

# RECEIVED

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## ATRS Rule 7

### Service Credit, Contributions, and Reporting

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#### § 7-101. Definitions.

As used in this rule:

(1) "Actual service" means service rendered in a position covered by the Arkansas Teacher Retirement System, not including purchased service credit, free service credit, or reciprocal service;

(2) "Credited service" means service that is credited as service by the system;

(3) "Covered employer" as it relates to outsourcing means a public school, public educational agency, or other eligible employer participating in the system, but does not include a nonmandatory employer or a PSHE employer as defined in Arkansas Code § 24-7-1602 or a covered employer that reports through the Arkansas Administrative Statewide Information System;

(4) "Embedded Employee" means a person who:

(A) Provides an outsourced service on the premises of a covered employer;

(B) Is employed and paid by an outsource contractor; and

(C) Is not employed by:

(i) A covered employer listed under Arkansas Code § 24-7-202; or

(ii) An employer that offers the system as an optional retirement plan

as of the date of outsourcing;

(5) "Full service year" means employment with a covered employer for one hundred sixty (160) days or more in a fiscal year;

(6) "Participating employer" means a covered employer that outsources and opts for the embedded employees of all of the covered employer's outsource contractors to become members of the system;

(7) "Service" means employment rendered as an employee;

(8) "Specialized support position" means a position that:

(A) Requires less than eight (8) working hours per day, including without limitation the positions of bus driver, custodial worker, and cafeteria worker; and

(B) A covered employer certifies as a specialized support position to the system;

(9) "Surcharge employer" means a covered employer that outsources and pays a surcharge to the system; and

(10) "Youth participant" means a person:

(A) Who is:

(i) Enrolled in a secondary public school as a student; and

(ii) Employed through his or her participation in a summer work program for a period between the first day of June and the last day of August; and

(B) Whose compensation is disbursed by a covered employer as part of an agreement between the covered employer and an administrator of the summer work program that designates the covered employer as a passthrough fiscal agent.

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### § 7-102. Service credit.

(a) The Board of the Arkansas Teacher Retirement System shall determine the:

(1) Number of years and corresponding fractions for service that may be credited to a member; and

(2) Amount of service to be credited to a member.

(b)(1) A member shall earn one (1) year of credited service if the member completes a full service year.

(2) A member shall not earn more than one (1) year of credited service in a fiscal year.

(3) The Arkansas Teacher Retirement System shall certify proof of a member's service on forms and with documentation required by the system.

(c)(1) Unless otherwise provided by law, paid or unpaid accrued, unused sick leave shall not be credited as service in the system.

(2) If a member dies during active service on or after July 1, 2013, the member's unused catastrophic leave and unused donated leave shall not be credited as service.

(d)(1) A member shall not accumulate service credit in the system during the time that payments under a contract buyout agreement, settlement, claim, judgment, arbitration award, decree, or court-ordered payment are paid to the member by a covered employer unless the member continues to work on-site for the covered employer.

(2) A member shall not receive service credit or additional salary from the system under a settlement agreement or court order unless purchased at actuarial cost.

(3) The system shall not permit a member to use unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement with a school district to retire under age and service retirement or disability retirement before the member's employment contract with the school district would naturally have terminated.

(e) Actual service credited to a member with service after July 1, 1971, shall be as follows:

<u>Number of Days Worked in a Fiscal Year</u>	<u>Service Credit Earned</u>
<u>1 –39</u>	<u>None</u>
<u>40-79</u>	<u>0.25 year</u>
<u>80-119</u>	<u>0.50 year</u>
<u>120-159</u>	<u>0.75 year</u>
<u>160 days or over</u>	<u>1.00 year</u>

(f) Unless otherwise provided by the law or rules applicable to the system, a member who is employed for less than forty (40) days during a fiscal year is ineligible for credited service or retirement benefits for that fiscal year.

(g)(1) Beginning in the 2011-2012 fiscal year, a contributory member's service days shall be carried forward from previous fiscal years until at least forty (40) days of service are earned by the member.

(2) Service days shall not be carried forward for a contributory member if the

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member earns at least forty (40) days of service in a fiscal year by using regular service days, accumulated service days, or both regular service and accumulated service days.

