

February 8, 2017

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

Re: HB 1290 of 2017

Dear Mr. Hopkins:

You have asked us for our analysis of House Bill (HB) 1290 as it relates to the Arkansas Teacher Retirement System (ATRS). HB 1290 modifies Arkansas State Code §24-7-205(c) – Correction of Errors. We understand from staff that the main purpose of this bill is to provide an additional exception to the 5 year look-back rule related to understated service upon which all required contributions have been made.

Current language in Section 24-7-205(c) provides that:

“A determination, review, administrative action, cause of action, request to enforce, change, or modify an obligation, duty, benefit calculation, designation, refund, contribution, service credit, or other right arising under this subchapter shall not be valid unless commenced within the look-back period unless the system determines that the justification to commence the process is due to intentional nondisclosure, fraud, misrepresentation, or criminal act.”

The look-back period is defined in §24-7-202(22) as the current fiscal year and the four immediately preceding fiscal years. Our understanding of current language in §24-7-205(c) is that after 5 fiscal years, a benefit cannot be corrected unless there has been intentional nondisclosure, fraud, misrepresentation, or criminal act. However, we interpret §24-7-205(d) and §24-7-205(e), when read together, to allow correction to benefits beyond the end of the look-back period in order to correct or prevent a “manifest injustice that would affect the system, benefit participant, or employer”.

HB 1290 adds additional language to §24-7-205(c) that permits corrections to be made after the look-back period is over if there has been “an obvious or documented error by an employer or the system that understated the service credit of a member upon which all required contributions have been paid.” The language, as we understand it, would not permit corrections after the end of the look-back period if the error resulted in an overstatement of service credit unless there had been intentional nondisclosure, fraud, misrepresentation, or criminal act as provided for in §24-7-205(d) and §24-7-205(e).

We assume that most “obvious or documented errors” are caught within the original look-back period, and that therefore, HB 1290 would affect at most a very small number of people, providing them an avenue to receive benefits that they would have been entitled to receive if the error had not

Mr. George Hopkins
February 8, 2017
Page 2

been made or if it had been corrected within the original look-back period. In some or all of those cases, the correction might have been permitted by §24-7-205(d) and §24-7-205(e) anyway. Therefore, in our judgment, HB 1290 will have no measurable actuarial cost for ATRS.

Please review this letter carefully to ensure that we have understood the bill properly and that the assumptions we have made are reasonable. The analysis in this letter should not be relied upon if there is doubt about our understanding of the bill or the reasonability of our assumptions. 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.

We did not review this bill for compliance with Federal, State, or local laws or regulations, and internal revenue code provisions nor did we attempt to determine whether these changes would contradict or negate other related State, or local laws or provisions of other proposed legislation. Such a review was not within the scope of our assignment.

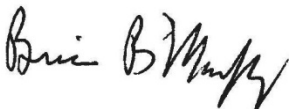
Brian B. Murphy, Judith A. Kermans and Heidi G. Barry are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

This communication shall not be construed to provide tax advice, legal advice or investment advice.

Sincerely,



Judith A. Kermans, EA, MAAA, FCA



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



Heidi G. Barry, ASA, MAAA

JAK/BBM:rmn