REPORTING EMPLOYEE (MEMBER) CONTRIBUTIONS

A.C.A. § 24-7-411
(SEE ALSO RULE NOS. 7-1 AND 7-4.)

DEFINITIONS (Amended by Act 638 of 1995, Act 11 of 1999, and 146 of 2005)

1. **Salary** means any remuneration paid an employee in a position or positions covered by the System and on which the employer withholds federal income tax. It includes remuneration received from all covered employers during a school fiscal year; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitations on compensation for "eligible employees" shall not be less than the amount allowed under the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.

2. **Covered salary** means, effective July 1, 2003, employees' regular and federal salaries for the current fiscal year plus supplemental salary payments received for the previous fiscal year, plus adjustments agreed upon by both the employer and the Teacher Retirement System. For each member who first became a member before July 1, 1971, the covered salary for each year after June 30, 1969, is the first $7,800.00 of the member's total annual salary for all covered employment (Salary Option 2) unless he/she has elected to make contributions to the System on full salary. For each member who first became a member after June 30, 1971, or has elected to make contributions on full salary, the covered salary is his or her full salary for all covered employment (Salary Option 1). If, however, a member making contributions only on the first $7,800.00 of total annual salary (Salary Option 2) receives a refund of contributions and subsequently returns to covered service as a noncontributory member, he or she shall be considered on full salary for reporting purposes (Salary Option 1).

3. **Covered Employer** means each employer for whom a member renders service in a covered position.

RULES (Amended by Act 638 of 1995, Act 206 of 1997, and Act 11 of 1999)

1. After June 30, 1997, each employer will pay the member contributions for each salary earned by contributory members, and those contributions will then be treated as employer contributions in determining tax treatment under the provisions of the federal Internal Revenue Code and the Arkansas Income Tax Act. The contributions will not be included as gross income of the

member until they are distributed or made available to the member. The employer will pay these member contributions from the same source of funds used in paying the salary to the member. The employer may pay these contributions by a reduction in the cash salary of the member, or by a setoff against future salary increases, or by a combination of a reduction in salary and a setoff against future salary increases. If member contributions are paid by the employer as provided under this subsection, they shall be treated for all purposes of the Teacher Retirement System in the same manner and to the same extent possible as member contributions made prior to the date the employer began payment of the member's contributions as described.

2. Each employer shall deduct the member contributions from the salary of each contributory member on each payroll from the date of entrance into the System until retirement, and the employer shall remit the contributions to the System; however, compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for "eligible employees" shall not be less than the amount allowed by the System in effect on July 1, 1993. For this purpose, an "eligible employee" is an individual who was a member of the System before the first plan year beginning after December 31, 1995.

3. In order that each member of the Teacher Retirement System may receive credit for days of service, covered salary, and contributions on a timely basis, each employer shall report employee and employer contributions to the System on the following schedule:

   Monthly Contribution Reports

   Date Due: Fifteenth (15th) calendar day of each month. To avoid the late report penalties (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working day.

   Quarterly Retirement Reports

   Date Due: Fifteenth (15th) calendar day of each quarter. To avoid the late report penalties (see Nos. 6 and 7 page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working day.

4. Each of the above reports must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System.

5. Overpayments or underpayments of member contributions reported from the local level shall be handled in the following manner by the ATRS office:

   A. If an underpayment of less than $25.00 was reported from the local level, no attempt will be made to collect the difference of this underpayment.

   B. If an overpayment of contributions of less than $5.00 is reported from the local level, no refund of this amount will be made to the member, except upon written request from the member. The total amount reported by the employing authority shall be credited to contributions.

   C. Should an underpayment of contributions occur as a result of a member's changing status from noncontributory to contributory, the member must remit to the System the contributions due based on gross salary earned retroactive to July 1 of that fiscal year. Service credit will be granted upon completion of contribution and applicable interest payments for that fiscal year.

   D. Should an overpayment of member contributions occur as a result of changing status from contributory to noncontributory, the System will refund the overpayment of member contributions to the employer.

6. Beginning July 1, 1998, should an employer fail at any time to report the salary of a member and remit the contributions to the System, the System shall have the right to collect from the employee and the employer the contributions due, if any, from each, together with interest beginning with the subsequent fiscal year; provided further that in no case shall a member be given credit for service rendered until any contributions and interest due from each are paid in full. Service credit will be granted upon completion of contribution and applicable interest payments for that fiscal year.