(h) A member who is employed full-time or employed in a position for which a regular or typical work day includes at least eight (8) working hours shall earn one (1) day of credited service if the member works for at least four (4) hours of the eight-hour working day.

(i)(1) Beginning July 1, 2011, a member employed in a specialized support position shall earn one (1) day of credited service **for each day of service provided by the member if the:**

(A) Specialized support position is certified as a specialized support position to the system **by the covered employer at the time the covered employer first reports the employment of the member to the system;** and

(B) Covered employer reasonably determines that the member performed the regular and usual service expected of an employee in that position during the work day.

(2)(A) A member who is employed in a specialized support position **and does not have a contract specifying the number of service days** shall earn one (1) day of service credit for each day of service provided by the member **if the:**

(i) **Specialized support position is certified as a specialized support position to the system by the covered employer at the time the covered employer first reports the employment of the member to the system; and**

(ii) **Covered employer reasonably determines that the member performed the regular and usual service expected of an employee in that position during the days worked by the member.**

(B) A member described in this § 7-102(g)(2) of this rule shall earn one (1) day of credited service for each day of service provided by the member regardless of whether the member works for less than four (4) hours on a work day.

(3) The credited service earned by a member who is employed in a nonspecialized support position and does not work for at least four (4) hours each working day shall be calculated by **totaling the number of hours worked by the member in a fiscal quarter and then dividing the totaled number of hours worked by four (4).**

### **§ 7-103. Member and employer contributions.**

(a)(1) The Board of Trustees of the Arkansas Teacher Retirement System shall annually set member and employer contribution rates for the following fiscal year.

(2) The Arkansas Teacher Retirement System shall notify annually each covered employer of the contribution rates set by the board.

(3)(A) The board shall not set the member contribution rate at less than six percent (6%).

(B) The board may increase the member contribution rate to maintain actuarial soundness.

(4)(A) A member's and covered employer's contributions are due monthly, regardless of the member's concurrent membership status.

(B) A contributory member shall contribute the percentage of his or her salary that is set by the board.

(b)(1) A covered employer shall remit member contributions by pick-up from the salary earned by each member.

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(2) Member contributions shall be treated as employer contributions under the applicable provisions of the Income Tax Act of 1929, Arkansas Code § 26-51-101 et seq. and the Internal Revenue Code.

(3) A covered employer may remit a member's contributions by implementing a:

(A) Reduction in the cash salary of the member;

(B) Setoff against the member's future salary increases; or

(C) Both a reduction in the cash salary of the member and a setoff against the member's future salary increases.

(c)(1) A covered employer's employer contributions shall be the sum of the current employer contribution rate set by the board for the fiscal year multiplied by the total gross salaries of all the covered employer's employees.

(2) A public school employer shall pay up to fourteen percent (14%) of the employer contribution rate.

(3) Up to fifteen percent (15%) of any additional employer contributions required from a public school employer shall be paid from additional funds appropriated by the state for the purpose of paying employer contributions to the system.

(d)(1) A covered employer shall pay employer contributions **monthly** for all employees of the covered employer for whom the Department of Education does not pay employer contributions.

(2) The employer contribution rate shall be the current state contribution percent multiplied by the total covered salaries of the covered employer's employees in the fiscal year.

(3)(A) In accordance with rules established by the board and the department's appropriations act, the department shall pay employer contributions due for eligible employees of covered employers, including without limitation the following:

(i) State agencies as allowed under the Transformation and Efficiencies Act, Acts 2019, No. 910;

(ii) Cooperative Education Services Areas;

(iii) Vocational Centers;

(iv) Arkansas Easter Seals; and

(v) A school operated by the Corrections School System.

(B) The department shall pay the employer contributions for eligible employees of covered employers from the Public School Fund.

(C) At the close of each quarterly report, ATRS shall report the amount of employer contributions due from the department.

(D) The employer contributions due from the department shall be based on the salaries of the eligible employees reported to ATRS by each covered employer.

(e) The board shall annually notify each participating employer of the employer contribution rate established by the board for the upcoming fiscal year.

(f) A surcharge employer's employer contributions shall be a monthly surcharge applied on the total salaries paid to all the surcharge employer's embedded employees on an aggregate basis as provided under Arkansas Code § 24-7-506(c).

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### § 7-104. Member and employer contributions — Overpayments, underpayments, and refunds.

