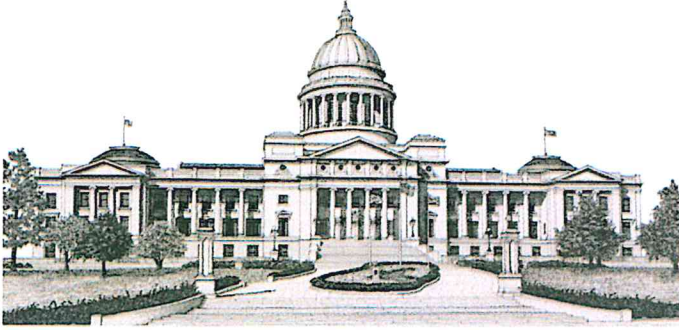


# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Teacher Retirement System

Department N/A

Contact Laura Gilson E-mail laurag@artsr.gov Phone 501-682-1266

Statutory Authority for Promulgating Rules 24-7-305 (b)(1)

**Rule Title:** Rule 9-2 Age and Service (Voluntary) Retirement

**Intended Effective Date**

(Check One)

**Date**

☐ Emergency (ACA 25-15-204)

Legal Notice Published .....

9/28/2017

☒ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment .....

10/27/2017

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Reviewed by Legislative Council .....

12/12/2017

Adopted by State Agency .....

02/05/2018

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Laura Gilson

laurag@artsr.gov

02/06/2018

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

George H. Martin  
Signature

501-682-1820

georgeh@artsr.gov

Phone Number

E-mail Address

Executive Director

Title

February 6, 2018

Date

## **RULE 9-2**

### **AGE AND SERVICE (VOLUNTARY) RETIREMENT**

A.C.A. § 24-7-502, A.C.A. §§ 24-7-701—707, and A.C.A. § 24-7-202 and 24-7-727

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#### **I. RETIREMENT ELIGIBILITY**

- A. If eligible, any active or inactive member who attains age 60 and has five (5) or more years of actual and reciprocal service credit may voluntarily retire upon written application filed with the System.
- B. If eligible, any active or inactive member who has not reached age 60 and has twenty-five (25) or more years of actual and reciprocal service credit, including purchased or free credited service, may voluntarily retire upon written application filed with the System.
- C. In order to be eligible, a member must comply with the following requirements:
  - i. Satisfy the credited service requirements under one of the System's retirement statutes, A.C.A. §§ 24-7-701—707,
  - ii. Be credited with all required employer and member contributions in the member's deposit account with no amounts owed to the System,
  - iii. Pay all amounts owed to the System for underpayments or purchase service accounts; and
  - iv. Terminate employment with all participating employers or have reached age 65 or older.

#### **II. BENEFITS**

##### **A. Benefits Formula**

The retirement benefits payable shall be the total number of contributory years of credited service multiplied by 2.15% of the final average salary, plus the total number of noncontributory years of credited service multiplied by 1.39% of the final average salary, unless modified by the board as necessary to maintain actuarial soundness. (A.C.A. § 24-7-705 (b)(5)).

##### **B. Effective Date of Retirement Benefits (A.C.A. § 24-7-701)**

If a member meets all eligibility requirements for retirement and is approved for retirement, annuity benefits shall be effective the month proposed by the member. If the member does not file an application at least one calendar month prior to the proposed effective retirement date, then that proposed retirement effective date cannot be used, and the member's effective retirement date shall be the following month.

If a member has signed an employment contract for the fiscal year and has been paid in full without providing service for the full period of the employment contract, the member's retirement effective date shall not be prior to July 1 of the subsequent fiscal year.

C. Compound Cost of Living Adjustment (A.C.A. § 24-7-727)

By Board resolution, as needed to maintain the actuarial soundness of the system, the Board may reverse a compound cost of living adjustment. A reversal may be phased in as the Board determines appropriate.

D. Last Benefit Payment Upon Death

Benefits are payable through the month in which the retiree's death occurs.

E. Change of Marital Status

If the marriage of the member legally ends for any reason, the member may choose to cancel the designation of the former spouse as the designated beneficiary. If the member so chooses, the member must file a change of option beneficiary on an ATRS approved form, and any change in the benefit amount shall become effective the month after receipt by ATRS of the approved form.

III. A member age 65 or older may apply for retirement benefits without terminating employment and may begin drawing benefits with no effect on the member's retirement benefit.

