

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

DEPARTMENT \_\_\_\_\_  
 BOARD/COMMISSION \_\_\_\_\_  
 BOARD/COMMISSION DIRECTOR \_\_\_\_\_  
 CONTACT PERSON \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 PHONE NO. \_\_\_\_\_ EMAIL \_\_\_\_\_  
 NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING \_\_\_\_\_  
 PRESENTER EMAIL(S) \_\_\_\_\_

**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.

\*\*\*\*\*

1. What is the official title of this rule?  
\_\_\_\_\_
2. What is the subject of the proposed rule? \_\_\_\_\_
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.

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 Are two (2) rules being repealed in accord with Executive Order 23-02?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.

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).

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?

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).

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. \_\_\_\_\_

15. What is the proposed effective date for this rule? \_\_\_\_\_

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.

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** \_\_\_\_\_  
**PERSON COMPLETING THIS STATEMENT** \_\_\_\_\_  
**TELEPHONE NO.** \_\_\_\_\_ **EMAIL** \_\_\_\_\_

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** \_\_\_\_\_

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

Total \_\_\_\_\_

**Next Fiscal Year**

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

Total \_\_\_\_\_

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**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

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**

\$ \_\_\_\_\_

**Next Fiscal Year**

\$ \_\_\_\_\_

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.

## **24 CAR § 1-218**

### **Proposed Amended Rule Regarding Termination of Employment Requirement For Appointed Special Judges**

**PURPOSE:** The Arkansas Public Employees' Retirement System (APERS) seeks to amend APERS 24 CAR § 1-218 to comply with Act 370 of 2025 that allows retired judges, including district judges, to serve as special judges immediately upon retirement.

**BACKGROUND:** The APERS Board has the authority to make all rules necessary to administer the Arkansas Public Employees' Retirement System. Ark. Code Ann. § 24-4-105(b)(1). The current rule is not clear that a retired district judge may serve as a special judge until after meeting the separation from service time period or else forfeit their retirement. Act 370 found that the need for special judges is imminent to ensure the timely administration of justice and clarified that a retired district judge may serve as a special judge immediately upon retirement.

**KEY POINTS:** The amended rule:

- (1) Clarifies that a retired district judge's appointment to serve as a special judge in accordance with Arkansas Constitution Amendment 80, § 13 does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520;
- (2) Repeals obsolete and repetitive language; and
- (3) Makes technical corrections to the rule for clarity.

**DISCUSSION:** Arkansas Code § 24-4-520 and the current rule 24 CAR § 1-218 requires that all APERS members terminate APERS covered employment to be eligible for retirement. Returning to work for an APERS participating employer within 180 days, or in some cases one year, constitutes a failure to terminate covered employment. Act 370 of 2025 specifically allows judges, which includes district judges covered under APERS, to serve as special judges immediately upon retirement. The amended rule clarifies that a retired district judge's appointment to serve as a special judge does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520. The amended rule also repeals repetitive language and language that restates Arkansas Code § 24-4-520.

**RECOMMENDATION:** APERS recommends that amended rule 24 CAR § 1-218 be approved to clarify APERS' administration of retirement benefits for district judges who serve as special judges pursuant to Act 370 of 2025.



**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 "24 CAR § 1-218. Termination of covered employment required for retirement" to clarify that a judge's appointment to serve as a special judge does not constitute a failure to terminate covered employment in accordance with Act 370 of 2025.

Copies of the amended rule 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 copy of the amended rule and a summary of the proposed amendment are also available on the APERS website, <https://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, [laura.gilson@arkansas.gov](mailto:laura.gilson@arkansas.gov). If required under Ark. Code Ann. § 25-15-204(a)(2)(B), a public hearing on these rules will be held on Wednesday, August 13, 2025 at 1:30 p.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

Account #: ADCL1270438

Company: ARK PUBLIC EMPLOYEE RETIREMENT

124 W CAPITOL

LITTLE ROCK, AR 72201

Ad number #: 522176

PO #:

Matter of: APERS - Intended Board Action-

## AFFIDAVIT • STATE OF ARKANSAS

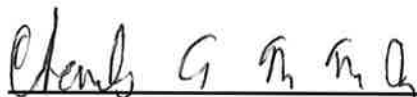
I, Charles A. McNeice Jr., do solemnly swear that I am the Business Manager of the **Arkansas Democrat-Gazette**, a daily newspaper printed and published in PULASKI county, State of ARKANSAS; that I was so related to this publication at and during the publication of the annexed legal advertisement in the matter of :

APERS - Intended Board Action-

Pending in the court, in said County, and at the dates of the several publications of said advertisement stated below, and that during said periods and at said dates, said newspaper was printed and had a bona fide circulation in said County, that said newspaper had been regularly printed and published in said county, and had a bona fide circulation therein for the period of one month before the date of the first publication of said advertisement; and that said advertisement was published in the regular daily issues of said newspaper as stated below.

