



**NOTICE OF FINAL RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

[R21-04]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**

<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
Article 9	New Article
R2-8-901	New Section
R2-8-902	New Section
R2-8-903	New Section
R2-8-904	New Section

2. **Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 38-714(E)(4)
 Implementing statutes: A.R.S. §§ 38-613, 38-711, 38-736, 38-737, 38-739, 38-746, 38-769, 38-797.05, 41-192

3. **The effective date for the rules:**
 March 9, 2021
 - a. **If the agency selected a date earlier than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
 Not applicable

 - b. **If the agency selected a date later than the 60 day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
 Not applicable

4. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
 Notice of Rulemaking Docket Opening: 26 A.A.R. 2052, October 2, 2020
 Notice of Proposed Rulemaking: 26 A.A.R. 2033, October 2, 2020

5. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Jessica A.R. Thomas, Rules Writer
 Address: Arizona State Retirement System
 3300 N. Central Ave., Suite 1400
 Phoenix, AZ 85012-0250
 Telephone: (602) 240-2039
 E-mail: Ruleswriter@azasrs.gov

6. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 The ASRS needs to adopt approximately four rules to clarify how contributions are remitted and how the ASRS may use compensation from a separate Employer for certain calculations depending on the date of membership. These rules will clarify which compensation the ASRS will use for contribution accounting and pension calculations. Many members and Employers are confused about what is "compensation" for ASRS purposes. These rules will increase understandability of how the ASRS uses compensation in its calculations, but the rules do not impose any additional requirements or burdens on members.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
 No study was reviewed.

8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable

9. **A summary of the economic, small business, and consumer impact:**
 There is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. There may be some economic impact to members and Employers with regard to the contributions they are required to submit for eligible compensation. Clarifying how contributions must be remitted to the ASRS and how members accrue service credit will increase the understandability of how the ASRS shall calculate a pension, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members and Employers have notice about how the ASRS administers its retirement program. Thus, the economic impact is minimized.



- 10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
None
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:**
The ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on November 3, 2020.
- 12. **All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
None
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
The rules do not require a permit.
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
There are no federal laws applicable to these rules.
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
No analysis was submitted.
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
No materials are incorporated by reference.
- 14. **Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**
Not applicable
- 15. **The full text of the rules follows:**

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ARTICLE 9. EXPIRED-COMPENSATION

- Section
- R2-8-901. ~~Expired-Definitions~~
 - R2-8-902. ~~Expired-Remitting Contributions~~
 - R2-8-903. ~~Expired-Accrual of Credited Service~~
 - R2-8-904. ~~Expired-Compensation from an Additional Employer~~

ARTICLE 9. EXPIRED-COMPENSATION

- R2-8-901. ~~Expired-Definitions~~**
“Services rendered” means the duties which a member performs for an Employer as required by the member’s employment with the Employer.
- R2-8-902. ~~Expired-Remitting Contributions~~**
Pursuant to A.R.S. §§ 38-736, 38-737, and 38-797.05, an Employer shall remit contributions to the ASRS through the Employer’s secure ASRS account for any payment the Employer provides to the member that is eligible to be included as compensation under this section.
- R2-8-903. ~~Expired-Accrual of Credited Service~~**
 - A.** A member shall accrue service credits pursuant A.R.S. § 38-739 for each month in which the Employer’s pay period ends and for which contributions have been remitted to the ASRS, except for pay the member receives from the Employer for services rendered in a prior pay period for which contributions were remitted pursuant to R2-8-902.
 - B.** Regardless of whether the member meets membership requirements with more than one Employer, a member may not earn more than one month of service credit in a calendar month and not more than one year of service credit during a fiscal year.
- R2-8-904. ~~Expired-Compensation from An Additional Employer~~**
 - A.** For purposes of remitting contributions pursuant to R2-8-902, compensation includes pay the member receives from an additional Employer if:
 - 1. The member meets membership pursuant to A.R.S. § 38-711 with at least one Employer;
 - 2. The member was employed with the additional Employer and did not meet membership with the additional Employer pursuant to A.R.S. § 38-711 between January 1, 2005 through December 31, 2009;
 - 3. The member resumed or continued employment with the additional Employer and did not meet membership with the additional Employer prior to January 1, 2012; and
 - 4. The member does not leave employment with an Employer or the additional Employer in an unpaid status for more than 30 consecutive days during the member’s service year.

