

MARK-UP

RULE 9-8 ERROR CORRECTIONS AND COLLECTION OF OVERPAYMENTS

A.C.A. § 24-7-205

I. RULES

- A. If a change or error in ATRS' records discovered during the ATRS look back period results in either an overpayment or underpayment to ATRS, the Board authorizes ATRS to correct the error in the records and to adjust any benefit or adjust any other amount payable to the corrected amount and take all necessary action as the circumstances may require including the options allowed under A.C.A. § 24-7-205(b).
- B. If a benefit participant under a qualified domestic relations order pursuant to A.C.A. §§ 9-18-101—103, is paid any benefit or payment by ATRS to which the benefit participant is not entitled, and it is discovered during the ATRS look back period, then a receivable is created and the Board or its designee(s), may collect the amount due to ATRS as set forth in A.C.A. § 24-7-205.
- C. Before making an adjustment of benefits or pursuing any other collection action ~~under Nos. 1 and 2 above~~, a notice shall be provided to the person who is the subject of the adjustment. The notice will state the amount determined to be a receivable and the reasons underlying the determination. The notice shall also suggest alternate methods for payment of the receivable.
- D. Appeals to dispute collections shall be made according to the procedures and requirements of ATRS Rule 13. During the appeal process, retirement benefits may continue to be paid.
- E. ~~A determination, review, administrative action, cause of action, request to enforce, change or modify an obligation, duty, benefit calculation, designation, refund, contribution, service credit or other right arising under this section shall not be valid unless commenced within the look back period unless ATRS determines that the justification to commence the process is due to intentional nondisclosure, fraud, misrepresentation, or criminal act.~~
- F. Actions that affect rights on benefits cannot be corrected or adjusted further than a 5 year "look back" period unless a manifest

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injustice has occurred or an exception exists under A.C.A. § 24-7-205.

- F. The board or its designee may also make adjustments to the employer, member, and ATRS records beyond the look-back period if the board determines that the time limitation imposed by the look-back period will result in a manifest injustice in a specific case.
- G. The Board authorizes the Executive Director to waive interest on required contributions ~~under Nos. 1 and 2 above~~ in an amount not to exceed \$5,000. Any request to excuse an interest amount exceeding \$5,000 shall be submitted to the ATRS Board for review. The Executive Director shall report to the Board any amounts excused under this section.
- H. If required, a receivable under this section that is found by the Board or its designee to be uncollectible or for which adjustment or payment has been waived will be submitted to the Chief Fiscal Officer of the state for abatement pursuant to A.C.A. §§ 19-2-301 – 307.
- I. A determination by ATRS of a manifest injustice in a particular instance due to a technical error or error in judgment is always discretionary and governed by the provisions of Act 303 of 2013, codified as § 24-7-202(40).

Adopted: July 18, 2005
Amended: December 18, 2009
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011
Approved by Board: July 26, 2013
Amended: October 9, 2013
Effective: November 8, 2013

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1290

By: Representative Tosh

For An Act To Be Entitled

AN ACT TO REQUIRE THE ARKANSAS TEACHER RETIREMENT
SYSTEM TO CORRECT AN ERROR IN ITS RECORDS AT ANY TIME
THAT UNDERSTATES THE SERVICE CREDIT OF A MEMBER; TO
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE THE ARKANSAS TEACHER
RETIREMENT SYSTEM TO CORRECT AN ERROR
THAT UNDERSTATES THE SERVICE CREDIT OF A
MEMBER; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-205(c), concerning correction of
errors contained in the records of the Arkansas Teacher Retirement System, is
amended to read as follows:

(c) A determination, review, administrative action, cause of action,
request to enforce, change, or modify an obligation, duty, benefit
calculation, designation, refund, contribution, service credit, or other
right arising under this subchapter shall not be valid unless commenced
within the look-back period unless the system determines that the
justification to commence the process is due to intentional nondisclosure,
fraud, misrepresentation, ~~or criminal act,~~ or an obvious or documented error
by an employer or the system that understated the service credit of a member
upon which all required contributions have been paid.



1 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
2 General Assembly of the State of Arkansas that an error in the records of the
3 Arkansas Teacher Retirement System concerning a member's service credit may
4 be detrimental to a member; that the ability to correct certain types of
5 errors within the Arkansas Teacher Retirement System provides justice to a
6 member; and that this act is immediately necessary to provide a remedy to a
7 member of the Arkansas Teacher Retirement System. Therefore, an emergency is
8 declared to exist, and this act being immediately necessary for the
9 preservation of the public peace, health, and safety shall become effective
10 on:

- 11 (1) The date of its approval by the Governor;
12 (2) If the bill is neither approved nor vetoed by the Governor,
13 the expiration of the period of time during which the Governor may veto the
14 bill; or
15 (3) If the bill is vetoed by the Governor and the veto is
16 overridden, the date the last house overrides the veto.

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19 **APPROVED: 02/21/2017**
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