And that there is due or has been paid the **Arkansas Democrat-Gazette** for publication the sum of \$234.99.  
(Includes \$0.00 Affidavit Charge).

**ADG Arkansas Democrat-Gazette 07/13/25, 07/14/25, 07/15/25; ADG.com 07/13/25, 07/14/25, 07/15/25;**  
**NWA Democrat Gazette 07/13/25; NWA nwaonline.com 07/13/25**



Business Manager

State of ARKANSAS, County of PULASKI, Subscribed and sworn to before me on this 15th day of July, 2025



NOTARY PUBLIC



**RECEIVED**

By Arkansas Secretary of State at 10:30 am, Jul 14, 2025

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State

**Cole Jester**

500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_



## **APERS Proposed Rule Amendment Public Comment Summary**

**Date:** August 14, 2025

**Summary:** In accordance with Ark. Code Ann. § 25-15-204, the Arkansas Public Employees' Retirement System (APERS) published notice of the APERS Board of Trustees' intention to amend "24 CAR § 1-218. Termination of covered employment required for retirement." The public notice and accompanying information were published in the Arkansas Democrat-Gazette for three (3) consecutive days beginning on July 13, 2025, were posted on the Secretary of State's website for thirty (30) days, and were posted on the APERS website. The public comment period expired on August 12, 2025. APERS did not receive any public comments or requests for a public hearing on the proposed amendment to "24 CAR § 1-218. Termination of covered employment required for retirement."

# Proposed Rulemaking

## Title

Promulgated by:  
Arkansas Public Employees' Retirement System

### **Title 24. Retirement and Pensions**

#### **Chapter I. Arkansas Public Employees' Retirement System**

##### **Subchapter A. Generally**

##### **Part 1. Official Rules of the Board of Trustees of the Arkansas Public Employees' Retirement System**

##### **Subpart 2. Benefits**

#### **24 CAR § 1-201. Age of members — How established.**

(a)(1) Effective with retirements commencing on or after July 1, 2011, proof of age must be provided by the member directly to the Arkansas Public Employees' Retirement System before a benefit can be paid.

(2) Employer certification of a member's age will not be accepted.

(b)(1) One (1) of any of the following documents shall be accepted as proof of age:

(A) Birth certificate;

(B) Baptismal or other church records issued before age five (5);

(C) United States Bureau of the Census Report issued 1920 or before;

(D) Social Security document other than application for Social Security number that states age or date of birth recognized by the Social Security Administration;

(E) A valid United States passport; or

(F) A valid Arkansas enhanced security driver's license.

**DRAFT**

07/14/2025 04:31:52 PM

- (2) For the following, any combination of two (2) that agree:
- (A) Marriage license;
  - (B) Insurance policy issued at least ten (10) years prior to current date;
  - (C) Family Bible;
  - (D) Military discharge;
  - (E) Child's birth certificate;
  - (F) Application for Social Security number; or
  - (G) Birth certificate issued at date when person was older than age five
- (5) when certified by the appropriate administering agency.

**24 CAR § 1-202. Beneficiary — How changed.**

A member of the Arkansas Public Employees' Retirement System can only change a beneficiary by use of the form designated by the Board of Trustees of the Arkansas Public Employees' Retirement System to be used for such purposes.

**24 CAR § 1-203. Disability retirement.**

(a) Disability retirement for a member of the Arkansas Public Employees' Retirement System can be approved in one (1) of two (2) ways:

(1)(A) Before a member can be approved for disability retirement from the system, he or she must first apply and be approved by either Social Security or by the Federal Railroad Retirement Board for disability benefits.

(B) If a member is approved for disability payments, then the member shall furnish proof to the system of such approval and the member, who is otherwise eligible under state retirement law, will automatically be approved for system benefits retroactive to the date that benefits would have become payable under law; or

(2)(A) Should the member not be approved for Social Security or for Federal Railroad Retirement Board disability payments, the member, after having been denied Social Security or Federal Railroad Retirement Board through the administrative law judge appeal level, may appeal directly to the Board of Trustees of the Arkansas Public Employees' Retirement System.

(B)(i) The member shall furnish a physician's statement or physicians' statements and other medical documentation, obtained at the member's expense, to the system Medical Review Board (MRB) for evaluation.

(ii) The MRB shall be composed of physicians approved by the Board of Trustees of the Arkansas Public Employees' Retirement System.

(iii) The results of the MRB evaluation shall be presented to the Board of Trustees of the Arkansas Public Employees' Retirement System for final consideration.

(C)(i) Members applying under Acts 1999, No. 868, shall submit copies of a physician's statement or physicians' statements and other medical documentation, obtained at the member's expense, to the MRB for evaluation.

(ii) The results of the MRB evaluation will be presented to the Board of Trustees of the Arkansas Public Employees' Retirement System for final consideration.

