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~~214—1997 (5)—DROP Provisions (as amended May 1999, May 2001, August 2003, November 2010, May 2011, November 2011, October 2017, and December 2019)~~ 24 CAR § 1-213. DROP provisions.

(a) Contributions to Drop Account ~~Contributions to DROP account.~~

(1)(A) For a member who has ~~30~~thirty (30) or more years of actual service, the contribution shall:

(i) ~~be~~Be ~~75%~~seventy-five percent (75%) of the member's computed benefit after election of a straight life or option benefit, as required by Subchapter 8 of Chapter 3 of Title 24 of the Arkansas Code;; and

(ii) ~~including~~Include the temporary annuity, if applicable.

(B) For a member who has ~~28~~twenty-eight (28) years but less than ~~30~~thirty (30) years of actual service, the contribution shall ~~be~~75%~~seventy-five percent (75%)~~ reduced by ~~0.5%~~five-tenths percent (0.5%) for each month that the DROP election precedes the date the member would complete ~~30~~thirty (30) years of actual service.

(2) Contributions to the account shall be increased for ~~COLA's~~COLAs and ad hoc increases granted to retirees.

(b) Interest on the Drop Account ~~Interest on the DROP account.~~

(1) Interest shall be credited ~~on a monthly basis and~~ compounded annually to the date of actual retirement.

(2) The Board ~~of Trustees of the Arkansas Public Employees' Retirement System:~~

(A) ~~shall~~Shall reevaluate the DROP interest rate annually at its regular February meeting; and

(B) ~~may~~May modify it by a simple majority vote without promulgating additional rules.

(c) Drop Payment Methods ~~DROP payment methods.~~

(1) ~~The Member~~ member may elect a lump sum or an annuity that concludes at the completion of twenty-five (25) years.

(2)(A) The member may select a combination of lump sum, rollover, and annuity, never to exceed the total amount of the DROP accrual.

(B) If the member elects a lump sum, the member may request that the lump sum be transferred to another qualified plan in a trustee-to-trustee transfer.

(C)(i) If the member elects a monthly annuity, the monthly amount shall remain constant for the ~~25~~twenty-five-year term.

(ii) That is, ~~COLA's~~COLAs and ~~Ad Hoc~~ad hoc increases will not be added to this monthly annuity and the balance in the account will not earn interest after the effective date of retirement.

(d) Death of a Drop Participant ~~Death of a DROP participant.~~

(1) In the event a DROP participant dies during the period of participation, the benefit payable from ~~APERS~~the Arkansas Public Employees' Retirement System shall be determined as though the participant had separated from service and been found eligible for monthly benefits by the ~~Board~~board on the day prior to the death, with death following immediately thereafter (per ~~Act~~Acts 1997, No. 1052).

(2) The balance in the DROP account shall be paid to the designated beneficiary or to the member's estate if no designated beneficiary survives or is named.

(e) Death of a Retiree Receiving a Monthly Annuity From Drop ~~Death of a retiree receiving a monthly annuity from DROP.~~

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(1) Upon the death of a retiree who was receiving a monthly annuity from the DROP,;
(A) ~~the~~The DROP annuity will be treated as if it had been a straight life benefit,;

and

(B) ~~the~~The undistributed remaining balance in the DROP account, if any, will be paid to the designated beneficiary.

(2) The regular monthly retirement benefit will be treated according to the election made by the retiree at his ~~or~~ her entry into the DROP.

~~(f) Failure to Terminate Covered Employment Within Seven Years of Drop Entry~~
~~Failure to terminate covered employment within seven years of DROP entry the maximum allowable time from DROP entry.~~

(1) If a DROP participant fails to terminate employment within ~~seven (7)~~ ten (10) years of entry into the DROP, the participant shall forfeit the balance in the DROP account.

(2)(A) The participant's employer shall be required to pay all contributions, with interest, that would have been paid on behalf of the member had he ~~or~~ she not participated in the DROP.

(B) The employer will acknowledge this requirement on the member's application for participation in the DROP.

(3)(A) However, a DROP participant also enrolled in the ~~ATRS~~Arkansas Teacher Retirement System T-DROP due to reciprocal service credit shall be permitted to keep the accrued balance on account with ~~APERS~~the Arkansas Public Employees' Retirement System until completion of the term of the ~~ATRS~~Arkansas Teacher Retirement System T-DROP.

(B) No interest shall be paid on such balances.

(C) COLAs will continue to be paid.

~~(g) Review of Provisions~~Review of provisions.

