

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

DEPARTMENT/AGENCY Arkansas Teacher Retirement System
DIVISION Administration
DIVISION DIRECTOR George Hopkins
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NAME OF PRESENTER AT COMMITTEE MEETING George Hopkins
PRESENTER E-MAIL georgeh@artrs.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule? Teacher Deferred Retirement Option Plan (T-DROP)
(Rule 10-3)

2. What is the subject of the proposed rule? Rules for participating in a deferred retirement
option plan with ATRS

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule?

If codified, please give Arkansas Code citation.

§ 24-7-1301 (a) and §24-7-305(b)(1)

7. What is the purpose of this proposed rule? Why is it necessary?

To bring into compliance and make consistent with Act 605 of 2013 and various minor changes for clarity.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

www.artrs.gov

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

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

August 29, 2013

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

December 1, 2013

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

N/A

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Teacher Retirement System
DIVISION Administration
PERSON COMPLETING THIS STATEMENT Laura Gilson
TELEPHONE NO. 501-682-1266 **FAX NO.** 501-682-6326 **EMAIL:** laurag@artrs.gov

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Teacher Deferred Retirement Option Plan (T-DROP) (Rule 10-3)

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Does this proposed, amended, or repealed rule affect small businesses? Yes No
If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program.

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 party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

PUBLIC COMMENT SUMMARY
T-DROP Rule 10-3

1. Who made public comment:

ATRS Staff

2. Who received the public comment:

ATRS

3. What was the public comment:

Page 10-3-8, new paragraph VIII. B. allows for a delay in access to a T-DROP Cash Balance Account by a member who has set up such on account

4. What response was given to the public comment:

This concern is correct. The new language allows a member to withdraw cash from their account as soon as the account has been set up on the ATRS accounting system. This will avoid any delay in access to a Cash Balance Account for the member.

RULE 10-3
TEACHER DEFERRED
RETIREMENT OPTION PLAN (T-DROP)

A.C.A. §§ 24-7-1301 - 1316

I. The ATRS Board of Trustees has the authority under A.C.A. § 24-7-1301(c) to promulgate rules for the administration of a deferred retirement option plan for eligible members, called the T-DROP.

II. **DEFINITIONS**

~~1. **ATRS** means the Arkansas Teacher Retirement System.~~

~~2. **Board** means the Board of Trustees of the Arkansas Teacher Retirement System.~~

~~3.~~ A. **DROP** means a deferred retirement option plan enacted by the General Assembly and administered under ATRS or a reciprocal system.

B. **Early participant** means a member who has at least 28 years of service with an ATRS or reciprocal employer but less than 30 years, and participates in T-DROP under the requirements of A.C.A. § 24-7-1314 and any Board rules promulgated for early participants.

4. C **Fiscal Year** means the operating year for the State of Arkansas that begins on July 1 of each calendar year and ends on June 30 of the next calendar year.

5. D **Participant** means a member who elects to participate in T-DROP under A.C.A. § 24-7-1301 et seq. ~~by authorizing ATRS to make plan deposits, plan interest, or 10-year plus T-DROP interest into a member's T-DROP account.~~

6. E **Plan deposits** means the deposits made to each participant's T-DROP account pursuant to A.C.A. § 24-7-1306.

7. F **Plan interest** means the rate per annum, compounded annually on June 30, as the Board shall set and adopt at the end of each fiscal year, credited annually in each ~~T-DROP~~ participant's T-DROP account. The interest rate shall be 2% less than the System's ATRS average rate of return with a maximum of 6% and minimum of 2%. The Board will determine the interest rate for the following fiscal year based upon the rate of return for the immediately preceding twelve-month period ending March 31 prior to the start of such fiscal year. The initial calculation of this rate shall begin March 31, 2005, for interest to be credited in the 2005-2006 fiscal year.

G. Post 10-year T-DROP interest means the rate per annum, compounded annually, as the Board shall set and adopt at the end of each fiscal year, credited on June 30 to the balance of the T-DROP participant's account that meets the following criteria:

- i. The member participated in T-DROP for ten (10) years and continued employment with an ATRS covered employer; and
- ii. The member has not retired.