(b) After retirement on disability, the member will:

(1) Be reviewed by the Social Security Administration or Federal Railroad Retirement Board if receiving benefits from either agency; and

(2) Have to furnish the system with a copy of the Social Security Administration or Federal Railroad Retirement Board findings.

(c) In those instances where a disability retirant is working, determination as to whether remuneration is substantially gainful, as referenced in Arkansas Code § 24-3-208, shall be based on guidelines used by the Social Security Administration for the Social Security Disability Insurance program.

#### **24 CAR § 1-204. Computation of benefits for members with concurrent service in the system.**

In accordance with the authority provided in Arkansas Code §§ 24-4-105(b)(1) and 24-4-521, the Board of Trustees of the Arkansas Public Employees' Retirement System has determined that benefits for members with concurrent service within the Arkansas Public Employees' Retirement System, where a portion of the service is credited at more

than one-for-one (i.e., elected or public safety), shall be computed as follows:

(1) A benefit will be calculated separately for service that results in public safety and/or elected credit based on the credited service and final average salary for the entirety of that service;

(2) A benefit will then be computed for all regular service based on the regular service and final average salary for that service; and

(3) The benefit computed for each type of service will be added together to obtain the total benefit.

#### **24 CAR § 1-205. Physical or mental incompetency.**

(a) For the purpose of approving a death-in-service benefit, a dependent child above the age of eighteen (18) will be considered mentally or physically incompetent by one (1) of the following methods:

(1) Proof that the dependent has been deemed physically or mentally incompetent by an Arkansas court of jurisdiction; or

(2) Verification by the Social Security Administration that the:

(A) Dependent is receiving disability benefits on the deceased member's Social Security account; and

(B) Benefits became effective at the time of the member's death.

(b) If neither of the above can be obtained, the dependent may appeal to the Board of Trustees of the Arkansas Public Employees' Retirement System by the following method:

(1) The dependent will furnish to the Arkansas Public Employees' Retirement System a:

(A) Description of the physical or mental impairment; and

(B) List of all physicians seen for diagnosis or treatment;

(2) The board will designate another physician by whom the dependent will be examined at the system's expense; and

(3) A written statement from the examining physician will be the basis for the decision of the board on incompetency of the dependent.



(c) The board may require verification of continuing incompetency or reexamination.

#### **24 CAR § 1-206. Cancellation of retirement.**

A member may cancel his or her retirement if:

(1) He or she notifies the Arkansas Public Employees' Public Retirement System in writing prior to the effective date of retirement; or

(2) After the effective date, he or she may cancel by:

(A) Notifying the system in writing; and

(B) Returning the benefit payment on or before the fifteenth calendar day of the month for which he or she received his or her first benefit payment.

#### **24 CAR § 1-207. Qualified domestic relations orders.**

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

(1) The QDRO is issued in accordance with all provisions of the model QDRO adopted by the Board of Trustees of the Arkansas Public Employees' Retirement System and approved by the Legislative Council;

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

(3) The QDRO is issued on or after the effective date of Acts 1993, No. 1143.

(b) The system will review QDROs for compliance with this section and notify appropriate parties of its findings.

(c) In those instances where the alternate payee selects alternative B under Section III (DURATION OF PAYMENTS TO ALTERNATE PAYEE) of the model QDRO, the

actuary will use the following guidelines in computing an equivalent benefit to be paid for the alternate payee's lifetime:

- (1) The interest rate will be the valuation rate;
- (2) The mortality table will be the 50/50 Table; and
- (3) The age used in the computation shall be the attained age at the last birth date prior to the effective date of the QDRO.

**24 CAR § 1-208. Crediting reciprocal service during the same fiscal year.**

If a member has reciprocal service during the same fiscal year with both the Arkansas Teacher Retirement System and the Arkansas Public Employees' Retirement System and if, under the two (2) systems' standard methods of crediting service, the combined service amounts to more than one (1) full year of actual service, then credit shall be reduced in a manner that is most advantageous to the member (determined jointly by the Arkansas Public Employees' Retirement System and the Arkansas Teacher Retirement System) so that in any given fiscal year, actual service shall not exceed one (1) year.

**24 CAR § 1-209. Public safety credit.**

(a)(1) Public safety credit will be granted:

(A) Only to those positions delineated in Arkansas Code § 24-4-101(34);  
and

(B) In the instance of police officers, only to those officers:

- (i) Whose primary duty is law enforcement; and
- (ii) Who are certified law enforcement officers.

(2) The police chief, in the case of a municipality, or the sheriff, in the case of a county, must certify in writing to the Arkansas Public Employees' Retirement System that the officer's primary duty is law enforcement.

(3) In addition, the officer must be certified by the Arkansas Law Enforcement Training Academy as a certified law enforcement officer or be grandfathered in as of January 1, 1978.

(b) Public safety credit will not be granted to:

(1) Civilian or temporary employees of a police department; or

(2)(A) A municipal police officer or county deputy sheriff whose primary duty is:

(i) Jailer;

(ii) Radio dispatcher;

(iii) Bailiff; or

(iv) Probation officer.

