

March 1, 2011

Mr. George Hopkins  
Executive Director  
Arkansas Teacher Retirement System  
1400 West Third Street  
**Little Rock, Arkansas 72201**

**Re: House Bill 1040**

Dear Mr. Hopkins:

You have asked for our analysis of House Bill (HB) 1040. This bill would prohibit all current and future retirees of ATRS from continuing employment or beginning employment at any position at any public employer covered by a public retirement system, unless the member agrees to forfeit benefits during the reemployment period. The bill contains an exemption for colleges and for members retiring between January and June of 2011 or participating in a DROP on July 1, 2011.

**Section 1** of this bill creates Section 24-2-409 related to reemployment of members. The section provides that retired Arkansas public employees may not return to work in a position covered by any of the Arkansas public retirement systems unless such members agree to forfeit retirement benefits and accrual of credited service while employed in such covered positions. The section exempts people participating in a DROP plan on July 1, 2011 and individuals who retired between January 1, 2011 and June 30, 2011 inclusive.

**Section 2** of the bill relates to Arkansas Public Employees Retirement System (APERS), and does not appear to affect ATRS.

**Section 3** of the bill relates to retirees of the Arkansas Teacher Retirement System (ATRS) who return to work in a position covered by ATRS. It modifies Section 24-7-502 to remove previous language related to a 180 day waiting period and other language allowing an exemption from the 180 day wait for individuals with 38 or more years of service. The intent of the amended language seems to be to provide that, regardless of the period that had elapsed between retirement date and return to work date, an individual who is below normal retirement age and returns to covered employment must repay to ATRS all retirement benefits that had been paid to the retiree from date of retirement to return to work date. (Unfortunately there is a technical problem with the language that may prevent it from meeting its intent. This point is covered under suggestions for counsel toward the end of this letter.) This repayment would presumably include TDROP distributions, but would exclude benefits received as a survivor of another person. Subsection (d) of this section provides an exemption for members covered by a DROP plan on July 1, 2011 and for persons who retired between January 1, 2011 and June 30, 2011. The exemption permits such people to return to covered employment 180 days or more after retirement provided that they agree to forfeit retirement benefits during employment and to forfeit receipt of credited service during the period of employment.

**Section 4** of the bill repeals language in Section 24-7-717 related to Rescission of Retirement. That language had allowed retirees to rescind retirement and become active members. Such individuals, by working a few more years, would add to their service credit for retirement purposes, and potentially replace their previous final average salary with a new and most likely higher figure. The repealed language also permitted rescinding retirees to enroll in the TDROP plan.

The remaining sections of the bill do not specifically relate to ATRS.

The principal effects of this bill as it relates to ATRS will be 1) To require a repayment of prior retirement benefits from retirees who return to work and 2) Prevent return to work retirees from accruing additional service credit. In terms of change from the present statute, the bill would have its greatest effect on people who return to work 180 or more days following retirement under the auspices of Section 24-7-708. Currently, such people can work and draw retirement benefits at the same time. Data provided by staff indicates that ATRS currently receives approximately \$12 Million per year of contributions on behalf of retirees who are reemployed pursuant to Section 24-7-708. Since these individuals do not accrue service credit, all of that money can go directly toward the unfunded liabilities of ATRS. If HB 1040 becomes law, we assume that no one will return to work who has been retired any significant length of time. Consequently, we conclude that this bill will cost approximately \$12 Million per year.

In addition, since the bill exempts people who retire prior to July 1, 2011, from its provisions, it may induce currently active people to retire sooner than they otherwise would, so that they can take advantage of the exemption and later return to work. Such activity would add to ATRS costs, although accurately quantifying such an effect is not really possible until after the fact.

Finally, since the bill applies to all Public Employers, ATRS will have to develop a means for sharing and exchanging information regarding return to work retirees with public employers with whom it has no existing channels of communication. This could add to administrative costs by requiring additional staffing and programming. These costs may eventually be somewhat offset if, after the initial potential increase in retirements resulting from the exemption incentive, members actually delay retirement since returning to work is no longer a viable option. There is no data with which to estimate this potential offset.

Below are a few suggestions for Counsel on drafting the bill.

1. The amended language in Section 24-7-502 appears to prevent anyone with less than 38 years of service from retiring. We doubt that this is the plan sponsor's intent. We suggest on page 4, eliminating the "or" in line 4, and everything following "or", down to the end of line 17. We think that would address the issue if our understanding of the intent is correct.
2. For the protected group, who retain the right to return to work after 180 days without forfeiting previously received benefits, the System would clearly be better off if employer contributions were paid on their behalf. We are uncertain from the drafting if that is intended.

3. As it currently stands, Section 24-7-502 seems to conflict with Section 24-7-708. It appears to us that consideration should be given to include language in the Bill to repeal Section 24-7-708.

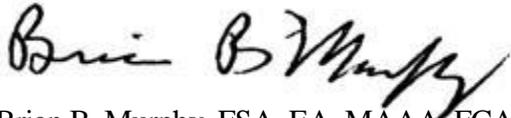
Also, our analysis relates only to the plan changes described in this correspondence. In the event that other plan changes are being considered, it is very important to remember that the results of separate actuarial analyses cannot generally be added together to produce a total. The total can be considerably greater than the sum of the parts due to the interaction of various plan provisions with each other, and with the assumptions that must be used.

The undersigned are Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

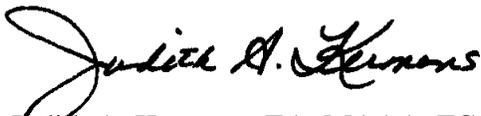
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Sincerely,



Brian B. Murphy, FSA, EA, MAAA, FCA



Judith A. Kermans, EA, MAAA, FCA

BBM/JAK/msw