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OPINION NO. 86-273

April 30, 1986

Kie D. Hall, Executive Director
Arkansas Public Employees
Retirement System
One State Capitol Mall
Little Rock, AR

Dear Mr. Hall:

This is in response to your request for a formal opinion regarding fidelity bond coverage requirements for Arkansas Public Employees Retirement System employees considering Act 793 of 1977 and Act 286 of 1985.

Your questions are:

1. Is the Arkansas Public Employees Retirement System still required to have \$1,000,000 in total coverage?
2. If so, should the State Risk Manager increase that coverage accordingly or should Arkansas Public Employees Retirement System purchase additional coverage of \$700,000?

Section 7.05, Act 793 of 1977, Ark. Stat. Ann. §12-3307 (7.05) requires that the respective retirement systems provide a one million dollar blanket fidelity bond covering employees and others administering the system's funds.

Section 8, Act 286 of 1985, Ark. Stat. Ann. §12-261 states that the blanket bond(s) under Act 286 "... shall be in lieu of all statutory required bonds..." and the various laws providing for surety bonds shall not be applicable as long as the blanket bond is in effect. The officers and employees covered by the blanket bond are elected and appointed salaried officials and salaried employees excluding appointed members of boards and commissions. Ark. Stat. Ann. §12-255.

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Initially, it should be noted that the scope of Act 793 is broader than that of Act 286. The former requires coverage of any person administering system funds whether as an employee, officer or in some other capacity. For the officers and employees covered by Act 286, that bond substitutes for the Act 793 bond because of the clear, unambiguous language of Ark. Stat. Ann. §12-261. However, the system would also be required to maintain its own Act 793 bond for those persons not covered by the Act 286 bond who administer system funds.

Pursuant to Act 286, the State Risk Manager is authorized to obtain a blanket bond(s) for \$300,000 coverage. Purchase of coverage in excess of that amount is beyond the authority of the Risk Manager and must be paid for by the system under §12-3307(7.05).

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Thomas S. Gay.

Sincerely,

STEVE CLARK
Attorney General

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