(B) However, an officer assigned to administrative duties may still be considered public safety if he or she meets the specific requirements of Acts 2001, No. 1616.

(c)(1) In accordance with Acts 1997, No. 485, the term "public safety member" shall not include a member whose employment as a police officer or firefighter occurred on or after July 1, 1997.

(2) If a person who is employed in a public safety member position prior to July 1, 1997, changes covered employers, he or she shall be entitled to public safety credit for any subsequent employment in a qualifying police officer or firefighter position covered by the system that occurs on or after July 1, 1997.

(3) However, if there is a break in service for a period exceeding six (6) consecutive months, he or she shall not be entitled to further public safety credit.

(d) For those civilian firefighters of the Department of the Military who only became public safety members pursuant to Acts 2011, No. 978, the employer contribution rate shall be an additional twelve percent (12%) of the affected individual's gross salary in addition to the normal employer contribution rate for the affected individual's position.

#### **24 CAR § 1-210. Changes in final average salary benefit computation.**

If earnings reported after the date of retirement are not equal to those certified by the employer, the benefit amount will not be adjusted if the resulting increase or decrease would be three dollars (\$3.00) or less over a twelve-month period.

**24 CAR § 1-211. Compliance with benefits limits imposed by Section 415 of the Internal Revenue Code.**

The following guidelines for complying with qualified plan benefit limitations imposed by I.R.C. § 415 shall be followed in accordance with Acts 1995, No. 739:

(1) Total employer financed straight life annuity payments to any retired member in any calendar year shall not exceed the dollar limit specified in I.R.C. § 415;

(2) In any calendar year in which the total straight life annuity payments otherwise payable would exceed the amount permitted under I.R.C. § 415, the actual amount paid shall be reduced by such dollar difference; and

(3) A retiree whose benefits are reduced in accordance with I.R.C. § 415, limitations in any calendar year will be retested in subsequent years in accordance with the following objectives:

(A) Assurance that the Arkansas Public Employees' Retirement System will remain in compliance with I.R.C. § 415; and

(B) The smallest acceptable cumulative adjustments are made to the benefits paid to any retired member.

**24 CAR § 1-212. Five-year vesting.**

(a)(1) In accordance with Acts 1995, No. 1356, five-year vesting becomes effective July 1, 1997.

(2) This provision is not retroactive.

(b) In order to vest under this provision, a person must be a member of the Arkansas Public Employees' Retirement System on July 1, 1997, and have been a member for not less than ninety (90) consecutive calendar days prior to July 1, 1997, with five (5) or more years of service.

(c) If a person is a former member on July 1, 1997, with five (5) years but less than ten (10) years of service, that person must return to covered employment for a period of not less than ninety (90) consecutive calendar days after July 1, 1997.

(d) If a person is a former member on July 1, 1997, with less than five (5) years of service, that previous service will be counted toward five-year vesting provided the:

- (1) Person returns to covered employment for a period of not less than ninety (90) consecutive calendar days; and
- (2) Previous service has not been refunded.

**24 CAR § 1-213. DROP provisions.**

**(a) Contributions to DROP account.**

(1)(A) For a member who has thirty (30) or more years of actual service, the contribution shall:

(i) Be seventy-five percent (75%) of the member's computed benefit after election of a straight life or option benefit, as required by Arkansas Code § 24-4-801 et seq.; and

(ii) Include the temporary annuity, if applicable.

(B) For a member who has twenty-eight (28) years but less than thirty (30) years of actual service, the contribution shall be seventy-five percent (75%) reduced by five-tenths percent (0.5%) for each month that the DROP election precedes the date the member would complete thirty (30) years of actual service.

(2) Contributions to the account shall be increased for COLAs and ad hoc increases granted to retirees.

**(b) Interest on the DROP account.**

(1) Interest shall be credited monthly and compounded annually to the date of actual retirement.

(2) The Board of Trustees of the Arkansas Public Employees' Retirement System:

(A) Shall reevaluate the DROP interest rate annually at its regular February meeting; and

(B) May modify it by a simple majority vote without promulgating additional rules.

**(c) DROP payment methods.**

(1) The member may elect a lump sum or an annuity that concludes at the completion of twenty-five (25) years.

(2)(A) The member may select a combination of lump sum, rollover, and annuity, never to exceed the total amount of the DROP accrual.

(B) If the member elects a lump sum, the member may request that the lump sum be transferred to another qualified plan in a trustee-to-trustee transfer.

(C)(i) If the member elects a monthly annuity, the monthly amount shall remain constant for the twenty-five-year term.

(ii) That is, COLAs and ad hoc increases will not be added to this monthly annuity and the balance in the account will not earn interest after the effective date of retirement.