(1)(A) The provisions of the DROP program will be reviewed ~~at three year intervals, or more frequently if necessary periodically, as determined to be necessary by the board.~~

(B) Based on the actuary's review, the contribution and interest rate provisions may be adjusted prospectively as the ~~Board of Trustees~~board considers such action to be actuarially appropriate.

(2) A member whose DROP participation has ceased shall not be prohibited from thereafter seeking and taking a publicly-elected office that otherwise is covered under ~~APERS~~the Arkansas Public Employees' Retirement System but that member shall not be eligible to rejoin ~~this system~~the Arkansas Public Employees' Retirement System.

~~(h) Deferred Retirement Option Plan (Drop) Provisions For Members Called To Active Duty~~
~~DROP provisions for members called to active duty.~~

(1) ~~Generally:~~Generally.

1-(A)(i) A DROP participant who is called to active duty will provide ~~APERS~~the Arkansas Public Employees' Retirement System with a copy of his or her ~~Orders~~orders that will be maintained in the member's file.

(ii) A copy of the ~~Orders~~orders will be utilized to verify the date that the member is called to active duty.

2-(B)(i) The employer will continue to report the DROP participant on the monthly DROP report.

(ii) The ~~Agency~~agency employer representative will indicate that the member is on "MilitaryLeave"

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military leave.

~~3-~~(C) When the member is released from active duty, he ~~/or~~ she will submit a copy of the DD214 Form or other appropriate documents to ~~APERSthe Arkansas Public Employees' Retirement System~~ to verify that the member has returned to covered employment, ~~and/or been released from active duty, or both.~~

~~(2) Maximum Participation Period:~~ **Maximum participation period.**

~~1-~~(A) A DROP participant who is on active duty shall continue to receive his ~~/or~~ her monthly DROP payment (which includes any benefit enhancements awarded to eligible retirees) until the maximum allowable time in the DROP has occurred or the member requests retirement and distribution of his ~~/or~~ her DROP account, whichever occurs first.

~~2-~~(B)(i) If the member has participated in the DROP for at least five (5) years, he ~~/or~~ she must:

(a) ~~complete Complete~~ a retirement application packet and DROP ~~Distribution Form(s)distribution form or forms~~ prior to his or her departure for active duty; and ~~deliverDeliver~~ the completed forms to the ~~APERS-Office Arkansas Public Employees' Retirement System office~~ along with a copy of his ~~/or~~ her ~~Ordersorders~~.

(ii) The retirement application and DROP ~~Distribution Formsdistribution forms~~ will be held and processed on the effective date indicated unless he ~~/or~~ she returns to covered employment within the ~~seven-year maximum allowable~~ DROP term.

~~3-~~(C) Should the DROP member not deliver a retirement application packet and DROP ~~Distribution Form(s)distribution form or forms~~ to ~~APERSthe Arkansas Public Employees' Retirement System~~ and the ~~maximum period of allowable time in the DROP participation (seven (7) years)~~ expires prior to the member returning to covered employment, ~~and/or requesting retirement, or both:~~

~~a-~~(i) The monthly DROP accrual will cease ~~on the seventh anniversary of the member's beginning after reaching the maximum allowable time in the DROP date and~~ no additional interest will be paid;

~~b-~~(ii) The monthly retirement benefit will not become effective until the member files a completed retirement application and complies with applicable deadlines; and

(iii) ~~the~~The DROP account balance shall be distributed upon the member's filing of the required DROP ~~Distribution Form(s)distribution form or forms~~.

~~(i) Death-While-on-Active-Duty:~~ **Death while on active duty.**

~~1-~~(1) In the event a DROP participant on active duty dies during the period of DROP participation, the benefit payable from ~~APERSthe Arkansas Public Employees' Retirement System~~ shall be determined as though the participant had separated from service and been found eligible for monthly benefits on the day prior to his ~~/or~~ her death, with death following immediately thereafter.

~~2-~~(2)(A) If survivor benefits are payable in accordance with ~~A.C.A. Arkansas Code § 24-4-606~~, the surviving spouse (who has been married to the participant for at least one (1) year), dependent children, or dependent parents will receive monthly benefits.

(B) The spousal benefit will be computed as if, the member had elected Option B75.

~~3-~~(3)(A) The balance in the participant's DROP account will be adjusted to reflect a balance as if the member had chosen Option B75 upon entering the DROP.

(B) The DROP balance will then be paid to the designated beneficiaries.

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~~(j) Becoming Eligible For DROP Participation While On Active Duty:~~Becoming eligible for DROP participation while on active duty.

(1) If a member becomes eligible to participate in the DROP while on active duty, he ~~or~~ she will be placed in the plan retroactive to the date of initial eligibility providing the application is received within one (1) month of the member returning to covered employment.