7. For persons who are retiring and who are employed in agencies or other institutions that use the state 26-week payroll, employers should report to Teacher Retirement the salary, contributions, and actual days worked through the current year payroll period. Contributions should not be withheld on any salary earned after the close of the current year's payroll, nor should any salary or days of service be reported for that period of time.

Amended: August 11, 1998
July 18, 2005
February 11, 2008

EMPLOYER CONTRIBUTIONS

A.C.A. § 19-5-106, § 24-7-401, § 24-7-1303
(as amended by Act 1968 of 2005, and Acts 97 and 298 of 2007)
(SEE ALSO RULE NOS. 7-1 AND 7-3.)

DEFINITIONS

1. **Salary** means the remuneration paid to an employee in a position covered by the Arkansas Teacher Retirement System and on which the employer withholds federal income tax.

2. **Participating employers** means local school districts, cooperative education services areas, vocational centers, the Department of Correction, open enrollment charter schools, all public postsecondary institutions, the educational components of certain state agencies and instrumentalities, or an educational nonprofit corporation approved by the Board of Trustees in accordance with rules and regulations established by the Board.

3. **Adjustments** include error corrections, payments for members who were omitted from the correct reporting period, and any adjustments agreed to by both the employer and the Teacher Retirement System.

RULES FOR THE EMPLOYER CONTRIBUTION RATE

1. Effective July 1, 2003, the employer contribution (matching) rate shall be the rate established by the Board of Trustees of the Arkansas Teacher Retirement System prospectively for each year pursuant to A.C.A. § 24-2-701(c) and § 24-7-401(c).

2. The rate shall be set by the Board following consultation with its actuary. In determining such rate, the Board shall consider the financial objectives set forth in A.C.A. § 24-2-701 and § 24-7-401 and shall base the rates on the actuary's determination of the rate required to fund the plan in accordance with these financial objectives.

   A. The employer contribution rates for the fiscal years ending June 30, 2008, and June 30, 2009, shall not exceed fourteen percent (14%).

   B. If the costs of benefit commitments for service previously rendered are overfunded, the plan may deduct a level payment that, if deducted annually over a reasonable period of future years, will fully liquidate the overfunded portion of the costs.

3. The Arkansas Teacher Retirement System shall annually notify the local school districts, the Department of Education, and other participating employers of the employer contribution rate established by the Board for the upcoming fiscal year.

4. Pursuant to A.C.A. § 24-7-103, participating employers shall pay the Teacher Retirement employer contributions for eligible employees in accordance with these rules and regulations.

5. The Department of Education shall pay from the Public School Fund the Teacher Retirement employer contributions for eligible employees of participating employers as required by the department's biennial appropriations act and in accordance with rules established by the Board. Beginning with the 1996-97 school year, special language in the Department of Education's biennial appropriations for grants and aids to local school districts requires that the appropriation for Teacher Retirement matching each fiscal year be used for employees of the Cooperative Education Services Areas, Vocational Centers, Arkansas Easter Seals, and the school operated by the Department of Correction.[1]

RULES FOR REPORTING EMPLOYER CONTRIBUTIONS

1. The annual employer contributions to be paid each fiscal year by participating employers shall be the current ATRS employer contribution rate multiplied by the active employees' total salaries

2. The employer contributions are to be remitted to ATRS in the manner, form, and frequency and shall be accompanied by supporting documentation as determined by the System. Timely payment of contributions shall be a condition of continued participation in the System.

3. In order to ensure that members of the Teacher Retirement System receive credited service in a timely manner, employers shall report employee and employer contributions to the System on the following schedule:

[1] Active employers as of 2006-2007 are: 1307 SW AR Educ. Coop., 1308 SE AR Educ. Coop, 1330 Western AR Educ. Coop, 1332 North Central Educ. Coop, 1336 Ozark Unlimited Resource Coop, 1337 NE AR Educ. Coop., 1338 Howard Dawson Educ. Coop., 1339 Arch Ford Coop, 1345 Wilbur D. Mills Educ. Serv. Coop, 1349 AR River Educ. Services Coop., 1350 Great Rivers Educ. Coop., 1351 NW AR Educ. Services Coop., 1353 DeQueen-Mena Educ. Coop., 1354 Crowley's Ridge Coop., 1355 South Central Services Coop., 1359 Conway Vocational Center, 1362 Jonesboro Vocational Center, 1363 Monticello Vocational Center, 1365 North Central Career Center, 1366 River Valley Vocational Center, 1370 Russellville Vocational Center, 1371 Metropolitan Vocational Center, 1372 Texarkana Vocational Center, 1373 Warren Vocational Center, 06864 Easter Seals, 1-328 AR Department of Corrections. Inactive employers as of 2006-2007 are: 1358 Camden Vocational Center, 1360 Fayetteville Vocational Center, 1367 AR Educ. Service Center.