**(d) Death of a DROP participant.**

(1) In the event a DROP participant dies during the period of participation, the benefit payable from the Arkansas Public Employees' Retirement System shall be determined as though the participant had separated from service and been found eligible for monthly benefits by the board on the day prior to the death, with death following immediately thereafter (per Acts 1997, No. 1052).

(2) The balance in the DROP account shall be paid to the designated beneficiary or to the member's estate if no designated beneficiary survives or is named.

**(e) Death of a retiree receiving a monthly annuity from DROP.**

(1) Upon the death of a retiree who was receiving a monthly annuity from the DROP:

(A) The DROP annuity will be treated as if it had been a straight life benefit; and

(B) The undistributed remaining balance in the DROP account, if any, will be paid to the designated beneficiary.

(2) The regular monthly retirement benefit will be treated according to the election made by the retiree at his or her entry into the DROP.

**(f) Failure to terminate covered employment within the maximum allowable time from DROP entry.**

(1) If a DROP participant fails to terminate employment within ten (10) years of entry into the DROP, the participant shall forfeit the balance in the DROP account.

(2)(A) The participant's employer shall be required to pay all contributions, with interest, that would have been paid on behalf of the member had he or she not participated in the DROP.

(B) The employer will acknowledge this requirement on the member's application for participation in the DROP.

(3)(A) However, a DROP participant also enrolled in the Arkansas Teacher Retirement System T-DROP due to reciprocal service credit shall be permitted to keep the accrued balance on account with the Arkansas Public Employees' Retirement System until completion of the term of the Arkansas Teacher Retirement System T-DROP.

(B) No interest shall be paid on such balances.

(C) COLAs will continue to be paid.

**(g) Review of provisions.**

(1)(A) The provisions of the DROP program will be reviewed periodically, as determined to be necessary by the board.

(B) The contribution and interest rate provisions may be adjusted prospectively as the board considers such action to be actuarially appropriate.

(2) A member whose DROP participation has ceased shall not be prohibited from thereafter seeking and taking a publicly elected office that otherwise is covered under the Arkansas Public Employees' Retirement System but that member shall not be eligible to rejoin the Arkansas Public Employees' Retirement System.

**(h) DROP provisions for members called to active duty.**

**(1) Generally.**

(A)(i) A DROP participant who is called to active duty will provide the Arkansas Public Employees' Retirement System with a copy of his or her orders that will be maintained in the member's file.

(ii) A copy of the orders will be utilized to verify the date that the member is called to active duty.

(B)(i) The employer will continue to report the DROP participant on the monthly DROP report.

(ii) The employer representative will indicate that the member is on military leave.

(C) When the member is released from active duty, he or she will submit a copy of the DD214 Form or other appropriate documents to the Arkansas Public Employees' Retirement System to verify that the member has returned to covered employment, been released from active duty, or both.

**(2) Maximum participation period.**

(A) A DROP participant who is on active duty shall continue to receive his or her monthly DROP payment (which includes any benefit enhancements awarded to eligible retirees) until the maximum allowable time in the DROP has occurred or the member requests retirement and distribution of his or her DROP account, whichever occurs first.

(B)(i) If the member has participated in the DROP for at least five (5) years, he or she must:

(a) Complete a retirement application packet and DROP distribution form or forms prior to his or her departure for active duty; and

(b) Deliver the completed forms to the Arkansas Public Employees' Retirement System office along with a copy of his or her orders.

(ii) The retirement application and DROP distribution forms will be held and processed on the effective date indicated unless he or she returns to covered employment within the maximum allowable DROP term.

(C) Should the DROP member not deliver a retirement application packet and DROP distribution form or forms to the Arkansas Public Employees' Retirement System and the maximum allowable time in the DROP expires prior to the member returning to covered employment, requesting retirement, or both:

(i) The monthly DROP accrual will cease after reaching the maximum allowable time in the DROP and no additional interest will be paid;

(ii) The monthly retirement benefit will not become effective until the member files a completed retirement application and complies with applicable deadlines; and



(iii) The DROP account balance shall be distributed upon the member's filing of the required DROP distribution form or forms.

**(i) Death while on active duty.**

(1) In the event a DROP participant on active duty dies during the period of DROP participation, the benefit payable from the Arkansas Public Employees' Retirement System shall be determined as though the participant had separated from service and been found eligible for monthly benefits on the day prior to his or her death, with death following immediately thereafter.

(2)(A) If survivor benefits are payable in accordance with Arkansas Code § 24-4-606, the surviving spouse, dependent children, or dependent parents will receive monthly benefits.

(B) The spousal benefit will be computed as if the member had elected Option B75.

(3)(A) The balance in the participant's DROP account will be adjusted to reflect a balance as if the member had chosen Option B75 upon entering the DROP.

(B) The DROP balance will then be paid to the designated beneficiaries.

**(j) Becoming eligible for DROP participation while on active duty.**

(1) If a member becomes eligible to participate in the DROP while on active duty, he or she will be placed in the plan retroactive to the date of initial eligibility providing the application is received within one (1) month of the member returning to covered employment.