(2) Such participation will also be contingent upon the necessary employee, (if applicable), and employer contributions being made to the ~~System~~Arkansas Public Employees' Retirement System for the period of active duty prior to the employee entering the DROP.

~~(k) Reemployment:~~Reemployment.

(1) After release from active duty, should a DROP member fail to apply for reemployment or fail to accept reemployment pursuant to the provisions of 38 U.S.C. § 4312, as amended, the employer shall promptly notify ~~APERS~~the Arkansas Public Employees' Retirement System. After notice to the member and opportunity for hearing, should ~~APERS~~the Arkansas Public Employees' Retirement System determine that the member failed to apply for or accept reemployment as provided above, ~~APERS~~the Arkansas Public Employees' Retirement System shall:

~~1. (A) determine~~Determine that the member's retirement application and DROP distribution form required under Maximum Participation Period, ~~subparagraph b subdivision (h)(2)(C)(ii) of this section~~ are void as of the date of the member's release from active duty;

~~2. (B) terminate~~Terminate payments of the deferred benefit into the member's DROP account;

~~3. (C) deduct~~Deduct any payments of the deferred benefit into the member's DROP account after date of the member's release from active duty and interest thereon and pay said amount of the deferred benefit without interest thereon to the member as accumulated monthly annuity payments upon the member's filing a completed retirement application and DROP ~~Distribution Form~~distribution forms in compliance with applicable deadlines;

~~4. (D) not~~Not pay interest on the member's DROP account after the date of the member's release from active duty and hold said account balance pending the member's filing of the DROP ~~Distribution Forms~~distribution forms; and

~~5. (E) pay~~Pay the member's monthly retirement annuity to the member upon his or her filing a completed retirement application and in compliance with applicable deadlines.

~~(l) Procedures Applicable to DROP/Active Duty Issues:~~Procedures applicable to DROP — Active duty issues.

~~1. (1)~~ The Executive Director ~~of the Arkansas Public Employees' Retirement System~~ shall:
(A) determineDetermine all issues of interpretation or implementation of this rule in regard to DROP members and active military duty; and

(B) shall conductConduct any hearings provided for herein or required by other law.

~~2. (2)(A)~~ If the member is not satisfied with the ~~Executive Director's~~executive director's decision on matters that were not decided in conjunction with a hearing, the member may request that the issue be presented to the ~~Board~~board.

(B) The ~~Board~~board shall:

(i) reviewReview the:

(a) member'sMember's request for review,;

(b) the recordRecord considered by the ~~Executive~~

~~Director~~executive director; and

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(c) ~~the Executive Director's~~ director's decision;;
(ii) ~~shall afford~~ Afford the member the opportunity to:
(a) ~~present~~ Present additional information or documentation;

and

(b) ~~to appear~~ Appear before the Board; and
(iii) ~~determine~~ Determine whether to:
(a) ~~affirm~~ Affirm or modify the Executive Director's executive director's decision; or
(b) ~~to return~~ Return the case to the Executive Director executive director for further consideration.

~~3.~~ (3) (A) A member who was a party to a hearing by the Executive Director executive director concerning DROP/active duty issues DROP and active military duty and who is not satisfied with the Executive Director's executive director's decision, may file an appeal to the Board.

(B) The member shall file notice of appeal in writing, stating the grounds therefore, with the Executive Director executive director on or before thirty (30) days following the date of record of the Executive Director's executive director's decision. The Executive Director's executive director's written decision shall be mailed to the member by certified mail, return receipt requested, restricted delivery to the member's last known address of record.

~~4.~~ (4) Upon appeal, the review by the board shall be confined to the record considered by the Executive Director executive director;; provided, however:

~~a.~~ (A) (i) The member may apply to present additional evidence and should the Board find that the evidence is material and that there were good reasons for failure to present it in the proceeding before the Executive Director executive director, the Board may order that the additional evidence be taken before the Executive Director executive director upon any conditions that may be just.

(ii) The Executive Director executive director:
(a) ~~may~~ May modify the findings and decision by reason of the additional evidence; and

(b) ~~shall~~ Shall file that evidence and any modification, new findings, or decisions with the Board; and

~~b.~~ (B) (i) Should the member assert any alleged irregularity in procedure before the Executive Director executive director not shown in the record, the Board:

(a) ~~may~~ May hear testimony on that issue; or
(b) ~~in~~ In its discretion may remand the matter to the Executive Director executive director to conduct further proceedings on the record on the member's allegation of procedural irregularity;.

(ii) ~~after~~ After any further proceeding by the Executive Director executive director regarding any procedural irregularity, the Executive Director executive director:

(a) ~~may~~ May modify the findings and decision by reason of the additional evidence; and

(b) ~~shall~~ Shall file that evidence and any modifications, new findings, or decisions with the Board.