8H. Quarter means one-fourth (1/4) of a fiscal year. The four (4) quarters applicable in this rule are:

- 1st Quarter: July 1 through September 30
- 2nd Quarter: October 1 through December 31
- 3rd Quarter: January 1 through March 31
- 4th Quarter: April 1 through June 30

~~9. **T-DROP** means the Teacher Deferred Retirement Option Plan established by ATRS under Act 1096 of 1995.~~

40.I. T-DROP Cash Balance Account means the financial account set up for a participant who elects to defer distribution of his or her T-DROP account at a time that he or she is eligible to receive a lump-sum distribution of the T-DROP balance.

41.J. T-DROP Cash Balance Account Interest means the interest rate per annum applicable to a ~~member's~~ participant's T-DROP Cash Balance Account, compounded annually and credited on June 30 into a participant's T-DROP Cash Balance Account. The interest rates payable on the T-DROP Cash Balance Accounts are set forth in this rule in subsection 4 of the section titled "**T-DROP CASH BALANCE ACCOUNT**". The annual T-DROP Cash Balance Account interest rate shall be applied to T-DROP Cash Balance Accounts that have been held for at least one (1) fiscal year by ~~the System~~ ATRS.

42K. T-DROP Service Credit shall be determined using the same rules that apply for service credit for an active member with the exception that "on call" availability shall not be used for T-DROP service credit requirements.

~~13. **10-year plus T-DROP interest** means the rate per annum, compounded annually, as the Board shall set and adopt at the end of each fiscal year, credited on June 30 into a member's T-DROP account that meets the following criteria:~~

- ~~A. The member participated in T-DROP for ten (10) years and continued employment with an ATRS covered employer; and~~
- ~~B. The member has not retired.~~

III. T-DROP PARTICIPATION and ACCOUNT CREDIT

- A. ~~Effective July 1, 1995, in~~ In lieu of terminating employment and retiring under A.C.A. § 24-7-701, an active member of ATRS may elect to participate in T-DROP and continue to work for a covered employer. By continuing covered employment, the participant defers receipt of retirement benefits until a later date.
- B. A member shall have at least 30 years of credit in ATRS to participate in T-DROP, or, to become an early participant in T-DROP, at least 28 years but less than 30.
- C. During participation in T-DROP, ATRS shall credit each participant's T-DROP account with plan deposits and plan interest.
- D. The plan interest rate determined by majority vote of the Board is final and binding upon ATRS and shall not be adjusted based on any revised rate of return reported after that date.
- E. The Post 10-year-plus T-DROP interest rate shall be set by the Board at same meeting that the plan interest rate is set. The 10-year plus T-DROP interest rate is limited to a maximum of six percent (6%) and a minimum of four percent (4%). The Post 10-year-plus T-DROP interest rate will be credited to the participant's T-DROP account on June 30th of each year.
- F. The initial Post 10-year-plus T-DROP interest rate for 2010 is set at four percent (4%) and will be credited to the participant's T-DROP account on June 30, 2010. The Post 10-year-plus T-DROP interest rate shall be set prospectively by the Board prior to the beginning of each fiscal year and that interest rate shall be credited to the participant's T-DROP account June 30th of the following year.
- G. The Post 10-year-plus T-DROP interest rate for each year determined by majority vote of the Board is final and binding upon the ATRS and shall not be adjusted based on any revised rate of return reported after that date.

IV. RULES

- ~~1. To participate in the T-DROP, the member shall have twenty-eight (28) or more years of ATRS service credit. For reciprocal service, refer to the section~~

in this rule titled "~~**DROP PARTICIPATION UNDER RECIPROCAL SYSTEMS**~~".

