

1 State of Arkansas  
2 92nd General Assembly  
3 Regular Session, 2019  
4

# A Bill

SENATE BILL 143

5 By: Senator E. Cheatham  
6

## For An Act To Be Entitled

8 AN ACT TO DEFINE "MANIFEST INJUSTICE"; TO AMEND THE  
9 LAW CONCERNING THE BOARD OF TRUSTEES OF THE STATE  
10 POLICE RETIREMENT SYSTEM; AND FOR OTHER PURPOSES.  
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## Subtitle

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14 TO DEFINE "MANIFEST INJUSTICE"; AND TO  
15 AMEND THE LAW CONCERNING THE BOARD OF  
16 TRUSTEES OF THE STATE POLICE RETIREMENT  
17 SYSTEM.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 24-6-201, concerning definitions pertaining  
23 to the State Police Retirement System, is amended to add an additional  
24 subdivision to read as follows:

25 (23) "Manifest injustice" means an obvious unfairness that has a  
26 direct and observable unconscionable effect that will occur as a result of a  
27 technical error or error of judgment, when the error is made by the system, a  
28 benefit participant, or employer, and the disparity of outcome to the  
29 parties, when taken together and supported by clear and convincing evidence,  
30 shows a great harm to the integrity of the system as a whole, the benefit  
31 participant, or an employer, unless the system is afforded the discretion to  
32 resolve the matter in a fair manner.  
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34 SECTION 2. Arkansas Code § 24-6-205, concerning the correction of  
35 errors by the Board of Trustees of the State Police Retirement System, is  
36 amended to add an additional subsection to read as follows:



1           (c)(1) The board or its designee may waive or modify the impact of a  
2 rule, provision, or law that does not violate federal law or jeopardize the  
3 tax-qualified status of the system to correct or prevent a manifest injustice  
4 that would affect the system, benefit participant, or employer in a  
5 particular instance.

6           (2) In determining manifest injustice the system may consider:

7                   (A) The degree of fault of the system, benefit  
8 participant, or employer;

9                   (B) An ambiguity in the interpretation of the  
10 circumstances, rule, or law;

11                   (C) The cost to the system of correcting the error that is  
12 far outweighed by the benefit afforded to the system, benefit participant, or  
13 employer;

14                   (D) Whether or not an expedited decision is in the public  
15 interest;

16                   (E) The fundamental fairness of a remedy in a particular  
17 situation; and

18                   (F) Whether or not the status quo would result in an  
19 unconscionable outcome.

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21           SECTION 3. DO NOT CODIFY. Retroactivity.

22           This act applies retroactively to January 1, 2017.  
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