

April 20, 2015

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, Fifth Floor
Little Rock, AR 72201

Re: APERS Regulation 408

Dear Ms Davis:

I am writing to submit two copies of the questionnaire and financial impact statement for APERS Regulation 408, along with a copy of the regulation itself, which was adopted by APERS's Board of Trustees. It was intended to become effective on July 1, 2015. I have also enclosed two extra copies for Matthew to transmit to the Retirement Subcommittee, should that be necessary.

Notice of the proposed amendment was published in the Arkansas Democrat-Gazette on January 10-12, 2015. It has been transmitted electronically to John Davidson at the Secretary of State today. The public comment period expired February 13, 2015. As of today's date, we have received no comment from the public about it. The public hearing on it was held at 10:00 a.m. on February 13, 2015 in the APERS Board of Directors conference room, which is located at the above address. No one appeared at that hearing.

Please let me know if you have further questions about this (682-7856). I have hesitated sending these materials to you until we received some direction as to how to proceed under the Governor's new Executive Order concerning agency regulations, however, time is passing and we have not learned anything yet.

I would appreciate your advising me when this is put on the calendar for hearing. Thank you.

Cordially,



Frank J. Wills, III
General Counsel

FJW/wls
enclosure

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

DEPARTMENT/AGENCY: Arkansas Public Employees Retirement System (APERS)
DIVISION _____
DIVISION DIRECTOR: Gail H. Stone
CONTACT PERSON: Frank J. (Jay) Wills, III
ADDRESS: 124 W. Capitol Avenue, Suite 400, Little Rock, AR 72201
PHONE NO: 501-682-7856 FAX NO: 501-682-7825 E-MAIL: jay.wills@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING: Jay Wills
PRESENTER E-MAIL: jay.wills@arkansas.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? Regular Interest

- 2. What is the subject of the proposed rule? Fixes the interest rate charged and paid as "regular interest" under the provisions of Chapter 4 of Title 24 (laws governing APERS) at the actuarially assumed rate of return on APERS investments adopted by the APERS Board of Trustees.

- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No X _____
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 X _____
If yes, what is the effective date of the emergency rule? _____ N/A _____
When does the emergency rule expire? _____ N/A _____
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____ N/A

5. Is this a new rule? Yes _____ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X 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 X 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." The markup is attached. The amendment changes the regular interest rate from a fixed rate to that which mirrors APERS's investment's actuarially-assumed rate of return. Its immediate effect is to lower the rate charged by APERS from 8% to 7.75%.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

A.C.A. 24-4-105(b)(1).

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

To conform the interest charged by APERS to its assumed rate of return so that the fund is not charging or paying interest that exceeds the Fund's rate of return or that is less than the Fund's rate of return.

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).

apers.org/docs/pubs/APERS_BR_2013.pdf

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

If yes, please complete the following:

Date: February 13, 2015

Time: 10:00 a.m.

Place: APERS Board Room Fourth Floor, 124 West Capitol Avenue, Little Rock, AR

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

February 13, 2015

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

July 1, 2015

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

APERS received no comments about the proposed amendment and nobody appeared for the public hearing.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Public Employees Retirement System

DIVISION Legal

PERSON COMPLETING THIS STATEMENT: Frank J. (Jay) Wills, III

TELEPHONE NO. 501-682-7856 **FAX NO.** 501-682-7825 **EMAIL:**

jay.wills@arkansas.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 Regular Interest

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.

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

Next Fiscal Year

General Revenue N/A

General Revenue N/A

Federal Funds

Federal Funds

Cash Funds

Cash Funds

Special Revenue

Special Revenue

Other (Identify) _____

Other (Identify) _____

Total _____

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

\$__ Charged 8% interest on late payments to the Fund (e.g. employer contributions)___

\$__ Charged 7.75% interest on late payments to the Fund__

- 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

\$__ 0 _____

\$__ 0 _____

Agencies participating in APERS will be charged less interest on late payments to the Fund than they were before the regulation was amended

Regulation 408-Regular Interest (Amended)

In accordance with A.C.A. 24-4-101(38), the rate of interest to be charged for all provisions of Chapter 4 of Title 24 of the Arkansas Code where reference is made to “regular interest” shall be the actuarially assumed rate of return as adopted by the Board of Trustees from time to time. Unless otherwise directed by the Board of Trustees, a change in the rate of “regular interest” shall become effective on the first day of the calendar year. Any commitment already in active payment status at that time wherein APERS has received at least one installment payment shall remain at the rate previously established by the Board.

MARKUP-APERS Regulation 408

REGULATION 408 - REGULAR INTEREST - In accordance with A.C.A. 24-4-101 (38), the rate of interest to be charged for all provisions of Chapter 4 of Title 24 where reference is made to "regular interest"; ~~for payments received on or before December 31, 1999, shall be 7.75% per annum, compounded annually. Effective January 1, 2000, regular interest shall be 8% per annum, compounded annually.~~ shall be the actuarially assumed rate of return as adopted by the Board of Trustees from time to time. Unless otherwise directed by the Board of Trustees, a change in the rate of "regular interest" shall become effective on the first day of the calendar year. Any commitment already in active payment status at that time wherein APERS has received at least one installment payment shall remain at the rate previously established by the Board.

APERS REGULATION 408 – REGULAR INTEREST

SUMMARY OF AMENDMENT CHANGE TO REGULATION 408

This amendment fixes the interest rate charged and paid as “regular interest” under the provisions of Chapter 4 of Title 24 (laws governing APERS) at the actuarially assumed rate of return on APERS investments adopted by the APERS Board of Trustees. The amendment changes the regular interest rate from a fixed rate to that which mirrors APERS’s investment’s actuarially-assumed rate of return. Its immediate effect is to lower the rate charged by APERS from 8% to 7.75%.