- ~~2. To participate in the T-DROP, the member shall make the election on an application form approved by ATRS.~~
 - ~~3. Upon review of the member's application, ATRS shall determine if the member meets the eligibility requirements specified in A.C.A. § 24-7-1302, and approve or disapprove the application.~~
 - ~~4. If the member meets the eligibility requirements, the member's T-DROP participation will begin the July 1 after the application is approved.~~
- ~~5A~~ i. The participant's T-DROP benefit will be the monthly straight life annuity benefit to which the member would have been entitled had the member retired under A.C.A. § 24-7-701.
- ii. The participant's ~~T-Drop~~ T-DROP benefit may be reduced under the conditions of No. 7 below as set in these Rules and under A.C.A. § 24-7-1301 et seq.
- iii. The T-DROP deposit shall not include the benefits additional benefit, also known as the "monthly benefit stipend" provided in A.C.A. § 24-7-713(b) (~~stipend~~).
- ~~6B.~~ Plan deposits shall be a percentage of the T-DROP benefit, as follows:
- Ai. One hundred percent (100%) reduced by the product of one percent (1.0%) multiplied by the number of years of contributory and noncontributory service credit, including reciprocal service, and fractions thereof, ~~plus,~~
 - ~~B. One hundred percent (100%) reduced by the product of six tenths percent (0.6%) multiplied by the number of years of noncontributory service credit and fractions thereof.~~
 - ~~C.~~ ii. ~~In the event a~~ For a participant whose effective date in the T-DROP is before September 1, 2003, ~~and who~~ has more than thirty (30) years of service, the years of service above thirty (30) years shall be reduced by one-half of one percent (0.5%) for contributory years and three-tenths of one percent (0.3%) for noncontributory years.
 - iii. Beginning July 1, 2001, when a participant whose effective date in the ~~T-Drop~~ T-DROP is before September 1, 2003, reaches normal retirement age, the plan deposits shall be 100% with no reduction.
 - iv. For a participant whose effective date in the ~~T-Drop~~ T-DROP is

September 1, 2003, or after and who has more than thirty (30) years of service, the plan deposits for the years of service above thirty (30) years shall be reduced ~~under Nos. 6A and 6B~~ based upon the reduction established at the time the participant entered T-DROP.

v. For a participant whose effective date in the ~~T-Drop~~ T-DROP is September 1, 2003, or after, and the plan deposits for a participant who reaches normal retirement age but does not retire, the plan deposits shall continue as reduced under Nos. 6A and 6B based upon the reduction established at the time the participant entered T-DROP.

~~7. A participant's plan deposit will incur an additional reduction of 0.5% for each month the member lacks having thirty (30) years of credited service.~~

~~8C.~~ A participant ~~may~~ shall elect an annuity option provided in A.C.A. § 24-7-706. ~~The election shall be made at the time the participant separates from service and is granted a monthly retirement benefit or files for retirement upon reaching normal retirement age.~~

~~9D.~~ A. A member's participation in T-DROP shall not exceed ten (10) consecutive calendar years for accruing plan deposits; however, the Board is authorized under A.C.A. § 24-7-1307 to provide for a separate deposit, called the Post 10-year T-DROP interest.

B. If a participant continues covered employment after completing ten (10) years in T-DROP, the T-DROP account will be credited with Post 10-year-plus T-DROP interest as set by the Board. Benefits payable at retirement will be based on the account balance the month before the participant begins drawing retirement benefits.

~~10E.~~ The annuity upon which plan deposits are calculated shall receive the cost-of-living increase provided for in A.C.A. § 24-7-713(a) or § 24-7-727. ~~The annuity plus the cost-of-living increase is reduced or adjusted under the procedure described in No. 6 above~~ this Rule.

~~11F.~~ If a ~~T-DROP~~ participant elects to retire and ~~ATRS distributes the T-DROP account to the participant~~ cash out or annuitize their T-DROP account balance upon election to retire, once the T-DROP account is distributed to the member, the participant shall not be allowed to reenroll in T-DROP, unless the member cancels their election under A.C.A. § 24-7-1302(c).

~~12G.~~ As soon as possible after the end of each fiscal year, ATRS shall furnish the participant an annual statement of the participant's T-DROP account. The statement of T-DROP deposits and interest will not be final until the annual accounting has been reconciled for part-time T-DROP participants.

~~13H.~~ If a participant earns service credit ~~Service Credit~~ of 160 days or greater within a fiscal year ~~while in T-DROP participation without termination,~~

retirement, or death and the participant does not terminate employment, retire, or die during the fiscal year, or the employer does not terminate the employer/employee relationship, then ATRS will allow crediting of twelve (12) monthly T-DROP deposits per fiscal year.

~~14].~~ Part time employment while participating in the T-DROP plan:

~~Ai.~~ In the first or fourth quarter of the fiscal year, five (5) or more days of service credit shall be required to credit the ~~T-DROP~~ participant's account with three (3) monthly deposits for that particular quarter. If a ~~T-DROP~~ participant receives less than five (5) days of service credit in either the first or fourth quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.