Monthly Contributions

Date Due: Fifteenth (15th) calendar day following the end of each month. To avoid late report penalties and interest penalties on late contributions (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working day.

Quarterly Retirement Reports

Date Due: Fifteenth (15th) calendar day following the end of each quarter. To avoid the late report penalties (see Nos. 6 and 7 on page 7-4-3), reports must be received by the 15th day of the month or must be postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working day.

4. Each of the reports listed above must be on forms or electronic media either furnished by the Teacher Retirement System or approved by the System.

5. For Cooperative Education Services Areas, Vocational Centers. Arkansas Easter Seals, and the school operated by the Department of Correction (paid by the Department of Education from the Public School Fund), the Teacher Retirement System shall certify to the Department of Education at the close of each quarterly report the amount of employer contributions due. The amount will be based on the employers' reported salaries.

6. The monthly remittance of employer contributions shall be due in the ATRS office by the tenth (10th) calendar day following the end of each month. Under A.C.A. § 24-7-411, a $150.00 late report penalty and a 6% interest penalty on late contributions will be assessed on reports and contributions not received by the 15th day of the month or postmarked by the 14th day of the month due. If the 14th falls on Saturday, Sunday, or a holiday, the postmarked date is extended to the next working date.

7. The System may certify to the state's Chief Fiscal Officer the names of participating employers who are delinquent in reporting and remitting contributions under this policy. Upon notification, the Chief Fiscal Officer may direct a transfer of funds on deposit in the State Treasurer's Office for any delinquent employer payments plus the six percent (6%) interest penalty to the System. (A.C.A. § 19-5-106)

8. Supplemental salary payment reports for previous years will be accompanied by the employer contributions due (based upon the rate in effect the year payment was due).

9. The Arkansas Teacher Retirement System shall return to participating employers overpaid matching amounts due to erroneous submission of payments or incorrect reporting of Salary Option 2 (first $7,800.00) member salaries. If an overpayment of employer matching amount is less than $25.00, the refund will not be issued to the employer unless requested in writing by the employer.

10. The Arkansas Teacher Retirement System shall not collect from participating employers an underpayment of employer contribution amount if less than $25.00.

11. For members retiring who are employed by agencies or other institutions that use the state's 26-week payroll schedule, employers should adhere to the state's fiscal year payroll schedule for reporting the last salary payment of the state's fiscal year and for the termination date of employment.

RULES FOR REPORTING T-DROP EMPLOYER CONTRIBUTIONS

1. The annual T-DROP employer contributions to be paid each fiscal year beginning September 1, 2003, by participating employers shall be the contribution rate as defined below multiplied by the total T-DROP member salaries (A.C.A. § 24-7-1303).

   A. For members whose effective date in T-DROP is before September 1, 2003, the employer contribution rate to the Arkansas Teacher Retirement System on behalf of all members in T-DROP shall be at the rate of:

      - One percent (1%) for the period from September 1, 2003, through June 30, 2005
      - Three percent (3%) for the period from July 1, 2005, through June 30, 2007
      - Six percent (6%) for the period from July 1, 2007, through June 30, 2009
      - Nine percent (9%) for the period from July 1, 2009, through June 30, 2011
      - Twelve Percent (12%) for the period from July 1, 2011, through June 30, 2013
      - After July 1, 2013, the percentage rate established by the entity having the authority to set the employer contribution rate for the System pursuant to A.C.A § 24-7-401.

   B. For members whose effective date in T-DROP is on or after September 1, 2003, the employer contribution rate on behalf of members in T-DROP shall be the rate established by the entity having the authority to set the employer contribution rate for the System pursuant to A.C.A § 24-7-401.

2. Until and on August 31, 2003, employer contributions on behalf of the members participating in the T-DROP may be retained by the school district.

3. Except for employer contributions to the Arkansas Teacher Retirement System beginning September 1, 2003, the school district shall not make contributions to any tax-qualified retirement plan on behalf of any employee participating in the T–DROP.

