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Proposed Rulemaking

Title

Promulgated by:
Arkansas Judicial Retirement System

Title 24. Retirement and Pensions

Chapter IV. Judicial Retirement System

Subchapter A. Generally

Part 15. Arkansas Judicial Retirement System

Subpart 1. Generally

24 CAR § 15-101. Amortization period for unfunded actuarial accrued liability.

Adopted amortization period for actuarial purposes, unfunded liabilities, of thirty (30) years.

24 CAR § 15-102. Pro-rata benefit.

Authorized pro-rata benefit payments when eligibility begins on some date other than the first of the month.

24 CAR § 15-103. Recipient benefit.

In the event that a retiree or a survivor of a retiree dies, the recipient shall be entitled to benefits for the entire month in which death occurs.

~~**24 CAR § 15-104. Board meeting dates.**~~

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~~—The Board of Trustees of the Arkansas Judicial Retirement System shall meet on the first Thursday of the second month of each quarter and at such other times as called by the chair.~~

24 CAR § 15-105. Installment payment.

The Board of Trustees of the Arkansas Judicial Retirement System adopted an installment payment plan as follows:

(1) A member may enter in an agreement with the Arkansas Judicial Retirement System to pay the total amount due in twenty-four (24) equal monthly installments;

(2) The service will not be credited to the member's retirement account until full payment is received by the system;

(3) Full payment must be made before a member makes application for monthly benefits;

(4) The system will refund to a member the amount paid if the member does not pay in one (1) lump sum the balance due within six (6) months after termination of covered employment; and

(5) The system will refund to the survivor eligible for the refund the amount paid if a member dies before completing payment.

24 CAR § 15-106. Direct deposit.

Authorized direct deposit of annuity payments to retirees and beneficiaries who elected to receive payments in such a manner.

24 CAR § 15-107. Refund repayment.

The Board of Trustees of the Arkansas Judicial Retirement System approved Repayment of Refund Policy as follows:

(1) An active judge may receive credit for a previous period of service by repaying the contributions refunded to him or her, plus six percent (6%) interest

compounded annually from the date he or she received the refund to the date of repayment to the Arkansas Judicial Retirement System; and

(2) The staff will notify the judge of this policy at the time he or she requests a refund.

24 CAR § 15-108. Investment allocation ratio.

Replaced by Investment Policy adopted February 5, 1998.

24 CAR § 15-109. Interest rate for prior service.

The Board of Trustees of the Arkansas Judicial Retirement System adopted seven and one-half percent (7.5%) as the interest rate to charge on prior service purchases under Arkansas Code § 24-8-207.

24 CAR § 15-110. Approval of requests for retirement benefits.

(a) The Board of Trustees of the Arkansas Judicial Retirement System adopted a resolution authorizing the Executive Director of the Arkansas Judicial Retirement System to approve all applications for retirement benefits, including:

- (1) Requests for purchasing service;
- (2) Transferring service; and
- (3) Obtaining free service.

(b)(1) A member may appeal a decision by the executive director in writing within thirty (30) days of the decision.

(2) The notice should include references to specific sections of the Arkansas Code supporting the appeal.

(3) The appeal will be placed on the agenda for the next regular board meeting.

24 CAR § 15-111. Purchase of previous service by a judge.

A judge may purchase previous service for time served as a circuit judge, chancery judge, Court of Appeals judge, or Supreme Court justice, and the judge will then be

considered a member of the Arkansas Judicial Retirement System as of the beginning date of the purchased service.

24 CAR § 15-112. Quorum requirement — Concurring votes — Proxy voting.

(a) Three (3) members of the Board of Trustees of the Arkansas Judicial Retirement System shall constitute a quorum at any meeting of the board, and at least three (3) concurring votes shall be necessary for a decision by the board at any of its meetings.

(b) The chair shall be a voting member.

(c)(1) Members of the board may vote on specific issues by written proxy provided to the chair in advance of any meeting of the board.