(a) A conflict in a member's service history due to concurrent service shall be resolved at the end of the fiscal year and the Arkansas Teacher Retirement System shall issue refunds as appropriate.

(b)(1) The system shall return overpayments of employee contributions and employer contributions resulting from erroneous contribution submissions or incorrect reporting of Salary Option 2 member salaries (first seven thousand eight hundred dollars (\$7,800)) to the appropriate covered employer.

(2)(A) The system shall send written notification to a member or covered employer, as appropriate, of a contribution overpayment that is less than the de minimis amount that may be refunded.

(B) The de minimis amount shall be periodically set by the Board of Trustees of the Arkansas Teacher Retirement System and shall remain the same amount until adjusted by the board.

(C)(i) A contribution overpayment that is less than the de minimis amount shall not be refunded to the covered employer unless the covered employer submits a written request for a refund to the system within fourteen (14) days of receiving the written notice of the contribution overpayment from the system.

(ii) If a covered employer does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from the system, the amount of the contribution overpayment shall be forfeited to the trust assets of the system.

(D)(i) A contribution overpayment that is less than the de minimis amount shall not be refunded to the member unless the member submits a written request for a refund to the system within fourteen (14) days of receiving the written notice of the contribution overpayment from the system.

(ii) If the member does not submit a written request for a refund within fourteen (14) days of receiving the written notice of the contribution overpayment from the system, the amount of the contribution overpayment shall be forfeited to the trust assets of the system.

(3) The total amount of contributions reported by the covered employer shall be credited to contributions.

(c)(1) For refunded contributions, the rate of regular interest compounded annually after the first year of contributions shall be credited as follows:

<u>Service</u>	<u>Regular Interest Rate</u>
<u>Before July 1, 1984</u>	<u>3%</u>
<u>For July 1, 1984 through June 30, 2009</u>	<u>6%</u>
<u>For July 1, 2010, through June 30, 2011</u>	<u>2%</u>
<u>For July 1, 2012, through June 30, 2017</u>	<u>1%</u>
<u>For July 1, 2017 and after</u>	<u>0.08%</u>

(2) Payable regular interest shall be computed:

(A) On each member's individual account on June 30; and

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(B) By multiplying the balance in the member's individual account as of July 1, including contributions and regular interest credit from previous years, plus one-half (1/2) of the contributions for the year ending June 30 by the annual applicable regular interest percentage rate.

(3) The board by resolution, may change the regular interest rate on refunded contributions for subsequent years by stating the new regular interest rate, the date that the new regular interest rate is effective, and any other features necessary for implementing the regular interest rate.

(4) Regular interest shall not be paid on contributions made in the year in which a refund of contributions is paid to a member.

(5) The system shall issue a refund for a member's contributions that are closed on the system's books after receiving the member's properly completed refund application.

(6) If a second refund payment is required to complete the refund of contributions, the second payment shall be made when all quarters of service the member works are closed on the system's books.

(7) A rollover payment shall be made in one (1) payment when all quarters of service the member works are closed on the system's books.

(8) A refund is effective on the date on which the system first issues a payment of the refund.

(d) The system shall not collect a contribution underpayment of less than the de minimis amount from a covered employer.

### **§ 7-105. Employer reports — Submission requirements.**

(a) A covered employer shall submit:

(1) Reports and supporting documentation required by the Arkansas Teacher Retirement System on a monthly and quarterly basis; and

(2) Reports and supporting documentation electronically to the system on forms approved by the system.

(b)(1) At the request of the system, a covered employer shall provide the system with a memorandum of understanding, partnership agreement, or another similar document related to the covered employer's actions as a passthrough fiscal agent for a youth participant in a summer work program.

(2) A covered employer shall provide the system with all documents related to the agreement designating the covered employer as a pass-through fiscal agent before disbursing compensation to a youth participant.

(3) A covered employer that acts as a pass-through fiscal agent shall not report a youth participant as an employee for system purposes.

(c)(1) A covered employer that uses a twenty-six-week payroll system shall report an employee's salary, contributions, and actual working days through the current fiscal year ending June 30 if the employee is a member of the system and retiring.

(2) If an employee is a member of the system and retiring effective July 1, a covered employer shall not:

(A) Withhold contributions on a salary earned by the member after the close of payroll for the current fiscal year; and

(B) Report any salary paid to the member or actual working days performed



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by the member after the close of payroll for the current fiscal year.

