

MINUTES
ARKANSAS TEACHER RETIREMENT SYSTEM
BOARD OF TRUSTEES MEETING
via Teleconference

Monday, April 30, 2012
9:00 a.m.
1400 West Third Street
Little Rock, AR 72201

ATTENDEES

Board Members Present

Dr. Richard Abernathy, Chair*
Beverly Leming, Vice Chair*
David Cauldwell*
Hazel Coleman*
Candace Franks*
Danny Knight*
Bobby Lester*
Donna Morey*
Janelle Riddle*
Jeff Stubblefield*
Honorable Martha Shoffner*

Board Members Absent

Lloyd Black
Honorable Charlie Daniels
Robin Nichols
Dr. Tom Kimbrell

**via teleconference*

ATRS Staff Present

George Hopkins, Executive Director
Gail Bolden, Deputy Director
Kay Daniel, Director's Assistant
Amy Glavin, Administrative Assistant
Manju, Dir. Data Processing
Tammy Porter, Paralegal*
Gaye Swaim, Operations Administrator

Reporters Present

Mike Wickline, Arkansas Democrat Gazette

- I. **Call to Order/Roll Call.** Dr. Abernathy, Chair, called the Board of Trustees meeting to order at 9:00 a.m. Roll call was taken. Mr. Black, Honorable Daniels, Ms. Nichols, and Dr. Kimbrell were absent.
- II. **Adoption of Agenda.**

Mr. Knight moved for adoption of the Agenda. Mr. Lester seconded the motion the Board unanimously approved the motion.
- III. **Executive Summary.** The Executive Summary was provided for reference with no questions or expansions on the written summary.

IV. **Final Approval for Proposed Rules and Regulations Subject to Administrative Procedures Act (Resolution 2012-19).**

- A. **Resolution 2012-19.** Mr. Hopkins presented the amended rules subject to the Administrative Procedures Act for final approval. The rules have already been approved by the Operations Committee for amendment, were published for 30 days for public comment with no changes, and then submitted to the Public Joint Retirement Committee and Rules Committee of the Legislative Council. The rules were reviewed favorably, and a resolution adopting the amended rules is needed for final Board approval to incorporate the revisions into Board policy.

Mr. Lester *moved to adopt* Resolution 2012-19, adopting the rules by consent agenda to incorporate revisions into Board policy. Mr. Knight *seconded the motion*, and the Board *unanimously adopted the resolution*.

- B. **Policy 0-1 Rules of Organization and Operation.** This is a rule change to make the ATRS rules conform to new legislation from the 2011 Session. The Arkansas General Assembly made various changes in adoption of rules which makes it more difficult for rules to be adopted on an emergency basis and requires more time for rule-making to occur prior to final rules being effective.

ATRS staff is hopeful that the General Assembly may revisit some of these rule changes since it makes it very difficult to adopt emergency rules and, thereafter, complete regular rule-making before the emergency rules expire. Essentially it will take very careful timing and telephonic Board meetings in order for there to be no gap in the effectiveness of rules with the new laws in effect. Adoption of emergency rules will be addressed later in this agenda regarding the adoption of rules for the Cash Balance Account, refund interest rate, and service crediting rules in order to have the rules in place by April 1st and prevent a gap in coverage in the rule if the Board agrees to adopt new rules on Cash Balance Accounts or service crediting. This rule change is necessary to make ATRS' rules conform to the new rule-making requirements in the law.

- C. **Policy 7-2 Proof of Service Credit.** This rule is needed to maintain proper service credit for special function employees like bus drivers and lunchroom workers. The proposed rule is intended to maintain service crediting as it has always been done by bookkeepers. This rule change is being proposed in order to prevent unintended consequences from the ATRS Membership Department having educational seminars to better educate employers (bookkeepers) on the requirements for ATRS recordkeeping, including requirements for a day of service.

Under current rules, a day of service is earned if a member works at least four hours in the day. Several support positions require a member to work each day. Some school workers on a regular daily work schedule may end up with slightly less than four hours of work per day. Examples are bus drivers, cooks, part time custodial, and other specialized positions. For these positions, a bus driver may get up and inspect the driver's bus, run the bus route, talk to transportation officials, return home, return for the afternoon bus route, inspect the bus, and complete the run. Often, this can be accomplished in slightly less than four hours.

In order to prevent confusion and to ensure that these individuals continue getting a day of service for a typical day of work, ATRS staff, after discussions with several Trustees, have drafted a new rule that recognizes the days of service credit on employee contracts; and specifies that if a non-contracted individual is performing a typical day of service for the position the member occupies, then even if the member works less than four hours in a day, the member earns a day of service credit. Earning a day of service credit is even more important since ATRS has moved to 160 days to obtain a year of service credit.

- D. **Policy 7-4 Reporting Employee and Employer Contributions.** The change proposed by ATRS staff is to add a statement that annual billings for underpayment of employee or employer contributions that result in a balance of less than \$10 may be written off by the system. Often, as ATRS examines a member or employer account, slight balances may be found to exist. This will allow ATRS to avoid administrative costs that usually are much greater than the amounts collected for slight under billings.
- E. **Policy 8-1 Purchase of Service Credit/Repayment of Funds.** Currently, several members complete a service purchase through periodic payments. It is unclear as to the amount of time, if any, that a member who completes a purchase of service account has to rescind their agreement and obtain the balance in the service purchase account. In order to prevent confusion and to have clarity, ATRS staff has drafted a provision that establishes the existing staff view that a refund is not allowed for purchase service accounts once the account has been paid in full.

This proposed rule addition also allows survivors of a deceased member up to six months to pay the balance of the member's purchase account. If the account is not paid within six months, the purchase account will be cancelled. This proposed rule also adds a section to address the repayment of refunded member contributions. This section was removed from Policy 8-3 and makes the proposed policy fully comply with the actuarial purchase of service laws now in effect.

F. **Policy 8-2 Refunds of Member Contributions.** This proposed rule affects the refund of member contributions. First, the proposal lowers the rate of interest paid on member accounts to 1%, effective July 1, 2012. Currently, the interest rate on member accounts is 2%. ATRS has reviewed bank certificate of deposit (CD) rates throughout Arkansas and finds that most CD rates are less than 1%. A typical member who stays in ATRS and retires never encounters the issue of this interest rate. This rate comes into play only three times as to ATRS members. The three times are:

1. A member terminates service and obtains a refund of contributions plus interest.
2. A member in active service dies and has no spouse or beneficiaries eligible to receive a monthly benefit.
3. A retiree dies in the first couple of years after retirement before the amount equal to all contributions plus interest are drawn in benefits

These are the three times when ATRS will pay a member the residual balance in an account as a residual payment consisting of all member contributions plus accrued interest. Few career or long term members are impacted by this interest rate. It should be seen as a mechanism to pay the interest that a member could have gotten if the funds were held by the member. In recent years, ATRS has tried to make this interest rate more properly reflect market rates to prevent excessive payouts by ATRS.

Until about two years ago, this rate was 6% and often encouraged relatives of members to leave account balances at ATRS to obtain 6% interest rather than claiming the residual balances of deceased members. In the 2011 Session, ATRS eliminated paying future interest on residual balances of deceased members past the first July 1 after death to address that very issue. In this instance, ATRS staff feels that a 1% interest rate reflects the market rate or better that most individuals could get on these balances if these balances had been moved to a different financial account.

This rule also eliminates the need to prove a hardship to begin getting a refund. ATRS has always been reluctant to pay member refunds to protect the member and prevent a lot of purchase accounts due to multiple refunds, each requiring a separate repurchase account. A refund paid in two installments required two purchase accounts. In the past, before actuarial cost for service purchases, ATRS required a member to prove a hardship in order to get a refund in two payments rather than wait for about 6 months until all accounting on the member's account was final.

ATRS law requires up to a six month delay for refunds to be made. The six month delay was for two reasons for the most part. The first reason was to discourage members from taking a refund for a short amount of time, returning to work and having to repay the refund and create administrative costs for ATRS and lost benefits for the member. The second reason was that, when ATRS made two refunds of the same account, it made it much more difficult to administer a repurchase account since the repayment had to be done in two increments.

Now, with actuarial purchase of service, the issue on setting up two refund accounts is not an issue. In addition, ATRS had set up a process by which members who face critical needs can get two payments in any event. It had boiled down to members who could write a persuasive requests were given a refund and members who were less persuasive in their request, had to wait up to six months to receive a refund. This often created conflicts and aggravation on the part of ATRS members.

The proposed rule allows members to take refunds in two installments with the first installment consisting of all service credit that has been reported, audited, and closed on the ATRS books by the ATRS Accounting/Reporting Department. This will allow the member to usually receive a large portion of the amount of money the member would otherwise be entitled to receive. Finally, when all the member's contributions are final and closed on the ATRS books, the member would receive a second check paying the balance. It is important to remember that ATRS policy says that once any part of a refund is paid, all service credit in the account is cancelled, therefore, there is no advantage to a member taking two payments of a refund, since the first refund voids all service credit.

G. Policy 8-3 Repayment of Refunded Member Contributions. This is a technical change to repeal the policy since this policy was incorporated in the Policy 8-1 on Purchase of Service and Repayment of Refunds.

H. Policy 8-5 Purchase Payment Rules. This adds to the existing policy, the requirement that members who had existing purchase service accounts prior to July 1, 2011, must adhere to the purchase commitment statement; otherwise, the purchase account will be cancelled. The policy does allow the provisions of the service purchase commitment statement to be modified in terms of types of payment, duration and service being purchased as long as otherwise in compliance with the ATRS law and policy. This policy change does not allow additional service to be purchased, but allows a lesser amount of service to be purchased and allows a member to extend or shorten the duration to coincide with the member's needs and circumstances at the time.