IV. In addition to a complete retirement application, the following documents are mandatory documents and shall be submitted to ATRS within six (6) months of the effective date of retirement unless an extension is granted by ATRS:

A. Member elects a straight life annuity:

- i. Proof of member's birthdate from a birth certificate or other authenticating documents.



- ii. Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.
- B. Member elects Option A or Option B benefit with Spouse as the beneficiary:
  - i. Proof of member's birthdate from a birth certificate or other authenticating documents.
  - ii. Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.
  - iii. Proof of spouse's birthdate from a birth certificate or other authenticating documents.
  - iv. Proof of spouse's taxpayer identification number from a Social Security card or other authenticating documents.
  - v. Proof of marriage between the member and spouse from a marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage.
- C. Member elects Option A or Option B benefit with incompetent child as the beneficiary:
  - i. Proof of member's birthdate from a birth certificate or other authenticating documents.
  - ii. Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.
  - iii. Adequate proof of the existence of a guardianship of the member's child due to incapacity that preexists the member's official retirement date. Authenticating documents may include the order appointing guardianship of the person, letters of guardianship or other adequate proof of the existence of the guardianship due to the incapacity of the member's child.
  - iv. Proof of child's taxpayer identification number from a Social Security card or other authenticating documents.
- D. Member elects Option C annuity:
  - i. Proof of member's birthdate from a birth certificate or other authenticating documents.
  - ii. Proof of member's taxpayer identification number from a Social Security card or other authenticating documents.
- E. If the member elects an alternative residual beneficiary or beneficiaries in lieu of their spouse, the member shall submit, on a form provided and

approved by ATRS, the names of the alternative residual beneficiary or beneficiaries along with the alternative residual beneficiary's or beneficiaries' birthdate from a birth certificate or other authenticating document approved by ATRS. The selection of an alternative residual beneficiary or beneficiaries allows the member's residue from T-DROP and/or the member's contributions to be paid in a lump sum to the alternative residual beneficiary or beneficiaries and a monthly retirement annuity shall not be paid.

F. The failure to submit a complete retirement application and any mandatory documents within a six-month period from the member's effective retirement date plus any extension granted by ATRS shall result in the retirement application being voided and of no effect. This rule on required documents applies to all retirement applications including retirement based upon age retirement, service retirement, early retirement, and disability retirement.

## HISTORY

**Amended:** June 15, 2004  
February 7, 2006  
April 26, 2007  
June 16, 2009 (Emergency)  
October 5, 2009 (Permanent)  
July 1, 2011 (Emergency)  
**Adopted:** August 8, 2011  
**Effective:** November 11, 2011  
**Approved by Board: July 26, 2013**  
**Amended:** October 9, 2013  
**Effective:** November 8, 2013  
**Approved by Board: October 5, 2015**  
**Amended:** February 1, 2016  
**Effective:** February 10, 2016  
**Approved by Board: February 5, 2018**  
**Effective:**

## FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT ATRS

DIVISION Legal

PERSON COMPLETING THIS STATEMENT Laura Gilson

TELEPHONE 501-682-1266 FAX \_\_\_\_\_ EMAIL: laurag@artrs.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 Rule 9-2 Age and Service (Voluntary) Retirement

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;

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

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

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

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)	_____

### Next Fiscal Year

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



Total \_\_\_\_\_

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, 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**

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

**Next Fiscal Year**

\$ \_\_\_\_\_ N/A

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**

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

**Next Fiscal Year**

\$ \_\_\_\_\_ N/A

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 Rule Change**

for  
Arkansas Teacher Retirement System

## **Rule 9-2 Voluntary Retirement**

### **Substantive changes**

This rule change is necessary after the passage of Acts 293 and 780 of 2017 to maintain and provide a more flexible mechanism to protect the financial strength of ATRS and in order to protect its members.

First, this rule allows purchased and free credited service to be included in the calculation of credited service.

Next, the rule change also modified the existing right of the ATRS Board to reverse a compounded COLA as needed to maintain actuarial soundness. The Board may already reverse the 2009 compounding of a COLA. The reversal may include a chart or proxy formula to be applied for members that have complicated changes in their benefits due to divorce, remarriage, death of the member, or death of a spouse. This rule would allow the Board to phase in reversal to prevent a retiree from receiving a reduction of benefits at any time.

Finally, the rule reflects changes in a member's designated beneficiary as requested by the member.

### **Non-substantive changes**

Minor modifications to improve clarity and consistency to language and numbering in the rule.