



January 31, 2025

Ms. Amy Fecher, Executive Director
Arkansas Public Employees Retirement System
One Union National Plaza
124 West Capitol Avenue, Suite 400
Little Rock, Arkansas 72201

Re: Actuarial Analysis of Senate Bill (SB) 79 Dated January 21, 2025

Dear Ms. Fecher:

We are providing our analysis of SB 79 dated January 21, 2025 as it relates to the Arkansas Public Employees Retirement System (APERS).

A. Summary of SB 79

Section 1 of the bill adds Arkansas Code §24-2-705, concerning the following situation:

1. A non-contributory member (most likely of APERS, but the legislation is silent on this part) with service in both APERS and the Arkansas State Police Retirement System (ASPRS);
2. The member has continuous service in either APERS or ASPRS; and
3. The member erroneously retires from both systems when his or her employment changed from being covered by one of the systems to the other system.

The proposed added language in §24-2-705 reads in part as follows:

- (a) (1) If a noncontributory member, including without limitation a noncontributory member who is an elected official, establishes service in both the APERS and the ASPRS and has continuous service in either system, but erroneously retired from both systems when his or her employment changed from being covered by one of the systems to the other system, the noncontributory member may file with the relevant retirement system an affidavit stating that his or her retirement from his or her most recent employer was in error.
- (2) If the noncontributory member files the affidavit in subdivision (a)(1) of this section, he or she shall have his or her date of retirement changed to the last date of employment with his or her most recent employer.
- (b) The APERS shall create a formula to calculate interest that has accrued in the event that the noncontributory member has:
 - (1) Paid contributions to the system that covers his or her most recent employment; and

- (2) Received any retirement benefits from the system that covers his or her most recent employment.
- (c) A person making an election under this section must submit the affidavit under subdivision (a)(1) of this section no later than:
 - (1) Six months after retiring from his or her final position in covered employment with either the APERS or the ASPRS; or
 - (2) Six months from the effective date of this act, if the person has already retired from his or her final position in covered employment with either the APERS or the ASPRS.

Section 2 of the bill modifies §24-4-803(b), concerning a member's deferred option contributions and selection of deferred retirement option, time of retirement deferral, and retirement annuity under the APERS Deferred Retirement Option Plan (DROP).

The proposed language in §24-4-803(b)(1) reads in part as follows:

- (b) (1) The member shall be informed of the amount of his or her deferred option contribution and informed that his or her selection of the deferred retirement option and the time of the retirement deferral, ~~and the selection of the retirement annuity~~ are irrevocable.

The proposed added language in §24-4-803(b)(2) through §24-4-803(b)(4) reads in part as follows (*notes in italics*):

- (b) (2) The member's section (*likely meant to be selection*) of the retirement annuity may be changed one time after his or her initial election, subject to the requirements of subdivision (b)(3) of this section:
 - (A) At the election of the member; and
 - (B) By contacting the board.
- (3) A person making a change of election under subdivision (b)(2) of this section must submit an affidavit requesting to change his or her selection of retirement annuity no later than:
 - (A) Six months after retiring from his or her final position in covered employment with the system; or
 - (B) Six months from the effective date of this act, if the person has already retired from his or her final position in covered employment with the system.
- (4) A person who elects to change his or her selection of retirement annuity under subdivision (b)(2) of this section shall pay to the system a lump sum of any difference in the monetary benefits he or she received from his or her initial selection of retirement annuity and his or her subsequent selection of retirement annuity to the system within six months after the change in retirement annuity becomes effective.

B. Actuarial Analysis

Section 1 of the bill would create a scenario where a member could rescind his or her retirement election from APERS. We are not aware of any other circumstance in the current Code related to APERS that allows for a member to rescind his or her retirement election. Adopting language that would allow for a retirement election to be rescinded in certain situations would create additional options for a subclass of the APERS retiree population and would be contradictory to the current provisions of APERS: a retirement election is irrevocable. There could be many different events subsequent to a member's retirement that may have resulted in the member making a different decision at the time of retirement. But allowing a member to rescind his or her decision would create an environment for anti-selection. In most cases, only retirees who would benefit from the rescinding of the retirement election would actually do so and create additional liabilities for APERS.

Section 1 of the bill also does not appear to require the retiree who rescinded his or her retirement election to repay the benefits that the retiree received during the time the individual was retired. If an individual were to rescind his or her retirement election after retiring and a period of reemployment, the individual would essentially be "triple-dipping." For a period of time, the individual would receive retirement benefits from APERS, receive a salary from his or her new covered employment after retirement, and receive additional retirement credits (e.g., additional service credit, potentially higher final average compensation, additional DROP deposits).

As of June 30, 2024, there were approximately 43,400 active and 42,800 retired and DROP members in APERS. We do not know how many of these individuals could potentially be impacted by Section 1 of this proposed legislation.

For Section 2 of the bill, the proposed language in §24-4-803(b)(2) can have a couple of interpretations:

1. Under current law, upon entering the DROP, the member must select his or her retirement annuity option (e.g., life option, option B-50, etc.). The proposed legislation could be interpreted to allow the member to change that retirement annuity option selection one time after the initial selection. For instance, a member who originally chose a joint and survivor benefit may change that selection to a straight life election.
2. The proposed legislation could also be interpreted to allow a member to elect to rescind his or her DROP election entirely one time after the initial DROP election.

The member making this election would be required to do so no later than (a) 6 months after retiring, or (b) 6 months after the effective date of the bill.

Similar to Section 1 of the bill, the proposed language in Section 2 of the bill would create an environment for anti-selection. In most cases, only individuals who would benefit from the rescinding of the initial annuity option selection or DROP election would do so and therefore create additional liabilities for APERS.

In addition to the cost considerations, the proposed bill has the potential of adding significant administrative costs to APERS.

C. Additional Disclosures

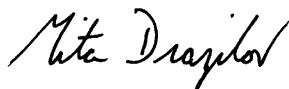
Please review this letter carefully to ensure that we have understood the bill properly. The analysis in this letter should not be relied upon if there is doubt about our understanding of the bill. Our analysis relates only to the plan changes described in this correspondence. In the event that other plan changes are being considered, it is very important to remember that the results of separate actuarial analyses cannot generally be added together to produce a total. The total can be considerably greater than the sum of the parts due to the interaction of various plan provisions with each other, and with the assumptions that must be used.

We did not review this bill for compliance with Federal, State, or local laws or regulations, and internal revenue code provisions, nor did we attempt to determine whether these changes would contradict or negate other related State, or local laws. Such a review was not within the scope of our assignment.

Mita D. Drazilov and Heidi G. Barry are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein.

This communication shall not be construed to provide tax advice, legal advice or investment advice.

Respectfully submitted,
Gabriel, Roeder, Smith & Company



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