

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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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 _____

**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, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

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.

Summary of Proposed New Rule or Proposed Amendment to Existing Rule

Regulation No. 6

CONTRIBUTION PAYMENTS AND REPORTS, PAYMENTS IN LIEU OF CONTRIBUTIONS, ADVANCE PAYMENTS, AND WAGE REPORTS

The changes to Rule 6 update the process for employers to submit their quarterly contribution and wage reports electronically in the Online ADWS portal. It deletes outdated wage reporting procedures and formats, potentially leading to cost savings related to ADWS receiving less information on paper to enter manually. Finally, it reduces the number of employees an employer who submits their quarterly wage reports may have from 10 to 5 to encourage more electronic submissions.

Regulation No. 6

CONTRIBUTION PAYMENTS AND REPORTS, PAYMENTS IN LIEU OF CONTRIBUTIONS, ADVANCE
PAYMENTS, AND WAGE REPORTS

Effective date:

The following regulation is hereby amended, promulgated, and adopted by the Director, Arkansas Department of Workforce Services, pursuant to 11-10-701, 11-10-713, 11-10-401-403, 11-10-318 and 11-10-716:

(A)

- 1) Except as otherwise provided in this Paragraph (A), each employing unit, which is or becomes an employer under the provisions of the Arkansas Department of Workforce Services Law, including those who elect to make payments in lieu of contributions under Section 11-10-713 of the law, shall file with the Department of Workforce Services an Employer's Quarterly Contribution and Wage Report ~~on report forms provided by the Department of Workforce Services, either on its own initiative or at the request of such employing unit~~ electronically in the online ADWS Employer Portal. The report shall be filed on a quarterly basis in accordance with the due dates specified in paragraph B, below. The report shall contain:
 - a) The employer's name, Department of Workforce Services account number, and address at which the employer keeps payroll records ~~are kept~~;
 - b) The name and Social Security number of each worker employed by the employer during the calendar quarter;
 - c) The total wages, as defined in Arkansas Code 11-10-215, paid to ~~each individual in his employ~~ each employee with respect to the calendar quarter designated ~~on the report form~~. The certification on each Employer's Quarterly Contribution and Wage Report shall be signed by:
 1. The individual, if the employer is an individual;
 2. The president, vice president, or other principal officer if the employer is a corporation; or
 3. A responsible and duly authorized agent having knowledge of its affairs, if the employer is an individual partnership, other unincorporated organization, governmental employing unit, or a group account; and
 - d) ~~Any~~ any other information that may be requested on the form.
- 2) ~~Employers may submit their quarterly contribution and wage reports on their own paper provided each sheet is no larger than 8 ½" by 11" in size, that it contains all of the information required under Paragraph (A) (1), above, and that it is in the same format as the report form prescribed by the Department of Workforce Services. The Employer's Quarterly Contribution and Wage Report may only be submitted on paper if the employer has less than five (5) employees to report for the quarter and must contain all of the information required under Paragraph (A)(1) above.~~
- 3) ~~All employers required to report W-2 copy A information on magnetic media tape to the Social Security Administration, pursuant to 26 CFR Section 301.6011-2, are likewise required to report quarterly wage information to the Arkansas Department of Workforce Services on 3 ½" diskette or CD effective January 1, 2008, and, after proper notification,~~

~~Electronic Data Interchange via Internet access. Employers not required to report by tape or diskette by the Social Security Administration may do so as an option. These employers may also report via Internet access.~~

- 4) All employing units that are ~~employers by virtue of the fact that they are~~ care recipients receiving personal care services pursuant to an Arkansas Medicaid program ~~and that have less than three years of benefit risk~~ may have the required information reported by an entity under contract with the State to provide fiscal/employer agent services for Arkansas Medicaid programs. The information may be reported under a single account number established by the fiscal/employer agent. The fiscal/employer agent shall be liable for all contributions, penalties, and interest related to the account. The fiscal/employer agent shall maintain separate records for each employer for which it reports on the account.
- (B) With respect to wages paid for employment for any calendar year, contributions shall become due and payable on a ~~calendar quarter~~ quarterly basis. The contribution payment ~~together with and~~ the quarterly Contribution and Wage Report shall be due and payable in the following manner:
 - (1) The first calendar quarter shall be due and payable during the month of April of the calendar year.
 - (2) The second calendar quarter shall be due and payable during the month of July of the calendar year.
 - (3) The third calendar quarter shall be due and payable during the month of October of the calendar year.
 - (4) The fourth calendar quarter shall be due and payable during the month of January of the next calendar year.
 - ~~(5) An employer as defined in (A) (3) above may, after January 1, 1998, and after proper notification, be required to submit contribution payments to this agency by electronic funds transfer.~~
 - ~~(6) An employer, effective July 1, 2003, and after proper notification, may submit contribution payments by a credit card approved by the Arkansas Department of Workforce Services.~~
- (C) All contribution payments and reports shall include all contributions with respect to wages paid for employment in all pay periods ending within the calendar quarter to which the payment and report has reference.
- (D) Wages earned for employment, the exact amount of which, or the person to whom payable was not determined during any previous pay period shall, for the purposes of this regulation, be reported in the pay period in which they are actually paid.
- (E) The receipt date of any contribution payment or report shall be the day on which it is received either by the Department of Workforce Services in the State Administrative Office at Little Rock, Arkansas, ~~or by a field representative of the Department of Workforce Services,~~ except that the receipt date of any contribution payment or report mailed to the Department of Workforce Services shall be the day it was postmarked as received in the mails by the United States Postal Service. The receipt date of any contribution payment by electronic funds transfer shall be the date that the remittance is transferred to the Department.
- (F) Upon the written request of any employer filed with the Director on or before the due date of any contribution payment, the Director, for good cause shown, may grant in writing an

extension of time for the filing of a Quarterly Contribution and Wage Report and the payment of the contribution due thereon, but---

- 1) no extension for the filing of the contribution report and the payment of the contribution due thereon shall exceed thirty (30) days; and
- 2) no extension shall postpone the filing of the contribution report and the payment of the contribution due thereon beyond the fifteenth day preceding the last day for filing tax returns under the Federal Unemployment Tax Act

If any employer who has been granted an extension fails to file his Quarterly Contribution and Wage Report within the extension period, the penalty provision of the Law shall apply, and, if any employer fails to pay the contribution due on the report within the extension period, interest shall be payable from the original due date as if no extension has been granted.

