

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

DEPARTMENT/AGENCY Arkansas Teacher Retirement System
DIVISION Administration
DIVISION DIRECTOR George Hopkins
CONTACT PERSON Laura Gilson, General Counsel
ADDRESS 1400 West Third Street, Little Rock, AR 72201
PHONE NO. 501-682-1266 FAX NO. 501-682-6326 E-MAIL laurag@artrs.gov
NAME OF PRESENTER AT COMMITTEE MEETING George Hopkins
PRESENTER E-MAIL georgeh@artrs.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
Room 315, State Capitol
Little Rock, AR 72201**

1. What is the short title of this rule? Lump Sum Death Benefit (Rule 11-2)

2. What is the subject of the proposed rule? Rule for the payment of a one time lump-sum death benefit to a member's designated beneficiaries.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
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

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 Arkansas Code citation.

§ 24-7-305(b)(1)

7. What is the purpose of this proposed rule? Why is it necessary?
To bring into compliance and make consistent with Act 140 of 2013 and various minor changes for clarity. It also removes certain language to avoid future conflicts with the Arkansas Code.

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).

www.artrs.gov

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.)

August 29, 2013

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

December 1, 2013

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. 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.

N/A

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Teacher Retirement System
DIVISION Administration
PERSON COMPLETING THIS STATEMENT Laura Gilson
TELEPHONE NO. 501-682-1266 **FAX NO.** 501-682-6326 **EMAIL:** laurag@artrs.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Lump-Sum Death Benefits (Rule 11-2)

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total _____

5. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

Summary of Proposed Rule Change

for
Arkansas Teacher Retirement System

Rule 11-2 Lump-Sum Death Benefit

This Rule change is needed to comply with Act 140 of 2013. Act 140 is a "technical corrections" Act that in part, amended the Arkansas Code section that deals with the ATRS lump sum benefit, also known as a one-time death benefit, which is payable to a member's designated beneficiary upon the member's death. The Act removed unnecessary language, clarified the language, and made minor grammatical changes. The Rule changes reference the law that covers lump-sum benefit, found at § 24-7-720. The other changes are largely the removal of language that is substantially similar or identical in the law, and nonsubstantive changes that are made for clarity and consistency. Specific changes as referenced by the Rule page number are listed as follows:

11-2-1 I. B. A definition is added to reference the applicable Arkansas Code section on lump-sum benefits.

11-2-1 and 11-2-2 (1 through 4). These stricken paragraphs are found and covered explicitly in § 24-7-720, so the language was removed to avoid confusion and duplication of the law.

11-2-2 II. A. i. This new language sets the lump-sum death benefit, as authorized under § 24-7-720(c).

11-2-2 II. A. ii. This new language is consistent with other ATRS' Rules for distribution of a member's benefits or residue, such as under ATRS Rule 9-7-1 and the distribution of payment order listed under Act 140 for Lost Payees.

11-2-3 (2). This language is stricken and the same content is provided for under 11.2.2 II.A. i. above.

RULE 11-2

LUMP-SUM DEATH BENEFIT

A.C.A. § 24-7-720

I. DEFINITIONS

- A1.** **Lump-sum beneficiary** means the person(s) or entity(s) designated in writing by the member to receive payment of the lump-sum death benefit under A.C.A. § 24-7-720.
- B.** **Lump-sum death benefit** means a monetary amount set by the Board, and paid by ATRS to lump-sum beneficiaries as provided for under A.C.A. § 24-7-720.

REGULATIONS

~~1. Lump-sum Death Benefit Paid on or before July 1, 2007 (Act 296 of 2007)~~

~~— Before July 1, 2007, upon the death of an active or retired member with five (5) or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The payment will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid to the following persons in statutory succession: spouse, then children, then parents, then the member's estate.~~

~~2. Lump-sum Death Benefit Paid after July 1, 2007 (Acts 1022 and 296 of 2007)~~

~~— On or after July 1, 2007, upon the death of an active or retired member with ten (10) or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid the member's estate.~~

~~3. Lump-sum Death Benefit Paid on or after July 1, 2009 (Act 1323 of 2009)~~

~~On or after July 1, 2009, upon the death of an active or retired member with 10 or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service credit. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or a beneficiary did not survive, then the benefit will be paid to the member's estate.~~

~~4. Lump-sum Death Benefit Payable on or after July 1, 2009, for Retired Members (Act 1323 of 2009)~~