(3) The system shall refund employee contributions and employer contributions remitted to the system from a salary paid to the employee after the end of the current fiscal year or payroll period for the current fiscal year.

(d) A covered employer may submit a request to the system for a determination on whether a service or position is subject to the provisions of Arkansas Code § 24-7-506.

(e)(1) A surcharge employer shall submit a surcharge report monthly to the system with all other reports required by the system.

(2) A participating employer shall submit a contribution report monthly to the system with all other reports required by the system.

(f) Beginning on July 1, 2022, a covered employer shall:

(1) Electronically report employee contributions and employer contributions made by the covered employer through the system portal; and

(2) Pay employee contributions and employer contributions through electronic transfer.

### **§ 7-106. Employer reports — Reporting deadline and penalties.**

(a) A report and supporting documentation submitted by a covered employer shall not be considered untimely if the report and supporting documentation are received by Arkansas Teacher Retirement System on the tenth (10th) day of the month in which the report and supporting documentation are due.

(b)(1) A one hundred fifty dollar (\$150) late fee shall be assessed on a covered employer for each occurrence in which a report and supporting documentation is untimely submitted to the system.

(2) In their discretionary authority, the Board of Trustees of the Arkansas Teacher Retirement System or the Executive Director of the Arkansas Teacher Retirement System may waive any late fees assessed against a covered employer for their untimely submission of a report and supporting documentation to the system if the requirements of Arkansas Code § 24-7-411(c) are met.

(c)(1) If a covered employer does not remit member or employer contributions, including surcharge contributions, by the monthly due date, the system shall assess an interest penalty equal to the system's actuarially assumed rate of return on investments and daily interest accrual against the covered employer until the member or employer contributions, whichever is applicable, are paid.

(2)(A) In their discretionary authority, the board or the executive director may waive any interest penalty assessed against a covered employer if the requirements of Arkansas Code § 24-7-411(c) are met.

(B) One (1) or more interest penalties assessed against a covered employer shall not be waived if the amount of the interest penalties assessed against the covered employer will exceed one thousand dollars (\$1,000) for the fiscal year.

(C) A covered employer may submit an interest penalty waiver request for one (1) or more interest penalties exceeding one thousand dollars (\$1,000) for the fiscal year to the board.

(4) The executive director shall report each interest penalty waived under this rule to the board.

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(d)(1) The system may certify the names of each covered employer that fails to timely report and remit member or employer contributions, including surcharge contributions, to the Chief Fiscal Officer of the State.

(2) After receiving the certification from the system, the Chief Fiscal Officer of the State may direct a transfer of funds on deposit in the State Treasury for the payment of delinquent member or employer contributions and an assessed interest penalty.

### **§ 7-107. Employer reports — Payments after member's death.**

(a)(1) A salary earned by a member before the member's death and paid after the member's death is subject to deductions by the Arkansas Teacher Retirement System and the member's covered employer shall report the member's total salary and days of service in the covered employer's quarterly report.

(2) Gratuitous payments made by a covered employer to a member after the death of the member shall not be:

(A) Considered the salary of the member;

(B) Subject to contribution requirements; and

(C) Included in the covered employer's quarterly report to the system.

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**Authority: Arkansas Code §§ 24-2-701, 24-7-103, 24-7-202, 24-7-401, 24-7-406, 24-7-411, 24-7-601 — 24-7-611, 24-7-705, 24-7-708, and 24-7-1303.**