Amended:	June 17, 2003
	April 6, 2004
Reaffirmed:	June 15, 2004
Amended:	July 18, 2005
	April 26, 2007
	February 11, 2008

REFUNDS OF MEMBER CONTRIBUTIONS

A.C.A. § 24-7-711

DEFINITIONS

1. **Accumulated Contributions** - The total of all amounts contributed by a member and standing to his/her credit in the individual account in the member's deposit account, together with regular interest credited thereon.

2. **Regular Interest** means such rate or rates per annum, compounded annually, as the Board shall from time to time adopt that ATRS uses to compute interest on a member's contributions.

RULES

1. Should an overpayment of contributions of less than $5.00 be reported from the local level, no refund of this amount will be made to the member, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions.

2. On refunded contributions, the rate for all interest credited before June 30, 1984, is 3%, compounded annually, after the first year of contributions. The rate of interest credited on and after June 30, 1984, is 6%, compounded annually, after the first year of contributions. Interest shall be computed on each member's individual account as of June 30 each year by multiplying the balance in the member's individual account as of July 1 (including all contributions and interest credit from previous years) plus one-half (1/2) his contributions for the year ending on June 30 by 3% percent.

3. Interest is not paid on contributions made in the year in which a refund is paid.

4. On and after June 30, 1984, the Board of Trustees shall set the rate of interest, based on the reports of the actuary and the investment counsel at periodic intervals as determined by the Board.

5. Any members receiving a refund who have previously received a refund and repaid the contributions shall be refunded the 6% purchased interest paid on such refund. This same policy shall be applicable to interest paid on purchase of in-state service, out-of-state service, and military service

6. Effective May 19, 1992, refunds of contributions will be made within six (6) months from the date of receipt of the written application in the Teacher Retirement System office.

7. Certification of the amount of contributions to be refunded may be made to a lending agency (bank, etc.) upon the written request of a member. Refunds must be made to the member as payee, but may be sent to the lending agency if authorized by the member. Employers are responsible for the accuracy of information on salaries and contributions that they certify to the System on refund applications. If information certified by an employer causes the System to overpay a refund, and if the System is unable to secure reimbursement of the overpayment from the member receiving the refund, the employer shall reimburse the System the amount of such overpayment.

8. A refund of contributions forfeits credited military service. Repayment of the refund plus interest reestablishes the forfeited military service. If military service was not credited to a member prior to refund of the contributions, repayment of the refund is not necessary to establish military service credit, provided the member meets the requirements listed above.

9. Beginning January 1, 1993, should a member, or spouse if the member is deceased, become eligible to receive a refund of contributions and elect to make a direct rollover of a distribution to an eligible retirement plan of all or part of the eligible rollover distribution, the amount shall be paid to the trustee of the eligible retirement plan.

Amended: July 18, 2005
February 11, 2008

PURCHASE OF DOMESTIC FEDERAL SERVICE

A.C.A. § 24-7-611, § 24-7-202

DEFINITIONS

1. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System (ATRS).

2. **Domestic federal service** means service rendered as a teacher or administrator in any school or similar institution located on a military base or installation that is administered by the Department of Defense.

3. **System** means the Arkansas Teacher Retirement System.

RULES

1. An active member shall be eligible to purchase domestic federal service under the following conditions[1]:

   A. Domestic federal service credit eligible for purchase shall be limited to service for which no benefit except social security could be payable by another system similar in purpose to this System, and on which the member left on deposit his or her contributions to that system.

   B. Domestic federal service purchased shall be limited to ten (10) years.

2. The cost to purchase domestic federal service is the employee and employer contribution rates in effect at the time of purchase times the greater of:

   A. The first full year of annual salary the member received for actual service to a covered employer earned immediately preceding the purchase; or

   B. The average of the member's three highest annual salaries to a covered employer. If the member does not have at least three salaries that comprise three years of service, the cost statement shall be based solely upon the first full year's covered annual salary for Arkansas service immediately preceding the purchase. If the member has not earned one full year of Arkansas service, no cost statement will be provided

[1] The Board shall not implement the purchase of domestic federal service until the System has reduced its unfunded accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under A.C.A. § 24-1-104 and § 24-1-105.

3. Interest will be added to the cost statement as follows:

   A. If the cost is based solely on the member's first full year annual salary immediately preceding the purchase, interest will accrue from the end of the preceding year used in the computation until paid in full.