(2) Such participation will also be contingent upon the necessary employee, if applicable, and employer contributions being made to the Arkansas Public Employees' Retirement System for the period of active duty prior to the employee entering the DROP.

**(k) Reemployment.**

(1) After release from active duty, should a DROP member fail to apply for reemployment or fail to accept reemployment pursuant to the provisions of 38 U.S.C. § 4312, as amended, the employer shall promptly notify the Arkansas Public Employees' Retirement System.

(2) After notice to the member and opportunity for hearing, should the Arkansas Public Employees' Retirement System determine that the member failed to apply for or accept reemployment as provided above, the Arkansas Public Employees' Retirement System shall:

(A) Determine that the member's retirement application and DROP distribution form required under maximum participation period, subdivision (h)(2)(C)(ii) of this section, are void as of the date of the member's release from active duty;

(B) Terminate payments of the deferred benefit into the member's DROP account;

(C) Deduct any payments of the deferred benefit into the member's DROP account after date of the member's release from active duty and interest thereon and pay said amount of the deferred benefit without interest thereon to the member as accumulated monthly annuity payments upon the member's filing a completed retirement application and DROP distribution forms in compliance with applicable deadlines;

(D) Not pay interest on the member's DROP account after the date of the member's release from active duty and hold said account balance pending the member's filing of the DROP distribution forms; and

(E) Pay the member's monthly retirement annuity to the member upon his or her filing a completed retirement application and in compliance with applicable deadlines.

**(I) Procedures applicable to DROP — Active duty issues.**

(1) The Executive Director of the Arkansas Public Employees' Retirement System shall:

(A) Determine all issues of interpretation or implementation of this section in regard to DROP members and active military duty; and

(B) Conduct any hearings provided for herein or required by other law.

(2)(A) If the member is not satisfied with the executive director's decision on matters that were not decided in conjunction with a hearing, the member may request that the issue be presented to the board.

(B) The board shall:

(i) Review the:

- (a)* Member's request for review;
- (b)* Record considered by the executive director; and
- (c)* Executive director's decision;

(ii) Afford the member the opportunity to:

- (a)* Present additional information or documentation; and
- (b)* Appear before the board; and

(iii) Determine whether to:

- (a)* Affirm or modify the executive director's decision; or
- (b)* Return the case to the executive director for further

consideration.

(3)(A) A member who was a party to a hearing by the executive director concerning DROP and active military duty and who is not satisfied with the executive director's decision may file an appeal to the board.

(B) The member shall file notice of appeal in writing, stating the grounds therefore, with the executive director on or before thirty (30) days following the date of record of the executive director's decision.

(C) The executive director's written decision shall be mailed to the member by certified mail, return receipt requested, restricted delivery to the member's last known address of record.

(4) Upon appeal, the review by the board shall be confined to the record considered by the executive director, provided, however:

(A)(i) The member may apply to present additional evidence and should the board find that the evidence is material and that there were good reasons for failure to present it in the proceeding before the executive director, the board may order that the additional evidence be taken before the executive director upon any conditions that may be just.

(ii) The executive director:

- (a)* May modify the findings and decision by reason of the

additional evidence; and

(b) Shall file that evidence and any modification, new findings, or decisions with the board; and

(B)(i) Should the member assert any alleged irregularity in procedure before the executive director not shown in the record, the board:

(a) May hear testimony on that issue; or

(b) In its discretion may remand the matter to the executive director to conduct further proceedings on the record on the member's allegation of procedural irregularity.

(ii) After any further proceeding by the executive director regarding any procedural irregularity, the executive director:

(a) May modify the findings and decision by reason of the additional evidence; and

(b) Shall file that evidence and any modifications, new findings, or decisions with the board.

(iii) The member may request the opportunity to make an oral presentation to the board.

(5) The board may affirm or reverse the executive director's decision or remand the case for further proceedings.

**(m) Separation from employment — Popularly elected official.**

(1)(A) In accord with Acts 2019, No. 624, a member who participates in the Arkansas Public Employees' Retirement System Deferred Retirement Option Plan (DROP) is not required to separate from service at the end of the maximum allowable time in the DROP participation following entry into the DROP if it would prevent that member from taking or holding office as a popularly elected official.

(B) That member will not forfeit their DROP balance if they separate from service as provided under Arkansas Code § 24-4-520 after that member leaves elected office.

(2)(A) The DROP balance of a popularly elected official who does not separate service after the maximum allowable time in the DROP and pursuant to Acts 2019, No.

624, shall remain with the Arkansas Public Employees' Retirement System until he or she separates from service.

(B) At that time, the member's DROP balance shall be distributed according to the Arkansas Public Employees' Retirement System rules regarding distribution.

(C) That DROP balance shall not accrue interest while being held by the Arkansas Public Employees' Retirement System pursuant to this part.