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### **History**

<u>Amended:</u>	<u>August 11, 1998</u>	<u>7-1, 7-3</u>
<u>Amended:</u>	<u>June 17, 2003</u>	<u>7-4</u>
<u>Amended:</u>	<u>April 6, 2004</u>	<u>7-4</u>
<u>Reaffirmed:</u>	<u>June 15, 2004</u>	<u>7-4</u>
<u>Amended:</u>	<u>July 18, 2005</u>	<u>7-1, 7-2, 7-3, 7-4</u>
<u>Amended:</u>	<u>April 26, 2007</u>	<u>7-4</u>
<u>Amended:</u>	<u>February 11, 2008</u>	<u>7-3, 7-4</u>
<u>Amended:</u>	<u>June 16, 2009</u>	<u>7-1, 7-2 (Emergency)</u>
<u>Amended:</u>	<u>October 5, 2009</u>	<u>7-1, 7-2 (Permanent)</u>
<u>Amended:</u>	<u>December 18, 2009</u>	<u>7-3, 7-4</u>
<u>Amended:</u>	<u>July 1, 2011</u>	<u>7-1, 7-2 (Emergency)</u>
<u>Adopted:</u>	<u>August 8, 2011</u>	<u>7-1, 7-2</u>
<u>Effective:</u>	<u>November 11, 2011</u>	<u>7-1, 7-2</u>
<u>Board Approved:</u>	<u>February 6, 2012</u>	<u>7-2, 7-4</u>
<u>Amended:</u>	<u>April 2, 2012</u>	<u>7-2 (Emergency)</u>
<u>Amended:</u>	<u>April 18, 2012</u>	<u>7-4</u>
<u>Effective:</u>	<u>May 29, 2012</u>	<u>7-2, 7-4</u>
<u>Approved by Board:</u>	<u>July 26, 2013</u>	<u>7-1, 7-3</u>
<u>Amended:</u>	<u>October 9, 2013</u>	<u>7-1, 7-3</u>
<u>Effective</u>	<u>November 8, 2013</u>	<u>7-1, 7-3</u>
<u>Approved by Board:</u>	<u>January 8, 2014</u>	<u>7-1</u>
<u>Amended:</u>	<u>February 17, 2014</u>	<u>7-1</u>



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<u>Effective:</u>	<u>March 18, 2014</u>	<u>7-1</u>
<u>Effective:</u>	<u>August 5m 2019</u>	<u>Rule 7</u>
<u>Effective:</u>	<u>May 28, 2020</u>	<u>Rule 7</u>
<u>Effective:</u>	<u>May 20, 2022</u>	<u>Rule 7</u>
<u>Effective:</u>	<u>TBD</u>	<u>Rule 7</u>

State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

HOUSE BILL 1183

By: Representative Maddox  
By: Senator K. Hammer

## For An Act To Be Entitled

AN ACT TO AMEND AND UPDATE PROVISIONS FOR OUTSOURCING  
UNDER THE ARKANSAS TEACHER RETIREMENT SYSTEM; TO  
DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

## Subtitle

TO AMEND AND UPDATE PROVISIONS FOR  
OUTSOURCING UNDER THE ARKANSAS TEACHER  
RETIREMENT SYSTEM; AND TO DECLARE AN  
EMERGENCY.

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

SECTION 1. Arkansas Code § 24-7-506 is amended to read as follows:  
24-7-506. Outsourcing – Election to participate – Definitions.

(a) As used in this section:

(1)(A) “Covered employer” means any public school, public  
educational agency, or other eligible employer participating in the Arkansas  
Teacher Retirement System.

(B) “Covered employer” does not include a:  
(i) Nonmandatory employer or a PSHE employer as  
defined under § 24-7-1602; or

(ii) Covered employer that reports through the  
Arkansas Administrative Statewide Information System;

(2)(A) “Embedded employee” means a person who:  
(i) Provides an outsourced service on the premises  
of a covered employer; and



(ii) Is employed and paid by an outsource contractor.

(B) "Embedded employee" does not include a person who is employed by:

(i) A covered employer listed under § 24-7-202; or

(ii) An employer that offers the Arkansas Teacher Retirement System as an optional retirement plan as of the date of outsourcing;

(3) "Outsource" or "outsourcing" means the use of a contractor by a covered employer for the performance of a service common to the normal daily operation on the premises of the covered employer;

(4) "Outsource contractor" means a person who is contractually obligated under an outsourcing agreement to provide a covered employer with a service common to the normal daily operation of the covered employer;

(5) "Participating employer" means a covered employer that outsources and opts for the embedded employees of all of ~~its~~ the covered employer's outsource contractors to become members of the Arkansas Teacher Retirement System;

(6)(A) "School nursing" means a nursing service that is required to be offered in a public school under § 6-18-706 or the Standards for Accreditation of Arkansas Public Schools and School Districts.