   B. If the cost is based upon the average of the member's three (3) highest salaries, interest will accrue from the end of the latest year used in the computation until paid in full.

   C. Interest will accrue annually on any unpaid balance based upon the initial payment date until paid in full.

4. The domestic federal service will become credited service in the System when:

   A. The member payments have been paid in full; and

   B. The member has established five (5) or more years of actual service exclusive of domestic federal service.

5. Should a member cease to be an active member before the federal domestic service has been established as System credited service, the member payments contributed shall be refundable, together with regular interest; however, due to IRS regulations, purchase account payments made through employer pick-up are subject to the restrictions as stated in Rule No. 8-6 (Rollover Eligibility).

6. To be eligible to establish one (1) year of domestic federal service, a minimum of one hundred twenty (120) days must have been worked. Fractional years of domestic federal service may be purchased in accordance with A.C.A. § 24-7-601 and § 24-1-611(c). A month of domestic federal service shall be considered as twenty (20) days.

7. Certification of domestic federal service must be submitted to ATRS on a form provided by the System.

8. All domestic federal service shall be counted as contributory service.

9. Purchased domestic federal service shall be credited to the fiscal year in which it was rendered.

10. Repayments of refunds or the purchase of service may be made by employer pick-up (tax-deferred deductions). See Rule No. 8-5 (Purchase Payments).

11. ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the purchase of service credit under certain circumstances. See Rule No. 8-4 (Direct Rollover Eligibility).

Adopted: February 11, 2008

PURCHASE OF FEDERAL RETIREMENT SERVICE

A.C.A. § 24-1-107, § 24-7-601

DEFINITIONS

1. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System (ATRS).

2. **Federal Retirement Service** means service credited with a federal retirement system as a result of employment with federal government agencies.

3. **System** means the Arkansas Teacher Retirement System.

RULES

1. Beginning August 12, 2005, an active member shall be eligible to purchase federal retirement service under the following conditions[1](Act 2091 of 2005):

   A. Federal retirement service eligible for purchase is limited to service for which no benefit is payable from the federal retirement system in which he or she had previously been a member.

   B. Federal retirement service purchased shall be limited to ten (10) years.

2. The cost to purchase federal retirement service is the employee and employer contribution rates in effect at the time of purchase times the greater of:

   A. The first full year of annual salary the member received for actual service to a covered employer earned immediately preceding the purchase; or

   B. The average of the member's three highest annual salaries to a covered employer. If the member does not have at least three salaries that comprise three years of service, the cost statement shall be based solely upon the first full year's covered annual salary for Arkansas service immediately preceding the purchase. If the member has not earned one full year of Arkansas service, no cost statement will be provided.

[1] The Board shall not implement the purchase of federal retirement service until the System has reduced its unfunded accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under A.C.A. § 24-1-104 and § 24-1-105.

C. Interest will be added to the cost statement of federal credited service from the date the federal service began to the date of payment. Interest will accrue annually on any unpaid balance based upon the initial payment date.

3. The federal retirement service will become credited service in the System when:

   A. The member payments have been paid in full; and

   B. The member has established five (5) or more years of actual service exclusive of federal retirement service.

4. Should a member cease to be an active member before the federal retirement service has been established as System credited service, the member payments contributed shall be refundable, together with regular interest; however, due to IRS regulations, purchase account payments made through employer pick-up are subject to the restrictions as stated in Rule No. 8-6 (Rollover Eligibility).

5. To be eligible to establish one (1) year of federal retirement service, a minimum of one hundred twenty (120) days must have been worked. Fractional years of domestic federal service may be purchased in accordance with A.C.A. §§24-7-601 and 24-1-107). A month of domestic federal service shall be considered as twenty (20) days.

6. Certification of federal retirement service must be submitted to ATRS on a form provided by the System.

7. All federal retirement service shall be counted as contributory service.

8. Purchased federal credited service shall be credited to the fiscal year in which it was rendered.

9. Repayments of refunds or the purchase of service may be made by employer pick-up (tax-deferred deductions). See Rule No. 8-5 (Purchase Payments).

10. ATRS will accept participant rollover contributions and/or direct rollovers of distributions for the purchase of service credit under certain circumstances. See Rule No. 8-4 (Direct Rollover Eligibility).

