

Revised May 2023

## QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** Arkansas Public Employees' Retirement System  
**BOARD/COMMISSION DIRECTOR** Amy Fecher  
**CONTACT PERSON** Laura Gilson  
**ADDRESS** 124 W. Capitol, Suite 400  
**PHONE NO.** (501) 682-7853 **EMAIL** laura.gilson@arkansas.gov  
**NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING**  
Amy Fecher, Laura Gilson  
**PRESENTER EMAIL(S)** amy.fecher@arkansas.gov; laura.gilson@arkansas.gov

### INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, [miller-ricer@blr.arkansas.gov](mailto:miller-ricer@blr.arkansas.gov), for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, [garritym@blr.arkansas.gov](mailto:garritym@blr.arkansas.gov), for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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1. What is the official title of this rule?  
APERS Rule 410 – 2005 (5) – Purchase of AR National Guard or Armed Forces Reserve Service Credit
2. What is the subject of the proposed rule? Purchase of service credit for time served in AR National Guard or Armed Forces Reserve
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes  No

*If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).*

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes  No

4. Is this rule being filed for permanent promulgation? Yes  No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes  No

If yes, what was the effective date of the emergency rule? \_\_\_\_\_

On what date does the emergency rule expire? \_\_\_\_\_

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes  No

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes  No

If yes, please provide the state statute and/or rule citation.

Ark. Code Ann. § 24-2-503 . APERS members may purchase service credit for time served in the Arkansas National Guard or armed forces reserve. Act 295 of 2009 and Act 38 of 2011 amended Ark. Code Ann. § 24-2-503. The current APERS Rule 410 was not amended to reflect changes under Act 295 of 2009 and Act 38 of 2011. This Rule reflects those changes and removes any restatement of Ark. Code Ann. § 24-2-503. Other proposed amendments are technical corrections for clarity.

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes  No

If yes, please list the rules being repealed.

If no, please explain.

This is an amendment to an existing rule, not a new rule.

8. Is this a new rule? Yes  No

Does this repeal an existing rule? Yes  No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes  No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

§ 24-4-105(b)(1)

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?  
Yes  No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

To correct inconsistencies between the rule and law that occurred after the passage of Act 295 of 2009 and Act 38 of 2011 and to strike any restatement of existing law.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

apers.org

13. Will a public hearing be held on this proposed rule? Yes  No

If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

*Please be sure to advise Bureau Staff if this information changes for any reason.*

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 09/06/2023

15. What is the proposed effective date for this rule? Ten days after filing rule with the Secretary of State

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

none

19. Is the rule expected to be controversial? Yes  No

If yes, please explain.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY.**

**DEPARTMENT** \_\_\_\_\_  
**BOARD/COMMISSION** Arkansas Public Employees' Retirement System  
**PERSON COMPLETING THIS STATEMENT** Laura Gilson  
**TELEPHONE NO.** (501) 682-7853      **EMAIL** laura.gilson@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

**TITLE OF THIS RULE** APERS Rule 410 – 2005 (5) – Purchase of AR National Guard or Armed Forces Reserve Service C

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes       No
  
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes       No
  
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes       No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue<sup>0</sup> \_\_\_\_\_  
 Federal Funds<sup>0</sup> \_\_\_\_\_  
 Cash Funds<sup>0</sup> \_\_\_\_\_  
 Special Revenue<sup>0</sup> \_\_\_\_\_  
 Other (Identify)<sup>0</sup> \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

General Revenue<sup>0</sup> \_\_\_\_\_  
 Federal Funds<sup>0</sup> \_\_\_\_\_  
 Cash Funds<sup>0</sup> \_\_\_\_\_  
 Special Revenue<sup>0</sup> \_\_\_\_\_  
 Other (Identify)<sup>0</sup> \_\_\_\_\_

Total \$ 0.00 \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

**Current Fiscal Year**

\$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

\$ 0.00 \_\_\_\_\_

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ 0.00 \_\_\_\_\_

**Next Fiscal Year**

\$ 0.00 \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes  No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Proposed Rule Regarding Purchase of AR National Guard and Armed Forces Reserve Service Credit**

**DATE:** July 12, 2023

**PURPOSE:** The Arkansas Public Employees' Retirement System (APERS) seeks to amend APERS APERS Rule 410-2005 (5) which pertains to the purchase of AR National Guard or armed forces reserve service credit.

**BACKGROUND:** Pursuant to Ark. Code Ann. § 24-4-105(b)(1), the APERS Board has the authority to make all rules necessary to administer the Arkansas Public Employees' Retirement System. Ark. Code Ann. § 24-2-503 allows APERS members to purchase service credit for time served in the Arkansas National Guard or armed forces reserve.

**KEY POINTS:** The proposed amendment to the Rule:

- (1) reflects the changes to Ark. Code Ann. § 24-2-503 under Act 295 of 2009 and Act 38 of 2011;
- (2) removes any restatement of Ark. Code Ann. § 24-2-503; and
- (3) makes technical corrections for clarity.

**DISCUSSION:** Act 1027 of 2005 created Ark. Code Ann. § 24-2-503 to allow APERS members to purchase service credit for time served in the AR National Guard or armed forces reserve. Ark. Code Ann. § 24-2-503 was amended by Act 295 of 2009 and Act 38 of 2011. The current APERS Rule 410 was not amended to reflect changes under Act 295 of 2009 and Act 38 of 2011. The proposed amendment reflects the changes to Ark. Code Ann. § 24-2-503. The proposed amendment to the Rule ensures that the Rule is not inconsistent with the law and clarifies APERS administration pursuant to Ark. Code Ann. § 24-2-503.

