

# APERS *pective*

Summer 2009

Volume 13, Issue 2

**A Newsletter for Members of the Arkansas Public Employees Retirement System**

## Director's Corner

Is it safe to come out yet? Is it time to get back to normal? Since earlier this year the capital markets seem to be saying "yes", with the S&P 500 Stock Index rallying over 21 percent since February. Does this mean we all can resume our carefree ways again? No! All of us, individual and institutional investors alike, must keep our feet planted firmly in reality when putting our hard-earned money into the market.

I recently had occasion to review the APERS board meeting minutes going all the way back to the beginning in 1957. About the time this fund had some truly meaningful sums to invest,

the OPEC oil embargo of the early 1970's occurred. Still in the middle of the resulting market turmoil, the board was told by its investment advisor that the recessionary effects of the embargo were a one-time event and that investors would not likely see such an event again in their lifetimes. Well, 14 years later the stock market crashed. Then, 14 years after *that*, the market crashed again following the awful shock of 9/11.

The fact of the matter is, markets can and will fall dramatically after becoming over-valued at various points in time. During these periods of rising prices the savvy investor can

move quickly recognize investment gains and so grow a strong savings nest egg. When the markets finally revert, or decline sharply, the investor must be more selective, or defensive in how he puts his money to work. Sometimes it takes nerves of steel to step into a falling market and say, "this price is so low, I have to buy the stock". He must keep reminding himself, "buy low and sell high". It's the only way to make a profit.

The past eleven months of APERS' fiscal year have seen us in that same defensive posture, seeking small gains where they can be found. It is almost

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## Law improves options to buy military time



Many active and inactive members of the APERS system have served on active military duty, or with the Arkansas National Guard or Armed Forces Reserves. Others currently serve with the Guard or reserves.

Act 295 of 2009 (effective March 3, 2009) enhanced options for vested members to purchase past or current military service.

Act 295's most significant change was in allowing vested APERS members to purchase military service even if they are

receiving federal military retirement pay. This wasn't allowed under previous legislation.

The total active duty time APERS members (active or inactive) may buy for APERS credit is unchanged - from one month to five years total, provided the member has 5 years or more of actual APERS service, and has an honorable military discharge. Also still allowed is the option for disability retirees to purchase active duty service credit.

To prove active duty service, members should provide APERS counselors a DD Form-214.

Act 295 also improved for currently working APERS members their ability to purchase time served in the Guard or Reserves. Now, APERS members may buy, up to five years total, one year of Guard or Reserves duty for one year of credited APERS service. To qualify, current APERS members must

be vested with 5 or more years actual APERS service, and have an honorable discharge.

Before Act 295, working APERS members could only purchase one year of Guard or Reserves duty for every 5 years served, up to 3 years total. The new law superseded the old purchasing restrictions.

For military Reserves duty, members must provide APERS a DD Form-214. For Arkansas National Guard duty, provide APERS a copy of NGB Form 22.

If you're considering purchasing your military service (active duty, Guard or Reserves time), make sure you do so before you officially retire from APERS (disability retirement being the exception). Once you start receiving retirement benefits from APERS, you lose the option to buy this duty.

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**Purchasing military service**

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APERS allows members to purchase no more than 5 years total of any kind of credited service in another non-APERS retirement system (military duty, federal service, public employment in another state, etc.).

Any member interested in purchasing their military duty may consult the APERS Counseling Unit, where staff can calculate the cost of purchase, and the required methods for buying the duty.

For more details about buying service, members may contact APERS Counseling by calling 1-800-682-7377, or (501) 682-7800.

In addition to the above changes, Act 295 also invoked federal protections provided by the Uniformed Services Employment and Reemployment Rights Act (USERRA) for APERS members called to active duty. The table below illustrates the key changes Act 295 enacted for buying military duty.