Adopted: February 11, 2008

RETIRANT'S RETURN TO COVERED EMPLOYMENT

A.C.A.§§ 24-7-708 and 24-7-202
(as amended by Act 1293 of 1995, Act 384 of 1997, Act 30 of 1999, Act 1146 of 2001, Act 911 of 2005 and Acts 612 and 698 of 2007)

DEFINITIONS

1. **Covered salary** means remuneration paid from a covered employer to an ATRS retirant on which waiver contributions are paid.

2. **Earnings limitation** means the limitation applicable to a member's retirement annuity when a retiree receives remuneration from a covered employer.

3. **Normal retirement age** means sixty-five (65) years of age.

4. **Retirant** means a member receiving an ATRS retirement annuity.

5. **Retires** means that a member ceases to be active and is eligible to receive an ATRS annuity.

AGE AND SERVICE RETIRANT

1. If a retirant returns to work service for a covered employer [1] without rescinding retirement under A.C.A. § 24-7-717, then for each twelve-month period ending June 30, the amount of the member's covered salary shall be subject to a limitation equivalent to twice the limitation imposed by the Social Security retirement test.[2]

2. Upon adoption of rules by the ATRS Board implementing Act 698 of 2007, when a retirant entering into a position of employment with the Department of

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[1] Prior to July 1, 1991, the earnings limitation applied to retirants who were
- Employees with ATRS, ASHERS, or ASERS from July 1, 1971, through June 30, 1977;
- Employees with a public employer, whose employers are covered by a state-supported retirement plan or the University of Arkansas from July 1, 1977, through June 30, 1978;
- Employees of a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions from July 1, 1978, through June 30, 1991.

[2] The Social Security earnings limitation ceases upon reaching Social Security "full retirement age" as defined P.L. 106-182.

Education is exempt from item 1 of this section and shall be employed with no limitations placed on his or her earnings.[3]

3. For any retired member returning to work for the Department of Education pursuant to item 2 in this section, the employee and employer contribution rate shall recommence on behalf of the retired member at the rate in effect at the time of the employment and shall be remitted by the employer in the manner prescribed by the System. Any contribution amounts paid under this section shall not be refundable and shall not constitute the addition of service credit.

4. Effective July 1, 1992, a retirant who is under normal retirement age may receive earnings from a covered employer up to twice the Social Security earnings limitation amount without affecting his/her ATRS annuity benefits. If his/her ATRS covered earnings exceed that amount, ATRS will reduce the member's retirement annuity $1 for each $2 earned in covered salary above the earnings limitation amount.

   A. A retirant reaching the System's normal retirement age may return to service without being subject to the earnings limitation.[4] Normal retirement age for the System means sixty-five (65) years of age or older.

   B For each year ending June 30, the Social Security retirement test to be considered shall be the test in effect for the calendar year beginning the January 1 immediately preceding June 30. The retirant's earnings shall be his or her remuneration for the employment for the year ending June 30.

   C i. For those retirants exceeding the earnings limitation, the System will suspend annuity payments to collect the reduction when the earnings limitation is exceeded. If at the end of the fiscal year, the System has not received from the suspension the amount due from the retirant exceeding the earnings limitation, the System may carry over suspension of benefits into the next fiscal year.

   ii. Upon written request by the retirant upon reemployment, the System may initiate an equal monthly reduction of the retirant's retirement annuity in the fiscal year in which the earnings limitation will be exceeded to collect the earnings limitation reduction.

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[3]The ATRS Board of Trustees may not implement Acts 612 and 698 of 2007 until the System has reduced its unfunded accrued liabilities being amortized over a period exceeding thirty (30) years to a level less than the standards prescribed for those public retirement systems under A.C.A. §24-1-104 and §24-1-105.

[4] In establishing an equivalent limitation for the System, ATRS considers full retirement age to be the "normal retirement age" for the System under A.C.A. § 24-7-202(19).

iii. The amount recovered by ATRS will not exceed the amount of benefits paid during the year(s) in which the earnings limitation is/was exceeded.

iv. In extraordinary hardship circumstances, the retirant may request an alternate method of repayment other than total suspension of benefits for a violation of the earnings limitation.

v. For questions not covered by this rule, see Rule No. 9-7 (Error Corrections and Collection of Overpayments).

5. A. Upon acceptance of employment with a covered employer, the retirant and employer must report to ATRS that the retirant has returned to covered employment. A Statement of Employment form must be completed immediately by employers and retirants upon acceptance of employment for each retirant hired in a position covered by ATRS.