(2) A proxy vote shall not be counted to meet the quorum requirement but can be counted as one (1) of the three (3) concurring votes required for a decision.

24 CAR § 15-113. Contributions for military service credit.

In those instances where federal law requires that a member receive credit in the Arkansas Judicial Retirement System for service and earnings that the member would have received had the member not been called to active military duty, the employer shall be required to pay the employer contributions that would have been due for the earnings to be credited.

24 CAR § 15-114. Mandatory direct deposit.

(a) Persons first receiving monthly benefits from the Arkansas Judicial Retirement System on or after September 1, 2003 shall be required to participate in the electronic direct deposit program.

(b) Persons receiving monthly benefits before September 1, 2003 shall enroll in the electronic direct deposit program on or before December 1, 2003.

(c) Waivers may be granted to those persons who certify in writing that they do not have a savings or checking account.

24 CAR § 15-115. Arkansas Judicial Retirement System reciprocal members numerator.

(a) In accordance with Arkansas Code § 24-2-402(7)(A)(i), when calculating an Arkansas Judicial Retirement System benefit for a reciprocal member, only actual service as a judge will be used in the numerator.

(b) Other service (i.e. purchased, service or free military service) will not be included in the numerator.

24 CAR § 15-116. Qualified domestic relations orders.

(a) In accordance with Acts 1993, No. 1143, the Arkansas Judicial Retirement System will comply with qualified domestic relations orders issued by circuit courts in the State of Arkansas that meet the following conditions:

(1) The qualified domestic relations order is issued in accordance with all provisions of the model qualified domestic relations order adopted by the Board of Trustees of the Arkansas Judicial Retirement System;

(2) The qualified domestic relations order, as specified in Section 1(3)(c) of Acts 1993, No. 1143, does not require the system to provide any type or form of benefit, or pay options not otherwise available under the system, does not require the system to provide increased benefits, and does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

(3) The qualified domestic relations order is issued on or after the effective date of Acts 1993, No. 1143;

(4) The system will review qualified domestic relation orders for compliance with this rule and notify appropriate parties of its findings;

(5) Payments to the alternate payee shall commence on the earlier event:

(A) Participating member ceases employment in a covered position and requests a refund of contributions; or

(B) When the participating member retires; and

- (6) The alternate payee's benefit will be based on the service covered for:
 - (A) The duration of the marriage;
 - (B) The member's salary at the time of divorce; and
 - (C) The retirement laws in effect at the time of the member's retirement;
- (b) In those instances where the alternate payee selects alternative B under Section III, Duration of Payments to Alternate Payee of the model qualified domestic relations order, the actuary will use the following guidelines in computing an equivalent benefit to be paid for the alternate payee's lifetime:
 - (1) The interest rate will be the valuation rate;
 - (2) The Mortality Table will be the "50/50 Table"; and
 - (3) The age used in the computation shall be the attained age at the last birth date prior to the effective date of the qualified domestic relations order.

24 CAR § 15-117. Reassessment of disability determination and termination of disability benefits.

(a) In the event any disability retiree under Arkansas Code § 24-8-217, or any successor statute, determines that he or she is eligible to return to covered employment in a regular judicial position or in the event the Board of Trustees of the Arkansas Judicial Retirement System receives credible information that a disability retiree is no longer disabled, the retirant will be required to provide to the board current medical information from two (2) or more physicians certifying that the incapacitating disability no longer exists.

(b)(1) In the event that a retired member who is receiving disability retirement benefits fails or refuses to supply the current medical information to the board when requested to do so, the board may require said member to be examined by two (2) or more physicians of the board's choosing to determine whether the incapacitating disability still exists.

(2) Refusal or failure by said member to submit to a board-requested medical examination by a date established by the board may be considered as an admission that said member's incapacitating disability no longer exists.

(3) The board may, for good cause shown, extend the time in which said member shall submit to the board-requested examination.

(c) In the event that a retired member who is receiving disability retirement benefits no longer suffers from an incapacitating disability, the board shall terminate the disability benefits being paid to said member effective the end of the calendar month in which said determination is made.