(B) "School nursing" does not include nursing services provided by a:

(i) School-based health clinic under § 6-18-703;

(ii) Medical clinic operated on a public school campus by a hospital or physician's office that is under contract with the public school;

(iii) Healthcare provider other than a nurse; or

(iv) Healthcare service reimbursed or paid for by Medicaid, Medicare, health insurance, or any other third-party payer;

(7) "Service common to the normal daily operation" means and is limited to a service that:

(A) Is provided by an outsource contractor or embedded employee to a covered employer;

(B) Is physically provided or based on the premises of a covered employer;

(C) Is paid for with public funds and not with private grant funds; and

(D) Consists of one (1) or more of the following:

(i) The maintenance and operation of:

(a) One (1) or more vehicles used for the regular and daily transport of passengers; and

(b) A facility that provides support for the maintenance and operation of one (1) or more vehicles described under subdivision (a)(7)(D)(i)(a) of this section;

(ii) The maintenance and operation of a cafeteria or other food service operation;

(iii) Custodial or maintenance services for the regular and continuous maintenance, repair, and upkeep of grounds or facilities;

(iv) Security services that are not covered by another retirement system;

(v) School nursing;

(vi) Substitute teaching; or

(vii) Service as a teacher's aide; and

(8) "Surcharge employer" means a covered employer that outsources and pays a surcharge to the Arkansas Teacher Retirement System ~~in lieu of opting for the embedded employees of outsource contractors to accrue service credit in the Arkansas Teacher Retirement System.~~

(b) A covered employer that enters into an agreement to outsource a service common to the normal daily operation shall ~~make an irrevocable election to be either a participating employer or~~ become a surcharge employer within sixty (60) days of the outsourcing agreement ~~on a form provided by or in a manner established by the Arkansas Teacher Retirement System.~~

(c)(1) ~~If a covered employer elects to become a surcharge employer under this section, then the covered employer~~ A surcharge employer shall account for and remit to the Arkansas Teacher Retirement System a ~~monthly~~ surcharge of no more than four percent (4%) on the total salaries paid to all the embedded employees on an aggregate basis ~~as follows:~~

~~(A) Five tenths of one percent (0.5%) during the 2018 fiscal year;~~

~~(B) One percent (1%) during the 2019 fiscal year;~~

1                   ~~(C) Two percent (2%) during the 2020 fiscal year;~~  
 2                   ~~(D) Three percent (3%) during the 2021 fiscal year; and~~  
 3                   ~~(E) An amount not to exceed four percent (4%) during the~~  
 4 ~~2022 fiscal year and succeeding fiscal years as established by a resolution~~  
 5 ~~of the Board of Trustees of the Arkansas Teacher Retirement System at a~~  
 6 ~~meeting of the board.~~

7                   ~~(2) If the covered employer is outsourcing on August 1, 2017,~~  
 8 ~~the surcharge shall be payable beginning in the 2018 fiscal year. The Board~~  
 9 ~~of Trustees of the Arkansas Teacher Retirement System may establish by~~  
 10 ~~resolution the surcharge rate for any fiscal year following the 2022 fiscal~~  
 11 ~~year.~~

12                   (3) A surcharge adopted by the board applies to an entire fiscal  
 13 year and shall be adopted ~~prior to~~ before the beginning of the fiscal year.

14                   ~~(d) If a covered employer elects to become a participating employer as~~  
 15 ~~provided under this section, then the covered employer shall account for and~~  
 16 ~~remit each of the covered employer's contributions in the same amount and in~~  
 17 ~~the same manner as required for covered employer contributions under § 24-7-~~  
 18 ~~401 and member contributions under § 24-7-406.~~

19                   ~~(e)(1)(A) A covered employer that begins outsourcing after August 1,~~  
 20 ~~2017, and elects to become a participating employer may phase in the election~~  
 21 ~~by selecting an effective date that is no later than the beginning of the~~  
 22 ~~third fiscal year after the effective date of the outsourcing agreement.~~

23                   ~~(B) During the phase in of becoming a participating~~  
 24 ~~employer, the covered employer shall account for and remit a phase in~~  
 25 ~~surcharge in the same amount and manner required of a surcharge employer~~  
 26 ~~under subsection (c) of this section.~~

27                   ~~(2)(A) If a covered employer is outsourcing on August 1, 2017,~~  
 28 ~~and the covered employer elects to become a participating employer, then the~~  
 29 ~~covered employer may phase in the election by selecting an effective date~~  
 30 ~~that is no later than the beginning of the fourth fiscal year after August 1,~~  
 31 ~~2017.~~