(3) A member who does not separate service after the maximum allowable time in the DROP and pursuant to Acts 2019, No. 624, shall have his or her monthly Arkansas Public Employees' Retirement System retirement annuity benefit paid to begin when the member separates from service as provided under Arkansas Code § 24-4-520.

(4) The employer of the popularly elected official shall continue to make the same employer contributions on behalf of the popularly elected official as it would have been required to make for a rehired retiree.

#### **24 CAR § 1-214. Spouse's acknowledgment of benefit selection.**

(a) If a member applying for retirement selects a straight life benefit, then the member shall be required to furnish the spouse's acknowledgment of that selection on a form provided by the Arkansas Public Employees' Retirement System.

(b)(1) An application shall not be denied because a spouse refuses to sign the form.

(2) However, a proof of notice to the spouse of this benefit selection shall be placed in the member's file.

#### **24 CAR § 1-215. Direct deposit.**

(a) Persons first receiving monthly benefits from the Arkansas Public Employees' Retirement System on or after October 1, 1999, shall be required to participate in the electronic direct deposit program.

(b) Persons receiving monthly benefits before October 1, 1999, shall enroll in the electronic direct deposit program on or before April 1, 2000.

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

#### **24 CAR § 1-216. Partial annuity withdrawal.**

(a)(1) In accordance with Acts 2001, No. 357, only years and months of service will be utilized to determine the amount of eligible service in the calculation of the PAW.

(2) The actuarial reduction to be used in computing a PAW benefit, as provided by Acts 2001, No. 357, shall be a 50/50 gender blend of the 1983 Group Annuity Mortality Table with interest at eight percent (8%) and three percent (3%) annual compounded post-retirement benefit increases.

(b) Any service purchased after a member becomes eligible for an unreduced benefit will not be included in the number of months of PAW eligibility.

(c)(1) The date a member purchases service and becomes eligible for an unreduced benefit determines the date the member is eligible for the PAW.

(2) Any service rendered in the Arkansas Public Employees' Retirement System after this date is eligible for PAW.

(d)(1) Reciprocal and credited service will be utilized to determine the date a member was eligible for an unreduced benefit.

(2) However, only actual Arkansas Public Employees' Retirement System service after the date eligible for an unreduced benefit will be used in the calculation of the number of eligible PAW months.

(3)(A) The exception is Arkansas Rehabilitation Services members as defined in Arkansas Code § 24-2-302.

(B) Arkansas Rehabilitation Services members' service in the Arkansas Teacher Retirement System will be used in the monthly benefit amount and in determining the number of months eligible for the PAW.

#### **24 CAR § 1-217. Establishing retirement eligibility.**

Pursuant to Acts 2005, No. 2084, it is established that twenty-eight (28) years of actual service are required for a member to be eligible for an unreduced benefit prior to

age sixty-five (65) when utilizing the contributory provisions of Arkansas Code § 24-4-1101 et seq.

**24 CAR § 1-218. Termination of covered employment required for retirement.**

(a)(1) When used in the context of Arkansas Code § 24-4-520, "terminate covered employment" shall mean that the employee/employer relationship has been brought to an end and no longer exists in any form, currently or prospectively, between the Arkansas Public Employees' Retirement System (APERS) member and ~~the Arkansas Public Employees' Retirement System an APERS~~ covered employer.

~~(b)(2) In the case of~~ For elected public officials, in addition to ~~the foregoing (a), they shall have complied~~ "terminate covered employment" includes complying with state law requirements for vacating their office.

~~(b)(1) Any A~~ retiring elected public official ~~shall execute an affidavit, along together with the local official responsible for certifying that the public office has been vacated, shall execute an affidavit on a form provided by APERS~~ stipulating compliance with this section.

(2) This affidavit shall be filed with ~~the Arkansas Public Employees' Retirement System~~ APERS at least thirty (30) calendar days prior to the effective date of retirement.

~~(c)(1) In compliance with Arkansas Code § 24-4-520(b)(1), when a member who does not have service credit under Arkansas Code § 24-4-521 at a rate of two (2) or more years credited service for each year of actual service, Acts 2011, No. 774, terminates for retirement purposes, he or she is not eligible to return to employment in any position or capacity with an Arkansas Public Employees' Retirement System covered employer within one hundred eighty (180) days of the person's effective date of retirement, unless said position is:~~

~~(A) Covered by another retirement system; or~~

~~—————(B) An elected position that has never been covered by the Arkansas Public Employees' Retirement System.~~

~~—————(2) When a member who does have service credit under Arkansas Code § 24-~~

~~4-521 at a rate of two (2) or more years credited service for each year of actual service terminates for retirement purposes, he or she is not eligible to return to employment in any position or capacity with an Arkansas Public Employees' Retirement System covered employer within one (1) year from the person's effective date of retirement, unless said position is:~~

~~\_\_\_\_\_ (A) Covered by another retirement system; or~~

~~\_\_\_\_\_ (B) An elected position that has never been covered by the Arkansas Public Employees' Retirement System.~~

(3) Any prearranged agreement that the member will return to work for any participating employer in any capacity, full-time or part-time, including as a leased employee, before the expiration of the period mandated by Arkansas Code § 24-4-520(b)(1), shall create a rebuttable presumption that the member has not terminated covered employment.