(G) The first contribution payment, together with the contribution report of any employing unit who becomes an employer under this Law, shall be due and payable during the calendar month next following the close of the calendar quarter in which he becomes an employer.

~~(H) The certification on each Employer's Quarterly contribution and Wage Report shall be signed by:~~

~~(1) the individual, if the employer is an individual, or~~

~~(2) the president, vice president, or other principal officer, if the employer is a corporation, or~~

~~(3) a responsible and duly authorized agent having knowledge of its affairs, if the employer is an individual partnership, other unincorporated organization, governmental employing unit, or a group account.~~

(I) Whenever the Director finds the collection of contributions from any particular employer may be jeopardized because of bankruptcy or removal or other factors, ~~he~~ the Director may advance the due date of such employer's contributions to such date, succeeding the period with respect to which they have accrued, as he deems advisable, or may ~~in his discretion~~, upon such finding or upon the request of an employer, prescribe payment of contributions from such employer monthly rather than quarterly.

(J) At the end of each calendar quarter, or as soon thereafter as possible, the Department of Workforce Services shall send to each employing unit, which makes payments in lieu of contributions, except State government employing units, a quarterly listing of benefit charges showing the amount of regular and extended benefits paid to claimants during such quarter based on wages paid by such employing unit and charged to such employing unit.

~~(K) Refunds of excess advance payments made by reimbursable employers under Arkansas Code 11-10-713 shall be made if the employing unit requests the refund within thirty (30) days after the date on which the Director mails or otherwise delivers the overpayment notice to the employing unit at the end of a calendar year.~~

(L) At the end of each calendar quarter, or as soon thereafter as possible, the Director shall bill the Department of Finance and Administration of the State of Arkansas for all regular and extended benefits chargeable to State government employing units. The Department of Finance and Administration shall pay such billings within thirty (30) days after the date the Director mails or otherwise delivers such billings to the Department of Finance and Administration.

~~This amended regulation shall take effect and be in full force on and after January 1, 2008.~~

Notice of Rulemaking

Pursuant to the Arkansas Administrative Procedures Act, Arkansas Code § 25-15-201 et seq., notice is hereby given that the Division of Workforce Services is considering amendments to an administrative rule concerning how employers make and report quarterly unemployment insurance contributions. A public comment hearing will be held for the proposed rule on January 31, 2025, at 2:00pm at the Arkansas Department of Commerce, 1 Commerce Way Little Rock, AR 72201 in the Buffalo River Conference Room. The public comment period for this rule ends on February 17, 2025. Please send comments by U.S. mail to: Division of Workforce Services, Office of Legal Services, P.O. Box 8040, Little Rock, AR 72203, or email to: stephen.m.reynolds@arkansas.gov. The proposed rule is available on our website at: <https://dws.arkansas.gov>. Copies also may be obtained by contacting the DWS Office of Legal Services at the above address or via phone at (501) 682-2286. Any inquiries concerning the public comment hearing should be directed to Stephen M. Reynolds, Associate General Counsel by email above or by phone at (501) 682-2286.

From: [Legal Ads](#)
To: [Stephen M. Reynolds](#)
Subject: Re: Notice of Rulemaking
Date: Tuesday, January 14, 2025 10:58:17 AM
Attachments: [image001.png](#)

Thanks, Stephen. Notice will run Fri 1/17, Sat 1/18, and Sun 1/19. You will receive one bill for all three days.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Stephen M. Reynolds" <Stephen.M.Reynolds@arkansas.gov>
To: "legalads" <legalads@arkansasonline.com>
Cc: "Kristina Jacks" <Kristina.Jacks@arkansas.gov>, "Lenora Roberts" <Lenora.Roberts@arkansas.gov>, "Jason Epperson" <Jason.Epperson@arkansas.gov>, "David McCoy" <David.McCoy@arkansas.gov>
Sent: Monday, January 13, 2025 12:15:00 PM
Subject: Notice of Rulemaking

Good afternoon Gregg,

Please find attached the agency's notice of rulemaking and confirm receipt. Please run the notice for three consecutive days from Friday January 17 through Sunday January 19, 2025. Please run statewide on Sunday; the City edition is fine for the other two days. I understand that you guys prefer Sunday-only publication for legal notices; however, state law still requires that we publish a notice of rulemaking in "a newspaper of general daily circulation for three (3) consecutive days." If I remember right, we will receive two invoices – one for Friday and Saturday, and one for Sunday. When you all send us invoices, please send a digital copy to me and Kristina Jacks at kristina.jacks@arkansas.gov; any physical copy can be sent to:

Division of Workforce Services
Office of Legal Services
P.O. Box 8040
Little Rock, AR 72203

Please give me a call if you need anything else from me. Good working with you again.

Thanks,



Stephen M. Reynolds

Associate General Counsel

Department of Commerce

Division of Workforce Connections

Shared Services – Legal (ARS/DSB)

1 Commerce Way

Little Rock, AR 72202

501.682.2286

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