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JAN 17 2014

January 16, 2014 BUREAU OF
LEGISLATIVE RESEARCH

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, Fifth Floor
Little Rock, AR 72201

Re: APERS Regulation 204

Dear Ms Davis:

I am writing to submit two copies of the questionnaire and financial impact statement for APERS Regulation 204, along with a copy of the regulation itself, which was adopted by APERS's Board of Trustees. It was intended to become effective on March 1, 2014. I have also enclosed two extra copies for Matthew to transmit to the Retirement Subcommittee, should that be necessary.

It will be published in the Arkansas Democrat-Gazette on January 17-19, 2014. It was transmitted electronically to John Davidson at the Secretary of State on today's date. The public comment period will expire February 20, 2014. As of today's date, we have received no comment from the public about it. The public hearing on it will be held at 10:00 a.m. on February 21, 2014 in the APERS Board of Directors conference room, which is located at the above address.

Please let me know if you have further questions about this (682-7856). I would appreciate your advising me when this is put on the calendar for hearing. Thank you.

Cordially,



Frank J. Wills, III
General Counsel

FJW/wls
enclosure

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

DEPARTMENT/AGENCY ARK. PUBLIC EMPLOYEES RETIREMENT SYSTEM ("APERs")
DIVISION N/A
DIVISION DIRECTOR GAIL H. STONE
CONTACT PERSON FRANK J. WILLS ("Jay")
ADDRESS 124 W. CAPITOL AVE., LITTLE ROCK, AR. 72201
PHONE NO. 501-682-7800 FAX NO. 501-682-7825 E-MAIL jay.wills@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING _____
PRESENTER E-MAIL _____

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:~~

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- 1. What is the short title of this rule? Computation of Benefits for Members with Concurrent Service in APERs (Reg. 204)
- 2. What is the subject of the proposed rule? How to compute benefits of APERs members who receive enhanced service credit.
- 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. NO
- 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? N/A

When does the emergency rule expire? N/A

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

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 the Arkansas Code citation. _____ 24-4-105(b)(1)

7. What is the purpose of this proposed rule? Why is it necessary? To ensure that retiree benefits are calculated in compliance with law. Prevents benefit "spiking"

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.apers.org/docs/pubs/APERS_BR_2013.pdf

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

If yes, please complete the following:

Date: 2/21/2014

Time: 10:00 a.m.

Place: APERS conference room

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

2/20/2014

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

3/1/2014

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.

None known or anticipated

FINANCIAL IMPACT STATEMENT

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PLEASE ANSWER ALL QUESTIONS COMPLETELY

JAN 17 2014

DEPARTMENT APERS BUREAU OF
DIVISION N/A LEGISLATIVE RESEARCH
PERSON COMPLETING THIS STATEMENT FRANK J. WILLS
TELEPHONE NO. 501-682-7856 FAX NO. 501-682-7825 EMAIL: Jay.wills@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Computation of Benefits for Members with Concurrent Service in APERS

- 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 an agency is proposing a more costly rule, please state the following:

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

N/A

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

N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

N/A

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? N/A

Current Fiscal Year

Next Fiscal Year

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

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

Total _____

Total _____

(b) What is the additional cost of the state rule? *N/A*

Current Fiscal Year

Next Fiscal Year

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

Total _____

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, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected. *N/A*

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

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

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? *N/A*

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; *N/A*
- (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; *N/A*
- (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; *N/A*
- (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 *N/A*
- (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.

N/A

REGULATION 204 - COMPUTATION OF BENEFITS FOR MEMBERS WITH CONCURRENT SERVICE IN APERS

SUMMARY OF AMENDMENT CHANGE TO REGULATION 204

The amendment to APERS Regulation 204, Computation of Benefits for Members with Concurrent Service in APERS, makes it explicit that the retirement benefits attributable to concurrent service, where one class of service receives enhanced credit, are calculated separately for each class of service, with the total benefit being the sum of the two classes of service benefits.

This change makes it clear that enhanced service credit cannot be used to “spike,” or to artificially enhance regular service credits. Under this amendment, the benefit attributable to each class of service is calculated separately and the retiree’s total benefit is the sum of the two.

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MARK-UP

REGULATION 204 - COMPUTATION OF BENEFITS FOR MEMBERS WITH CONCURRENT SERVICE IN APERS

In accordance with the authority provided in A.C.A. 24-4-105(b)(1) and 24-4-521 the APERS Board of Trustees has determined that benefits for members with concurrent service within APERS, 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. 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. A benefit will then be computed for all regular service based on the regular service and the final average salary for that service. The benefit computed for each type of service will be added together to obtain the total benefit.

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