

EXHIBIT D

RULE SUMMARY

The rule permits a disabled APERS member to receive benefits the first day of the calendar month following APERS's approval of the disability.

MARK UP

203 – 1957 (5) – Disability Retirement

Disability retirement for a member of PERS can be approved in one of two ways:

Before a member can be approved for disability retirement from PERS, he/she must first apply and be approved by either Social Security or by the Federal Railroad Retirement Board for disability benefits. If a member is approved for disability payments, then the member shall furnish proof to PERS of such approval and the member, who is otherwise eligible under State retirement law, will automatically be approved for PERS benefits ~~retroactive to the date that benefits would have become payable under law~~ the first day of the calendar month following the PERS's approval of the disability.

Should the member not be approved for Social Security or for Railroad Retirement disability payments, the member, after having been denied Social Security or Railroad Retirement through the Administrative Law Judge appeal level, may appeal directly to the Board of Trustees. The member shall furnish physician (s) statements and other medical documentation, obtained at the member's expense, to the APERS Medical Review Board (MRB) for evaluation. The MRB shall be composed of physicians approved by the Board. The results of the MRB evaluation shall be presented to the Board for final consideration.

Members applying under Act 868 of 1999 shall submit copies of physician (s) statements and other medical documentation, obtained at the member's expense, to the MRB for evaluation. The results of the MRB evaluation will be presented to the Board of Trustees for final consideration.

After retirement on disability, the member will be reviewed by Social Security or Railroad Retirement if receiving benefits from either agency, and the member will have to furnish APERS with a copy of the Social Security or Railroad Retirement findings.

In those instances where a disability retirant is working, determination as to whether remuneration is substantially gainful, as referenced A.C.A. 24-3-208, shall be based on guidelines used by the Social Security Administration for the SSDI program.

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**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY Arkansas Public Employees Retirement System
DIVISION Legal
DIVISION DIRECTOR _____
CONTACT PERSON Jessica Middleton
ADDRESS 124 West Capitol, Suite 400
PHONE NO. 501-682-7853 FAX NO. 501-682-7825 E-MAIL jessica.middleton@arkansas.gov
NAME OF PRESENTER AT COMMITTEE _____
MEETING Jay Wills
PRESENTER E-MAIL jay.wills@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

1. What is the short title of this rule? R 203 Disability Retirement

2. What is the subject of the proposed rule? Disability Retirement

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No X
If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No X
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No
If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

- Is this an amendment to an existing rule? Yes No
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Administrative Procedure Act, ACA § 25-15-101 et seq. ("APA"); ACA 24-4-511
7. What is the purpose of this proposed rule? Why is it necessary? The rule permits a disabled APERS member to receive benefits the first day of the calendar month following APERS's approval of the disability
8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). _____
9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:
- Date: _____
Time: _____
Place: _____
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. _____
13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). _____
14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. _____

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Public Employees Retirement System

DIVISION Legal

PERSON COMPLETING THIS STATEMENT Jessica Middleton

TELEPHONE 501-682-7853 **FAX** 501-682-7825 **EMAIL:** jessica.middleton@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE R 203 Disability Retirement

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;
N/A

(b) The reason for adoption of the more costly rule;
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue	<u> \$0 </u>
Federal Funds	<u> \$0 </u>
Cash Funds	<u> \$0 </u>
Special Revenue	<u> \$0 </u>
Other (Identify)	<u> \$0 </u>
 Total	 <u> \$0 </u>

General Revenue	<u> \$0 </u>
Federal Funds	<u> \$0 </u>
Cash Funds	<u> \$0 </u>
Special Revenue	<u> \$0 </u>
Other (Identify)	<u> \$0 </u>
 Total	 <u> \$0 </u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No X

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.