

# MARK-UP

## RULE 11-1 SURVIVOR BENEFITS

A.C.A. §§ 24-7-710, 713

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### I. **GENERAL: See A.C.A § 24-7-710 for Survivor Benefit Rules.**

A. Benefits may be provided to dependents of qualifying members after the death of the member. To qualify, a member must have five (5) years of actual service and be an active member at the time of death.

B. ATRS considers a member to be active for the purpose of qualifying for survivor benefits under A.C.A. § 24-7-710 and if:

- i. The member has at least ten (10) days of service credit in each prior quarter of the fiscal year from the time the fiscal year began or the member was employed by an ATRS employer, whichever occurs last, provided however, the member must have at least one quarter with ten (10) days of service; or
- ii. The member has at least ten (10) days of service in the quarter of the member's death, or, ten (10) working days have not elapsed in the quarter of the member's death.

### II. **SPOUSAL BENEFITS OR ALTERNATIVE RESIDUAL BENEFICIARIES**

A. Unless the member directs an alternative residual beneficiary or beneficiaries by written form approved by ATRS, the The benefits provided for in A.C.A. § 24-7-710, ~~plus the monthly stipend under A.C.A. § 24-7-713~~ shall be paid to the spouse of the qualifying member if the spouse survives the member and was married to the member for at least two (2) years immediately prior to the member's death.

B.

- i. If at the time of the member's death there are no dependent children eligible to receive a dependent child annuity, a surviving spouse who qualifies to receive a surviving spouse annuity may file with ATRS a waiver of any rights to the spousal annuity.
- ii. If the surviving spouse files a waiver of the spousal annuity, then the deceased member's residue beneficiary or beneficiaries will receive a single distribution of the member's residue amount, if any.

# MARK-UP

C.

- i. The spousal annuity is payable for the spouse's lifetime, regardless of remarriage, pursuant to A.C.A. § 24-7-710.
- ii. The spouse may defer receipt of the annuity, if applicable, under the deferred retirements provisions of A.C.A. § 24-7-707.

D.

i. A member may select one or more alternative beneficiaries to receive a lump sum payment of the member's residue in lieu of the member's surviving spouse ("alternative residual beneficiary or beneficiaries"), documented on forms provided and approved by ATRS, and no spousal benefit or other monthly benefits shall be paid.

ii. If the member is a participant in T-DROP and chooses an alternative residual beneficiary or beneficiaries in lieu of the surviving spouse, and the member dies before retiring, then the designated alternative residual beneficiary or beneficiaries shall receive the T-DROP deposits as a lump sum and no spousal benefit or other monthly benefit shall be paid.

E. A member may change an alternative residual beneficiary or beneficiaries designation and revert to a spousal annuity designation by documenting the change on a form provided and approved by ATRS.

## III. DEPENDENT CHILDREN BENEFITS

A. Surviving dependent children of the member shall receive an annuity under A.C.A. § 24-7-710 and a cost of living adjustment, as may be designated by the Board.

B. There are certain additional limitations on the amount of annuity payable to a dependent child if the member has multiple dependents. A.C.A. § 24-7-710.

- i. "Child" is defined under A.C.A. § 24-7-202, and for purposes of receiving an annuity from ATRS, the child must be a dependent child in accordance with § 24-7-710. While a surviving dependent child's benefits normally cease once the child reaches eighteen (18) years of age, there are circumstances where the child may continue to receive benefits. These include:

# MARK-UP

- a. A full-time student. A full-time student is defined as one carrying 12 semester hours or 8 trimester hours in college, four (4) hours per day in a secondary or postsecondary school, or other verifiable indices from an accredited institution that the dependent child is engaged in full time curriculum or field of study. Certification of attendance in an accredited school may be reported by the dependent child in the absence of a parent or legal guardian after the dependent child reaches age eighteen (18).
- b. For a child receiving a dependent child annuity age eighteen (18) or older who is temporarily physically or mentally incapacitated, the Board may continue paying benefits upon receipt of a doctor's certification that the child is temporarily physically or mentally incapacitated, and is unable to attend school for the period of one semester or term. At the beginning of the next semester or term, if the child does not reenter school full-time, the dependent child annuity will terminate.
- C. A child who is adjudged physically or mentally incapacitated by a court of competent jurisdiction. Such a child continues to be eligible to receive a dependent child annuity as long as the incapacity exists, regardless of age. A.C.A. § 24-7-710.
- D. A dependent child annuity remains at its initial monthly amount, adjusted only by a COLA increase, and is not readjusted when the member's other dependent child or children's annuities terminate.
- E. A dependent child annuity is paid as a separate payment to each child monthly, rather than one lump-sum check payable to the spouse or custodian. Deposit accounts designated to receive survivor annuity payments to a child under age eighteen (18) shall conform with the Arkansas Uniform Transfers to Minors Act or court order in a guardianship.

## IV. GENERAL RULES REGARDING SURVIVOR ANNUITIES

- A. Survivors are required to produce sufficient proof of eligibility under these provisions prior to receiving benefit payments.
- B. ATRS will notify survivors who may be eligible for a survivor's benefit at the last address on file at ATRS. (See also ATRS Rule 11-5 Lost Payees).

# MARK-UP

C. If the member dies before receipt of the first disability retirement check but after receiving final approval for disability retirement, the benefits will be paid under the disability retirement option or alternative residual beneficiary designation or beneficiaries selected by the member.

D. If the member dies after the disability application is received by ATRS but before disability retirement is approved, then ATRS shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 shall be paid if no alternative residual beneficiary or beneficiaries designation has been made by the member.

E. For the purposes of determining child survivor benefits, the member's salary shall be the salary that the member would have received in the fiscal year in which ~~he/she~~ the member died had the member lived through the end of the fiscal year, if the member's ~~high~~ highest salary occurred in the year the member died.

F. Salary payments made after the death of a member that were earned prior to death are subject to ATRS deductions and shall be reported in total salary and days of service in the employer's quarterly report. Payments made by an employer after the death of an active member that are made as a mere gratuity and were not earned by the member shall not be included in the member's salary reported to ATRS and are not subject to contributions.

G. If survivor benefits are payable by more than one reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more as a percentage of the deceased member's final pay or as a minimum dollar amount than the largest amount payable by a single, reciprocal system. ATRS will prorate minimum benefits payable with any other reciprocal systems that have a minimum benefit provision in its plan. Each reciprocal system shall pay only its proportionate share of the minimum amount based on the ratio of service in its system to the total service in all reciprocal systems.

H. When the member elects to transfer from ATRS to APERS under the provisions of Act 793 of 1977, APERS' law governs the survivors' eligibility for a payment of residue or survivor benefits upon the member's death

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## HISTORY

### Amended:

June 15, 2004  
February 7, 2006  
April 26, 2007  
December 18, 2009

# MARK-UP

**Adopted:** July 1, 2011 (Emergency)  
**Effective:** August 8, 2011  
**Effective:** **November 11, 2011**  
**Approved by Board:** August 6, 2012  
**Amended:** October 13, 2012  
**Effective:** **March 6, 2013**  
**Approved by Board:** July 26, 2013  
**Amended:** October 9, 2013  
**Effective:** **November 8, 2013**  
**Approved by Board:** December 1, 2014  
**Amended:** May 18, 2015  
**Effective:** **June 16, 2015**

State of Arkansas  
91st General Assembly  
Regular Session, 2017

# A Bill

HOUSE BILL 1305

By: Representative Maddox

## For An Act To Be Entitled

AN ACT TO ALLOW MEMBERS OF THE ARKANSAS TEACHER  
RETIREMENT SYSTEM TO DESIGNATE ONE OR MORE RESIDUAL  
BENEFICIARIES; TO DECLARE AN EMERGENCY; AND FOR OTHER  
PURPOSES.

