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ATRS Rule RULE 4
ELECTION OF BOARD OF TRUSTEES

A.C.A. Arkansas Code §§ 24-7-301, 24-7-302, and 24-7-305

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I. Definitions¹

a. "Active member" for the purposes of eligibility for an active member trustee position and voting for an active member trustee position means:

1. An active member as defined in Arkansas Code § 24-7-202; or

2. A member who:

A. Participates in the Teacher Deferred Retirement Option Plan (T-DROP);

B. Is employed by a covered employer; and

C. Receives T-DROP plan deposits;

b. "Administrator" for the purposes of eligibility for an administrator trustee position and voting for an administrator trustee position means a person who:

1. Has a current administrator's license; and

2. Is either:

A. An employee of a covered employer who is employed in one (1) of the following positions:

i. Public school superintendent, assistant superintendent, principal, or vice-principal;

ii. Higher education president, chancellor, or director; or

iii. Director, president, or vice president of a community college, vocational or technical school, or educational cooperative; or

B. A classified or unclassified employee who is:

i. An employee of an education-related agency that participates in ATRS; and

ii. Employed in a GS13 grade position, its equivalent, or above.

¹ A term that is not defined in these ATRS Rules shall have the same meaning as provided in Arkansas Code § 24-7-202.

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- c. "Licensure" for the purposes of eligibility for a licensed trustee position or voting for a licensed trustee position means a person who is:
 - 1. Not an administrator; and
 - 2. Either employed in:
 - A. A position requiring state teaching licensure; or
 - B. An education institution GS09-GS12 grade position or its equivalent; and
- d. "Nonlicensed" for the purposes of eligibility for a nonlicensed trustee position and voting for a nonlicensed trustee position means a person who is:
 - 1. Employed in a position with a covered employer that does not require state teaching licensure;
 - 2. Employed in a position with an education-related agency in a position that:
 - A. Does not require state teaching licensure; and
 - B. Is no higher than a GS08 grade position or its equivalent; and
 - 3. Not an administrator as that term is defined in Arkansas Code § 24-7-202 and this ATRS Rule 4.

II. Board of Trustees of the Arkansas Teacher Retirement System

- a. The general administration and proper operation of ATRS ~~the Arkansas Teacher Retirement System (ATRS)~~ is vested in the Board of Trustees ~~Board of Trustees of the Arkansas Teacher Retirement System (Board).~~
- b. ~~that consists~~ The Board shall consist of eleven (11) elected members and four (4) ex officio members.
- c. Pursuant to A.C.A. Arkansas Code § 24-7-301, the Board shall adopt rules and regulations regarding the election of ~~trustees and trustee vacancies~~ a trustee and a vacancy on the Board.

I. General Rules for Candidacy and Voting in Trustee Elections

III. Candidacy and Voting in Trustee Elections — Generally

- A. ~~For purposes of eligibility for an active member trustee position and voting, "active members" shall mean active members as defined in A.C.A. § 24-7-202 and members participating in T-DROP, if employed by a participating employer and receiving T-DROP plan deposits.~~

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B.a. Candidates

1. If a candidate for a trustee position on the Board is employed in more than one (1) position with a participating employer(s) covered employer, the candidate's eligibility shall be determined based on their the candidate's primary position for which they receive the candidate receives the greater percentage of covered salary.

~~C. For purposes of eligibility for an administrator trustee position or voting for that position, "administrator" shall mean a public school superintendent, assistant superintendent, principal, or vice principal; a higher education president, chancellor or director; or a community college, vocational/technical or educational cooperative director, president, or vice president, who is employed by a participating employer; OR any employee of an education related agency participating in ATRS that is employed in a position grade GS13 or above or its equivalent, including unclassified employees.~~

~~D. For purposes of eligibility for a licensed trustee position or voting for that position, "licensure" shall mean a person employed in a position requiring state teaching licensure or an education institution grade GS09-GS12 or its equivalent and who is not an administrator.~~

~~E. For purposes of eligibility for a nonlicensed trustee position and voting for that position, "nonlicensed" shall mean a member employed in a position with a participating employer that does not require state licensure including employment in an educationally related agency in a position grade GS08 or below or its equivalent. Nonlicensed shall not include any position that is defined as an administrator or that requires licensure.~~

F.b. Eligibility to Vote

1. Only members ~~are authorized to~~ of ATRS shall vote in a trustee election.
2. Guardians, attorneys-in-fact, or others ~~may~~ shall not vote on behalf of a member.

~~G. Terms not defined in these rules shall have the meaning set forth in A.C.A. § 24-7-202 et. seq.~~

~~H.3. An employee working for ATRS is not eligible~~ ineligible to be:

- A. elected ~~Elected~~ to the board Board;
- B. appointed ~~Appointed~~ to the board Board; or
- C. be a candidate to be elected or appointed to the board ~~A candidate~~

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for election or appointment to the Board.

II-IV. Qualifications and Voter Eligibility for Elected Trustee Positions

~~There shall be four (4) active member trustees each of whom will represent one of the four congressional districts in Arkansas.~~

A.a. Active Member Trustee Position Nos. 1-4 — Congressional Districts

Active Member Trustee Positions 1-4 — Congressional Districts

1. Generally

A. The Arkansas congressional district boundaries as defined on the first day of the fiscal year in which an election for an active member trustee position occurs shall be used to determine:

i. Whether a person is qualified to become a candidate for an active member trustee position; and

ii. The eligibility of a member to vote in an election for active member trustee position.

B. There shall be four (4) active member trustees.

C. Each active member trustee shall represent one (1) of the four (4) congressional districts in Arkansas.

4.2. Qualifications for Candidacy:

A. A person is qualified to become a candidate for active member trustee positions 1-4 if he or she is:

i. ~~a. Active~~ An active member with a minimum of five (5) years of actual service;

ii. ~~b. Employed by a participating covered~~ employer located in the congressional district for which he/she he or she is seeking election; and

iii. ~~c. Employed in a position requiring state teaching licensure or the equivalent under these rules~~ this ATRS Rule 4.

2.3. Eligible Voters for Trustee Position Nos. 1-4 Eligibility to Vote

A. A member is eligible to vote in an election for active member trustee positions 1-4 if he or she is:

i. ~~Active members~~ An active member, regardless of credited service;

ii. employed Employed by covered employers a covered

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employer located in the respective congressional districts; and

- iii. ~~who are otherwise~~ Otherwise eligible to be a candidate under this subsection ATRS Rule 4.

B-b. Active Administrator Trustee Position Nos. 5-6 Active Administrator Trustee Positions 5-6

~~There shall be two (2) active member trustees each of whom must be employed as an administrator as defined in these rules.~~

1. Generally

- A. There shall be two (2) active member trustee each of whom shall be employed as an administrator as defined in this ATRS Rule 4.

4.2. Qualifications for Candidacy:

A. A person is qualified to become a candidate for active administrator trustee positions 5-6 if he or she is:

- i. ~~a. Active~~ An active member with a minimum of five (5) years of actual service; and

ii. b. Employed in a position requiring an administrator's license.

- a. As provided in A.C.A. § 24-7-301, at least Pursuant to Arkansas § 24-7-301, at least one (1) of the administrators serving as an active administrator trustee must shall be employed by a participating covered employer as an Arkansas a school superintendent or an educational cooperative director.

- b. c. If an election is being held for either position and the other administrator position is not held by a superintendent or educational cooperative director, candidates for the open position must be a superintendent or educational cooperative director and the notice of election shall so state that requirement. If there is an open administrator active member trustee position and the other administrator active member trustee position is held by a person who is not a superintendent or an educational cooperative director, a candidate for the open administrator active member trustee position shall be a superintendent or an educational cooperative director and the notice of election shall state that a candidate for the open

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administrator active member trustee position is required to be a superintendent or an educational cooperative director.

