

**Senate Bill 127**

(As Engrossed April 2, 2013)

Actuarial Cost Study prepared for  
Joint Committee on Public Retirement and Social Security Programs  
of the Arkansas 89th General Assembly

**Provisions of the Bill**

Senate Bill 127 affects the Arkansas Teacher Retirement System (ATRS).

Senate Bill 127 amends ACA §24-7-502 where termination of service (in order to be considered a retired member) is defined. This section has had significant attention from the legislature and this committee during the past two regular sessions. There have been a total of five Acts that have affected this section of code during this time (Acts 45, 69, 565, and 974 of 2011 and Act 743 of 2009).

Current law states that you have not terminated service and therefore are not eligible for retirement benefits if you return to work for a covered employer within six months. The only exception is if you have reached normal retirement age (65) or have over 38 total years of service. Senate Bill 127 adds an exception for substitute teachers that earn less than \$5,000 during the six months following retirement date after a 30 day break.

**Separation from Service**

This paragraph is not intended as a legal analysis of this subject, but a recap of some key considerations discussed in the past two legislative sessions. To be qualified, a retirement plan must provide monthly benefits when a participant “retires”. Federal tax law does not explicitly define “retire”, but does provide some definite concepts. The key one for this discussion is that there must be a separation of service. The implication that the person no longer works for the employer and does not intend (or is not promised) to work for the employer in the future. In this case, all participating employers in ATRS would be considered the employer. The committee discussed at length why a 30 day separation period does not meet these concepts. In particular, since a teacher’s contract ends on June 30, a member can easily be “separated” for 45 days without changing their routine at all. The idea proposed in Senate Bill 127 would easily allow a teacher to retire on July 1 and begin to long term sub on August 19, maybe in their old classroom.

It is our opinion that the definition of separation from service in Senate Bill 127 would NOT be in line with the IRS concept and could threaten tax qualification status.

**Fiscal Impact**

There are several ways in which Senate Bill 127 could negatively impact the cost and funding status of ATRS. The biggest impact would be tax qualification issues as discussed in the previous section.

There is clearly a need for substitute teachers in all parts of the state. A member with 28 years of service has a retirement benefit of about 60% of final average salary. The ability to retire, draw benefits and earn up to \$5,000 in the first six months would be appealing to some members. Therefore, Senate Bill 127 would increase retirement rates; that is, on average people would retire earlier than they do now. This would increase costs to the system. We do not know the extent of this increase, but it is our opinion that it would be a measurable increase in cost.

This exception created by Senate Bill 127 would begin to open ways to “double dip”. There was a significant legislative priority to end “double dipping” in previous sessions. The cost may not be very large for this one exception, but what about the need for bus drivers or cafeteria workers. We can see a list of other exception that could be justified that would erode the changes made in 2009 and 2011. Each of these on their own may have a small cost, but would compound in future years.

The system staff reports that 30 to 35 members have had their benefits stopped because of violating the termination rules in the past two years. ATRS has provided a way for employers to verify whether someone is a member of the system in a retired status before they hire them. So there has been some savings to the system while at the same time ATRS has helped employers try to avoid causing problems for the people they hire unintentionally.

### **Other**

There are a couple of inconsistencies in the bill that should be considered. First, the end of line 34 has the word “or” and the beginning of line 35 has the word “and”. This makes this section ambiguous and opens it to many interpretations.

One such unintended interpretation of the above portion of this bill would be a result of the fact that it addresses substitute teaching only. Does this language allow a member to earn more than \$5,000 doing something else for an employer (e.g. administrator)?

Later in this same section of code, as repeated on page 3, lines 5 and 6, a member shall not “form an employment relationship with any system covered employer” during the termination period. It would seem that substitute teaching would be an employment relationship.

We would suspect and ATRS staff has confirmed that tracking money earned for a particular type of service over a short time span would be a mostly manual process. ATRS will have over 3,000 new retirees this year and tracking this information would be a significant administrative cost.

Sincerely,



Jody Carreiro, A.S.A, M.A.A.A.  
Actuary