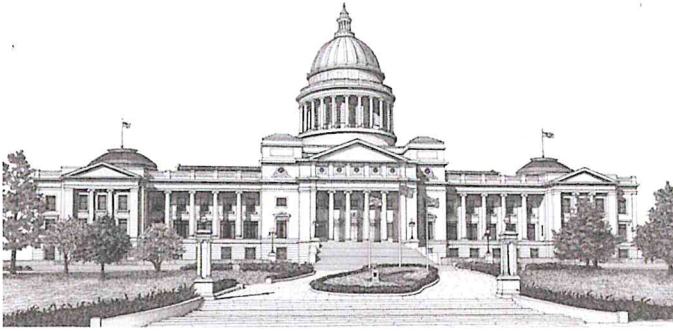


ARKANSAS REGISTER

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 ADMINISTRATION

Contact Clint Rhoden E-mail clintr@artrs.gov Phone 501-588-4367

Statutory Authority for Promulgating Rules A.C.A. §24-7-305

Rule Title: Rule 8: PURCHASES AND REFUNDS

Intended Effective Date
(Check One)

☐ Emergency (ACA 25-15-204)

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

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

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

02-06-2020

03-06-2020

05-14-2020

05-15-2020

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

Tammy Porter

tammyp@artrs.gov

05-18-2020

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.)

Signature

501-588-4367

clintr@artrs.gov

Phone Number

E-mail Address

EXECUTIVE DIRECTOR

Title

MAY 18, 2020

Date

ATRS Rule 8

PURCHASES AND REFUNDS

A.C.A §§ 24-7-406, 24-7-601, 24-7-602, 24-7-607, 24-7-711, 24-7-719, 24-7-735,
24-1-107

I. Definitions

- A. "Back Contributions" means mandatory contributions payable for service and salary rendered in a covered position within the ATRS look-back period.
- B. "Private School Service" as defined in A.C.A. § 24-7-607, additionally, employment under the Head Start Programs will also be considered private school service and will have the same requirements for the issuance of teaching licenses by the Arkansas State Department of Education as determined by ATRS staff.

II. Purchase of Service Credit/Repayment of Refunds - General

- A. Arkansas Code § 24-7-601 et seq. allows a member to purchase various types of service and credit that service to the member under certain circumstances.
- B. Actuarial cost for purchase of service does not include adjustments to salary and service that are made in order to properly reflect the member's mandatory salary and service records. In addition, the actuarial cost of service does not apply to free military service credit that is established with ATRS.
- C. The actuarial cost for purchase of service shall use the member's highest salary year as the formula's "base year." The base year shall always be the member's highest salary year unless the highest salary year is more than 150% greater than the next highest salary year. In that event, the best two (2) salary years shall be added together and divided by two (2) to establish the base year for the formula.
- D. If a member does not have sufficient full service years to establish the base year for the purchase formula, then each partial year's service percentage shall be divided into each partial year's salary to establish a full year salary from the partial year salary to determine the base year for the formula.
- E. Salaries for actuarially purchased service shall not be used in the calculation of final average salary except for repaid refunds for mandatorily reported service within the refunded service.
- F. All actuarially purchased service shall be purchased as contributory.
- G. Members seeking to purchase service with ATRS shall use forms

developed by ATRS staff to establish the service.

- H. If an active member with an active purchase account dies, the member's spouse, ATRS beneficiary, or legal representative shall have up to six (6) months to pay the balance of the purchase account. If the purchase account is not paid in full within six (6) months of the date of death, the purchase account is cancelled and any payments shall be treated as part of the member's residual account balance. ATRS may extend the six (6) month period for good cause shown.

III. Special Provisions for the Repayment of Refunded Member Contributions

- A. To be eligible to repay a refund, a person must be an active member of ATRS by completing forty (40) days or more after reemployment by an ATRS covered employer.
- B. A member must purchase the total credited service forfeited by the refund in order to purchase the refunded service.
- C. If a member has received more than one refund, repayment must be made in inverse order. The most recent refund account must be paid in full before a previous refund account can be purchased.

