

**ARKANSAS TEACHER RETIREMENT SYSTEM
BOARD OF TRUSTEES**

**Minutes
December 6, 2005**

The Arkansas Teacher Retirement System Board of Trustees met for a regular meeting on Tuesday, December 6, 2005, in the Board Room of the ATRS Building at 1400 West Third Street in Little Rock, Arkansas.

Members of the Board Present:

John Fortenberry, Chair
Robin Nichols, Vice Chair
Monty Betts
Winfred Clardy
Hazel Coleman
Lawrence Colston
Charles Dyer
Dr. Paul Fair
Dr. T. Kenneth James
Beverly Leming
Linda Parsons
Ellen Terry
Gus Wingfield

Others Present:

Mike Wickline, *Arkansas Democrat
Gazette*
Bobby Lester, ARTA
Betty and Jim McGuire
Judith Kermans, Gabriel Roeder
Brian Murphy, Gabriel Roeder
P. J. Kelly, Ennis Knupp
Dr. Donald M. Stewart, ADE
Richard Hutchinson, AEA
Tom Gay, Attorney General's Office
Lloyd W. Black, ARTA
Todd Elder, Ethics Commission
Teresa Jones, Ethics Commission
Dean Elliott, A+ Charter School

Members of the Board Absent:

Robert H. "Bunny" Adcock, Jr.
Jim Wood

Staff Present:

David Malone, Director
Julie Cabe, Deputy Director
Jo Ann Stewart, MPA
Wayne Greathouse, Deputy Director/
Finance
Gail Bolden, Assoc. Director/Operations
Phillip McNeill, Assoc. Director/Fiscal
Affairs
Michael Ray, Benefits and Counseling
Christa Clark, Attorney Specialist
Judy Brown, Payroll
Donna Hobbs, Personnel
Suzanne Davenport, Accounting
Hugh Roberts, Investments
George Snyder, Internal Accountant
Leslie Ward, Investments

12/6/2005
P. 2**I. Call to Order**

Chair John Fortenberry called the meeting to order at 9:04 a.m. with a quorum present.

II. Adoption of Agenda

Mr. Malone announced that the M█████T█████ appeal (Item No. V) was withdrawn due to the settlement of the issue, and a resolution approving the sale of nursing homes was added as Item No. IX. Following Item No. XIII on the agenda, Todd Elder of the Ethics Commission will present a program on how to complete the financial interest statement, required of Board members and certain staff members by January 31, 2006. With these changes, Robin Nichols moved adoption of the agenda, Ellen Terry seconded, and the Board unanimously approved the motion.

III. Approval of Minutes

Two changes in the minutes as mailed were noted. In the Consultant's Report (Item No. IV), first paragraph of the October 3 minutes, Ms. Nicholson will be on maternity leave until January 2006, not 2005. With this correction, Ms. Terry moved approval of the minutes of October 3, Hazel Coleman seconded, and the Board unanimously concurred. In the first paragraph of the minutes of October 4, the meeting was held on Tuesday, not Monday. With this correction, Dr. Fair moved approval of the minutes of October 4, Ms. Coleman seconded, and the Board unanimously approved the motion.

IV. Public Comment on the Agenda

No public comment on the agenda was made.

V. Review of Audit

The Board reviewed the Annual Financial Report of the Fiduciary Pension Trust Fund of ATRS for the fiscal year ending June 30, 2004, as prepared by the Division of Legislative Audit, and the staff response to the findings. Winfred Clardy moved adoption of **Resolution No. 2005-37** (*Attachment No. 1*), which notes the correction of the audit's reportable conditions, and Linda Parsons seconded. The Board unanimously approved the motion and congratulated Mr. Malone and the staff for the successful audit.

VI. Independent Actuary Review

According to Board Policy No. 3-10 (Monitoring Executive Performance), every five years the actuarial soundness of the ATRS system must be reviewed by another independent actuary, and the last review was for the fiscal year ended June 30, 2000. Charles Dyer moved adoption of

Resolution No. 2005-38 (*Attachment No. 2*), authorizing the Executive Director to initiate and conclude the independent review. Ms. Nichols seconded, and the Board unanimously approved the motion. Mr. Malone announced that five proposals were received and that the proposal of Osborn, Carreiro & Association of Little Rock had the lowest cost and has been selected. The review should be completed in the spring.

VII. Annual Actuarial Report

Brian Murphy and Judith Kermans of Gabriel, Roeder presented a preliminary actuarial report as of June 30, 2005, with the final report scheduled for the February Board Meeting. The preliminary report concluded that the improvement in investments in 2004-2005 and the 14% employer rate brought the amortization period to 38 years, but a further increase in the employer rate will be needed to produce a 30-year amortization period. ATRS has made considerable progress in recovering from the effects of the 2000-2003 investment market, one of the worst in many years, but the fund still does not have the assets it would have if the markets had been better in this period and needs the additional contributions to offset these losses.

Board members requested comparable data from states surrounding Arkansas, the inclusion of more data on the effects of the T-DROP program, and a report on benefit issues and the costs of these. Mr. Malone suggested that Board members notify him of topics they wanted, and he would pass these on to Gabriel, Roeder before the February meeting.

VIII. Policies Committee Items

A. Draft Minutes

The draft minutes of the Policies Committee were included in the agenda for the information of the Board.

B. Revision of Policy No. 10-2 (Conditions Under Which a Retirant May Return to Covered Service Without Rescinding Retirement)

Of the three proposed revisions to the policy, the one concerning superintendents hired as a result of a reconstitution or reorganization of a public school district was approved by the ATRS Board on an emergency basis on October 4, 2005. The approval requested at this time is part of the permanent approval process required under the Administrative Procedures Act.

The two remaining revisions are new: (1) to provide that waiver requests initiated by the employer prior to the member's effective date of retirement will not be eligible for consideration by ATRS,

and (2) to provide that, effective for the fiscal year beginning July 1, 2006, retirants who have completed the 10-year maximum period allowed under T-DROP will not be eligible for a waiver. These amendments are necessary (1) to comply with A.C.A. § 24-7-210, which requires ATRS to operate consistent with the requirements under the federal Internal Revenue Code, and applicable U. S. Treasury regulations necessary to permit ATRS to be operated as a “qualified trust” under section 401(a) of the Code, and (2) to make T-DROP more cost-neutral pursuant to A.C.A. § 24-7-1306(a)(4).

Ms. Parsons moved adoption of **Resolution No. 2005-39** (Waiver of Earnings Limitation) (*Attachment No. 3*), and Ms. Nichols seconded. After discussion, the motion **passed** on the following vote:

Voting Yes: Mr. Clardy, Ms. Coleman, Dr. Fair, Mr. Fortenberry, Ms. Leming, Ms. Nichols, Ms. Parsons, and Mr. Wingfield

Voting No: Mr. Betts, Mr. Dyer, Dr. James, and Ms. Terry

Abstained: Mr. Colston

Upon the recommendation of Mr. Malone, Ms. Coleman moved approval of an actuarial study of the T-DROP program, Mr. Colston seconded, and the motion **passed** on the following vote:

Voting Yes: Mr. Betts, Mr. Clardy, Ms. Coleman, Dr. Fair, Mr. Fortenberry, Dr. James, Ms. Leming, Ms. Nichols, Ms. Parsons, and Mr. Wingfield

Voting No: Mr. Dyer

Chair Fortenberry declared a ten-minute recess at 11:17 a.m. The meeting resumed at 11:30 a.m. Dr. James left the meeting at 11:15 a.m.

C. Revision of Board Policies on Governance, Perspectives/Ends, and Executive Director

The request for these changes in the ATRS policy manual are twofold: (1) removal of the Board’s policies on governance, perspectives/ends, executive director limitations, and Board-executive director relationship from the Administrative Procedures Act (A.P.A.) process, and (2) adoption of a new policy (No. 0-1, Rules of Organization and Operation).

All the policies marked for removal from the A.P.A. will remain in force, will continue to be in the Board Policy Manual, and will continue to be available on the ATRS website, along with all other ATRS policies that have been promulgated under the A.P.A.

process. When these policies were created, ATRS mistakenly filed them under A.P.A. as rules. Since they concern the internal management of the agency and do not affect the private rights or procedures available to the public, the policies in this request clearly are not rules. Because the policies were filed as rules under the Administrative Procedures Act, ATRS has treated any changes as amendments, which also must be promulgated under the A.P.A. rulemaking procedures. The delay limits the Board's ability to be flexible and creates unnecessary red tape.

The new policy is proposed to replace those requested for removal from the A.P.A. process. Rule & Regulation No. 0-1 (Rules of Organization and Operation) is being filed as an abbreviated rule of organization and operation under the A.P.A.'s rulemaking procedures to comply with A.C.A. § 25-15-203.

Ms. Parsons moved approval of **Resolution No. 2005-40** (Rules of Organization) (*Attachment No. 4*) removing from the A.P.A. process the policies in Section 1, Section 2, and Section 3 of the policy manual and approving Policy No. 0-1 (Rules of Organization and Operation). (*List is attached following resolution.*) Dr. Fair seconded, and the Board unanimously concurred.

D. Scheduling Fund Managers at Board Meetings

Mr. Fortenberry proposed limiting the scheduling of money managers at Board meetings to those who need to hear from the Board concerning their performance, and the Policies Committee agreed that the proposal would free up valuable time for conducting Board business by eliminating routine reports. Dr. Fair moved, Ms. Parsons seconded, to limit the reports by money managers at Board meetings to those needed or requested by the Board. The motion **passed** as follows:

Voting Yes: Mr. Betts, Mr. Clardy, Ms. Coleman, Mr. Colston, Mr. Dyer, Dr. Fair, Mr. Fortenberry, Dr. James, Ms. Nichols, Ms. Parsons, Ms. Terry, and Mr. Wingfield

Not Voting: Ms. Leming

IX. Sale of Nursing Homes

Resolution No. 2005-42 (*Attachment No. 5*), which would authorize the sale of Northridge Healthcare and Rehabilitation Center in North Little Rock and Woodland Hills Healthcare and Rehabilitation Center in Little Rock, along with 7.2687 acres and a Permit of Approval for 94 nursing home beds to Aviv Asset Management for \$9,000,000.00, was presented for Board approval. Mr. Betts moved adoption of **Resolution No. 2005-**

42, Ms. Coleman seconded, and the Board unanimously approved the motion. (Mr. Dyer was out of the room at the time the vote was taken.)

X. Board Meeting Schedule

Ms. Coleman moved approval of the proposed Board meeting schedule (*Attachment No. 6*), Ms. Terry seconded, and the Board unanimously concurred. In view of the Southern Conference on Teacher Retirement annual meeting scheduled for April 22-26 in Little Rock, the Board seminar has been replaced by a regular meeting on June 5 and 6. Meetings of the Policies Committee will be held as needed and in conjunction with the schedule for the Investment Committee.

XI. 2006 Election Vendor

Ms. Terry moved, Ms. Coleman seconded, and the Board unanimously adopted **Resolution No. 2005-41** (Selection of Election Vendor) (*Attachment No. 7*). The lowest bid was received from VR Election Services of Carrollton, Texas.

XII. Staff Reports

- A. Ms. Nichols moved approval of the ATRS Medical Board reports for October and November 2005, Ms. Leming seconded, and the Board unanimously approved the motion.
- B. Mr. Malone announced the promotion of Gail Bolden to Associate Director of Operations.
- C. No other staff reports required action.

XIII. Ethics Commission Presentation

Todd Elder of the Ethics Commission presented a program on how to fill out the Statement of Financial Interest, which is required of Board members and certain staff members annually. Individual statements are due to the Ethics Commission each January 31. If necessary, statements from previous year may be amended.

XIV. Director's Comments

Mr. Malone discussed with the Board the possibility of moving the agency to the Victory Building, which is owned by the System, in order to cope with occupancy problems there and space needs of the staff in the ATRS Building. Various alternatives will be studied and presented for Board consideration.

XV. Adjournment

MARK-UP

Agency No. 088.00

The meeting adjourned at 1:04 p.m.

Katherine Corcoran, Recorder

David Malone, Executive Director

John Fortenberry, Board Chair

Date Approved

MARK-UP

Agency No. 088.00

ARKANSAS TEACHER RETIREMENT SYSTEM

**1400 West Third Street
Little Rock, Arkansas 72201**

RESOLUTION

NO. 2005-37

FY 2004 LEGISLATIVE AUDIT REPORT

BE IT RESOLVED, that the Board of Trustees of ATRS has reviewed the findings and recommendations contained in the Division of Legislative Audit's Annual Financial Report of the fiduciary pension trust fund of ATRS for the fiscal year ending June 30, 2004; and

BE IT FURTHER RESOLVED, that the Board has also reviewed the staff's response to the reportable conditions contained therein and notes that the reportable conditions have been corrected.

Adopted this 6th day of December, 2005

JOHN FORTENBERRY, *Chair*
Arkansas Teacher Retirement System

ARKANSAS TEACHER RETIREMENT SYSTEM

**1400 West Third Street
Little Rock, Arkansas 72201**

RESOLUTION

No. 2005-38

WHEREAS, Policy No. 3-10 (Board-Executive Director's Relationship - Monitoring Executive Performance) provides: "Every five years another independent actuary will review the actuarial soundness of the system"; and

WHEREAS, the last independent review of the System's soundness was for the fiscal year ended June 30, 2000.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Arkansas Teacher Retirement System determines, based on these facts and circumstances, the actuarial results reported for the fiscal year ended June 30, 2005, are subject to independent review and confirmation,

BE IT FURTHER RESOLVED, that the Executive Director of ATRS or his designee is authorized to take the necessary steps to initiate and conclude this independent review;

BE IT FURTHER RESOLVED, that the results of this independent review be presented to the Board, as a whole, at a regularly scheduled meeting upon completion.

Adopted this 6th day of December, 2005

John Fortenberry, Chair
Arkansas Teacher Retirement System

MARK-UP

Agency No. 088.00

ARKANSAS TEACHER RETIREMENT SYSTEM
1400 West Third Street
Little Rock, Arkansas 72201

R E S O L U T I O N **No. 2005-39**

WAIVER OF EARNINGS LIMITATION

BE IT RESOLVED that, as recommended by the Policies Committee on November 7, 2005, the Board of Trustees of the Arkansas Teacher Retirement System adopts the amended Rules and Regulations No. 10-2 (Conditions Under Which a Retirant May Return to Covered Service Without Rescinding Retirement) attached to this Resolution;

FURTHER RESOLVED that the Executive Director of ATRS or his designee is authorized to promulgate and implement these amendments;

FURTHER RESOLVED that in promulgating these amendments, the Executive Director of ATRS or his designee is authorized to make technical corrections when necessary.

Adopted this 6th day of December, 2005

JOHN FORTENBERRY, *Chair*
Arkansas Teacher Retirement System

SUMMARY OF SUBSTANTIVE CHANGES

SUBJECT: Conditions Under Which a Retirant May Return to Covered Service Other than by Rescinding Retirement (10-2)

As currently written, the ATRS Executive Director may take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education in situations where the retiree is hired by a public school district due to a shortage of certified teachers in a critical academic area in which the retiree is certified. The amendment extends this authority to situations where the retiree is hired as a superintendent due to a reconstitution or reorganization of a public school district as allowed in A.C.A. § 6-15-201 et. seq., § 6-15-401 et. seq., or § 6-20-1901 et. seq. following an appropriate determination by the State Department of Education that:

- (a) the public school district has failed to meet standards of accreditation pursuant to A.C.A. § 6-15-201 et. seq.; or
- (b) the public school district is in academic distress status for failing to meet the minimum level of academic achievement on the ACTAAP examinations pursuant to A.C.A. § 6-15-401 et. seq.; or
- (c) the public school district is in fiscal distress status pursuant to section 18 of A.C.A. § 6-20-1901 et seq.; and
- (d) an appropriately qualified applicant, as determined by the State Department of Education, who is not an ATRS-covered retirant is not available to be employed.

These amendments were adopted earlier on an emergency basis.

Additionally, amendments have been added (1) to provide that waiver requests initiated by the employer prior to the member's effective date of retirement or filed within 30 days following the member's effective date of retirement will not be eligible for consideration by ATRS, and (2) to provide that, effective for the fiscal year beginning July 1, 2006, retirants who have completed the 10-year maximum duration period allowed under T-DROP will not be eligible for a waiver. These amendments are necessary (1) to comply with A.C.A. § 24-7-210 which requires ATRS to operate consistently with the requirements under the federal Internal Revenue Code of 1986, as amended, and regulations necessary to permit ATRS to be operated as a "qualified trust" under section 401(a) of the Code, and (2) to make T-DROP more cost-neutral pursuant to A.C.A. § 24-7-1306(a)(4).

CONDITIONS UNDER WHICH A RETIRANT MAY RETURN TO COVERED SERVICE WITHOUT RESCINDING RETIREMENT

(Amended by Act 1293 of 1995; Act 384 of 1997; Act 30 of 1999; Act 1146 of 2001; and Act 911 of 2005)
(A.C.A. §24-7-708)

AGE AND SERVICE RETIRANT

1. Except for a waiver provided in accordance with Act 30 of 1999 and Act 1146 of 2001, as amended by Act 911 of 2005, if a retirant returns to service - as an employee of a public employer whose employees are covered by ATRS¹ - without rescinding his/her retirement under Act 39 of 1989 (A.C.A. §24-7-717), then, for each twelve-month period ending June 30, the amount of his/her System annuity shall be subject to the limitations equivalent to twice the limitations imposed by the Social Security retirement test. The amount a retirant may earn and still collect full benefits depends upon whether he/she has reached "full retirement age (FRA)" as defined in P.L. 106-182.
 - A. Effective for years ending after December 31, 1999, pursuant to P.L. 106-182, which eliminated the Social Security retirement earnings test in and after the month a person attains "full retirement age (FRA)," a retirant reaching full retirement age may return to service without being subject to the earnings limitations. "Full retirement age (FRA)" will gradually increase from age 65 to age 67.²
 - B. Effective July 1, 1992, a retirant who is under age 65 may earn up to twice the Social Security earnings limitation amount without affecting his/her ATRS benefits. If his/her ATRS covered earnings exceed that amount, \$1 in benefits will be deducted for each \$2 earned above the earnings limitation amount.
 - C. For each year ending June 30, the Social Security retirement test to be considered shall be the test in effect for the calendar year beginning the January 1 immediately preceding June 30. The retirant's earnings shall be his or her remuneration for the employment for the year ending June 30.

¹ (Prior to July 1, 1991, the earnings limitation applied to retirants who were

- employees with ATRS, ASHERS, or ASERS from 7-1-71 through 6-30-77;
- employees with a public employer, whose employers are covered by a state-supported retirement plan or the University of Arkansas from 7-1-77 through 6-30-78;
- employees of a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions from 7-1-78 through 6-30-91.)

² Previously, a retirant aged 65 to 69 could earn up to twice the Social Security amount without affecting his/her ATRS benefits. If his/her ATRS covered earnings exceeded that amount, \$1 in benefits was to be deducted for each \$3 earned above the earnings limitation amount.

- D i. For those retirants exceeding the earnings limitation, the System will suspend payment of benefits in the fiscal year in which the earnings limitation is exceeded; however, if the System is not notified in a timely manner, the System may carry over suspension of benefits into the next fiscal year.
 - ii. In the case of hardship to the retirant or for the convenience of the System, upon request of the retirant, the System may negotiate an alternate method of repayment other than total suspension of retirement benefits for the recovery of the amount of benefits which exceeded the earnings limit.
 - iii. The amount recovered by ATRS will not exceed the amount of benefits paid during the year(s) in which the earnings limitation is/was exceeded.
 - iv. For questions not covered by this rule, see No. 9-6 (Error Corrections and Collection of Overpayments).
- 2. A. Employers and retirants must report immediately, upon acceptance of employment in a position covered by ATRS, a return to covered employment by a retirant. A Statement of Employment form must be completed immediately by employers and retirants upon acceptance of employment for each retirant hired in a position covered by ATRS.
- B. Employers will report monthly all retirants who have returned to full or part-time employment in an ATRS covered position and who have not rescinded their retirement. The monthly report will be filed on a Retired Member Returned To Service form, which will be furnished by ATRS.
- C. In the event that both the employee and the employer fail to notify the Teacher Retirement System of a retiree's return to service, and benefits are paid illegally due to such lack of notice, the Teacher Retirement System shall delay restoration of benefits until all funds paid illegally have been recovered either through direct payment by the retiree or through delay in restoration of benefits by the System.
- 3. A. Effective July 1, 1977, a retirant may receive remuneration as an employee from any private employer or as a member of the General Assembly without any effect on his/her annuity.³
- B. Effective July 1, 1991, an age and service retiree may be employed by a public employer whose employees are not covered by ATRS without any effect on his/her annuity.

³ (From 7-1-71 through 6-30-77 this "exemption" covered employees receiving remuneration "from any other public employer or private employer.")

4. During any period of employment in a position covered by the System (which is not covered by Act 39 of 1989 [A.C.A. § 24-7-717(a)--(e) Rescission of Termination]), an age and service retiree shall not accrue additional service credit in the Arkansas Teacher Retirement System.
5. A. Effective July 1, 1995, Act 1293 of 1995 provided that if a retirant is employed in a covered position by a state college, university, or vocational-technical school, his annuity shall not be subject to the limitations provided in No. 1 above.

B. Effective July 1, 1997, Act 384 of 1997 repealed Act 1293 of 1995, making subject the ATRS earnings limitation the annuity of a retirant who is employed in a covered position by a state college, university, or vocational-technical school, as provided in No.1 above.

WAIVER OF EARNINGS LIMITATION

1. A. In accordance with Act 30 of 1999 and Act 1146 of 2001 as amended by Act 911 of 2005 and with rules and regulations adopted by the State Board of Education, the Arkansas Department of Education (ADE) may request of the ATRS Executive Director a waiver of the conditions subjecting annuities to the ATRS earnings limitation.

B. All requests for waiver must originate with ADE and must be submitted for approval by ATRS within sixty (60) days of employment. If approved, the waiver shall be effective for one (1) year from the date of hire or until the end of the current fiscal year, whichever comes first, with the option to renew annually for up to a total of three (3) years as requested by ADE. Renewals must also be approved by the Executive Director of ATRS.

C. Waiver requests (1) initiated by the employer prior to the member's effective date of retirement or (2) filed within thirty (30) days following the member's effective date of retirement will not be eligible for consideration by ATRS.

D. Effective for the fiscal year beginning July 1, 2006, retirants who have completed the 10-year maximum duration period allowed under T-DROP will not be eligible for a waiver.
2. Effective July 1, 2005, under Act 911 of 2005, the ATRS Executive Director is authorized to take appropriate action on waivers of the ATRS earnings limitations requested by the Department of Education;

A. If the retiree is hired by a public school district due to a shortage of certified teachers in a critical academic area in which the retiree is certified; OR

B. If the retiree is hired as a superintendent due to a reconstitution or reorganization of a public school district as allowed in A.C.A. §6-15-201 et.seq., §6-15-401 et.seq., or §6-20-1901 et.seq. following an appropriate determination by the State Department of Education that:

- i. The public school district has failed to meet standards of accreditation pursuant to A.C.A. §6-15-201 et.seq.; OR
 - ii. The public school district is in academic distress status for failing to meet the minimum level of academic achievement on the ACTAAP examinations pursuant to A.C.A. §6-15-401 et.seq.; OR
 - iii. The public school district is in fiscal distress status pursuant to A.C.A. §6-20-1901 et.seq.; AND
 - iv. An appropriately qualified applicant, as determined by the State Department of Education, who is not an ATRS-covered retiree is not available to be employed.
3. Critical academic areas in which there is a shortage of certified teachers shall be determined annually by the State Department of Education.
 4. Employers shall maintain audit files identifying personnel granted a waiver and documenting the reasons for the waiver and will be responsible for reporting to ATRS, all retirees who have returned to employment under these provisions.
 5. Beginning July 1, 2005, under provisions of Act 911 of 2005, for any retired member employed in a position covered by the System pursuant to a waiver, the amount paid to the System shall be equal to the combined employee and employer contributions rate in effect at the time of the employment and shall be remitted by the employer. The contributions shall be paid on all salary earned in the fiscal year and shall not be collected from the employee. These amounts shall be recorded in the ADE Waiver Income Account.

DISABILITY RETIREE

Disability Retiree Employed Full-Time

1. When a disability retiree is employed in a position covered by the Teacher Retirement System as a full-time employee, the Teacher Retirement System is required to remove the retiree from the disability payroll. It is the responsibility of the employee and employing agency to report such employment to the retirement office immediately. The employing agency will report salary and service as described on page 10-2-2 under Age and Service Retiree, Nos. 2A and 2B above. Unless the retiree was a member of the noncontributory plan, it is also the responsibility of the employing agency to withhold employee contributions.

2. If the retiree completes a minimum of 120 days or more during a fiscal year in Arkansas, thus adding a year's service credit, the retiree can then again make application for disability or age and service retirement, and the benefits will be recomputed based on the additional year or years of service credit.
3. Full-time employment is defined as a member working at least 480 hours in a fiscal year.
4. If a disability retiree under age 60 becomes employed as a full-time employee by a public employer whose employees are covered by a retirement plan supported wholly or in part by state contributions his/her disability retirement shall terminate. His/her credited service and accumulated contributions at the time of disability retirement shall be restored to his/her credit in the Member's Deposit Account, and the person shall immediately again become a member of the System, if eligible.
5. If a disability retiree returns to full-time employment and receives credited service but dies before completing 120 days of creditable service, a determination must be made by the System as to whether survivor or disability benefits will be payable.

Disability Retiree Employed Part-Time

1. Part-time employment is defined as a disability retiree working less than 480 hours in a fiscal year.
2. A disability retiree employed part-time will be subject to the same earnings limitation policy as age and service retirees (see above); however, a waiver of the earnings limitation is not available for disability retirees.
3. A disability retiree shall not be permitted to purchase or establish service credit when employed in a part-time position.
4. A disability retiree shall not be given service credit during the time in which he/she receives a disability annuity (Act 541 of 1977).

Amended: June 15, 2004
July 18, 2005
October 4, 2005

ARKANSAS TEACHER RETIREMENT SYSTEM
1400 West Third Street
Little Rock, Arkansas 72201

RESOLUTION

No. 2005-40

RULES OF ORGANIZATION

BE IT RESOLVED that, as recommended by the Policies Committee on November 7, 2005, the Board of Trustees of the Arkansas Teacher Retirement System adopts the Rule and Regulation No. 0-1 (Rules of Organization and Operation) attached to this Resolution;

FURTHER RESOLVED that, as recommended by the Policies Committee on November 7, 2005, the Board of Trustees of the Arkansas Teacher Retirement System repeals Board Policies, Rules and Regulations on Governance (1-1 through 1-15), Perspectives/Ends (2-1 through 2-4), and Executive Director (3-1 through 3-11) from being filed under the Administrative Procedures Act's rulemaking procedures while retaining them as Board policies;

FURTHER RESOLVED that the Executive Director of ATRS or his designee is authorized to promulgate and implement these changes;

FURTHER RESOLVED that in promulgating these changes, the Executive Director of ATRS or his designee is authorized to make technical corrections when necessary.

Adopted this 6th day of December, 2005

JOHN FORTENBERRY, *Chair*
Arkansas Teacher Retirement System

SUMMARY OF SUBSTANTIVE CHANGES

Abbreviated rules of organization and operation are being filed under the A.P.A. rulemaking procedures to comply with A.C.A. § 25-15-203.

At the same time, ATRS is requesting the removal of the Board's policies on governance, perspectives/ends, executive director limitations, and board-executive director relationship from the Administrative Procedures Act (A.P.A.) process (see attached list of specific policies). All the policies will remain in force, will continue to be in the Board Policy Manual, and will continue to be available on the ATRS website, along with all other ATRS policies which have been promulgated under the A.P.A. process. When these policies were created, ATRS mistakenly filed them under A.P.A. as rules. Since they concern the internal management of the agency and do not affect the private rights or procedures available to the public, the policies in this request clearly are not rules. Since the policies were filed as rules under the Administrative Procedures Act, ATRS has treated any changes as amendments, which also must be promulgated under the A.P.A. rulemaking procedures. The delay limits the Board's ability to be flexible and creates unnecessary red tape.

MARK-UP
ARKANSAS TEACHER RETIREMENT SYSTEM
RULES OF ORGANIZATION AND OPERATION ADOPTED PURSUANT TO
A.C.A. § 25-15-203

I. INFORMATION FOR PUBLIC GUIDANCE

The Arkansas Teacher Retirement System (“ATRS”) is located at 1400 West Third Street, Little Rock, AR 72201. Questions about ATRS may be addressed by visiting the ATRS website (<http://www.atrs.state.ar.us>); e-mailing ATRS at info@atrs.state.ar.us; phoning ATRS at 1-800-666-2877 or 501-682-1517; or sending a fax to ATRS at 1-800-682-2663. Visits may be made to the ATRS office between 8:00 a.m. and 4:30 p.m. Monday through Friday, except on holidays. Appointments are not required but are suggested.

ATRS makes available a list of persons holding certain responsibilities for handling FOIA requests and requests by the public so that the public may obtain information about ATRS or make submissions or requests. The names, mailing addresses, telephone numbers, and electronic addresses can be obtained from the ATRS office or website.

The ATRS policies, rules and regulations, and official forms may be obtained from the ATRS office or from the ATRS website.

II. DESCRIPTION OF THE ARKANSAS TEACHER RETIREMENT SYSTEM

The Arkansas Teacher Retirement System (“ATRS”) is a cost-sharing multiple-employer, defined benefit pension plan established on March 17, 1937 by authority of the Arkansas General Assembly under Act 266 of 1937 (Ark. Code Ann. § 24-7-101 et. seq). ATRS is operated as a “qualified trust” under section 401(a) of the Internal Revenue Code. ATRS is a component unit of the State of Arkansas.

The General Assembly is responsible for setting benefits and contributions and amending plan provisions.

Ultimate authority, general administration and responsibility for the proper operation of ATRS and for making effective the provisions of A.C.A. §§ 24-7-201 et seq. are vested in a fifteen-member board of trustees. Eleven members are elected, and four members serve as ex officio members by virtue of their positions in state government. The board appoints the executive director of ATRS who serves as its chief executive officer. From time to time, the board promulgates rules and regulations.

For administrative purposes, the agency is comprised of several divisions: Administration, Membership Services, Data Processing, Investments, and Fiscal Affairs.

III. ORGANIZATION AND OPERATION OF THE ATRS BOARD OF TRUSTEES

The officers of the ATRS board of trustees are a Chair and Vice Chair. Election of officers is held in the odd numbered years at the first regular meeting after the beginning of the fiscal year. These officers perform the duties prescribed by applicable law, this rule, and Robert's Rules of Order.

The business of ATRS is conducted in public meeting pursuant to Robert's Rules of Order. All meetings are conducted in conformity with the Arkansas Freedom of Information Act. Regular meetings are held at least quarterly. Special meetings may be held on the call of the chair or as scheduled by action of the Board in a regular meeting.

A quorum for the transaction of business is a majority of the number of voting members of the board.

The ATRS board of trustees may create standing and ad hoc committees whose membership is determined by the chair of the board. A quorum for the transaction of committee business is a majority of the number of voting members of the committee.

The Executive Director prepares the agenda for regular and special meetings. The agenda is distributed to Board members and made available to the public in advance of the meeting. The agenda may be amended by appropriate motion.

Trustees, members, and other individuals wishing to have additional items considered for the agenda should submit a request to the Executive Director prior to a regularly scheduled meeting.

IV. RULEMAKING

The ATRS board has been authorized by the Legislature to promulgate rules. ATRS follows the procedural requirements of the Arkansas Administrative Procedure Act, in particular A.C.A. § 25-15-203 and § 25-15-204. Additionally, ATRS is required to abide by the provisions of A.C.A. §10-3-309.

The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to as "rulemaking") may be initiated by request of the board or the ATRS staff. Additionally, persons outside the agency may petition for the issuance, amendment, or repeal of any rule.

ATRS will give public notice of proposed rulemaking to be published pursuant to A.C.A. § 25-15-204. The notice will set any written comment period and will specify the time, date, and place of any public hearing, if any.

Before finalizing language of a proposed new rule or an amendment to, or repeal of, an existing rule, ATRS will receive public input through written comments

and/or oral submissions. ATRS will designate in the public notice the format and timing of public comment.

A public hearing may be held; if so, it will provide affected persons and other members of the public a reasonable opportunity for presentation of evidence, arguments, and oral statements within reasonable conditions and limitations imposed by the agency to avoid duplication, irrelevant comments, unnecessary delay, or disruption of the proceedings.

Thirty days before the public comment period ends, ATRS will file with the Bureau of Legislative Research the text of the proposed rule or amendment as well as a financial impact statement and a Bureau of Legislative Research questionnaire as provided by §10-3-309. In addition, a copy of the public notice, the text of the proposed rule or amendment, and a summary will be filed with the Secretary of State. Also, a copy of the public notice and the text of the proposed rule or amendment will be published on the ATRS website, if available.

Generally, proposed rules or amendments will be reviewed by the appropriate committee of the ATRS Board of Trustees for recommendation prior to submission to the full Board for consideration and final action.

ATRS will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.

After the ATRS board formally adopts a new rule or amends a current rule or repeals an existing rule, and after the rule change has been reviewed by the Legislative Council, ATRS staff will file final copies of the rule with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research, or as otherwise provided by A.C.A. § 25-15-204(d).

Proof of filing a copy of the rule, amendment, or repeal with the Secretary of State, the Arkansas State Library, and the Bureau of Legislative Research will be kept in a file maintained by the Executive Director's Office.

Notice of the rule change will be posted on the agency website, if available, and rules will be made available to interested persons.

V. EMERGENCY RULEMAKING

Upon receipt of a written statement requesting emergency rulemaking or other evidence to support an assertion that an emergency exists, ATRS will make an independent judgment whether the circumstances and facts constitute an imminent peril to the public health, safety, or welfare requiring adoption of the rule with fewer than 30 days notice. If it is determined that the circumstances warrant emergency rulemaking, a written determination setting out the reasons for the finding that an emergency exists will be made. Upon making this finding, the ATRS board may proceed to adopt the rule without any prior notice or hearing, or it may determine to provide an abbreviated notice and hearing.

The emergency rule will be effective immediately upon filing, or at a stated time less than ten (10) days thereafter, if ATRS finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. ATRS will file with the rule its written findings justifying the determination that emergency rulemaking is appropriate and, if applicable, the basis for the effective date of the emergency rule being less than ten days after the filing of the rule pursuant to A.C.A. § 25-15-204(e).

VI. APPEALS

An ATRS member, beneficiary, survivor, retiree or employer may request a review of an administrative decision made by the Executive Director or an ATRS staff member concerning membership, benefits, service, contributions or refunds. A description of the appeals process may be obtained by contacting ATRS or from the ATRS website.

NOTE: These are general rules for the organization and operation of the system. Additional and more specific information is provided in the Policies, Rules and Regulations of ATRS, which may be found on the ATRS website (www.atrs.state.ar.us under "Publications") or which may be obtained by contacting the Executive Director's office at 501-682-1517 or 1-800-666-2877).

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1-2 Guiding Principles (*Remove from APA*)
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1-5 Board Meetings (*Remove from APA Process*)
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1-7 Reimbursement of Expenses (*Remove from APA Process*)
1-8 Procurement of Services (*Remove from APA*)
1-9 Committee Principles (*Remove from APA*)
1-10 Investment Committee Charter (*Remove from APA*)
1-11 Legislative Committee Charter (*Remove from APA*)
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2. Perspectives/Ends

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3. Executive Director

- 3-1 General Executive Constraints (*Remove from APA*)
3-2 Communication and Counsel to the Board (*Remove from APA*)
3-3 Code of Ethics (*Remove from APA Process*)
3-4 Employment of Executive Director (*Remove from APA*)
3-5 Executive Director's Job Description (*Remove from APA*)
3-6 Compensation and Benefits (*Remove from APA*)
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3-8 Staff Treatment (*Remove from APA*)
3-9 Delegation to the Executive Director (*Remove from APA*)
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ARKANSAS TEACHER RETIREMENT SYSTEM

**1400 West Third Street
Little Rock, Arkansas 72201**

RESOLUTION

No. 2005-42

WHEREAS, Arkansas Teacher Retirement System is the sole owner of ATRS Recoveries, L.L.C. and ATRS Retirement Properties, L.L.C., and

WHEREAS, ATRS Recoveries, L.L.C. is the owner of and desires to sell Northridge Healthcare and Rehabilitation Center, 2501 John Ashley Drive, North Little Rock, Arkansas; and Woodland Hills Healthcare and Rehabilitation Center, 8701 Riley Drive, Little Rock, Arkansas; and

WHEREAS, ATRS Retirement Properties, L.L.C., is the owner of and desires to sell approximately 7.2687 acres of vacant land in the vicinity of Chenal Heights Drive and Chenal Heights Circle, Little Rock, Arkansas, and a Permit of Approval issued by the Arkansas Department of Health and Human Services dated January 28, 2002, for 94 nursing home beds; and

WHEREAS, Aviv Asset Management, L.L.C., Chicago, Illinois, has agreed to purchase the above-described properties.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of the Arkansas Teacher Retirement System approves the sale of Northridge Healthcare and Rehabilitation Center, 2501 John Ashley Drive, North Little Rock, Arkansas; Woodland Hills Healthcare and Rehabilitation Center, 8701 Riley Drive, Little Rock, Arkansas; and approximately 7.2687 acres of vacant land in the vicinity of Chenal Heights Drive and Chenal Heights Circle, Little Rock, Arkansas, and a Permit of Approval issued by the Arkansas Department of Health and Human Services dated January 28, 2002, for 94 nursing home beds to Aviv Asset Management, L.L.C., Chicago, Illinois, for Nine Million Dollars (\$9,000,000.00), plus or minus normal and customary prorations, payable in immediately available funds at closing, as set forth in the attached Letter of Intent dated October 28, 2005.

FURTHER RESOLVED that the Board of Trustees authorizes the Executive Director to execute the sale.

Adopted this 6th day of December, 2005

JOHN FORTENBERRY, Chair
Arkansas Teacher Retirement System

**Board of Trustees
2006 Meeting Schedule**

February 6 & 7

April 3 & 4

April 22 - 26 (SCTR – not a Board meeting)

June 5 & 6

August 7 (if necessary)

October 2 & 3

December 4 & 5

*Investment Committee**

*All meetings start at 1:00 p.m., unless otherwise noted

January 9

March 20

May 15

July 17

September 11

November 13

*Policies Committee**

*All meetings start at 9:30 a.m., unless otherwise noted

Tentative Schedule. Will be held as needed.

January 9

March 20

May 15

July 17

September 11

November 13

ARKANSAS TEACHER RETIREMENT SYSTEM
1400 West Third Street
Little Rock, Arkansas 72201

RESOLUTION
NO. 2005-41

2006 Election Vendor

WHEREAS, the Board of Trustees of the Arkansas Teacher Retirement System will conduct an election in March 2006 to fill Position #5 and Position #11, and

WHEREAS, the staff of the Arkansas Teacher Retirement System forwarded a Request for Bid Quotation to four election companies and invited them to submit a bid to conduct the election in accordance with state laws and regulations, and

WHEREAS, after a review of the responses received to the Request for Bid Quotation, it was determined that VR Election Services of Carrollton, Texas, submitted the lowest bid, and

WHEREAS, VR Election Services has previously conducted elections for the Arkansas Teacher Retirement System Board of Trustees with competent and satisfactory performance;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Trustees of the Arkansas Teacher Retirement System approves the selection of VR Election Services of Carrollton, Texas, to conduct the election, and

BE IT FURTHER RESOLVED, that the Board of Trustees of the Arkansas Teacher Retirement System authorizes the Executive Director to enter into a Purchase Order Contract with VR Election Services of Carrollton, Texas, to conduct the election.

Adopted this 6th day of December, 2005

JOHN FORTENBERRY, Chair
Arkansas Teacher Retirement System