<p><b>Active Duty Act 295 of 2009</b></p>
<p>Allows active or inactive (terminated) members not already retired to be receiving federal military retirement pay and still purchase active duty service.* * <i>Disability retirement does not prevent member from purchasing active duty service.</i></p>
<p><b>Arkansas National Guard or Military Reserves Service Act 295 of 2009</b></p>
<p>Allows active APERS members not already retired to be receiving federal military retirement pay and still purchase Guard or Reserves duty.</p>
<p>Allows active members to purchase, up to five years total, one year of Guard or Reserves duty for one year of APERS service credit.</p>

**IMPORTANT FILING DATES**

*Retirement Filing Dates*

Retirement Date	Earliest Filing Date	Latest Filing Date
September	June 3, 2009	August 3, 2009*
October	July 3, 2009	September 1, 2009
November	August 3, 2009*	October 2, 2009
December	September 2, 2009	November 2, 2009*

\* For retirement applications only - if a Filing Date falls during a weekend or on a holiday, the filing deadline becomes the next working day.

*DROP Filing Dates*

DROP Enroll Date	Earliest Filing Date	Latest Filing Date
September	May 29, 2009	July 31, 2009
October	June 30, 2009	August 31, 2009
November	July 31, 2009	September 30, 2009
December	August 31, 2009	October 30, 2009

\* The Filing Deadline for DROP applications is always the last working day of the 2nd month before enrollment, **not the last calendar day of the month!**

**APERS PROFILE**

**Employee Profile of Jay Wills**



Licensed to practice law since 1980, Jay Wills joined APERS in December 2007 as general counsel for the agency. He is responsible for dealing with the various legal issues that APERS must address from time to time.

Jay has worked in both private and public practice in Little Rock throughout his career. In his public service career, he has worked as an assistant attorney general, general counsel for the Arkansas Health Department, head of Legal Operations for the Department of Human Services, and most recently as deputy director of the Arkansas Judicial Discipline & Disability Commission.

A 1971 graduate of Hall High School, Mr. Wills graduated from Southwestern at Memphis (now “Rhodes College”) in 1975 and from Vanderbilt Law School in 1980. Wills and his wife Elana (Cunningham) were married in 1992 and have a daughter, Grace. Mr. Wills said his hobbies include enjoying the outdoors and reading a variety of subjects.

**Moved recently?**

When you move, please inform APERS in writing. You can use the Change of Address form at: [www.apers.org](http://www.apers.org) or send a handwritten letter with your signature stating your new address. Remember to post your Social Security number on correspondence you mail APERS. A form can be mailed if you call us at (501) 682-7800. Persons outside Pulaski County can call toll-free, 1-800-682-7377.

## Director's Corner

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certain that we will finish the year with double-digit losses. Fortunately, the fund commenced the year in very healthy financial shape such that we can weather a year like we've had without devastation.

With the falling stock market as a backdrop, the recent legislative session saw only modest changes to the APERS benefit program. Most prominently were two bills that encourage APERS members to work longer. Act 1200 (SB164 – Sen. G. Jeffress, Rep. Overbey) increases the multiplier applied to service above 28 years by ½%. Prospective with the effective date of the act, members of the system will be credited with an additional 0.5% of salary for each year worked beyond the 28<sup>th</sup>. Meanwhile, Act 657 (SB140 – Sen. Faris) extends the period of separation from employment for retirement purposes from thirty days to 180 days. Effective July 1, 2009 those that retire from APERS cannot return to covered employment in less than six months without risking forfeiture of benefits. The only exceptions are for those enrolled in the Deferred Retirement Option Plan (DROP) on January 1, 2009, and those who actually retired between January and June, 2009.

Other acts of note include Act 295 (SB128 – Sen. Faris) which makes it easier for members to buy their military time, including Armed Forces Reserve and National Guard service. Those active members who have retired

from the military with benefits may now purchase up to five years of that time into the system. Also, those members who have Reserve or Guard time other than active duty may buy one year for each year served, up to a maximum of five years.

