

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Arkansas Teacher Retirement System  
DIVISION Administration  
DIVISION DIRECTOR George Hopkins  
CONTACT PERSON Laura Gilson, General Counsel  
ADDRESS 1400 West Third Street, Little Rock, AR 72201  
PHONE NO. 501-682-1266 FAX NO. 501-682-6326 E-MAIL laurag@artrs.gov  
NAME OF PRESENTER AT COMMITTEE MEETING George Hopkins  
PRESENTER E-MAIL georgeh@artrs.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
Room 315, State Capitol  
Little Rock, AR 72201

\*\*\*\*\*

- 1. What is the short title of this rule? Disability Retirement (Rule 9-4)
- 2. What is the subject of the proposed rule? Rules to apply for Disability Retirement.
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation.

- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_  
When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No

If yes, please provide a brief summary explaining the regulation.

---

Does this repeal an existing rule? Yes  No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

---

Is this an amendment to an existing rule? Yes  No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

---

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

§ 24-7-305(b)(1)

---

7. What is the purpose of this proposed rule? Why is it necessary?

To bring into compliance and to make consistent with Act 493 of 2013 and various changes for clarity.

---

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.artrs.gov

---

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

If yes, please complete the following:

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

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

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

---

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

August 29, 2013

---

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

December 1, 2013

---

12. Do you expect this rule to be controversial? Yes  No

If yes, please explain. \_\_\_\_\_

---

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

N/A

---

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Teacher Retirement System

**DIVISION** Administration

**PERSON COMPLETING THIS STATEMENT** Laura Gilson

**TELEPHONE NO.** 501-682-1266 **FAX NO.** 501-682-6326 **EMAIL:** laurag@artrs.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE** Disability Retirement (Rule 9-4)

1. Does this proposed, amended, or repealed rule have a financial impact? Yes  No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes  No   
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.

N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

**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 party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

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

**Next Fiscal Year**

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

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

**Current Fiscal Year**

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

**Next Fiscal Year**

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

**PUBLIC COMMENT SUMMARY**  
**Disability Rule 9-4**

**1. Who made public comment:**

ATRS Staff

**2. Who received the public comment:**

ATRS

**3. What was the public comment:**

Page 9-4-2, new paragraph I.H.i and new paragraph I.H.ii contain an incomplete Arkansas Code citation.

**4. What response was given to the public comment:**

These concerns are correct. Our comment places the correct code cites into the proposed rule. This is a non-substantive change in a portion of the rule language that is otherwise not amended.

## **RULE 9-4**

### **DISABILITY RETIREMENT**

A.C.A. § 24-7-704

---

#### **I. RULES** (as amended by Acts 468 and 743 of 2009)

- A. ~~Disability retirement benefits shall commence the first day of the calendar month following the date the member is found to be disabled by the Medical Committee or up to two (2) full calendar months after the Medical Committee meets if the member is wrapping up final work for which the member is paid the month the member files a written application with ATRS if at the time the member files the application the member is no longer employed by an ATRS-covered employer, if the member is otherwise eligible under A.C.A. § 24-7-704 and these Rules, and if after the Medical Committee determines a disability exists for the member.~~
- B. ~~Termination of active membership for disability retirement benefits shall be the last date of any employer payment to the member due to the employment end of the employee/employer relationship. Paid sick leave, Family Medical Leave Act (FMLA) leave, if granted for the disability applicant, and other medical leave granted by the employer shall extend the date of active membership; however, service credit paid sick leave from the covered employer.~~
- C. ~~The member is considered active if they are using earned sick leave, Family Medical Leave Act (FMLA) leave, annual leave and catastrophic leave. Worker's compensation, which may or may not include the use of leave granted by the employer, is not considered leave by which a member is considered active, nor does it extend the date of active membership.~~
- B.D.
- i. ~~If a disability is determined to exist by the Medical Committee, disability retirement benefits shall commence on the date of the member's termination of active membership. Termination of active membership means when all employer payments to the member have ceased due to the end of the employee/employer relationship. A member cannot simultaneously be employed by an ATRS-covered employer and receive ATRS disability retirement. A.C.A. § 24-7-701 also prohibits a member from receiving disability retirement if the member performs work for an ATRS covered employer as an independent contractor in certain circumstances.~~

- 4ii. If a member is approved for disability retirement but continues to work for the covered employer (directly or indirectly), he/she must terminate employment with the covered employer or indirect employer by the proposed disability retirement effective date or up to two (2) full calendar months after the Medical Committee meets if the member is wrapping up final work for which the member is paid to receive disability retirement.
- 2iii If the member does not terminate employment under the Rules and A.C.A. § 24-7-502, the application is rescinded and the member can reapply.

GE. If the application for disability retirement benefits is denied and the member elects and otherwise qualifies for voluntary retirement, the effective date for retirement shall be determined by the date the disability retirement application is filed.

~~DE. If an active member dies after applying for disability retirement, the following will apply:~~

- ~~1. If the member dies after the disability application is received by the System ATRS but before disability retirement is approved, then the System ATRS shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 shall be paid.~~

EG. The annuity formula for computing disability retirement benefits is the same as for voluntary age and service retirement.

FH.

i. For all disability retirement applications approved by the Medical Committee after May 31, 2011, in accordance with rule making authority granted to the ATRS Board under A.C.A. § 24-7-706(v) A.C.A. § 24-7-706(a)(3), the Board shall allow a disability retiree at the time of retirement to designate an Option A or Option B beneficiary. Option C beneficiaries shall not be available to disability retirees.

4ii If a disability retiree designates an Option A or Option B spouse beneficiary, and the disability retiree dies before reaching age 60, then the same rules that apply to active member option beneficiaries shall apply to the disability Option A and Option B beneficiaries under ~~A.C.A. § 24-7-710(a)(C)~~ A.C.A. § 24-7-710(b).

2iii If a disability retiree designates an Option A or Option B incapacitated child beneficiary, and the disability retiree dies before reaching age 60, then the same rules that apply to an active

member surviving child shall apply to the disability Option A or Option B beneficiary under A.C.A. § 24-7-710(c) until the disability retiree would have turned age 60, then the Option A or Option B incapacitated child beneficiary shall receive the greater of the surviving child annuity under A.C.A. § 24-7-710(c) or the Option A spouse annuity under A.C.A. § 24-7-710(a).

~~G.~~ Disability retirants who are disapproved for further disability annuities due to a medical examination reviewed by the Medical Committee shall be removed from the System's ATRS' retirant payroll the earlier of six months following the review date or the first of the month following the return to covered employment.

~~H.~~ If a member is approved for disability retirement but continues to work, he/she must terminate employment by the proposed disability retirement effective date. If covered employment is not terminated after receiving notice of the proposed effective date, disability retirement will be cancelled, the member will be considered active, and is eligible to reapply for disability retirement as long as the member is otherwise qualified to apply for disability retirement.

~~I.~~ J. If a member applies for disability retirement and is disapproved, he/she has the right to file a new disability application submitting additional information for review as long as the member remains active.

**Amended:** June 15, 2004  
July 18, 2005  
June 19, 2007  
December 18, 2009  
July 1, 2011  
**Adopted:** August 8, 2011  
**Effective:** November 11, 2011  
**Approved by Board:** February 6, 2012  
**Amended:** April 18, 2012  
**Effective:** May 29, 2012  
**Approved by Board:** July 26, 2013  
**Amended:**  
**Effective:**