~~d. Candidates for Position No. 5 and Position No. 6 shall be licensed administrators employed by a participating employer.~~

2.3. Eligible Voters for Trustee Position Nos. 5-6 Eligibility to Vote

A. Eligible voters for Position Nos. 5 and 6 shall be active members, regardless of credited service, employed as licensed administrators active members employed in positions requiring an administrator's license. A member is eligible to vote in an election for administrator active member trustee positions 5-6 if he or she is:

- i. An active member, regardless of credited service; and
- ii. Employed as a licensed administrator in a position requiring an administrator's license

G.c. ~~Nonlicensed Trustee Position No. 7~~ Nonlicensed Trustee Position 7

1. Qualifications for Candidacy:

A. A person is qualified to become a candidate for nonlicensed trustee position 7 if he or she is:

- i. ~~a. Active~~ An active member with a minimum of five (5) years of actual service.; and
- ii. ~~b.~~ Employed in a position not requiring state licensure.

2. Eligible Voters for Trustee Position No. 7 Eligibility to Vote

~~Eligible voters for Position No. 7 shall be all active members, regardless of credited service, who are employed by participating employers in nonlicensed positions as defined these rules.~~

A. A member is eligible to vote in an election for nonlicensed trustee position 7 if he or she is:

- i. An active member, regardless of credited service; and
- ii. Employed by a covered employer in a nonlicensed position.

D.d. ~~Minority Trustee Position No. 8~~ Minority Trustee Position 8

1. Generally

A. There shall be one (1) member trustee of a minority racial ethnic group.

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4.2. Qualifications for Candidacy:

A. A person is qualified to become a candidate for minority trustee position 8 if he or she is:

i. ~~a.~~ An active or retiree member of ATRS with a minimum of five (5) years of actual service; ~~and~~

ii. ~~b.~~ Member A member of a minority racial or ethnic group.

2.3. ~~Eligible Voters for Trustee Position No. 8~~ Eligibility to Vote

A. A member is eligible to vote in an election for minority trustee position 8 if he or she is:

i. ~~a.~~ All active members An active member, regardless of credited service; ~~or~~

ii. ~~b.~~ Retiree members Retiree.

E.e. ~~Retired Member Trustees (At-Large) -- Position Nos. 9-11~~ Retired Member Trustee (At-Large) Positions 9-11

1. Generally

A. There shall be three (3) retired member trustees who shall be "retirees" or "retirant" retirees as defined under A.C.A. Arkansas Code § 24-7-202.

4.2. Qualifications for Candidacy:

A. A person is qualified to become a candidate for retired member trustee positions 9-11 if he or she is a:

i. ~~a.~~ Retiree member of ATRS; ~~and~~

ii. ~~b.~~ Resident of the State of Arkansas.

2.3. ~~Eligible Voters for Trustee Position Nos. 9-11~~ Eligibility to Vote

A. ~~All retirees of ATRS, regardless of present employment status or residency.~~ A retiree, regardless of present employment status or residency is eligible to vote in an election for retired member trustee positions 9-11.

III.V. Rules on Elected Trustee Nominations

A.a. Scheduling and Notice of Regular Election

1. ATRS may publish electronically a public notice required by this ATRS Rule 4.

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2. During December in a year in which an elected trustee position is subject to election or ~~to fill a vacancy in a special election~~ a special election is required to fill a vacancy, ATRS shall publish public notice of an upcoming trustee position election in a statewide newspaper for at least five (5) consecutive days.
3. The notice ~~will also~~ shall be sent to ~~such persons or groups that have requested a~~ each person of group that requests notice of Trustee vacancies a trustee vacancy.
4. The notice shall also be posted on the ATRS ATRS' website from December until the closing of the nomination period.

B.b. Candidate Petitions and Verification of Member Signatures

1. For all elected positions, a candidate ~~must~~ shall submit a petition signed legibly by at least twenty-five (25) ATRS members who are eligible to vote for the trustee position for which the ~~member~~ candidate is seeking nomination.
2. The petition ~~must~~ shall include the last four (4) digits of each signatory's Social Security number for verification of the member's eligibility to vote for the position.

C.

3. The original petitions for nomination ~~must~~ shall be submitted to the ATRS Executive Director no later than January 10.
4. Actual delivery ~~must~~ of the original petitions for nomination shall be made by January 10, regardless of postmark date or other methods to attempt delivery.

D.

5. Upon receipt of a petition, ATRS ~~will~~ shall confirm its receipt of the petition and shall verify the eligibility of the candidate for the trustee position under ~~A.C.A.~~ Arkansas Code § 24-7-301.
6. ATRS ~~will~~ shall verify ~~the member's signatures signing the petition as eligible voters~~ each signature of each member who signs the petition as an eligible voter.

- ~~E. The candidates submitting a petition for nomination will receive notice by ATRS if the petition is accepted and will receive a list of other members who were certified to participate in the election for the trustee position for which they seek nomination.~~

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7. ATRS shall:

- a. Notify each candidate who submits a petition for nomination if his or her petition is accepted; and
- b. Provide the candidate with a list of other members who were certified to participate in the election for the trustee position for which the nomination is sought.

F.c. Ballots

1. Prior to ballots being mailed, ATRS or its designee will conduct a random drawing for ballot position. ATRS or its designee shall conduct a random drawing for a ballot position before ballots are mailed.
2. At least two (2) independent witnesses shall be present to certify the drawing of the ballot position.
3. Candidates will be notified of the order in which they will be listed on the ballot. ATRS shall notify each candidate of the order in which the candidate will be listed on the ballot.

G.d. Campaign Materials

1. Upon the request of a candidate, ATRS will shall provide a list of the mailing addresses of each eligible voters voter for the distribution of a the candidate's campaign materials. A candidate's message shall not include information that:
 - A. Would constitute defamation of another candidate; or
 - B. Claims or appears to claim the endorsement of ATRS or the Board.
2. The candidate's message shall not contain information that would constitute defamation of another candidate. At the request of a candidate, ATRS shall provide a list of the mailing addresses of each eligible voter to the election vendor for the distribution of the candidate's campaign materials.
3. Campaign materials will shall be mailed by the election vendor from its the election vendor's place of business.
4. All postage for such campaign materials shall be the candidate's sole expense paid for by the candidate distributing the campaign materials.

IV.VI Rules on Trustee Elections

A.a. Election Vendor

1. ATRS shall employ an independent election vendor to conduct the

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trustee elections.

- ~~B. If any position receives only one nomination and the position is not contested, the Board at its next regular or special meeting may certify the nomination and declare the candidate duly elected as a trustee prior to the commencement of the trustee's term.~~

b. Ballots

- ~~1. C. ATRS shall publish ballots that shall be submitted to the election vendor for mailing on March 15 to the member's address of record.~~
ATRS shall publish ballots and submit the published ballots to the election vendor by March 15 for mailing to the address of record for each member who is eligible to vote in the election.
- ~~2. D. Completed ballots must be received by the election vendor on or before April 15 to be counted.~~
A completed ballot shall be counted if it is received by the election vendor on or before April 15.
- ~~3. The election vendor shall only count such~~ count only ~~ballots that are correctly completed.~~

c. Uncontested Elections

- ~~1. If any position receives only one (1) nomination and the position is uncontested, the Board at its next regular or special meeting may certify the nomination and declare the candidate duly elected as a trustee before the trustee's term begins.~~

E-d. Run-off Elections

- ~~1. Results for positions not subject to a run-off election shall be certified to ATRS by April 20.~~ The election vendor shall certify to ATRS, by April 20, the election results for a position that is not subject to a run-off election.
- ~~F. If upon certification of the outcome of a trustee election by the vendor, if no candidate receives at least 50% of the votes cast by eligible voters, a runoff election will be held between the two (2) candidates receiving the highest number of votes for the position. The run-off ballots will be mailed by the election vendor to eligible voters on or before May 1.~~
 2. A run-off election shall be held between the two (2) candidates who receive the highest number of votes for a trustee position if:
 - A. The election vendor certifies the outcome of the trustee election;
 - and

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B. A single candidate does not receive at least fifty percent (50%) of the votes cast by eligible voters.

