) or more years after the date of reemployment
29 shall be credited with additional service credit as a member of the system.

30 (4) A retiree who has returned to work, accrued additional
31 service credit, and again retires shall:

32 (A) Resume receiving the retirement benefit that was being
33 paid at the time of cancellation; and

34 (B) Receive an additional retirement benefit based on the
35 formula in effect on the date of the subsequent retirement for all service
36 credit accrued between the first and subsequent retirement dates.

1 (5) A retiree of an employer covered by the system who is
 2 reemployed on a less than full-time basis is subject to the following:

3 (A) The retiree may earn, without penalty, compensation
 4 from that position which is not in excess of the exempt earnings permitted by
 5 the federal Social Security Act;

6 (B) If a retiree receives compensation from a
 7 participating employer in a calendar year in excess of the federal Social
 8 Security Act limitation, twenty-five percent (25%) of the retirement benefit
 9 shall be suspended;

10 (C) The effective date of a suspension and reinstatement
 11 of a retirement benefit shall be set by the system; and

12 (D) Any suspension of a retiree's benefit under
 13 subdivision (b)(4) of this section shall be applied on a calendar-year basis.

14 (5) A retiree and participating employer who are subject to
 15 subdivision (b)(4) of this section shall:

16 (A) Maintain an accurate record of gross earnings in the
 17 employment;

18 (B) Report the gross earnings at least monthly to the
 19 system;

20 (C) Immediately notify the system in writing of any
 21 postretirement earnings; and

22 (D) Immediately notify the system in writing if the
 23 postretirement earnings are equal or exceeding the exempt earnings under
 24 subdivision (b)(4) of this section.

25 ~~(c)~~(1) The Board of Trustees of the Arkansas Teacher Retirement
 26 System shall adopt rules to carry out the provisions of this section.

27 (2) A covered employer that employs retirants is subject to the
 28 rules adopted by the board.

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