(iii) The member may request the opportunity to make an oral

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presentation to the ~~Board~~board.

~~5.~~(5) The ~~Board~~board may affirm or reverse the ~~Executive Director's~~executive director's decision or remand the case for further proceedings.

~~(m) Separation from Employment — Popularly Elected Official~~Separation from employment — Popularly-elected official.

~~(1)(A)~~ In accord with ~~Act 624 of Acts~~Acts 2019, ~~No. 624~~, a member who participates in the ~~Arkansas Public Employees' Retirement System~~ Deferred Retirement Option Plan (DROP) is not required to separate from service at the end of ~~seven (7) years~~the maximum allowable time in the DROP participation following entry into the DROP if it would prevent that member from taking or holding office as a ~~popularly-elected~~popularly-elected official.

~~(B)~~ That member will not forfeit their DROP balance if they separate from service as provided under ~~Arkansas Code~~ § 24-4-520 after that member leaves elected office.

~~(2)(A)~~ The DROP balance of a ~~popularly-elected~~popularly-elected official who does not separate service after ~~seven (7) years of participation~~the maximum allowable time in the DROP and pursuant to ~~Act 624 of Acts~~Acts 2019, ~~No. 624~~, shall remain with ~~APERS~~the Arkansas Public Employees' Retirement System until ~~they~~he or she separatesseparates from service.

~~(B)~~ At that time, the member's DROP balance shall be distributed according to ~~APERS Rules~~the Arkansas Public Employees' Retirement System rules regarding distribution.

~~(C)~~ That DROP balance shall not accrue interest while being held by ~~APERS~~the Arkansas Public Employees' Retirement System pursuant to this ~~rule~~part.

~~(3)~~ A member who does not separate service after ~~seven (7) years of DROP participation~~the maximum allowable time in the DROP and pursuant to ~~Act 624 of Acts~~Acts 2019, ~~No. 624~~, shall have ~~their~~his or her monthly ~~APERS~~Arkansas Public Employees' Retirement System retirement annuity benefit paid to begin when the member separates from service as provided under ~~Arkansas Code~~ § 24-4-520.

~~(4)~~ The employer of the ~~popularly-elected~~popularly-elected official shall continue to make the same employer contributions on behalf of the ~~popularly-elected~~popularly-elected official as it would have been required to make for a rehired retiree.

Authority. Arkansas Code § 24-4-105.

Codification Notes. This section as promulgated prior to codification into the Code of Arkansas Rules of 2024 provided as follows:

"214– 1997 (5) – DROP Provisions (as amended May 1999, May 2001, August 2003, November 2010, May 2011, November 2011, October 2017, and December 2019)"

"COLA" means cost of living adjustment.

"DROP" means deferred retirement option plan.

"T-DROP" means teacher deferred retirement option plan.

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1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1281

5 By: Representative Warren
6 By: Senator B. Sample
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING THE DURATION OF
10 PARTICIPATION IN THE ARKANSAS PUBLIC EMPLOYEES'
11 RETIREMENT SYSTEM DEFERRED RETIREMENT OPTION PLAN;
12 AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND THE LAW CONCERNING THE DURATION
16 OF PARTICIPATION IN THE ARKANSAS PUBLIC
17 EMPLOYEES' RETIREMENT SYSTEM DEFERRED
18 RETIREMENT OPTION PLAN.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 24-4-802(c)(1), concerning eligibility for
25 and the effect of election to participate in the Arkansas Public Employees'
26 Retirement System Deferred Retirement Option Plan, is amended to read as
27 follows:

28 (c)(1) The election to participate in the plan is irrevocable and the
29 duration of participation in the plan for active members shall not exceed
30 ~~seven (7)~~ ten (10) years.
31

32 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
33 General Assembly of the State of Arkansas that revisions and updates to the
34 Arkansas Public Employees' Retirement System are of great importance for
35 actuarial purposes and to protect member benefits; that with the current
36 coronavirus 2019 (COVID-19) pandemic, state government needs to retain



1 experienced personnel in order to address needed procedures and potential
2 budget issues while continuing to deliver services to the citizens of
3 Arkansas; that passage of this act will permit the immediate continuation in
4 service of the state's experienced personnel; and that this act is necessary
5 to maintain an orderly system of managing member benefits offered by the
6 Arkansas Public Employees' Retirement System. Therefore, an emergency is
7 declared to exist, and this act being necessary for the preservation of the
8 public peace, health, and safety shall become effective on March 31, 2021.

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11 **APPROVED: 4/1/21**
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