IV. Refunds of Member Contributions

- A. ATRS will not refund an overpayment of a member's or employer's contribution that is equal or less than the de minimus amount remitted to ATRS, except upon the written request from the member. The total amount reported by the employing authority shall be credited to contributions. The board shall periodically set the de minimus amount by board resolution, which shall remain until adjusted by the board.
- B. On refunded contributions, the rate of interest compounded annually after the first year of contributions is credited as follows:

Service	Interest Rate
Before July 1, 1984	3%
For July 1, 1984 through June 30, 2009	6%
For July 1, 2010, through June 30, 2011	2%
For July 1, 2012, through June 30, 2017	1%
For July 1, 2017 and after	0.08%

- C. Payable interest shall be computed on each member's individual account on 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) of the contributions for the year ending

on June 30 by the annual applicable interest percentage rate.

- D. The Board may by board resolution change the interest rate on refunded contributions for future years by stating the new interest rate, the date that the new interest rate will become effective, and any other features of the interest rate's implementation.
- E. Regular interest is not paid on contributions made in the year in which a refund is paid.
- F. ATRS will issue a refund for any member contributions that have been closed on the books of ATRS upon receipt of a properly completed refund application. If a second payment is required to complete the refund, the payment will be made when all quarters of service the member worked are closed on the books of ATRS. Rollovers will be made in one payment when all quarters of service worked have been closed on the books of ATRS.
- G. The effective date of a refund is the date that ATRS first issues payment of a refund.

V. Rollover Acceptance and Distribution

A. Accepting Rollovers for Payment on ATRS Purchase Accounts

ATRS will accept participant rollover contributions and/or direct rollovers for the purchase of service credit from qualified retirement plans as set forth in the Arkansas Code.

B. Rollover Eligibility of ATRS Distributions

The depository trustee from the qualified retirement plan shall certify to ATRS that the rollover deposit account is "qualified" and eligible to receive rollover distributions prior to a distribution of a member's account monies. If the depository trustee cannot certify the eligibility status, ATRS will accept a certification from a currently licensed certified public accountant who has an active certified public accountant's license. The certification may not be made by a certified public accountant if the certified public accountant has an interest in the account as a member, spouse, or designated beneficiary.

VI. Purchase Payment Rules

- A. A purchase account established prior to July 1, 2011 must have an approved Purchase Account Commitment Statement on file with ATRS that details the member's payment plan. The Purchase Account Commitment Statement may be modified by agreement of ATRS and the member. A member who fails to complete the terms of the service purchase agreement authorizes ATRS to cancel the agreement. Modifications of the Purchase Account Commitment Statement may include types of payment, duration, and a decrease of the service purchased policy. The service purchased

under a Purchase Account Commitment Statement cannot be increased.

- B. An agreement to complete payment of purchase account shall exist upon tender of the initial payment to ATRS.

VII. Cancellation of Purchase Service Accounts

- A. An established purchase account may be cancelled if the request is submitted in writing by the member and approved by ATRS. The amount of payments to date will be returned to the member without interest unless the payment of interest is statutorily mandated.
- B. The cancelled purchase account may be refunded under certain conditions:
 - 1. Accounts paid only with after-tax contributions can be returned to the member.
 - 2. Accounts paid only with employer pick-up contributions cannot be returned to the member unless the member terminates employment or retires.
 - 3. Accounts paid only with rollover/transfer contributions may be rolled to another qualified plan or refunded to the member after deduction and payment of federal taxes.
- C. Purchase account payments made through employer pick-up (Irrevocable Payroll Authorization) cannot be canceled until:
 - 1. The number of payments on the Irrevocable Payroll Authorization is completed; or
 - 2. The member terminates employment; or
 - 3. The member retires.
- D. A purchase account that has been paid in full upon the tender of a final payment cannot be canceled.

VIII. Free Military Service

A member of ATRS who entered the Armed Forces of the United States between July 1, 1937, and June 30, 1973, or during a period that a federal military draft is in effect, may establish that military active duty service as service in ATRS without cost, provided the following conditions are met:

- A. Established active duty service must be based upon the service required for the initial enlistment. Reenlistment or voluntary extension of the initial enlistment is not considered compulsory and shall not be allowed as service credit.
- B. Military service credit shall not exceed five (5) years, and the years to be credited shall be those chronologically closest to the ATRS-covered

employer service.

