

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

DEPARTMENT/AGENCY Arkansas Public Employees Retirement System ("APERS")
DIVISION N/A
DIVISION DIRECTOR Gail H. Stone
CONTACT PERSON Frank J. Wills, III ("Jay")
ADDRESS 124 W. Capitol Ave., Suite 400, Little Rock, AR 72201
PHONE NO. 501-682-7856 FAX NO. 501-682-7825 E-MAIL jay.wills@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Gail Stone, Jay Wills
PRESENTER E-MAIL gail.stone@arkansas.gov; jay.wills@arkansas.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
One Capitol Mall, 5th Floor
Little Rock, AR 72201

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1. What is the short title of this rule? Regulation 402-Repayment of Refunded Contributions
2. What is the subject of the proposed rule? To allow APERS members to repurchase refunded service
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? August 17, 2016

When does the emergency rule expire? December 14, 2016

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If yes, a copy of the repealed rule is to be included with your completed questionnaire.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 the Arkansas Code citation. A.C.A. 24-4-105(b)(1)

7. What is the purpose of this proposed rule? Why is it necessary? The previous rule required that refunded service be purchased in a lump sum. APERS now has the capacity to allow refunded service to be repurchased in yearly increments rather than all at once. This rule will allow those nearing retirement to purchase only the service need to retire.

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). http://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: October 7, 2016

Time: 10:00 a.m.

Place: APERS Boardroom, 124 West Capitol Ave., Suite 400, Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
October 7, 2016

11. What is the proposed effective date of this proposed rule? (Must provide a date.)
December 15, 2016

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

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Public Employees Retirement System
DIVISION _____
PERSON COMPLETING THIS STATEMENT Jay 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 Regulation 402-Repayment of Refunded Contributions

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?

Current Fiscal Year

General Revenue	<u>N/A</u>
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

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

Total N/A

Total _____

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

Current Fiscal Year

General Revenue N/A
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total N/A

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, 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.

Current Fiscal Year

\$ None

APERS members now can purchase annual portions of refunded service instead of having to repurchase all of their refunded service at one time.

Next Fiscal Year

\$ None

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.

Current Fiscal Year

\$ 0

Next Fiscal Year

\$ 0

Should not affect any governmental unit outside APERS.

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.

CLEAN COPY

REGULATION 402 – 1986 – REPAYMENT OF REFUNDED CONTRIBUTIONS

Repayment of refunded contributions by a member to re-establish forfeited service must be made in the Retirement System one-year increments, subject to the following conditions:

1. Service credit will be restored to the member's retirement account as each year's full payment is received by the System.
2. Full payment must be made before a member, or his survivor, makes application for monthly benefits. The interest applied to such purchases shall equal the actuarially assumed rate of return during the period of original service.
3. A person not a member of the System, but who is a member of another retirement system and eligible for Reciprocal Agreement coverage (Act 488 of 1965, as amended), will be considered a member for the purpose of repurchasing service credit under this Regulation.

APERS REGULATION 402 – REPAYMENT OF REFUNDED CONTRIBUTIONS

SUMMARY OF AMENDMENT CHANGE TO REGULATION 402

This amendment removes the existing requirement that APERS members who have taken a refund of their pension contributions repurchase their entire refunded service at one time in one lump sum. Now, such individuals are allowed to repurchase their refunded service in one-year increments. This change allows individuals who are close to retirement who may not be able to repurchase all of their refunded service to repurchase enough refunded service to allow them to retire.

MARK-UP

REGULATION 402 – 1986 – PARTIAL PAYMENT AGREEMENT REPAYMENT OF REFUNDED CONTRIBUTIONS

Repayment of refunded contributions by a member to re-establish forfeited service must be made in one lump sum if the total due, including interest, is less than \$500. If \$500 or more, the member may choose to repay to enter into an agreement with the Retirement System to make partial payments in an amount and by a method determined by the Executive Director one-year increments, subject to the following conditions:

1. The Service credit will not be restored to the member's retirement account as each year's until full payment is received by the System.
2. Full payment must be made before a member, or his survivor, makes application for monthly benefits.
3. ~~From each payment received, the System will first credit interest due and the remainder will be applied to reduce the principal due.~~ The interest applied to such purchases shall equal the actuarially-assumed rate of return during the period of original service.
4. ~~The System may cancel the agreement and refund to a former member the amount paid under the partial payment agreement if the former member does not pay, in one lump sum, the total amount due within six months after termination of covered employment.~~
5. ~~The System may cancel the agreement and refund, to the person eligible for the refund, all amounts paid under the agreement if a member dies before completing payments, with the following exception:~~
 - a. ~~If completing the payment will qualify a survivor or dependent for a monthly death-in-service benefit or will~~

~~increase the amount of such benefit, then the System will accept payment of the balance due in one lump sum if paid within six months after the death of the member. If not paid within six months, the System will refund the amounts previously paid.~~

6. A person not a member of the System, but who is a member of another retirement system and eligible for Reciprocal Agreement coverage (Act 488 of 1965, as amended), for the purpose of repurchasing service credit under this Regulation ~~the partial payment agreement will be considered a member.~~