B. Employers will report monthly all retirants who have returned to employment in an ATRS covered position. The monthly report will be filed on a Return to Service form, which will be furnished by ATRS.

C. In the event that both a retirant and employer fail to notify the System of a retiree's return to covered employment, any retirement benefits paid in violation of this policy during the time of employment are subject to collection by the System under the overpayment policy. ATRS reserves the right to immediately suspend the retirement annuity until all benefits overpaid to the retirant are repaid to the System.

6. A. Effective July 1, 1977, a retirant may receive remuneration as an employee from any private employer or as a member of the General Assembly without any effect on his/her annuity.[5]

B. Effective July 1, 1991, an age and service retiree may be employed by a public employer whose employees are not covered by ATRS without any effect on his/her annuity.

7. When a retirant returns to covered employment and does not rescind his/her retirement, the retirant shall not accrue additional service credit in the System, and no contributions shall be remitted on behalf of the retirant.[6]

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[5] From July 1, 1971, through June 30, 1977, this "exemption" covered employees receiving remuneration "from any other public employer or private employer."

[6] Act 1293 of 1995 provided that if a retirant is employed in a covered position by a public college, university, or vocational-technical school, his/her annuity shall not be subject to the limitations provided in No. 1 above. This exemption was repealed by Act 384 of 1997, effective July 1, 2007.

8. For the return to work rules applicable to disability retirees receiving benefits under A.C.A. § 24-7-704, see Policy No. 9-3 (Disability Retirement).

WAIVER OF EARNINGS LIMITATION (Act 30 of 1999, Act 1146 of 2001, Act 911 of 2005, and Act 612 of 2007)

1. A. In accordance with rules and regulations adopted by the State Board of Education, the Arkansas Department of Education (ADE) may request of the ATRS Executive Director a waiver of the conditions subjecting annuities to the ATRS earnings limitation.

   B. All requests for waiver must originate with ADE and be submitted to the ATRS Executive Director for approval within sixty (60) days of employment. If approved, the waiver shall be effective for one (1) year from the date of hire or until the end of the current fiscal year, whichever comes first, with the option to renew annually for up to a total of three (3) years as requested by ADE. Waiver renewals are not automatic and any extensions must be approved by the ATRS Executive Director.

   C. Upon adoption of Rules by the ATRS Board implementing Act 612 of 2007, a waiver may be renewed annually for up to a total of six (6) years as requested by ADE.

   D. Waiver requests (1) initiated by the employer prior to the member's effective date of retirement or (2) filed within thirty (30) days following the member's effective date of retirement will not be eligible for consideration by ATRS.

2. Effective July 1, 2005, under Act 911 of 2005, the ATRS Executive Director is authorized to take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education:

   A. If the retiree is hired by a public school district due to a shortage of certified teachers in a critical academic area in which the retiree is certified; OR

   B. If the retiree is hired as a superintendent due to a reconstitution or reorganization of a public school district as allowed in A.C.A. §§ 6-15-201 et seq., §§ 6-15-401 et seq., or §§ 6-20-1901 et seq., following an appropriate determination by the State Department of Education that:

      i. The public school district has failed to meet standards of accreditation pursuant to A.C.A. §§ 6-15-201 et seq.; OR

ii. The public school district is in academic distress status for failing to meet the minimum level of academic achievement on the ACTAAP examinations pursuant to A.C.A. §§ 6-15-401 et seq.; OR

iii. The public school district is in fiscal distress status pursuant to A.C.A. §§ 6-20-1901 et seq.; AND

iv. An appropriately qualified applicant, as determined by the State Department of Education, who is not an ATRS-covered retirant is not available to be employed.

3. Critical academic areas in which there is a shortage of certified teachers shall be determined annually by the State Department of Education.

4. Employers shall maintain audit files identifying personnel granted a waiver and documenting the reasons for the waiver and will be responsible for reporting to ATRS all retirees who have returned to employment under these provisions.

5. Beginning July 1, 2005, a covered employer who employs a retired member who is approved for a waiver under this policy shall remit to the System an amount equal to the combined employee and employer contribution rate in effect for the fiscal year worked. This waiver fee shall be paid on all covered salary earned in the fiscal year and shall not be charged to or collected from the retirant. These amounts shall be recorded by the System in the ADE Waiver Income Account. (Act 911 of 2005).

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