3. The election vendor shall mail run-off ballots to each member who is eligible to vote in the election on or before May 1.

4. ~~G. Completed ballots for a run-off election must be received by the election vendor on or before June 1 to be counted.~~ Completed ballots for a run-off election that are received by the election vendor after June 1 shall not be counted.

5. ~~H. Upon the completion of the run-off election, results shall be certified by the election vendor to ATRS by June 5.~~ The election vendor shall certify the results of a run-off election to ATRS by June 5

I.e. Election Result Challenge

1. ~~Any candidate included on the ballot may submit a challenge to the election vendor's certified results for an elected trustee position by submitting a written challenge to the ATRS Executive Director.~~ A candidate who is included on the ballot may challenge the election vendor's certified results for an elected trustee position by submitting a written challenge to the ATRS Executive Director within five (5) calendar days of the date on which the election results are certified by the election vendor.

2. ~~A challenge must be received within five (5) calendar days of the certification of the elections results for the position at issue.~~ A written challenge to the election vendor's certified results for an election shall not be considered if it is submitted more than (5) calendar days after the date on which the election results are certified by the election vendor.

3. If a candidate challenges the election results, the election process will ~~will~~ shall be suspended for the same number of days that the resolution of the challenge requires, and the remaining election schedule will ~~will~~ shall be adjusted accordingly.

~~J.4. Upon receipt of a challenge, the ATRS Board will hold a special meeting to consider the challenge.~~ After a written challenge to a certified election result is received by ATRS, the Board shall hold a special meeting to consider the challenge.

5. The ATRS Executive Director will ~~will~~ shall issue an ATRS recommendation to the Board along with the administrative record relating to the certified election results of the position being challenged.

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f. Election Schedule — Official Dates

1. ~~K.~~ For any fixed date in the election schedule that falls on a holiday or a weekend, the official date shall become the next business day.

g. Beginning of Elected Trustee Terms

1. ~~L.~~ Upon completion of an election, all elected trustee terms, except for special elections, shall begin on July 1 following the election.

V.VII. Board Procedures to Fill Unexpired Terms for Elected Trustees

a. Notice

ATRS staff shall notify the Board of ~~all resignations and vacancies by other causes in any Trustee~~ a resignation or vacancy by other cause in a trustee position as soon as possible after ATRS staff has knowledge of the resignation or vacancy by other cause.

b. Board Action Upon Receiving Vacancy Notice

1. The Board shall take appropriate action authorized by law to fill the vacancy.
2. ~~The Board may by majority vote appoint~~ Board, by majority vote, may appoint a trustee until the next ATRS election.

c. Scheduling and Notice of Special Election

1. ~~In the event the Board by majority vote determines that the vacancy should be filled by a special election, then a special election shall be scheduled as follows:~~ A special election to fill a trustee position caused by resignation or vacancy by other cause shall be scheduled and held if the Board, by majority vote, determines that the vacancy should be filled by a special election.
2. If an elected trustee position is declared vacant by the Board and ~~is to be~~ the Board determines that the vacancy should be filled by a special election then, ~~in accordance with this rule,~~ ATRS shall:
 - A. ~~publish~~ Publish notice ~~as set out in Section III.A.~~ that a special election ~~will~~ shall be held; and
 - B. ~~will announce~~ Announce the schedule for the special election;
3. ~~which will include the~~ The schedule for the special election shall include the following:
 - 1) ~~A.~~ The date the vacancy occurred and position being vacated;
 - 2) ~~B.~~ The time period for circulating petitions for nominating

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signatures;

3) ~~C.~~ the The deadline for filing petitions with ATRS;

4) ~~D.~~ the The date ATRS will verify the validity of petitions;

5) ~~E.~~ the The date ballots will be sent to eligible voters;

6) ~~F.~~ the The election date; and

7) ~~G.~~ the The date the term shall begin.

4. ATRS may follow or use as a guideline the rules concerning the publishing of public notice in this ATRS Rule 4 VII for publishing notice during a special election.

VI.VIII. Term of Elected Trustee Office and Vacancies

A.a. Duration of Term

1. The term of office of each elected trustee shall be six (6) years ~~unless the trustee is elected in a special election.~~

2. A trustee who is elected in a special election shall serve for the remainder of the six-year term of the vacating trustee.

3. A trustee who is appointed to the Board shall serve until the next system election that is held to fill the trustee position to which the trustee was appointed.

4. ~~B.~~ Each trustee shall continue to serve as trustee until their his or her term expires unless ~~they resign~~ he or she resigns or is otherwise ineligible under ~~these rules~~ this ATRS Rule 4.

5. ~~C.~~ In a year in which a ~~six (6)-year~~ six-year term of a trustee expires, the position shall be filled under the regular election schedule in this rule.

~~D. A trustee elected to fill an unexpired term in a special election will serve for the remainder of the six (6) year term of the vacating trustee.~~

VII.IX. Rules on Elected Trustee Vacancies

A.a. Ineligibility of Active Member Trustee

1. An active member trustee shall be ineligible to serve after becoming inactive or retiring. ~~if he or she:~~

~~B. An active member trustee shall be ineligible to serve if~~

A. Becomes inactive;

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B. Retires; or

C. he or she changes Changes his or her employment category during his or her term of office and the employment category is a requirement of the trustee position, i.e., an administrator becomes a classroom teacher.

C.b. Ineligibility of Retiree Member Trustee

1. A retiree member trustee shall be ineligible to serve after becoming an active member.

D.d. Trustee Absence from Board Meetings

1. A trustee vacancy can may occur if the a trustee is absent from meetings.

~~4.2.~~ The Board of Trustees or its designee will shall notify the Board member trustee after the trustee's second consecutive absence.

2. A vacancy will ~~shall~~ occur if the Board votes to declare a position vacant due to one (1) or more of the following:

~~a.A.~~ A trustee is absent for three (3) consecutive regular Board meetings and the absences are not excused unexcused by the Board.

~~i.~~ An absence that is excused by a majority of the members of the Board shall not be counted towards a vacancy.

~~ii.~~ Attendance on either day of a two-day Board meeting is sufficient to meet the attendance requirement for that meeting;

~~b.B.~~ A trustee is ineligible due to a change in status under A.C.A. Arkansas Code § 24-7-302 resulting in three (3) consecutive absences at regular Board meetings prior to before the expiration of the trustee's term; or

~~c.C.~~ Resignation or death of a trustee which will create creating three (3) or more consecutive absences at regular Board meetings prior to before the expiration of the trustee's term.

3. The Board shall vote to declare, by resolution, a position vacant if:

A. A trustee has three (3) consecutive unexcused absences from regular meetings of the Board.

i. An absence that is excused by a majority of the members of the Board shall not be counted towards a vacancy.

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ii. Attendance on either day of a two-day meeting of the Board is sufficient to meet the attendance requirement for the two-day meeting of the Board;

B. A trustee becomes ineligible to serve on the Board due to a change in status under Arkansas Code § 24-7-302 that results in the trustee being absent from three (3) consecutive regular meetings of the Board before the expiration of the trustee's term; or

C. A trustee resigns or dies.

4. If the Board declares a vacancy by resolution ~~under the section above~~ as provided under this ATRS Rule 4 IX, the Board may vote to hold a special election to fill an unexpired term ~~under~~ using the ~~Board~~ Board's procedures to fill unexpired terms for elected trustees.

5. If the Board does not certify a vacancy by resolution under this section ATRS Rule 4 IX, the vacancy will shall be filled, using approved election procedures for the position, during the next annual ATRS election held ~~upon~~ after the expiration of an the elected trustee's term, ~~utilizing approved election procedures for that position.~~

HISTORY

Approved:	May 10, 2000	4-2
Amended:	April 26, 2007	4-1
	February 11, 2008	4-1, 4-2
	December 18, 2009	4-1, 4-2
	July 1, 2011	4-2 (Emergency)
Adopted:	August 8, 2011	4-2
Effective:	November 11, 2011	4-2
Approved by Board:	October 5, 2015	4-1
Amended:	February 1, 2016	4-1
Effective:	February 10, 2016	4-1
Effective:	August 5, 2019	

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: H2/22/21

A Bill

HOUSE BILL 1326

By: Representative Warren

For An Act To Be Entitled

AN ACT TO MAKE TECHNICAL CORRECTIONS TO TITLE 24 OF
THE ARKANSAS CODE CONCERNING THE ARKANSAS TEACHER
RETIREMENT SYSTEM; TO DECLARE AN EMERGENCY; AND FOR
OTHER PURPOSES.

Subtitle

TO MAKE TECHNICAL CORRECTIONS TO TITLE 24
OF THE ARKANSAS CODE CONCERNING 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 § 24-7-202(5)(B)(i), concerning the
definition of "administrator" as applicable to the Arkansas Teacher
Retirement System, is amended to read as follows:

(i) Employed by a ~~participating~~ an employer of the
Arkansas Teacher Retirement System; and

SECTION 2. Arkansas Code § 24-7-202(18)(D), concerning the definition
of "employment with a school" as applicable to the Arkansas Teacher
Retirement System, is amended to read as follows:

(D)(i) Employment in a position with an ~~educationally~~
~~related~~ education-related agency or organization if the employee is or has
been a member of the Arkansas Teacher Retirement System for a minimum of five
(5) years and elects to become or remain a member of the Arkansas Teacher
Retirement System. The employment shall be related to:



- 1 (a) Training public school employees or school
2 board members;
- 3 (b) Teaching public school students; or
4 (c) Adult education programs.
- 5 (ii) The employment shall not be related in any
6 manner to private schools.
- 7 (iii) Each ~~educationally-related~~ education-related
8 agency or organization shall be:
- 9 (a) Approved according to rules established by
10 the board;
- 11 (b) Considered an employer under subdivision
12 (17) of this section; and
- 13 (c) Responsible for all required employer
14 contributions;
- 15

16 SECTION 3. Arkansas Code § 24-7-202(26), concerning the definition of
17 "nonteacher" as applicable to the Arkansas Teacher Retirement System, is
18 amended to read as follows:

19 (26) "Nonteacher" means a member who is not a teacher or an
20 administrator;

21

22 SECTION 4. Arkansas Code § 24-7-202(41), concerning the definition of
23 "T-DROP plan interest" as applicable to the Arkansas Teacher Retirement
24 System, is amended to read as follows:

25 (41) "T-DROP plan interest" means the rate or rates per annum
26 that the board shall adopt from time to time that will be used to compute
27 interest paid on T-DROP mean balances at the end of each fiscal year;

28

29 SECTION 5. Arkansas Code § 24-7-208 is amended to read as follows:

30 24-7-208. Benefit enhancements – Restrictions.

31 (a) No benefit enhancement provided for by this ~~act~~ chapter shall be
32 implemented if it would cause the ~~publicly-supported retirement system's~~
33 Arkansas Teacher Retirement System's unfunded actuarial accrued liabilities
34 to exceed an eighteen-year amortization.

35 (b) No benefit enhancement provided for by this ~~act~~ chapter shall be
36 implemented by ~~any publicly-supported system which~~ the system if the system

1 has unfunded actuarial accrued liabilities being amortized over a period
2 exceeding eighteen (18) years until the unfunded actuarial accrued liability
3 is reduced to a level less than the standards prescribed by § 24-1-101 et
4 seq.

5
6 SECTION 6. Arkansas Code § 24-7-301(2)(C)(i), concerning the
7 membership of the Board of Trustees of the Arkansas Teacher Retirement
8 System, is amended to read as follows:

9 (C)(i) Two (2) active member trustees shall be employed in
10 a position requiring an administrator's license, one (1) of whom shall be an
11 ~~administrator~~ a superintendent or an educational cooperative director.

12
13 SECTION 7. Arkansas Code § 24-7-401(e)(1)-(4), concerning retirement
14 fund assets accounts, member deposit accounts, and contributions under the
15 Arkansas Teacher Retirement System, are amended to read as follows:

16 (e)(1) The board shall annually notify the ~~participating~~ employers of
17 the employer contribution rate established by the board for the upcoming
18 fiscal year.

19 (2) Local school districts shall pay the teacher retirement
20 employment contribution for any eligible employee in accordance with rules
21 established by the board.

22 (3) The Department of Education shall pay from the Public School
23 Fund the teacher retirement employer contributions for eligible employees of
24 ~~participating~~ employers as required by the department's appropriations act
25 and in accordance with rules established by the board.

26 (4) The annual employer contributions to be paid in each year
27 for all other employees by each ~~participating~~ employer shall be the current
28 state contribution percent multiplied by the total covered salaries of the
29 employer's members in the fiscal year.

30
31 SECTION 8. Arkansas Code § 24-7-406(e)(1)(B)(iv), concerning
32 retirement fund assets accounts, member deposit accounts, and contributions
33 under the Arkansas Teacher Retirement System, is amended to read as follows:

34 (iv) An active member who ~~previously elected to~~
35 ~~become a~~ has previous noncontributory member of the system credited service
36 may change credited service on which a member contribution has not been paid

1 to contributory credited service by paying the system the actuarial
2 equivalent of the member benefits.

3
4 SECTION 9. Arkansas Code § 24-7-502(d), concerning definitions
5 applicable to the termination of active membership under the Arkansas Teacher
6 Retirement System, is amended to read as follows:

7 (d) As used in this section:

8 ~~(1) "System-covered employer" means all employers as defined in~~
9 ~~§ 24-7-202 and also includes all employers offering the Arkansas Teacher~~
10 ~~Retirement System as an optional retirement plan on or before January 1,~~
11 ~~2011, to any employee;~~

12 ~~(2)(A)(1)(A)~~ "Terminate" means:

13 (i) The member's covered employment has ended at all
14 ~~system-covered~~ covered employers;

15 (ii) A complete severance of the employer-employee
16 relationship has occurred at all ~~system-covered~~ covered employers that the
17 member was employed with before the member retired from the Arkansas Teacher
18 Retirement System;

19 (iii) The member has ceased performing any
20 employment services for any ~~system-covered~~ covered employer, except for
21 uncompensated functions related to the transfer of the duties or the transfer
22 of the position of the member;

23 (iv) The member has not formed any express or
24 implied employment agreement or taken action that would obligate the member
25 to render compensable services to a ~~system-covered~~ covered employer or
26 entitle a ~~system-covered~~ covered employer to the services of the member after
27 the termination separation period;

28 (v) The member has followed normal retirement
29 procedures for resigning from the ~~system-covered~~ covered employer unless
30 involuntarily terminated before the member's effective date of retirement;
31 and

32 (vi) All ~~system-covered~~ covered employers have paid
33 or have initiated the process to pay all accumulated benefits such as annual
34 leave and sick leave to the member by the effective date of retirement.

35 (B) "Terminate" does not mean:

36 (i) Taking a leave of absence; or

1 (ii) Performing any job duties or services without
2 remuneration, except for the functions related to the transfer of duties or
3 the transfer of the position itself.

4 (C) Providing volunteer activities at a ~~system-covered~~
5 covered employer that does not have the effect of holding a position open for
6 the member during a termination separation period does not mean that the
7 member is not terminated; and

8 ~~(3)(2)~~ (2) "Termination separation period" means the time from a
9 member's effective date of retirement until the date that the member is no
10 longer prohibited by state law from returning to work at a ~~system-covered~~
11 covered employer.

12
13 SECTION 10. Arkansas Code § 24-7-601(b)(3), concerning credited
14 service generally and concurrent service credit under the Arkansas Teacher
15 Retirement System, is amended to read as follows:

16 (3) A member shall not receive more than one (1) year of service
17 credit for the member's employment with a covered employer and reciprocal
18 system employer in any one (1) fiscal year.

19
20 SECTION 11. Arkansas Code § 24-7-603(c)-(e), concerning out-of-state
21 service under the Arkansas Teacher Retirement System, are amended to read as
22 follows:

23 (c) ~~From and after July 1, 1987, an active A~~ member shall be eligible
24 to establish out-of-state service to be credited as service under this
25 subchapter under the following conditions:

26 (1)(A) The out-of-state service credit to be granted shall be
27 limited to service for which no benefit could be paid by another system
28 similar in purpose to this system, except Social Security, if the member had
29 left on deposit his or her contributions to the other system.

30 (B) The credit under subdivision (c)(1)(A) of this section
31 is limited to fifteen (15) years;

32 (2)(A) The member shall pay to the system for each year of
33 service credit granted the actuarial equivalent of the member's benefits.

34 (B) The payment shall be credited to the member's account
35 in the members' deposit account and shall be in addition to regular member
36 contributions ~~thereto~~ credited to the member's deposit account;

1 (3)(A) The out-of-state service shall not become credited
2 service under this system until the member has established five (5) or more
3 years of actual service.

4 (B) If a member ceases to be an active member before the
5 out-of-state service has been established as system-credited service, the
6 member payments made under this section shall be refundable;

7 (4) The benefit program to be applied to each year of service
8 credit being granted shall be the benefit program in effect at the time of
9 retirement; and

10 (5) ~~Such~~ Any other rules consistent with this subchapter as the
11 Board of Trustees of the Arkansas Teacher Retirement System may ~~from time to~~
12 ~~time~~ adopt.

13 (d) ~~An active~~ A member may purchase a fraction of a year of out-of-
14 state service to be credited as service under this subchapter in the same
15 manner as provided for out-of-state service under subsection (c) of this
16 section if the service meets the following requirements:

17 (1) The member has not less than one-fourth ($\frac{1}{4}$) year of out-of-
18 state credited service in the fiscal year; and

19 (2) The fraction of a year of out-of-state service may be
20 credited in keeping with policies of the board under § 24-7-601.

21 (e) ~~An active~~ A member shall be eligible, upon application, to
22 purchase service rendered outside the state during a period of employment
23 with an education coordinating council to be credited as out-of-state service
24 under the provisions of this section, provided that the conditions of
25 subsection (c) of this section are met.

26
27 SECTION 12. Arkansas Code § 24-7-607(b)-(d), concerning private school
28 service under the Arkansas Teacher Retirement System, are amended to read as
29 follows:

30 (b) ~~An active~~ A member purchasing certified private school service
31 shall be eligible, upon application, to purchase private school service for a
32 period not to exceed fifteen (15) years, to be credited as certified service
33 under this subchapter under the following conditions:

34 (1) The private school service credit to be purchased shall be
35 limited to service for which no benefit could be paid by another system
36 similar in purpose to the Arkansas Teacher Retirement System, except Social

1 Security, if the member left on deposit his or her contributions to the other
2 system;

3 (2)(A) The member shall pay the actuarial equivalent of benefits
4 as set forth under § 24-7-202 to the Arkansas Teacher Retirement System for
5 each year of private school service credit being purchased.

6 (B) The payment shall be credited to the member's account
7 in the members' deposit account and shall be in addition to regular member
8 contributions ~~thereto~~ credited to the member's deposit account;

9 (3) The private school service shall not become credited service
10 under the Arkansas Teacher Retirement System until:

11 (A) The member payment under this section has been paid in
12 full; and

13 (B)(i) The member has established five (5) or more years
14 of actual service, exclusive of private school service.

15 (ii) If a member ceases to be an active member
16 before the private school service has been established as system-credited
17 service, the member payments contributed under this section shall be refunded
18 to the member upon request;

19 (4) The benefit program to be applied to each year of private
20 school service credit and private educationally related entity service credit
21 being purchased shall be the benefit program in effect at the time of
22 retirement; and

23 (5) ~~Such~~ Any other rules consistent with this subchapter as the
24 Board of Trustees of the Arkansas Teacher Retirement System may from time to
25 time adopt.

26 (c)(1) ~~An active~~ A member is eligible to purchase noncertified private
27 school service or private ~~educationally-related~~ education-related entity
28 private school service for a period of five (5) years or less that will be
29 credited as noncertified service under this subchapter when:

30 (A) The member properly submits an application to purchase
31 noncertified private school service or private ~~educationally-related~~
32 education-related entity private school service;

33 (B) The noncertified service credit to be purchased is
34 limited to service for which no benefit could be paid by another state-
35 supported pension system or a system with a similar purpose when the
36 contributions of the member were left on deposit with the other system; and

1 (C)(i) The member pays the actuarial equivalent of
2 benefits as set forth under § 24-7-202 to the Arkansas Teacher Retirement
3 System for each year of service credit being purchased.

4 (ii) The payment shall be credited to the member's
5 account in the members' deposit account and shall be in addition to regular
6 member contributions ~~thereto~~ credited to the member's deposit account.

7 (2) The noncertified service shall not become credited service
8 under the Arkansas Teacher Retirement System until:

9 (A) The member payment under this section has been paid in
10 full; and

11 (B)(i) The member has established five (5) or more years
12 of actual service in the Arkansas Teacher Retirement System.

13 (ii) If a member ceases to be an active member
14 before the noncertified service has been established as system-credited
15 service, the member payments contributed under this section shall be refunded
16 to the member upon request.

17 (3) The benefit program applied to each year of private school
18 service or private ~~educationally-related~~ education-related entity private
19 school service credit being purchased shall be the benefit program in effect
20 at the time of retirement.

21 (4) The purchase and application of the noncertified service
22 credit shall be subject to the rules consistent with this subchapter ~~as that~~ as that
23 the Arkansas Teacher Retirement System may ~~from time to time~~ adopt.

24 (d) ~~An active~~ A member may purchase a fraction of a year of private
25 school service to be credited as service under this subchapter in the same
26 manner as provided for private school service under subsection (b) of this
27 section if the service meets the following requirements:

28 (1) The member has not less than one-fourth ($\frac{1}{4}$) of a year of
29 private school service in a fiscal year under § 24-7-601; and

30 (2) The fraction of a year of private school service may be
31 credited in keeping with policies as provided by § 24-7-601.

32
33 SECTION 13. Arkansas Code § 24-7-610(c), concerning credit for service
34 in the National Guard and armed forces reserve under the Arkansas Teacher
35 Retirement System, is amended to read as follows:

36 (c) A member may, ~~one (1) time each fiscal year,~~ purchase ~~up to one~~

1 (1) year of service credit for each one (1) year of service in the National
2 Guard or armed forces reserve.

3
4 SECTION 14. Arkansas Code § 24-7-610(e) and (f), concerning credit for
5 service in the National Guard and armed forces reserve under the Arkansas
6 Teacher Retirement System, are amended to read as follows:

7 (e) Service in the National Guard or armed forces reserve service
8 shall be credited to the year in which it was rendered even if the member has
9 concurrent service with a covered employer.

10 (f) If a member ceases to be an active member before the service in
11 the National Guard or the armed forces reserve has been established as
12 system-credited service, the member payments contributed as specified in
13 subdivision (b)(1)(C) of this section shall be refundable.

14 ~~(f)(1)(g)(1)~~ This section is supplemental to § 24-7-602, and this
15 section does not diminish the right of ~~any~~ a member of the system to obtain
16 credited service in the system for active duty military service within the
17 limits permitted by § 24-7-602.

18 (2) However, a member shall not be entitled to or receive in
19 excess of five (5) years of credited service rendered by the member under
20 this section.

21
22 SECTION 15. Arkansas Code § 24-7-611(b) and (c), concerning domestic
23 federal service under the Arkansas Teacher Retirement System, are amended to
24 read as follows:

25 (b) ~~From On~~ and after January 1, 2003, ~~an active~~ a member shall be
26 eligible upon application to purchase domestic federal service to be credited
27 as service under this section under the following conditions:

28 (1) The domestic federal service credit to be granted shall be
29 limited to service for which no benefit could be paid by a retirement system
30 similar in purpose to the Arkansas Teacher Retirement System except Social
31 Security if the member left on deposit his or her contributions to the other
32 system, and it shall be limited to ten (10) years;

33 (2)(A) For each year of domestic federal service credit granted,
34 the member shall pay to the system the employee and employer contributions
35 based on the actuarial equivalent of the member's benefits.

36 (B) The payment is credited to the member's account in the

members' deposit account and is in addition to regular member contributions;

(3) The domestic federal service shall not become credited service under this system until:

(A) The member payment under this section has been paid in full; and

(B)(i) The member has established five (5) or more years of actual service exclusive of domestic federal service.

(ii) If a member ceases to be an active member before the domestic federal service has been established as system-credited service, the member payments contributed under this section shall be refunded to the member upon request;

(4) The benefit program to be applied to each year of service credit being granted shall be the benefit program in effect at the time of retirement; and

(5) ~~The~~ Any other rules consistent with this section ~~as that~~ the Board of Trustees of the Arkansas Teacher Retirement System may ~~from time to time~~ adopt.

(c) ~~An active~~ A member may purchase a fraction of a year of domestic federal service to be credited as service under this subchapter in the manner ~~as~~ provided for domestic federal service under subsection (b) of this section if the service meets the following requirements:

(1) The member has not less than one-fourth ($\frac{1}{4}$) year of domestic federal service in a fiscal year under § 24-7-601; and

(2) The fraction of a year of domestic federal service may be credited in keeping with policies as provided by § 24-7-601.

SECTION 16. Arkansas Code § 24-7-612, concerning the purchase of service credit under the Arkansas Teacher Retirement System, is amended to add an additional subsection to read as follows:

(e) All payments for service credit purchases shall be received by the system before the member's first annuity installment or T-DROP deposit occurs.

SECTION 17. Arkansas Code § 24-7-701(c)(2), concerning the beginning date of an annuity upon voluntary retirement under the Arkansas Teacher Retirement System, is amended to read as follows:

1 (2) The member's termination of ~~active membership~~ covered
2 employment;

3
4 SECTION 18. Arkansas Code § 24-7-701(d), concerning limitations on the
5 beginning date of an annuity following voluntary retirement under the
6 Arkansas Teacher Retirement System, is amended to read as follows:

7 (d) If a member has accrued a full year of service credit for a fiscal
8 year, the annuity shall not begin earlier than on ~~the~~ July 1 after the fiscal
9 year ends unless the board adopts by rule or resolution an earlier beginning
10 date for all members whose retirement will not result in a reduction of
11 classroom teachers.

12
13 SECTION 19. Arkansas Code § 24-7-702(b)(2)(A), concerning the
14 percentage decrease of an annuity following voluntary early retirement under
15 the Arkansas Teacher Retirement System, is amended to read as follows:

16 (2)(A) The percent shall be one hundred percent (100%) reduced
17 by between five-twelfths percent (5/12%) and fifteen-twelfths percent
18 (15/12%) multiplied by the number of months by which the time of early
19 retirement precedes the earlier of either completion of twenty-eight (28)
20 years of credited service or attainment of sixty (60) years of age.

21
22 SECTION 20. Arkansas Code § 24-7-702(c)(2), concerning early voluntary
23 retirement under the Arkansas Teacher Retirement System, is amended to read
24 as follows:

25 (2) The member's termination of ~~active membership~~ covered
26 employment; or

27
28 SECTION 21. Arkansas Code § 24-7-702(e), concerning early voluntary
29 retirement under the Arkansas Teacher Retirement System, is amended to read
30 as follows:

31 (e) If a member has accrued a full year of service credit for a fiscal
32 year, the annuity shall not begin earlier than on ~~the~~ July 1 after the fiscal
33 year ends unless the board adopts by rule or resolution an earlier beginning
34 date for members whose retirement will not result in a reduction of classroom
35 teachers.

1 SECTION 22. Arkansas Code § 24-7-708 is amended to read as follows:

2 24-7-708. Employment of retired members by covered employers.

3 (a) Effective July 1, 2009, after terminating employment under § 24-7-
4 502 or reaching the ~~age of~~ normal retirement age, a ~~retirant~~ retiree may:

5 (1) Accept employment with an employer covered by the Arkansas
6 Teacher Retirement System without a limitation of his or her retirement
7 annuity; and

8 (2) Continue to receive his or her monthly retirement annuity.

9 (b) Employers covered by the system that hire an employee who meets
10 the conditions under subsection (a) of this section shall report the hiring
11 of the ~~retirant~~ retiree to the system in a time and a manner that the system
12 may reasonably require.

13 (c) A ~~retirant~~ retiree who receives monthly benefits and is employed
14 by a covered employer shall not accrue additional service credit.

15 (d)(1) For a retired member employed in a position covered by the
16 system, the covered employer shall remit the contributions on all salary paid
17 to the ~~retirant~~ retiree in an amount equal to the employer contribution rate
18 applicable to active members.

19 (2) Contributions shall be paid by the employer and are not the
20 responsibility of the ~~retirant~~ retiree.

21 (e)(1) The Board of Trustees of the Arkansas Teacher Retirement System
22 shall adopt rules to carry out the provisions of this section.

23 (2) A covered employer that employs ~~retirants~~ retirees is
24 subject to the rules adopted by the board.

25
26 SECTION 23. Arkansas Code § 24-7-709(a), concerning the disposition
27 and residue of member contributions, is amended to read as follows:

28 (a)(1)(A) If a ~~retirant~~ retiree and his or her option annuitants, if
29 any, die before receiving annuity payments equal to the member's residue
30 amount, then the residue amount shall be paid to such persons as the ~~retirant~~
31 retiree shall have nominated by written designation duly executed and filed
32 with the Arkansas Teacher Retirement System.

33 (B) As used in this ~~section~~ subchapter, "residue" means
34 the difference between the accumulated contributions and regular interest
35 credited to the retirement reserve account as of the member's retirement
36 effective date and the total amount of retirement annuities paid.

1 (2) If a ~~retirant~~ retiree and his or her option annuitants die
2 and the member has failed to designate a beneficiary or if all designated
3 beneficiaries have predeceased the ~~retirant~~ retiree, the residue shall be
4 paid to the ~~retirant's~~ retiree's estate.

5
6 SECTION 24. Arkansas Code § 24-7-711(a)(1), concerning the refund of
7 member contributions upon termination of employment under the Arkansas
8 Teacher Retirement System, is amended to read as follows:

9 (a)(1) If a member discontinues covered employment and does not plan
10 to be rehired by a covered employer, the member may elect to be paid a refund
11 of his or her contributions and regular interest credited to the member's
12 deposit account within six (6) months following the date the member's written
13 application is filed with the Arkansas Teacher Retirement System.

14
15 SECTION 25. Arkansas Code § 24-7-711(b)(5), concerning the refund of
16 member contributions upon termination of employment under the Arkansas
17 Teacher Retirement System, is amended to read as follows:

18 (5) ~~Interest~~ Regular interest on a deceased member's accumulated
19 contributions under this subsection shall cease to accrue on the July 1 after
20 the member's death.

21
22 SECTION 26. Arkansas Code § 24-7-720(c), concerning lump-sum benefits
23 under the Arkansas Teacher Retirement System, is amended to read as follows:

24 (c) The amount of the lump-sum payments under this section shall be
25 set periodically and not more often than annually by rules and resolutions of
26 the board as ~~it~~ the board determines is actuarially appropriate for the
27 system.

28
29 SECTION 27. Arkansas Code § 24-7-720(j)(1)(A), concerning lump-sum
30 benefits under the Arkansas Teacher Retirement System, is amended to read as
31 follows:

32 (j)(1)(A) If a member accrues a minimum of ~~fifteen (15)~~ ten (10) years
33 of actual, contributory service, regardless of noncontributory service
34 accrued in combination with the contributory service, the member shall
35 receive the maximum lump-sum death benefit as determined by the board under
36 this section.

1
2 SECTION 28. Arkansas Code § 24-7-730(a)(1), concerning required
3 distributions under the Arkansas Teacher Retirement System, is amended to
4 read as follows:

5 (a)(1) Notwithstanding the provisions of this subchapter regarding the
6 required dates of distribution of benefits under the Arkansas Teacher
7 Retirement System to former members, the distribution of a former member's
8 benefits under the system shall in any event be made or begun by April 1 of
9 the calendar year following the later of the calendar year in which the
10 member attains age ~~seventy and one-half (70½)~~ seventy-two (72) or the
11 calendar year in which the member retires.
12

13 SECTION 29. Arkansas Code § 24-7-730(b)(2)(C), concerning required
14 distributions to a spouse who is the beneficiary under the Arkansas Teacher
15 Retirement System, is amended to read as follows:

16 (C)(i) If the designated beneficiary is the member's
17 surviving spouse, the date distributions required to begin in accordance with
18 subdivision (b)(2)(A) of this section shall not be earlier than the date on
19 which the member would have attained age ~~seventy and one-half (70½)~~ seventy-
20 two (72).

21 (ii) If the spouse dies before payments begin,
22 subsequent distributions shall be made as if the spouse had been the member.
23

24 SECTION 30. Arkansas Code § 24-7-735 is amended to read as follows:
25 24-7-735. Contract buyout agreement – Settlements – Judgments –
26 Calculation of benefits.

27 (a) A member shall not accumulate service credit in the Arkansas
28 Teacher Retirement System during the time that payments under a contract
29 buyout agreement, settlement, claim, judgment, arbitration award, decree, or
30 court-ordered payment are paid to the member by the employer unless the
31 member continues to work on-site for the employer, or the service credit or
32 additional salary is purchased as provided under subsection (c) of this
33 section.

34 (b)(1) The employer shall provide a copy of a settlement agreement or
35 court order under this section to the system so that the system can:

36 (A) ~~prevent~~ Prevent the accumulation of service credit for

1 any payments that are not for on-site work for the employer; and

2 (B) Calculate the cost to purchase service credit,
3 additional salary, or both service credit and additional salary as provided
4 under this section.

5 (2) A member shall not receive service credit or additional
6 salary from the system under a settlement agreement or court order unless
7 permitted under this section.

8 (c)(1) The system shall allow a member or employer to purchase service
9 credit, ~~or additional salary, or both~~ for the member for service credit the
10 member would have earned but for termination, or salary that should would
11 have been paid under a settlement agreement or court order but for employment
12 discrimination to resolve a claim of wrongful termination or the underpayment
13 of salary that should have been paid if the service credit is: employment
14 discrimination that results in a settlement agreement or court order.

15 ~~(1)(A)(i) Purchased as additional salary by an employer or~~
16 ~~member to be added to the final average salary of the member calculated at~~
17 ~~the time of the purchase.~~

18 ~~(ii)(2)~~ (2) The member's official salary record shall be
19 adjusted to include the purchased additional salary years which may be used
20 to compute the final average salary at the time of retirement if the
21 purchased salary in any of the additional purchased salary years qualifies
22 for the final average salary calculation.

23 ~~(B) Service credit earned by the member from an employer~~
24 ~~from the date of termination by an employer to the date of the settlement~~
25 ~~agreement or court order shall be subtracted from the amount of service~~
26 ~~credit allowed for purchase under subdivision (c)(1)(A) of this section; and~~

27 ~~(2)(3) Paid using the actuarial equivalent, as calculated by the~~
28 ~~system, of the member's benefits to the system~~ Service credit earned by a
29 member from an employer from the date of termination by an employer to the
30 date of the settlement agreement or court order shall be subtracted from the
31 amount of service credit allowed for purchase under subdivision (c)(1) of
32 this section.

33 (d)(1) The cost to purchase service credit, additional salary, or both
34 shall be established using the actuarial equivalent as calculated by the
35 system using the member's service history at the time of the purchase.

36 (2) The system shall use the same factors ~~as used~~ to determine

1 the cost of the additional salary purchase as used to calculate an additional
2 monthly benefit in the annuitization of a Teacher Deferred Retirement Option
3 Plan distribution.

4 ~~(2)~~(3) The calculation shall be made with the assumption that
5 the member would have immediately retired at the time of the additional
6 salary purchase.

7
8 SECTION 31. Arkansas Code § 24-7-736(c)-(f), concerning the
9 calculation of final average salary under the Arkansas Teacher Retirement
10 System, is amended to read as follows:

11 (c)(1)(A) The Board of Trustees of the Arkansas Teacher Retirement
12 System shall set ~~annually~~ the applicable number of years to be used in
13 computing final average salary for retirement benefits at not less than three
14 (3) years and not more than five (5) years.

15 (B) Before reducing the applicable number of years to be
16 used in computing the final average salary, the board shall file relevant
17 information concerning the actuarial appropriateness of the action with the
18 Joint Interim Committee on Public Retirement and Social Security Programs for
19 review by the Joint Interim Committee on Public Retirement and Social
20 Security Programs.

21 (2)(A) Full and partial service years that are recorded as
22 service credit shall be used in the calculation of the final average salary.

23 (B) If the member does not have full service years for the
24 total years of service used in the calculation of final average salary, then
25 the board may establish by rule a fair base year salary for a member's final
26 average salary for purposes of comparison under ~~subdivision (c)(3)~~
27 subdivision (c)(4) of this section.

28 ~~(C)~~(3) If a member has less than the minimum number of
29 years of credited service required for the final average salary formula, the
30 final average salary of the member shall be the total salary paid to the
31 member for his or her years of credited service divided by the member's total
32 credited years of service.

33 ~~(D) Before reducing the number of years that is used to~~
34 ~~determine the final average salary, the board shall file relevant information~~
35 ~~concerning the actuarial appropriateness of the action with the Joint Interim~~
36 ~~Committee on Public Retirement and Social Security Programs for review by the~~

~~Joint Interim Committee on Public Retirement and Social Security Programs.~~

~~(3)(A)(4)(A)~~ The If a member has at least the minimum number of years of credited service required for the final average salary formula, the applicable number of highest salary years service year salaries shall be ranked from lowest to highest remuneration.

(B) The lowest ~~remuneration~~ service year salary in the ranking shall be the base ~~year~~ salary.

(C) The next-highest-ranked ~~remuneration~~ service year salary shall be compared to the base ~~year~~ salary.

(D) The next-highest ~~year's value~~ service year salary in the calculation of final average salary that is less than eight (8) years from the base salary year, shall not exceed the ~~percentage increase of the base year, unless the difference in value between the next-highest year and the base year is within the amount of the salary differential~~ base salary value plus the salary differential unless the next-highest year's value is less than or equal to the percentage increase of the base salary.

~~(4)(E)~~ After comparison of the base ~~year~~ salary to the next-highest service year salary to meet the requirements of subdivision (c)(4)(D) of this section, any required reduction to the next-highest service year salary shall be made.

~~(5)(F)~~ The next-highest service year salary, with any required reduction, becomes the new base ~~year~~ salary to compare to the next succeeding highest ~~remuneration~~ service year salary in the ranking until all years service year salaries in the ranking have been compared ~~to its base and reduced as necessary under subdivision (c)(3) of this section.~~

~~(6)(G)~~ The total value of the base ~~years~~ salaries shall then be ~~averaged to determine final average salary~~ divided by the applicable number of years to be used in computing final average salary.

~~(d)~~ If a member has a break in covered employment for eight (8) years or more between any of the member's highest salary years used in the calculation of final average salary, then subdivision (c)(3)(D) of this section shall not apply to the next highest salary year in the formula.

~~(e)(d)~~ The system may settle any dispute concerning an employee's salary for purposes of the system.

~~(f)(1)(e)~~ The board may adjust the final average salary calculated in accordance with subsection (c) of this section by board resolution provided

1 that:

2 ~~(A)(1)~~ The percentage increase under ~~subdivision (e)(3)(D)~~
3 subdivision (c)(4)(D) of this section is adjusted set no lower than one
4 hundred five percent (105%) per year and no higher than one hundred twenty
5 percent (120%) per year; and

6 ~~(B)(2)~~ The salary differential permitted under ~~subdivision~~
7 ~~(e)(3)(D)~~ subdivision (c)(4)(D) of this section is set no lower than one
8 thousand two hundred fifty dollars (\$1,250) per year and no higher than five
9 thousand dollars (\$5,000) per year.

10 ~~(2) A partial service year is excluded from the calculation of~~
11 ~~the final average salary under this subsection.~~

12
13 SECTION 32. Arkansas Code § 24-7-1307(c)(1), concerning accounts and
14 credit under the Teacher Deferred Retirement Option Plan, is amended to read
15 as follows:

16 (c)(1) The board shall determine the plan interest rate to members'
17 plan accounts based on:

18 (A) A fixed interest rate that is adopted by board
19 resolution ~~prior to the beginning~~ by the end of the first quarter of the
20 fiscal year in which the interest rate shall apply and ~~which that~~ applies to
21 subsequent fiscal years unless modified by the board; or

22 (B)~~(i)~~ A variable interest rate formula that is based on
23 investment returns and other factors adopted by board resolution ~~prior to the~~
24 beginning by the end of the first quarter of the fiscal year in which the
25 interest rate shall apply and that applies to subsequent fiscal years unless
26 modified by the board.

27 ~~(ii) If the board uses a variable interest rate~~
28 ~~formula, the board shall adopt by board resolution the plan interest rate~~
29 ~~prior to the beginning of the fiscal year in which the plan interest rate~~
30 ~~applies.~~

31
32 SECTION 33. Arkansas Code § 24-7-1307(e), concerning the calculation
33 of the interest rate to a member's Teacher Deferred Retirement Option Plan,
34 is amended to read as follows:

35 (e) For the purposes of this section, the ten (10) year plus plan
36 interest rate shall be the rate determined to be appropriate by the board and

1 adopted by board resolution prior to the beginning by the end of the first
2 quarter of the fiscal year in which the interest rate shall apply and that
3 applies to subsequent fiscal years unless modified by the board.
4

5 SECTION 34. Arkansas Code § 24-7-1308(b)(2) and (3), concerning the
6 termination of participation in and distribution options under the Teacher
7 Deferred Retirement Option Plan, is amended to read as follows:

8 ~~(2) A member who selects the option under subdivision (b)(1)(C)~~
9 ~~of this section may receive his or her account distribution as follows:~~

10 ~~(A) Seventy-five percent (75%) in a lump-sum payment and~~
11 ~~twenty-five percent (25%) annuitized;~~

12 ~~(B) Fifty percent (50%) in a lump-sum payment and the~~
13 ~~remaining fifty percent (50%) annuitized; or~~

14 ~~(C) Twenty-five percent (25%) in a lump-sum payment and~~
15 ~~seventy-five percent (75%) annuitized.~~

16 ~~(3)~~(2) The Board of Trustees of the Arkansas Teacher Retirement
17 System shall:

18 (A) Determine factors to be used for the conversion of
19 plan balances to monthly amounts;

20 (B) Set requirements for the member's election under this
21 subsection; and

22 (C) Modify the options under subdivision (b)(1) of this
23 section by rule as necessary.
24

25 SECTION 35. Arkansas Code § 24-7-1310(c), concerning the death of a
26 participant of the Teacher Deferred Retirement Option Plan, is amended to
27 read as follows:

28 (c) ~~For the purposes of § 24-7-709, any amounts received from the~~
29 ~~Teacher Deferred Retirement Option Plan account in the form of lump-sum or~~
30 ~~annuity payments shall be considered to be annuity payments received by the~~
31 ~~member or his or her designated beneficiary and shall reduce or eliminate the~~
32 ~~disposition of residue that, except for the provisions of this subsection,~~
33 ~~would have been paid under § 24-7-709~~ The Teacher Deferred Retirement Option
34 Plan participant's residue as used in § 24-7-701 et seq. that, except for the
35 provisions of this subsection, would have been paid under § 24-7-709 shall be
36 calculated as the greater of the following:

1 (1) The accumulated contributions and regular interest credited
2 to the retirement reserve account as of the member's retirement effective
3 date reduced by the total amount of regular annuities paid, further reduced
4 by amounts received from the Teacher Deferred Retirement Option Plan account
5 in the form of lump-sum or annuity payments; or

6 (2) The Teacher Deferred Retirement Option Plan account as of
7 the member's retirement effective date reduced by amounts received from the
8 Teacher Deferred Retirement Option Plan account in the form of lump-sum or
9 annuity payments.

10
11 SECTION 36. Arkansas Code § 24-7-1604(b), concerning coverage for
12 employees enrolled in the Arkansas Teacher Retirement System before July 1,
13 2011, is amended to read as follows:

14 (b) The nonmandatory employer shall remit employer contributions under
15 § 24-7-401 et seq. for an employee under this section and shall be subject to
16 the rights and obligations of an employer under the Arkansas Teacher
17 Retirement System Act for the employees of the nonmandatory employer
18 participating in the system.

19
20 SECTION 37. Arkansas Code § 24-7-1605(e)(1), concerning optional
21 participation in the Arkansas Teacher Retirement System by an institution of
22 higher education employers on or after July 1, 2011, is amended to read as
23 follows:

24 (e)(1) The PSHE employer shall remit employer contributions under §
25 24-7-401 et seq. and be subject to the rights and obligations of an employer
26 under the Arkansas Teacher Retirement System Act once a benefits-eligible
27 employee elects to participate in the system for the employees of the PSHE
28 employer participating in the system.

29
30 SECTION 38. EMERGENCY CLAUSE. It is found and determined by the
31 General Assembly of the State of Arkansas that the operations of a state
32 public retirement system are complex; that the Arkansas Teacher Retirement
33 System must be able to meet the needs of its members as anticipated by the
34 General Assembly; that certain provisions of the Arkansas Teacher Retirement
35 System Act, § 24-7-201 et seq., are imminently in need of revision and
36 updating to bring them into conformance with sound public pension policy and

1 actuarial requirements; that such revision and updating is of great
2 importance to members of the Arkansas Teacher Retirement System and to other
3 citizens of the State of Arkansas; that the Arkansas Teacher Retirement
4 System needs to have the ability to make changes to maintain and improve its
5 actuarial status; and that this act is necessary in order to maintain an
6 orderly system of benefits for the members of the Arkansas Teacher Retirement
7 System. Therefore, an emergency is declared to exist, and this act being
8 necessary for the preservation of the public peace, health, and safety shall
9 become effective on July 1, 2021.

10
11 SECTION 39. DO NOT CODIFY. Construction and legislative intent.

12 It is the intent of the General Assembly that:

13 (1) The enactment and adoption of this act shall not expressly or
14 impliedly repeal an act passed during the regular session of the Ninety-Third
15 General Assembly;

16 (2) To the extent that a conflict exists between an act of the
17 regular session of the Ninety- Third General Assembly and this act:

18 (A) The act of the regular session of the Ninety- Third
19 General Assembly shall be treated as a subsequent act passed by the General
20 Assembly for the purposes of:

21 (i) Giving the act of the regular session of the
22 Ninety- Third General Assembly its full force and effect; and

23 (ii) Amending or repealing the appropriate parts of the
24 Arkansas Code of 1987; and

25 (B) Section 1-2-107 shall not apply; and

26 (3) This act shall make only technical, not substantive, changes
27 to the Arkansas Code of 1987.

28
29 /s/Warren

30
31
32 **APPROVED: 3/8/21**