- C. ATRS will credit military service upon the completion of Form M-1, provided by ATRS, and official military documents listing the entry and discharge dates of the first enlistment or induction.
- D. The member must have received an honorable discharge.
- E. All military service credited prior to July 1, 1986, is contributory service.
- F. Military service credit may be established at any time after becoming a member of ATRS but official crediting shall be effective upon completion of five (5) years of actual service in ATRS, excluding military service credit.

IX. Purchase of Federal Retirement Service

- A. An active member shall be eligible to purchase federal retirement service credit under the following conditions:
 - 1. Federal retirement service eligible for credit 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.
 - 2. Federal retirement service credit purchased shall be limited to ten (10) years.
- B. The cost to purchase federal retirement service credit is actuarial cost determined by ATRS.
- C. The federal retirement service will become credited service in ATRS when:
 - 1. The member payments have been paid in full; and
 - 2. The member has established five (5) or more years of actual service in ATRS exclusive of federal retirement service.
- D. Should a member cease to be an active member before the federal retirement service has been established as ATRS credited service, the member payments contributed, together with regular interest shall be refundable. Purchase account payments made through employer pick-up are subject to the restrictions as stated in this rule and applicable IRC code or regulations.
- E. To be eligible to establish one (1) year of federal retirement service credit, a minimum of one hundred sixty (160) days must have been worked by the member. Fractional years of federal service may be purchased in accordance with A.C.A. §§ 24-7-601 and 24-1-107. A month of federal service shall be considered as twenty (20) days.
- F. Certification of federal retirement service must be submitted to ATRS on a form provided by ATRS.

- G. All federal retirement service credit shall be counted as contributory service.
- H. Purchased federal retirement service shall be credited to the fiscal year in which it was rendered.

X. Contract Buyouts, Settlements, and Court Ordered Payments

- A. Unless service or salary is purchased for service the member would have received if the member had not been terminated, a member may only accrue service credit for actual, on-site work for a covered employer for any period of time represented in a contract buyout, settlement, or court ordered payment. Such purchased service or salary will be purchased at actuarial cost for service and salary the member would have earned had the member not been terminated. However, if the member is not subject to either a contract buyout, settlement, or court ordered payment, salary paid to the member as a regular employee be credited to the member if the member is on call to the employer. On call credit may not be stacked with salary at another ATRS employer.
- B. ATRS shall not adjust a member's service history until the covered employer or member provides a copy of the court order or settlement, or a certified copy of the contract buyout, to ATRS, and the full cost to purchase has been received.

**Summary of Proposed Rule Change
REVISED 3/13/2020**

**Arkansas Teacher Retirement System
Rule 8 – Purchases and Refunds**

SUBSTANTIVE CHANGES:

- Allows for overpayments of "de minimus" amounts (\$25.00 under current Board resolution) to be credited to the member's account and not refunded, unless requested by the member.

NON-SUBSTANTIVE CHANGES:

- Correct formatting issues, renumbering, grammar, and spelling, where appropriate.
- Amend language for consistent use of defined terms.
- Significant rewrite of some sentences for ease of understanding.

CHANGES AS A RESULT OF PUBLIC COMMENTS:

- Correct spelling, punctuation and spacing where appropriate.
- Correct placement of the phrase "after deduction and payment of federal taxes" to clarify that rollover payments are not affected.
- Language added to clarify purchases related to resolution of claims of wrongful termination.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT ARKANSAS TEACHER RETIREMENT SYSTEM

DIVISION ADMINISTRATION

PERSON COMPLETING THIS STATEMENT MARTHA MILLER, GENERAL COUNSEL

TELEPHONE NO. (501) 682-3332 FAX NO. (501) 682-2359 EMAIL: martham@artrs.gov.

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ATRS Rule 8 - Purchases and Refunds

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

Next Fiscal Year

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

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

Total \$ 0.00

Total \$ 0.00

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

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 \$ 0.00

Total \$ 0.00

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

\$ _____

\$ _____

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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

\$ _____

\$ _____

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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.