~~Bii.~~ In the second or third quarters of the fiscal year, fifteen (15) or more days of service credit shall be required to credit the ~~T-DROP~~ participant's account with three (3) monthly deposits for that particular quarter. If a ~~T-DROP~~ participant receives less than fifteen (15) days of service credit in either the second or third quarter of the fiscal year, then no T-DROP deposits shall be made in the three months for that particular quarter.

V. CEASING T-DROP AND DISTRIBUTION OPTIONS

~~1A.~~ Participation in T-DROP ceases when:

- ~~ai.~~ The participant separates from service and is granted a monthly retirement benefit from ATRS or a reciprocal plan; or
- ~~bii.~~ The participant reaches normal retirement age and retires without separation from service, or
- ~~eiii.~~ The participant separates from covered employment but does not apply for monthly retirement benefits; or
- ~~dii.~~ The participant dies.

~~2B.~~ Any lump-sum distribution of a participant's T-DROP account balance is eligible to be rolled over into a qualifying retirement plan. The ATRS shall only roll over the T-DROP lump sum balance into one qualifying plan.

~~3C.~~ A participant may direct that all or a part of his or her lump-sum distribution as set forth in Ark. Code Ann. § 24-7-1308 continue to be held by ATRS in a T-DROP Cash Balance Account described in this rule in the section titled "**T-DROP CASH BALANCE ACCOUNT**".

- 4D. The T-DROP is intended to operate in accordance with Section 415 and other applicable sections of the IRS Code. Any provision of the T-DROP that conflicts with an applicable provision of the IRS Code is invalid.
- 5E. If a participant separates from covered employment but does not apply for monthly retirement benefits, the T-DROP monthly deposit shall cease the month of separation from service. No deposits will be credited to the participant's account for the duration of the separation. Upon returning to covered employment, the monthly deposits will resume. Upon application for retirement, benefits will be paid according to the account balance at the time of separation from service or the month prior to the effective date of benefits after reaching normal retirement age. Provided however, if a member has not separated from covered employment and remains on an employer payroll without obtaining sufficient service credit for monthly deposits, the member shall remain eligible for annual interest.
- 6F. If a ~~T-DROP~~ participant leaves ATRS-covered employment to serve, on a voluntary or involuntary basis, in the uniformed services of the United States and returns to ATRS-covered employment, the member shall be treated as not having incurred a break in service with the employer. The employer shall certify to the ATRS that reemployment was in accordance with the requirements set forth in Section 4312 of P.L.103-353, the Uniformed Services Employment and Reemployment Act (USERA) of 1994.

Under this subsection, uniformed services of the United States are limited to the armed forces, the Army, and the Air National Guard when engaged in active duty for training, inactive duty training, full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or emergency.

VI. DEATH OF A T-DROP PARTICIPANT PRIOR TO RETIREMENT

- 1A. In the event a ~~T-DROP~~ participant dies while still in T-DROP, the benefits payable from the T-DROP account shall be determined according to A.C.A. § 24-7-710.
- 2B. A T-DROP participant's surviving spouse may choose to receive the T-DROP benefit in a lump sum. If the spouse elects a lump-sum payment of the T-DROP balance, then the survivor annuities payable under A.C.A. § 24-7-710 shall be calculated on the service credit and salary earned by the member prior to participating in T-DROP.
- 3C. For the purposes of A.C.A. § 24-7-709 related to disposition of residue, any amount received from the T-DROP account, either in the form of a lump sum or annuity payments, shall be considered to be annuity payments received by

the member or his or her designated beneficiary and shall act to reduce or eliminate the disposition of residue payable under A.C.A. § 24-7-1310(c).

VII. DROP PARTICIPATION UNDER RECIPROCAL SYSTEMS

- 1A. If a reciprocal system offers a DROP for its members, then service credit in ATRS, a reciprocal system, or the combination of service credit in the systems may be counted to meet the minimum service credit requirements for participation under each system's DROP.
- 2B. The benefit payable by the reciprocal system shall be based on the DROP provisions of each system. The final average salary used to determine plan deposits shall be that of the reciprocal system which furnishes the highest final average salary at the time of retirement. Each reciprocal system shall use the method of computing final average salary stipulated by its law. Salaries earned in the Arkansas Judicial Retirement System and alternate retirement plans shall not be used in computing final average salary.
- 3C. Plan deposits and plan interest credited to the DROP account will be paid under the deferred retirement option program in effect for that reciprocal system.
4. ~~ATRS shall promulgate rules and regulations to coordinate its benefits with any reciprocal system providing a DROP.~~