~~(d)(1) When a member terminates in compliance with Arkansas Code § 24-4-520(b)(2) and (3), they are not eligible to return to employment in any position or capacity with an Arkansas Public Employees' Retirement System covered employer sooner than thirty (30) days from the commencement of his or her retirement, unless said position is:~~

~~\_\_\_\_\_ (A) Covered by another retirement system; or~~

~~\_\_\_\_\_ (B) An elected position that has never been covered by the Arkansas Public Employees' Retirement System.~~

~~\_\_\_\_\_ (2) Any prearranged agreement that the member will return to work for any participating employer in any capacity, full time or part time, including as a leased employee, before the expiration of the thirty day period mandated by Arkansas Code § 24-4-520(b)(2) or Arkansas Code § 24-4-520(b)(3), shall create a rebuttable presumption that the member has not terminated covered employment.~~

~~\_\_\_\_\_ (c)(1) Persons failing to terminate covered employment shall forfeit all Arkansas Public Employees' Retirement System retirement benefits to the Arkansas Public Employees' Retirement System until the requirements of Arkansas Code § 24-4-520 and this section are met.~~



~~————(2) Failure to meet termination requirements shall not operate to revoke a member's retirement election.~~

~~(3) However, those individuals returning to employment in a position covered by another retirement system or having been elected to an office never covered by the Arkansas Public Employees' Retirement System should be free to pursue said endeavors without unnecessary restriction.~~

~~————(d) A retired judge's appointment to serve as a special judge in accordance with Arkansas Constitution Amendment 80, § 13 does not constitute a failure to terminate covered employment under Arkansas Code § 24-4-520.~~

#### **24 CAR § 1-219. Proof required for establishing dependency of a nonspouse for purposes of designating an Option B beneficiary.**

A member seeking to designate an adult age forty (40) or older who is not that member's spouse as an Option B beneficiary pursuant to Arkansas Code § 24-4-606(a)(4), shall establish the proposed beneficiary's dependency by furnishing proof that the member claimed the proposed beneficiary as his or her dependent upon an annual federal tax return that was filed for the period ending at least one (1) year immediately preceding the first retirement annuity payment due date.

#### **24 CAR § 1-220. Recoupment of overpayments.**

##### **(a) Retiree receivables.**

(1) When Arkansas Public Employees' Retirement System determines that it has overpaid a retiree for whatever reason, the retiree is to be notified by letter as soon as reasonably practicable.

(2) The next month's annuity payment shall be for the corrected amount.

(3) The retiree shall be given the following options:

(A) Repayment in one (1) lump sum;

(B) Repayment of a specific dollar amount over a number of months, the amount dependent on the amount of the overpayment in relation to the size of the monthly benefit; or

(C) Reduction of future monthly annuity payments in equal pro rata amounts until the overpayment is fully recouped.

(4)(A) In the event that the retiree disputes the fact of an overpayment, he or she shall first have the appeal considered by the Executive Director of the Arkansas Public Employees' Retirement System.

(B) If the executive director's decision is unsatisfactory, the retiree shall have the right to an appeal before the Board of Trustees of the Arkansas Public Employees' Retirement System.

(C) Contributions to the account shall be increased for COLAs and ad hoc increases granted to retirees.

**(b) Deceased retiree receivables.**

(1)(A) Upon learning of the death of a retiree, the system shall immediately cancel all future payments.

(B) Where possible, the system shall contact the bank receiving the deceased retiree's direct deposit of benefits and ask for a return of the last payment.

**(2) With surviving beneficiary.**

(A) The designated beneficiary shall be notified as soon as reasonably practicable by letter of the overpayment.

(B) The survivor shall be given the following options:

(i) Return the annuity payment or payments made after the death of the retiree in a lump sum prior to receipt of any survivor benefits; or

(ii) Reduction of the survivor's monthly benefit by a specific dollar amount over a number of months until the overpayment is fully recouped.

(3) This recoupment process shall comply with the procedures and principles used by the Social Security Administration which mandate recoupment balanced with consideration of the financial impact upon the surviving beneficiary.

**(4) With no surviving beneficiary.**

(A) The system shall send notice of overpayment to the estate of the deceased retiree.

(B) Duplicate notices of overpayment shall be sent every thirty (30) days

for a maximum of ninety (90) days until response is received.

(5) In the event that no response is received, the system shall evaluate the receivable for possible abatement at the next fiscal year-end, following the Department of Finance and Administration's rules for outlawed warrants.

(6) If the system has reasonable cause to believe that the overpayment is due to criminal malfeasance, the agency shall notify the prosecuting attorney of the county where the deceased retiree last resided.