## Subtitle

TO ALLOW MEMBERS OF THE ARKANSAS TEACHER  
RETIREMENT SYSTEM TO DESIGNATE ONE OR  
MORE RESIDUAL BENEFICIARIES; AND TO  
DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-7-710(b)(1)(A)(i), concerning survivor annuity benefits under the Arkansas Teacher Retirement System, is amended to read as follows:

(b)(1)(A)(i) The Unless the member otherwise directs an alternative beneficiary by using a beneficiary form approved by the system, a member's surviving spouse, who was married to the member for at least the two (2) years immediately preceding the member's death, shall receive an annuity computed in the same manner in all respects as if the member had retired on the date of the member's death and elected Option A under § 24-7-706 to provide one hundred percent (100%) survivor annuity benefits, including benefits applicable under § 24-7-713, for his or her spouse.

SECTION 2. Arkansas Code § 24-7-710(b)(1), concerning survivor annuity benefits under the Arkansas Teacher Retirement System, is amended to add an



1 additional subdivision to read as follows:

2 (F) If the member directs an alternative beneficiary by  
3 using a beneficiary form approved by the system, the member may designate one  
4 or more residual beneficiaries to receive a lump sum payment of the member's  
5 residue amount under § 24-7-709 in lieu of the member's surviving spouse.  
6

7 SECTION 3. Arkansas Code § 24-7-710(b), concerning survivor annuity  
8 benefits under the Arkansas Teacher Retirement System, is amended to add an  
9 additional subdivision to read as follows:

10 (3) The Board of Trustees of the Arkansas Teacher Retirement  
11 System may adopt rules to carry out the provisions of this section.  
12

13 SECTION 4. Arkansas Code § 24-7-1310(b), concerning the death of  
14 Teacher Deferred Retirement Option Plan participants, is amended to read as  
15 follows:

16 (b)(1) However, the plan participant's eligible surviving spouse may  
17 choose to receive the plan benefit in a lump sum without affecting the  
18 payment of a monthly retirement benefit payable from the Arkansas Teacher  
19 Retirement System.

20 (2)(A) Subdivision (b)(1) of this section shall not apply if the  
21 member has directed one (1) or more residual beneficiaries under § 24-7-710.

22 (B) If a member has directed one (1) or more residual  
23 beneficiaries, the residual beneficiary shall receive the residual benefits  
24 payable, and the spousal benefit shall not be paid.  
25

26 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
27 General Assembly of the State of Arkansas that the operations of a state  
28 public retirement system are complex; that the Arkansas Teacher Retirement  
29 System must be able to meet the needs of its members as anticipated by the  
30 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
31 System Act are imminently in need of revision and updating to bring them into  
32 conformance with sound public pension policy and actuarial requirements; that  
33 such revision and updating is of great importance to members of the system  
34 and to other citizens of the State of Arkansas; that the system needs to have  
35 the ability to make immediate changes to maintain and improve its actuarial  
36 status; and that this act is immediately necessary in order to maintain an

1 orderly system of benefits for the members of the Arkansas Teacher Retirement  
2 System. Therefore, an emergency is declared to exist, and this act being  
3 immediately necessary for the preservation of the public peace, health, and  
4 safety shall become effective on:

5 (1) The date of its approval by the Governor;

6 (2) If the bill is neither approved nor vetoed by the Governor,  
7 the expiration of the period of time during which the Governor may veto the  
8 bill; or

9 (3) If the bill is vetoed by the Governor and the veto is  
10 overridden, the date the last house overrides the veto.

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14 **APPROVED: 02/21/2017**  
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1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017

*As Engrossed: H3/21/17*

## A Bill

HOUSE BILL 1373

4  
5 By: Representative Deffenbaugh  
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### For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE APPLICATION  
9 AND ADJUSTMENT OF BENEFIT STIPENDS UNDER THE ARKANSAS  
10 TEACHER RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY;  
11 AND FOR OTHER REASONS.  
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13

### Subtitle

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15 TO AMEND THE LAW CONCERNING THE  
16 APPLICATION AND ADJUSTMENT OF BENEFIT  
17 STIPENDS UNDER THE ARKANSAS TEACHER  
18 RETIREMENT SYSTEM; AND TO DECLARE AN  
19 EMERGENCY.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 24-7-713(a)(4), concerning simple cost of  
25 living adjustment and monthly benefit stipends under the Arkansas Teacher  
26 Retirement System, is amended to read as follows:

27 (4) As used in this section, "base amount" means the amount of  
28 the benefit payable at retirement plus any one-time increases granted by  
29 legislative change after the member's effective date of retirement benefits,  
30 excluding the simple cost of living adjustment under this section and the  
31 benefit stipend under subsection (d) of this section.  
32

33 SECTION 2. Arkansas Code § 24-7-713(b), concerning simple cost of  
34 living adjustment and monthly benefit stipends under the Arkansas Teacher  
35 Retirement System, is amended to read as follows:

36 (b)(1) Effective July 1, 2013, the Board of Trustees of the Arkansas



1 Teacher Retirement System may modify the amount of the benefit stipend from a  
2 maximum of seventy-five dollars (\$75.00) per month to not less than one  
3 dollar (\$1.00) per month for eligible benefit participants as a benefit  
4 supplement in addition to the cost of living adjustment under subsection (a)  
5 of this section.

6 (2) A benefit stipend increase or decrease adopted by the board  
7 shall apply to a complete fiscal year and shall remain in effect until  
8 adjusted by the board subject to the limitations under subdivision (b)(4) of  
9 this section.

10 (3) The board may adjust the benefit stipend amount by  
11 *resolution at a meeting of the board.*

12 (4) *The board shall not reduce the benefit stipend*  
13 *unless the;*

14 *(A) Arkansas Teacher Retirement System's actuary certifies*  
15 *to the board that the amortization period exceeds ~~thirty (30)~~ eighteen (18)*  
16 *years; and*

17 *(B) ~~that in order to address an amortization period in~~*  
18 *~~excess of thirty (30) years to pay unfunded liabilities of the Arkansas~~*  
19 *~~Teacher Retirement System, the board~~ Board *determines that ~~the~~ a reduction in**  
20 *~~the benefit stipend should be reduced~~ is prudent to maintain actuarial*  
21 *soundness.*

22 (5) The board may phase in an increase or decrease of the  
23 benefit stipend.

24  
25 SECTION 3. Arkansas Code § 24-7-713, concerning retirement annuity,  
26 simple cost of living adjustment, and monthly benefit stipends under the  
27 Arkansas Teacher Retirement System, is amended to add an additional  
28 subsection to read as follows:

29 (d)(1) The board may remove by board resolution the benefit stipend  
30 from the base amount of current retirants and option beneficiaries if the  
31 board determines that the removal of the benefit stipend from the base amount  
32 is prudent in order to maintain actuarial soundness.

33 (2) The board may phase in the removal of the benefit stipend  
34 from the base amount of current retirant and option beneficiaries by board  
35 resolution.

1           SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
2 General Assembly of the State of Arkansas that the operations of a state  
3 public retirement system are complex; that the Arkansas Teacher Retirement  
4 System must be able to meet the needs of its members as anticipated by the  
5 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
6 System Act are imminently in need of revision and updating to bring them into  
7 conformance with sound public pension policy and actuarial requirements; that  
8 such revision and updating is of great importance to members of the system  
9 and to other citizens of the State of Arkansas; that the system needs to have  
10 the ability to make immediate changes to maintain and improve its actuarial  
11 status; and that this act is immediately necessary in order to maintain an  
12 orderly management of benefits for the members of the system. Therefore, an  
13 emergency is declared to exist, and this act being immediately necessary for  
14 the preservation of the public peace, health, and safety shall become  
15 effective on:

16                 (1) The date of its approval by the Governor;

17                 (2) If the bill is neither approved nor vetoed by the Governor,  
18 the expiration of the period of time during which the Governor may veto the  
19 bill; or

20                 (3) If the bill is vetoed by the Governor and the veto is  
21 overridden, the date the last house overrides the veto.

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23                                 /s/Deffenbaugh  
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26                                 **APPROVED: 03/31/2017**  
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