VIII. T-DROP CASH BALANCE ACCOUNT

- 1A. At the time that a ~~T-DROP~~ participant may elect to receive a lump-sum distribution of ~~the participant's all of his or her~~ T-DROP account balance, the participant may instead elect to defer all or a part of his or her T-DROP account and direct that such amount be held in a T-DROP Cash Balance Account for the participant. If a ~~member~~ participant chooses to defer only part of the T-DROP distribution into a T-DROP Cash Balance Account, ~~the member's only other option is to annuitize the remainder of the T-DROP distribution shall be annuitized with ATRS on a 25%, 50%, or 75% basis according to the distribution options set out under A.C.A. § 24-7-1308.~~
- 2B. ~~After the first full quarter of T-DROP Cash Balance Account participation has been established on the ATRS' accounting system,~~ a participant with a T-DROP Cash Balance Account balance may withdraw funds from the account one time per quarter on such forms as ~~the System~~ ATRS may issue. ~~The system ATRS may allow a member the participant~~ to obtain an additional withdrawal in a quarter for a manifest emergency. As provided in Ark. Code Ann. §24-7-730, required minimum distributions will be made sufficient to satisfy legal requirements, including Internal Revenue Code §401(a)(9).

3C. A T-DROP Cash Balance Account that has been held at least one (1) full fiscal year by the ~~System~~ ATRS shall be credited annually on June 30 with T-DROP Cash Balance Account interest (computed on a weighted-average basis) and debited for all withdrawals and distributions.

4D. The initial interest rates for ~~T-DROP~~ participants electing to enter the T-DROP Cash Balance Account program are set forth in this subsection. Members establishing a T-DROP Cash Balance Account on or after July 1, 2012, shall receive interest on their T-DROP Cash Balance Account according to the following schedule:

After one (1) complete fiscal year:	2.00% interest.
After two (2) complete fiscal years:	2.25% interest.
After three (3) complete fiscal years:	2.50% interest.
After four (4) complete fiscal years:	2.75% interest.
After five (5) complete fiscal years:	3.00% interest.
After six (6) complete fiscal years:	3.25% interest.
After seven (7) complete fiscal years:	3.50% interest.
After eight (8) or more complete fiscal years:	4.00% interest.

These interest rates are minimum interest rates that apply to T-DROP Cash Balance Accounts that are established while these rates are in effect. The T-DROP Cash Balance Account interest may be increased by the ATRS Board of Trustees on a forward-looking and Ad Hoc basis.

5E. The interest rates set forth in subsection 4 above and payable on T-DROP Cash Balance Accounts established on or after July 1, 2012, shall remain at the initial rate set for July 1, 2012, T-DROP Cash Balance Account entrants unless the ATRS Board of Trustees adopts a different interest rate schedule to be used for future entrants to the T-DROP Cash Balance Account at least one (1) year prior to the beginning of a fiscal year in which the new interest rates shall apply. The ATRS Board of Trustees may adopt an interest rate schedule for new entrants by Resolution, setting forth the new interest rate schedule for the T-DROP Cash Balance Account. T-DROP Cash Balance Accounts existing prior to the effective date of the Resolution shall be unaffected by the new interest rate schedule.

6F. Based upon interest rates and financial market conditions, the ATRS Board of Trustees may approve Ad Hoc interest rate increases for ~~T-DROP~~ participants in the T-DROP Cash Balance Account for a subsequent fiscal year through Resolution adopted by the ATRS Board of Trustees.

7G. If a participant dies with a T-DROP Cash Balance Account, the account balance shall be paid as provided under Ark. Code Ann. § 24-7-1310.

Approved: June 13, 1995
Amended: July 30, 1997

June 17, 2003
February 15, 2005
July 18, 2005
April 26, 2007
February 1, 2010 under emergency rules.
June 7, 2010 Permanent
July 1, 2011 (Emergency)
Adopted: August 8, 2011
Effective: November 11, 2011
Approved by Board: February 6, 2012
Amended: April 2, 2012 (Emergency)
Effective: May 29, 2012
Approved by Board: July 26, 2013
Amended:
Effective: