

EXECUTIVE DIRECTOR UPDATE
Week 3 of the 91st General Assembly
January 27, 2017

Overview of Week 3 of the 91st General Assembly

Hurry scurry of the retirement bill filing deadline

The week of the retirement bill filing deadline is the first frantically paced week of a general session of the legislature. As of the filing deadline for retirement bills, the 20 ATRS package bills were filed and two (2) ATRS sponsored shell bills were filed. A total of 93 retirement bills were filed by the deadline. Of the non-ATRS package bills, 4 were substantive bills that would impact ATRS, 6 shell bills were ATRS specific shell bills that could be amended at any time to impact ATRS, and 5 were generic retirement bills that could be amended to potentially impact ATRS. This means that ATRS will be tracking and monitoring 37 bills in this session of the General Assembly.

Without legislative sponsors of the ATRS package proposed by the ATRS Board, ATRS could not have a legislative package. Sponsoring legislation is time consuming and often difficult. Retirement bills are among the most difficult bills every session. ATRS is grateful and appreciative for the members of the General Assembly that reviewed the ATRS package bills and agreed to sponsor bills in the 20 bill package. A special thank you goes to the sponsors. **Senator Bart Hester** is sponsoring four (4) of the 20 bills in the ATRS package, **Representative Gary Deffenbaugh** is sponsoring two (2) bills, **Senator John Cooper** is sponsoring two (2) of the bills, **Representative Johnny Rye** is sponsoring two (2) bills, **Senator Eddie Cheatham** is sponsoring three (3) bills, **Representative John Maddox** is sponsoring two (2) bills, **Senator Bill Sample** is sponsoring two (2) bills, **Representative Bruce Coleman** is sponsoring a package bill, **Senator Jeremy Hutchinson** is sponsoring a package bill, and **Senator Ronald Caldwell** is sponsoring a package bill.

From this point forward, as you read these weekly executive director updates and do not have time to read the entire update, you may want to look for any part of the update that is written in **red**. You may find **red wording** on both the Executive Director Update and on the Bill Summary attachment. **Red wording** indicates that ATRS staff believes the information is **important to know** or of **concern**. Due to the nature of having 25-30 substantive bills that affect ATRS and its members in this session's updates, the update will tend to be very long. Each bill will have an explanation and a status update. To the extent your time is limited, the **red wording** will attempt to highlight what ATRS staff thinks may be of greatest interest or concern for ATRS employers and members to focus upon. ATRS also understands that some members will be focused on specific bills that may be of major interest but not highlighted. It is understood that the 20 bill

package of ATRS is closely watched since it is designed to allow ATRS to react to market changes and new financial standards.

Four Substantive Bills Affecting ATRS Law

At this time, **four (4)** additional bills have been filed (**not part of the ATRS package**) with substantive language that would change laws affecting ATRS and its members. HB1355 is a technical correction bill on behalf of the Code Revision Commission that only clarifies language such as changing "the system" to the "Arkansas Teacher Retirement System" and has no operational or fiscal impact.

Of the remaining three (3) bills, SB11 by Senator Bart Hester would require ATRS to monitor its investments and hire a consultant to determine if any company it had invested in took certain positions against Israel. This bill is still under review and analysis by ATRS. HB 1290 by Representative Tosh has language that Representative Tosh and ATRS worked together on, this week, that allows an additional exception in the five (5) year lookback law (statute of limitations) for under-reported service of a member upon which all contributions were paid at the time. ATRS is neutral on this bill. ATRS does appreciate Representative Tosh working with ATRS before filing a bill on the important 5 year lookback law.

HB1336 by Representative Tosh. Representative Tosh has already indicated that he is seeking input from the state retirement systems about this bill and has a willingness to make modifications to this bill. **This is a bill that, as drafted, would apply to all service in ATRS whether rendered before or after the effective date of the bill. This bill would apply to active members, T-DROP participants, and retirees. The bill would require forfeiture of all benefits and benefit rights of a member, including benefit accruals, benefits already paid, T-DROP balances at ATRS, T-DROP balances that were rolled out, and the lump sum death benefit, if a member is convicted of a felony associated with or arising from public employment. ATRS has material concerns about this bill in its current form. ATRS has reason to believe that the bill may be unconstitutional as written and would chill entry or reentry into public employment in the current form. Also see the Bill summary attachment.**

An Explanation About Shell Bills and a Shell Bill Update

Shell bills are bills that without an amendment would have no impact on the law. Legislators may introduce a shell bill intending to amend it later in the session to address a specific issue. At other times, members may introduce a shell bill to be helpful in order to assist a retirement system or the General Assembly to address an

issue that **might** arise later in the session. A typical shell bill will have wording like "a bill to amend the law regarding the Arkansas Teacher Retirement System". There are 2 kinds of shell bills, a **specific subject matter** shell bill and a **generic** shell bill. A **specific matter** shell bill has indication within its title that the shell bill will only be used to make a change in a specific area such as benefits, board composition, investment policy, or operations. If a shell bill has a specific subject matter, the shell bill is limited to be used for that purpose only due to constitutional standards. A **generic** shell bill is written without a specific subject matter and potentially could impact any or all parts of ATRS. A shell bill is like **a race car without an engine**. Unless an engine is placed in it, it sits there and does nothing. An engine can be quickly placed in a shell bill. An amendment can make that inoperative race car into **a rocket powered race car**. A bill can go from a shell bill to a substantive bill in **a day**. ATRS always carefully monitors all shell bills to ensure that a shell bill that becomes substantive is evaluated and properly addressed by ATRS on behalf of its employers and members. Shell bills can be very **helpful** and potentially very **hurtful**. That is why ATRS will list each shell bill that could be amended to impact ATRS each week in the weekly executive director update.

This session, ATRS asked **Senator Bruce Maloch** (Thank you Senator!) to introduce two (2) generic shell bills on behalf of ATRS to be held in the event an unexpected issue is discovered that needs to be addressed by a change in ATRS law that cannot be amended into an existing ATRS package bill. Six (6) additional **specific subject matter** shell bills were introduced that name the Arkansas Teacher Retirement System in the title. The subject matters on the 6 bills are **employment of retired members, Board of Trustees, investment practices, benefit payments, accounting and auditing, and administration**.

Five (5) additional **generic** shell bills were filed that could impact ATRS. One is specific as to ATRS with a generic title. Four (4) shell bills are with titles that could impact all retirement systems or employee groups that include an employee group of ATRS. For this update only, ATRS will also list **42 other retirement shell bills** that due to the specific subject matter title, are very unlikely to ever impact ATRS.

The Next Steps For Retirement Legislation

The hurry scurry of the retirement bill filing deadline is now past. The 20 ATRS package bill have been referred to the Joint Public Retirement Committee for future consideration. Most of the bills will have **fiscal impact** which means the bills must be studied by both the Joint Public Retirement Committee actuary and the ATRS actuary. These studies often take a few weeks to complete due to the complexity of determining how changes may impact ATRS, its employers and members. At least 18 of the 20 ATRS package bills will need both the committee actuary and ATRS actuary to review and make determinations on the costs and impacts of the bills. One (1) ATRS package bill, **SB142**, by **Senator Cooper**, has already been reviewed by the committee actuary and is ready for committee action on Monday, January 30, 2017. It is a best practices bill to have the ATRS Audit Committee, and not the ATRS executive director, perform the performance evaluation of the ATRS internal auditor.

As a reminder from last week's update, the leadership of the Joint Retirement Committee would **not** support any effort to merge or consolidate ATRS or any other Arkansas public retirement system and has no expectation that such a proposal will be introduced in this session. That is great news for ATRS members!

The **second** theme of the Joint Retirement Committee leadership is that the leadership is focused on maintaining the financial strength of ATRS and agrees that ATRS should have the tools and mechanisms necessary to react to downturns in the financial markets or changes in actuarial standards to pay all earned and lawful benefits. This theme aligns with the legislative package of the ATRS Board.

The first Public Retirement Committee meeting was held on Monday, January 23, 2017. This meeting was an organizational meeting which included briefings by the retirement systems' directors and committee actuary. No bills were heard during this first organizational meeting. The committee is expected to meet every Monday at 10:00 AM in the Arkansas Capitol.