~~— On or after July 1, 2009, upon the death of a retired member with five (5) or more years of actual service, the System shall pay a benefit in the amount of \$10,000 for contributory members, \$6,667 for noncontributory members, or a prorated amount at a ratio of 3:2 based upon the member's contributory and noncontributory service if the member retired on or before July 1, 2007. The benefit will be paid as a lump sum to the beneficiary designated by the member. If the member failed to designate a beneficiary or no designated beneficiary survives, then the benefit will be paid to the member's estate.~~

~~— If a retired member died between July 1, 2007, and July 1, 2009, and was eligible for the lump-sum benefit under Section 4, with more than five (5) but less than ten (10) years of actual service at his or her death, the System will notify the beneficiary(s) of eligibility at the last known address. If the beneficiary(s) fails to make application for the lump-sum benefit after written notice is provided, ATRS is not obligated to search for the beneficiary(s). ATRS will distribute the lump-sum upon receipt of a valid claim by the beneficiary under A.C.A. § 24-7-734.~~

II. RULES

A1. The amount of the lump-sum death benefit may be set pursuant to the rules and regulations adopted by the Board of Trustees in an amount *up to* \$10,000 per member. The Board of Trustees may adjust the amount of the lump-sum benefit each year and, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.

i. The amount of the lump-sum death benefit has been set by the Board of Trustees at \$10,000 for eligible contributory members and eligible members who have a combination of contributory and non-contributory with at least fifteen (15)

years of contributory service. For eligible noncontributory members the amount of the lump sum death benefit has been set at \$6,667, or a prorated amount at a ratio of 3:2 based upon the eligible member's contributory and noncontributory service credit.

- ii. The benefit will be paid as a lump sum to the beneficiary designated by the eligible member. If the eligible member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid to the member's estate.
- iii. However, on or after July 1, 2011, if a member has accrued a minimum of fifteen (15) years of actual, contributory service, but has also accrued noncontributory service, the member is eligible for his or her survivors to receive the maximum lump sum death benefit as determined by the board.
- iv. To effectuate the legislative intent of Act 1323 of 2009, all lump-sum death benefit distributions made after June 30, 2009, shall be tax exempt, and no federal or state income tax shall be withheld by the System ATRS. After June 30, 2009, the lump-sum death benefit ~~will~~ shall not be eligible for a direct rollover.

~~2. The Board of Trustees may, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.~~

- B3. A member must be classified as either *active* or *retired* at the time of his or her death to qualify for the lump-sum death benefit. Inactive members shall not be entitled to a lump-sum death benefit. A member is considered active for an additional fiscal year following the last fiscal year that the member renders at least one-fourth (1/4) year of actual service to a covered employer, credited as the total days of service.
- C4. A member must have accrued the required amount of actual service at the time of his or her death to qualify for the lump-sum death benefit.
- D5. A member may nominate any natural person(s) or duly formed legal entity as his or her lump-sum beneficiary including a corporation, trust, partnership, or other recognized legal entity.

- E6. To nominate a lump-sum death beneficiary, a member must designate an eligible beneficiary on an ATRS approved form and sign the form.
- F7. To be effective, the completed lump-sum beneficiary form must be received by ATRS prior to the member's death.
- G8. A lump-sum beneficiary form, which is properly executed and filed with ATRS, supersedes all prior designations filed by the member for the lump-sum benefit.
- H9. If the member is eligible for the lump-sum death benefit at his or her death, the lump-sum benefit payment shall be made within a reasonable amount of time to the member's proper beneficiary upon receipt of a written application, acceptable proof of the beneficiary's identification, and proof of the member's death.
- I10. Lump-sum beneficiary forms signed by a member's agent (such as an attorney-in-fact under a power of attorney) will not be processed until the document appointing the agent is filed with and accepted by the ~~System~~ ATRS. The authorizing document must contain authorization for the agent related to retirement plan transactions or the change of beneficiaries in order to authorize the agent to change the member's lump-sum beneficiary(s).
- J11. ATRS will not accept a beneficiary form signed by a guardian of the member's estate or other court-appointed conservator without an accompanying court order authorizing the guardian's designation of beneficiary(s).
- K12. A lump-sum beneficiary may waive his or her rights to payment of the lump-sum benefit by submitting a waiver and relinquishment form acceptable to ATRS. Upon receipt of a valid waiver, ATRS will pay the remaining eligible beneficiary(s).
- L13. A lump-sum beneficiary may not assign payment of a lump-sum death benefit to another person or entity.
- M14. ATRS reserves the right to deduct from the lump-sum benefit any amounts owed to ATRS by the member under A.C.A. § 24-7-205.
- N15. ATRS reserves the right to collect any overpayments or other amounts owed to ATRS by the lump-sum beneficiary(s).
- O16. ATRS shall comply with all applicable laws relating to the

distribution of the lump-sum benefit including federal and state tax laws and the Uniform Transfer to Minors Act.