Act 616 (HB1110 – Rep. Kerr) allows bonuses and lump sums paid to city and county employees to be counted for retirement purposes, much the same way that bonuses to state employees were recognized in the 2007 legislative session.

Finally, Act 742 (SB163 – Sen. G. Jeffress), among other things, opens the “window” for non-contributory members to become contributory. Non-contributory members can elect at any time between July 1<sup>st</sup> and December 31<sup>st</sup>, 2009 to become contributory with an effective date of January 1, 2010. At that time, you will pay 5% of your gross salary (pre-tax) to the system. Employee contribution balances will earn 4% annually. In exchange, the multiplier for this contributory service will be credited at a rate of 2.00% rather than the non-contributory rate of just 1.72%.

We encourage members to attend one of the many retirement seminars we hold around the state so that you can learn how the new laws apply to you. A schedule showing when and where these seminars will be held can be found at our website at [www.apers.org](http://www.apers.org).

## APERS Filing Letter With the IRS

***This is a notice required by law, it does not affect your benefits or your APERS account.***

Notice of APERS Cycle C Determination Letter Filing with the Internal Revenue Service

This Notice is addressed to all APERS members, former members, retirees and their beneficiaries who participate in APERS or who derive benefits from APERS. This is to notify you that the Arkansas Public Employees Retirement System (APERS), TIN #71-0385993, which is administered by the APERS Board of Trustees, is applying for an initial determination letter from the Internal Revenue Service (“IRS”) at P.O. Box 192, Covington, KY 41012-0192, as to its qualified status under the Internal Revenue Code. Those public employees described in Ark. Code Ann. 24-4-301, et seq., as amended, are eligible to participate in APERS. The IRS has not previously issued a determination letter with respect to the qualification of this plan.

Any person or persons described above is entitled to submit individually or jointly with other interested parties, or is entitled to request the U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW, Washington, DCC 20210, Attn: 3001 Comment Request, to submit on the applicants' behalf, comments on whether APERS meets the requirements of Sections 401 or 403(a) of the Internal Revenue Code (“IRC”) to the IRS, EP Determinations Section at the above address. If the Department of Labor declines to submit comments, the individuals requesting such action are still entitled to submit those comments declined by the Department of Labor to the IRS, EP Determinations Section. The Department of Labor may not comment unless requested to do so by ten (10) or more interested parties.

Such comments or requests must be submitted to the IRS in writing no later than forty-five (45) days following first publication of this notice. Requests for the Department of Labor to submit comments must be submitted to it in writing no later than twenty-five (25) days following first publication of this notice. Those individuals to whom this notice is directed may examine APERS application at its main offices, One Union National Plaza, 124 West Capital Avenue, Suite 400, Little Rock, Arkansas 72201, upon reasonable notice and during normal business hours (7:30 a.m. to 4:30 p.m.). APERS retirement plan itself is described in Ark. Code Ann. 24-4-101, et seq., as amended.

## *In this issue...*

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The Director's Corner! Important filing dates! Changes for  
retirees returning to work for APERS employers! And more!*

## Returning to work after retiring?

A new act now requires APERS members who retire from APERS-covered employment after July 1, 2009, to wait significantly longer than 30 days before they can return to work with an APERS-system employer. Act 657 of 2009, effective July 1, increased the time retirees must wait to return to otherwise covered APERS employment from the previous standard of 30 days to 181 days after the effective retirement date. A member who returns to work for an APERS employer before the 181st day of termination will forfeit all retirement benefits paid.

The new law allows two exceptions to this rule, one for members participating in the Deferred Retirement Option Plan on Jan. 1, 2009, and one for members who retire and start receiving benefits between January 1 and June 30, 2009. Members in these two categories may still return to work no sooner than 30 calendar days from their effective retirement date.

The Arkansas General Assembly determined that increasing the time frame retirees must wait before they could return to work for an APERS employer would, over the long term, benefit the fiscal health of the APERS system.

APERSpective is a publication of the Arkansas Public Employees Retirement System  
and is distributed for the information of APERS active members.

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