

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, 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, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?
APERS Rule 411 – 2009 (5) – Purchase of Service Authorized by Section 2 of Act 295 of 2009
Allows members to purchase service credit for service in the Arkansas
2. What is the subject of the proposed rule? National Guard and armed forces reserve in monthly increments
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.

This is a repeal of an existing rule whose provisions are covered under Ark. Code Ann. § 24-2-503(d) and (f)(2). Therefore, APERS Rule 411 is no longer necessary and should be repealed.

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.

APERS Rule 411 – 2009 (5) – Purchase of Service Authorized by Section 2 of Act 295 of 2009

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 repeal a rule whose provisions are covered under Ark. Code Ann. § 24-2-503(d) and (f)(2). Therefore, APERS Rule 411 is no longer necessary and should be repealed.

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 (10) 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 411 – 2009 (5) – Purchase of Service Authorized by Section 2 of Act 295 of 2009

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 ⁰ _____
 Federal Funds ⁰ _____
 Cash Funds ⁰ _____
 Special Revenue ⁰ _____
 Other (Identify) ⁰ _____

Total \$ 0.00 _____

Next Fiscal Year

General Revenue ⁰ _____
 Federal Funds ⁰ _____
 Cash Funds ⁰ _____
 Special Revenue ⁰ _____
 Other (Identify) ⁰ _____

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 repeal APERS Rule 411-2009 (5) as repetitive and unnecessary since Ark. Code Ann. § 24-2-503(d)(1)(B) and (f)(2) allows APERS members to purchase service credit for service in the Arkansas National Guard or armed forces reserve in monthly increments.

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. This is a repeal of an existing rule which repeats language in Ark. Code Ann. § 24-2-503(d)(1)(B) and (f)(2).

KEY POINTS: APERS Rule 411 should be repealed because it is repetitive of the procedure outlined under Ark. Code Ann. § 24-2-503(d)(1)(B) and (f)(2) and therefore unnecessary.

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. Rule 411 allows APERS members to purchase said service credit in monthly increments. Act 38 of 2011 added Ark. Code Ann. § 24-2-503(d)(1)(B), which specifically allows for the purchase of the service credit in monthly increments. Therefore, APERS Rule 411 is no longer necessary and should be repealed.

RECOMMENDATION: APERS recommends that the proposed repeal of APERS Rule 411-2009 (5) be approved because the Rule is no longer necessary.

MARK-UP

~~411 — 2009 (5) — Purchase of Service Authorized by Section 2 of Act 295 of 2009~~

~~A member seeking to purchase National Guard service or armed forces reserve service pursuant to section 2 of Act 295 of 2009 shall be permitted to purchase such service in monthly increments up to the maximum amount of credited service authorized by Act 295.~~

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 repeal Board Rule "411 – 2009 (5) – Purchase of Service Authorized by Section 2 of Act 295 of 2009" since the provision under the rule is now Arkansas law.

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.



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Post Date: 08/06 12:00 AM

Refcode: #312609 [Print](#)

RECEIVED

By Secretary of State at 11:12 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 411-Purchase of Service Authorized by Section 2 of Act 295 of 2009
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.