Amended: June 15, 2004
February 7, 2006
April 26, 2007
June 16, 2009 (Emergency)
October 5, 2009 (Permanent)
July 1, 2011 (Emergency)

Adopted: August 8, 2011

Effective: November 11, 2011

Approved by Board: July 26, 2013

Amended:

Effective:

RULE 11-2 LUMP-SUM DEATH BENEFIT

A.C.A. § 24-7-720

I. DEFINITIONS

- A. **Lump-sum beneficiary** means the person(s) or entity(s) designated in writing by the member to receive payment of the lump-sum death benefit under A.C.A. § 24-7-720.
- B. **Lump-sum death benefit** means a monetary amount set by the Board, and paid by ATRS to lump-sum beneficiaries as provided for under A.C.A. § 24-7-720.

II. RULES

- A. The amount of the lump-sum death benefit may be set pursuant to the rules and regulations adopted by the Board of Trustees in an amount *up to* \$10,000 per member. The Board of Trustees may adjust the amount of the lump-sum benefit each year and, as actuarially appropriate, prorate the amount of the lump-sum benefit based on the ratio of the member's contributory and noncontributory service credit.
 - i. The amount of the lump-sum death benefit has been set by the Board of Trustees at \$10,000 for eligible contributory members and eligible members who have a combination of contributory and non-contributory with at least fifteen (15) years of contributory service. For eligible noncontributory members the amount of the lump sum death benefit has been set at \$6,667, or a prorated amount at a ratio of 3:2 based upon the eligible member's contributory and noncontributory service credit.
 - ii. The benefit will be paid as a lump sum to the beneficiary designated by the eligible member. If the eligible member failed to designate a beneficiary or a designated beneficiary did not survive, the lump-sum benefit will be paid to the member's estate.
 - iii. However, on or after July 1, 2011, if a member has accrued a minimum of fifteen (15) years of actual, contributory service, but has also accrued noncontributory service, the

member is eligible for his or her survivors to receive the maximum lump sum death benefit as determined by the board.

- iv. To effectuate the legislative intent of Act 1323 of 2009, all lump-sum death benefit distributions made after June 30, 2009, shall be tax exempt, and no federal or state income tax shall be withheld by ATRS. After June 30, 2009, the lump-sum death benefit shall not be eligible for a direct rollover.

- B. A member must be classified as either *active* or *retired* at the time of his or her death to qualify for the lump-sum death benefit. Inactive members shall not be entitled to a lump-sum death benefit. A member is considered active for an additional fiscal year following the last fiscal year that the member renders at least one-fourth (1/4) year of actual service to a covered employer, credited as the total days of service.

- C. A member must have accrued the required amount of actual service at the time of his or her death to qualify for the lump-sum death benefit.

- D. A member may nominate any natural person(s) or duly formed legal entity as his or her lump-sum beneficiary including a corporation, trust, partnership, or other recognized legal entity.

- E. To nominate a lump-sum death beneficiary, a member must designate an eligible beneficiary on an ATRS approved form and sign the form.

- F. To be effective, the completed lump-sum beneficiary form must be received by ATRS prior to the member's death.

- G. A lump-sum beneficiary form, which is properly executed and filed with ATRS, supersedes all prior designations filed by the member for the lump-sum benefit.

- H. If the member is eligible for the lump-sum death benefit at his or her death, the lump-sum benefit payment shall be made within a reasonable amount of time to the member's proper beneficiary upon receipt of a written application, acceptable proof of the beneficiary's identification, and proof of the member's death.

- I. Lump-sum beneficiary forms signed by a member's agent (such as

an attorney-in-fact under a power of attorney) will not be processed until the document appointing the agent is filed with and accepted by ATRS. The authorizing document must contain authorization for the agent related to retirement plan transactions or the change of beneficiaries in order to authorize the agent to change the member's lump-sum beneficiary(s).

- J. ATRS will not accept a beneficiary form signed by a guardian of the member's estate or other court-appointed conservator without an accompanying court order authorizing the guardian's designation of beneficiary(s).
- K. A lump-sum beneficiary may waive his or her rights to payment of the lump-sum benefit by submitting a waiver and relinquishment form acceptable to ATRS. Upon receipt of a valid waiver, ATRS will pay the remaining eligible beneficiary(s).
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- N. ATRS reserves the right to collect any overpayments or other amounts owed to ATRS by the lump-sum beneficiary(s).
- O. ATRS shall comply with all applicable laws relating to the distribution of the lump-sum benefit including federal and state tax laws and the Uniform Transfer to Minors Act.

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