(d) Nothing in this rule shall be interpreted to deny any member whose disability benefits are terminated pursuant to this rule eligibility for normal retirement benefits if said member otherwise qualifies for retirement benefits under Arkansas Code §§ 24-8-215 and 24-8-216, or any successor statutes.

24 CAR § 15-118. Implementation of Acts 2009, No. 744 — Retirement incentive benefits.

(a) The retirement incentive benefits contemplated by Acts 2009, No. 744, shall apply only to actual judicial service that is rendered after the effective date of Acts 2009, No. 744, and shall not include any reciprocal or military service credits acquired by a member, regardless of when acquired, or any credit for purchased service as a:

- (1) District judge;
- (2) Juvenile judge; or
- (3) Prosecuting attorney.

(b) A member may receive a partial year's service credit for the retirement incentive benefits contemplated by Acts 2009, No. 744, for any year that he or she renders less than a full year of actual judicial service.

24 CAR § 15-119. Suspension of judicial retirement benefits during resumption of full-time judicial service.

(a) Any judge or justice who is receiving judicial retirement benefits and who resumes full-time judicial service pursuant to an appointment under Amendment 29 of the Arkansas Constitution shall have his or her judicial retirement benefit payments,

including payments to alternate payees, if any, curtailed during the period of such full-time judicial service.

(b) Retirement benefits may be pro-rated for the month during which the appointment becomes effective.

(c) The judicial retirement benefit payments, including those made to alternate payees, shall resume beginning the first full month following Arkansas Judicial Retirement System's receipt of written notice that the appointed term has been completed or that the judge or justice has resigned from the full-time appointment.

24 CAR § 15-120. Declaratory orders.

(a) Purpose and use of declaratory orders.

(1) To the extent any retirant or member of the Arkansas Judicial Retirement System has questions concerning the applicability of any rule, statute, or other order of the Board of Trustees of the Arkansas Judicial Retirement System, the retiree or member shall submit a written petition for a declaratory order to the Executive Director of the Arkansas Judicial Retirement System.

(2) A declaratory order is a means of resolving a controversy or answering questions concerning the applicability of statutory provisions, rules, or orders over which the agency has authority.

(3) A petition for declaratory order may be used only to resolve questions as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances.

(4) A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from the board.

(5) A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

(b) **The petition.** The process to obtain a declaratory order is begun by filing with the executive director a petition that provides the following information:

(1) The caption shall read, Petition for Declaratory Order Before the Arkansas Judicial Retirement System Board of Trustees;

(2) The name, address, telephone number, and facsimile number of the petitioner;

(3) The name, address, telephone number, and facsimile number of the attorney of the petitioner;

(4) The statutory provision or provisions, the board rule or rules, or the board order or orders on which the declaratory order is sought;

(5) A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue of which petitioner seeks a declaratory order;

(6) The signature of the petitioner or petitioner's attorney;

(7) The date; and

(8) Request for hearing, if desired.

(c) Board disposition.

(1)(A) If the facts or circumstances provided in the petition are insufficient in detail to enable the board to render a declaratory order, the board has the authority to request supplemental information from the petitioner.

(B) If the supplemental information is insufficient or is not provided, the board may so state and is authorized to not render a declaratory order based upon what the board considers insufficient detail.

(C) The timeframes outlined in this rule shall reset on the date the executive director receives the supplemental information.

(2)(A) The board may hold a hearing to consider a petition for a declaratory statement.

(B) If a hearing is held, it shall be conducted in accordance with Arkansas Code §§ 25-15-208 and 25-15-213 and the board's rules for adjudicatory hearings.

(3) The board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts.

(4) Within ninety (90) days of the filing of the petition, the board will render a final order denying the petition or issuing a declaratory order.

(5)(A) The board may reconsider, withdraw, or amend a prior order upon its own motion.

(B) Written notice of the motion shall be mailed to the original petitioner at the last known address of the petitioner.