- I. **Policy 8-6 Cancellation of Purchase Service Accounts.** Previously, when a member established a purchase service account, the member had to complete and pay off the service purchase account unless a hardship was proven. Many members would run into some difficulty and, absent a proven "hardship", ATRS required full payment of the account before the member could retire.

Since ATRS is eliminating service purchase accounts and all new purchases must be paid in full at the time of the purchase, ATRS staff wanted to give the members with an old service purchase account a little more latitude to just cancel the purchase account. ATRS staff suggests just allowing a member to cancel an account if they choose to do so. Therefore, this proposal allows a member to voluntarily cancel a purchase service account once it is created. It also allows the ATRS Reporting Department to accept the cancellation and, once accepted, the cancellation is final.

It should be noted that ATRS may refund an active member's post tax payments but cannot refund any pre-tax payments made by the member since the return of the pre-tax payments would be considered an in-service distribution, much like returning to work before the separation period for termination has been completed.

- J. **Policy 8-8 Free Teaching Service Before 1937.** This is cleanup action that repeals a policy from the ATRS rules that was previously repealed from the ATRS code.
- K. **Policy 9-4 Disability Retirement.** Some members apply for ATRS disability and do not resign from employment at the time of the application since, if their disability is not approved, the member must do their best to work, despite the circumstance that caused them to apply for disability retirement. In another example, if the ATRS Medical Committee meets in April, often a member will attempt to complete the remaining school year prior to terminating employment, even if the member is approved as disabled.

ATRS also has a provision that says once a member is on disability retirement, then if the member works, even for one day, that the work activity cancels the member's disability retirement. In order to reconcile these various provisions, this proposed policy change will allow a member up to two full calendar months after approval by the Medical Committee for the member to terminate the employment relationship with the ATRS employer and start drawing ATRS disability benefits.

Theoretically, under the current rule, a member could continue working after approval for disability and work an unlimited amount of time prior to deciding to obtain disability benefits. Two months appears to be a reasonable length

of time for a member to be approved for disability and terminate all ATRS employment relationships. The proposed policy also provides that, if a member continues working after two full months, then the disability application is considered withdrawn and the disability approval revoked, and the member must apply again in order to be approved for disability in the future.

L. Policy 9-7 Annuity Options and Disposition of Residue After Retirement.

This change adds a section approved by the ATRS Board on October 24, 2011, on the emancipation of an incapacitated child who is an option beneficiary. As a reminder, an incapacitated child may be designated either as an Option A or B beneficiary at the time of a member's retirement. The rule did not anticipate that an incapacitated child's condition might improve to the point that the incapacitated child was no longer incapacitated or was otherwise emancipated by marriage or other similar circumstance.

Essentially, this proposed rule change allows a parent who has designated an incapacitated child as an option beneficiary to provide proof that the child is no longer incapacitated, or is otherwise emancipated. Once such proof is provided, then the change would be treated much like ATRS would treat a divorce of a spouse who is an option beneficiary and allow the member to pop up to straight life annuity, or to alternatively designate their eligible spouse, if eligible, as an Option A or B beneficiary after the emancipation, as long as it is done within six months.

M. Policy 10-3 Teacher Deferred Retirement Option Plan (T-DROP).

This proposed rule is the much discussed provision that will allow members exiting T-DROP to place all or part of their T-DROP proceeds into a cash balance account (CBA) at ATRS. The proposal is for ATRS to provide staggered interest rates of between 2% and 4% based upon how long the member leaves money in the cash balance account at ATRS. It is designed to encourage long term money to be held at ATRS by the member.

Members would not be allowed roll money into the ATRS cash balance account since it would violate IRS requirements of a defined benefit plan. A member may take cash distributions up to four times per year and also may roll money out to another administrator at those times. Staff also placed an emergency override proposal to allow a member to have an additional withdrawal in a quarter based upon a manifest need such as a death or urgent financial problem.

The earliest time that rule would be effective through regular rule making would be either in late May 2012, or early June 2012. Such a late effective date would cause problems for both members needing certainty and staff

providing counseling and preparing effective forms. To avoid these problems, this rule is proposed as an emergency rule to be effective immediately.

V. **Other Business.**

VI. **Adjourn.**

Dr. Abernathy *moved to adjourn* the Board of Trustees Meeting. Ms. Coleman *seconded* the *motion*, and the Board *unanimously approved the motion*.

Meeting adjourned at 9:05 a.m.

George Hopkins,
Executive Director

Dr. Richard Abernathy, Chair
Board of Trustees

Amy Glavin,
Recorder

Date Approved