**RECOMMENDATION:** APERS recommends that the proposed amendment to APERS Rule 410-2005 (5) be approved to reflect changes in the law and to clarify APERS administration pursuant to Ark. Code Ann. § 24-2-503.



# MARK-UP

## 410 – 2005 (5) – Purchase of AR National Guard or Armed Forces Reserve Service Credit

~~Under the provisions of Act 1027 of 2005 Ark. Code Ann. § 24-2-503, APERS members of the Arkansas Public Employees' Retirement System are eligible to purchase one year of service credit for time served in the Arkansas National Guard or Armed Forces Reserve armed forces reserve. The member shall receive one (1) year of purchased service credit for five (5) years of compensated service in the Arkansas National Guard or in the Armed Forces Reserve.~~

~~Members are eligible to purchase one year of service in a lump sum payment. However, each calculation will be based on the most recent data (i.e. salary, employer rate) and the interest will continue to accrue.~~

A copy of the Form DD-214, or other authorized military document, ~~will be~~ is utilized to document active duty (IADT, AD). All other National Guard service (Inactive duty training (IDT), Annual Training (AT) and Active Duty for Training (ADT)) must be documented with a copy of NGB Form 23 or other authorized military document.

Annual salary ~~will be~~ is defined as "fiscal year salary" that is reported from July of one year to June of the next year. ~~Likewise~~ A full year of credited service ~~will be~~ is defined as "fiscal year" which is from July of one year to June of the next year.

Interest used in the calculation ~~of said~~ for the purchase of service credit under Ark. Code Ann. § 24-2-503, in compliance with A.C.A. 24-2-502, will be shall be applied at the same rate of six percent (6%) as for the purchase of service credit by a member for time served in the United States Armed Forces under Ark. Code Ann. § 24-2-502. When the final average of the three (3) highest annual salaries earned at the time of purchase are utilized, interest will be calculated from the end of the most recent year of credited service to the date of payment of full.

~~Purchased service in the Arkansas National Guard or Armed Forces Reserve can't overlap purchased or free military service.~~

# CLEAN

## **410 – 2005 (5) – Purchase of AR National Guard or Armed Forces Reserve Service Credit**

Under Ark. Code Ann. § 24-2-503, members of the Arkansas Public Employees' Retirement System are eligible to purchase service credit for time served in the Arkansas National Guard or armed forces reserve.

A copy of the Form DD-214, or other authorized military document, is utilized to document active duty (IADT, AD). All other National Guard service (Inactive duty training (IDT), Annual Training (AT) and Active Duty for Training (ADT)) must be documented with a copy of NGB Form 23 or other authorized military document.

Annual salary is defined as "fiscal year salary" that is reported from July of one year to June of the next year. A full year of credited service is defined as "fiscal year" which is from July of one year to June of the next year.

Interest used in the calculation for the purchase of service credit under Ark. Code Ann. § 24-2-503 shall be applied at the same rate as for the purchase of service credit by a member for time served in the United States Armed Forces under Ark. Code Ann. § 24-2-502. When the final average of the three (3) highest annual salaries earned at the time of purchase are utilized, interest will be calculated from the end of the most recent year of credited service to the date of payment of full.

**Public Notice of Intended Board Action:**

Please take notice that the Board of Trustees of the Arkansas Public Employees Retirement System (APERS), 124 West Capitol Avenue, Suite 400, Little Rock, AR 72201 has voted to amend Board Rule "410 – 2005 (5) – Purchase of AR National Guard or Armed Forces Reserve Service Credit" to comply with current Arkansas Law and to remove redundant and obsolete language.

Copies of this proposed amendment are available for inspection and copying during normal business hours, 8:00 a.m. to 4:30 p.m., at APERS's principal offices, 124 West Capitol Avenue, Suite 400, Little Rock, AR 72201. A mark-up of the rule and a summary of the proposed amendment are also available on the APERS website, <https://www.apers.org>, and on the Arkansas Secretary of State's website, <https://www.sos.arkansas.gov>.

Written public comment concerning the proposed amendment may be submitted to APERS within **thirty (30) days** of the first publication of this notice. Public comments should be addressed to Laura Gilson, Arkansas Public Employees' Retirement System, 124 West Capitol Avenue, Suite 400, Little Rock, AR 72201. If required under Ark. Code Ann. § 25-15-204(a)(2)(B), a public hearing on these rules will be held on September 11, 2023, at 9:00 a.m. in the fourth floor conference room in APERS's main offices, 124 West Capitol Avenue, Suite 400, Little Rock, AR 72201.

# Arkansas Democrat Gazette Public Notices

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Post Date: 08/06 12:00 AM

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**RECEIVED**

By Secretary of State at 10:08 am, Aug 07, 2023

# ARKANSAS REGISTER



## Proposed Rule Cover Sheet

Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
www.sos.arkansas.gov



Name of Department Arkansas Public Employees' Retirement System (APERS)  
Agency or Division Name APERS  
Other Subdivision or Department, If Applicable \_\_\_\_\_  
Previous Agency Name, If Applicable \_\_\_\_\_  
Contact Person Richmond Giles  
Contact E-mail richmond.giles@arkansas.gov  
Contact Phone 501-682-5436

Name of Rule APERS Rule 410-Purchase of AR National Guard or Armed Forces Reserve Service Credit  
Newspaper Name Arkansas Democrat-Gazette  
Date of Publishing August 6, 2023  
Final Date for Public Comment September 6, 2023  
Location and Time of Public Meeting 124 W. Capitol, Suite 400, September 11, 2023 at 9:00 a.m.