32                   ~~(B) During the phase in of becoming a participating~~  
 33 ~~employer, the covered employer shall account for and remit a phase in~~  
 34 ~~surcharge in the same amount and manner as required of a surcharge employer~~  
 35 ~~under subsection (c) of this section.~~

36                   ~~(f)(1)(d)(1)~~ (d)(1) The Arkansas Teacher Retirement System may require a

~~covered employer that makes an election under this section~~ surcharged employer to provide any documentation necessary to collect and account for the surcharge ~~or contributions~~ as is consistent with the covered employer's election.

(2) The Arkansas Teacher Retirement System ~~may~~ shall collect an unremitted surcharge amount due, including interest, from a surcharged employer under § 24-7-401 or contribution due from a participating employer under § 24-7-406 in any manner allowed by law.

(3) If a ~~covered employer~~ surcharged employer reasonably accepts a written statement from an outsource contractor reporting the salaries paid by the outsource contractor to embedded employees for services common to the normal daily operation of the ~~covered employer~~ surcharged employer, it shall be conclusively presumed that the written statement accurately reflects the salaries subject to surcharge under this section.

~~(g)(1) A covered employer or an outsource contractor may request a determination from the Arkansas Teacher Retirement System as to whether an embedded employee performs or will perform a service common to the normal daily operation of a covered employer.~~

~~(2) A request made under subdivision (g)(1) of this section shall include:~~

~~(A) Information about the employment relationship and contract provisions that are necessary for the Arkansas Teacher Retirement System to evaluate the service provided to the covered employer; and~~

~~(B) Any additional information requested by the Arkansas Teacher Retirement System to make the determination.~~

~~(3) The board may promulgate rules necessary to administer this section.~~

~~(h)(1)~~ (e)(1) The Division of Youth Services Education System shall be a participating employer and may designate any or all of its embedded employees as eligible for membership in the Arkansas Teacher Retirement System.

(2) An embedded employee of a contractor for the Division of Youth Services Education System who becomes a member of the Arkansas Teacher Retirement System shall remain a member of the Arkansas Teacher Retirement System as long as the member remains an embedded employee of a contractor for the Division of Youth Services Education System.



1       ~~(i)~~(f) The use of the terms “employee” and “employer” in this section  
2 does not:

3               (1) Create or modify an employment relationship between an  
4 embedded employee and a covered employer;

5               (2) Create, permit, expand, or modify any liability or  
6 obligation by a covered employer to an embedded employee; or

7               (3) Create, permit, expand, or modify any cause of action by an  
8 embedded employee against a covered employer under any employment, labor,  
9 civil rights, or other law.

10       (g) The board may promulgate rules to implement this section.

11  
12               SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
13 General Assembly of the State of Arkansas that the operations of a state  
14 public retirement system are complex; that the Arkansas Teacher Retirement  
15 System must be able to meet the needs of its members as anticipated by the  
16 General Assembly; that certain provisions of the Arkansas Teacher Retirement  
17 System Act, need revision and updating to address reporting, contribution,  
18 and other administrative complexities caused by these provisions and to bring  
19 these provisions into conformance with sound public pension policy and  
20 actuarial requirements; that the revisions and updates are of great  
21 importance to members and covered employers of the Arkansas Teacher  
22 Retirement System and to other citizens of the State of Arkansas; that as the  
23 Arkansas Teacher Retirement System operates on a fiscal year of July 1 to  
24 June 30, a July 1, 2023, effective date is necessary in order to allow the  
25 provisions within this act to begin on the first day of the fiscal year and  
26 to allow for a structured and proper administration of the procedures  
27 referenced in this act; that the updates and revisions to the Arkansas  
28 Teacher Retirement System Act are of great importance and necessary for  
29 protecting member benefits and clarifying the reporting and contribution  
30 requirements of employers participating in the Arkansas Teacher Retirement  
31 System; and that this act is necessary in order to maintain an orderly system  
32 of benefits for the members of the Arkansas Teacher Retirement System.  
33 Therefore, an emergency is declared to exist, and this act being necessary  
34 for the preservation of the public peace, health, and safety shall become  
35 effective on July 1, 2023.

36               APPROVED: 2/13/23

