

- C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member's employment information and submit the verified Working After Retirement form to the ASRS through the Employer's secure website account for each retired member who returns to work with the Employer.
- D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS through the Employer's secure website account within 30 days of a change in the actual hours or intent of each retired member's employment that results in:
1. The member's number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or
  2. The member's number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.
- E. The Working After Retirement form shall contain the following information:
1. The retired member's Social Security number or U.S. Tax Identification number;
  2. The retired member's full name;
  3. The date the member retired;
  4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;
  5. The first date of Commencing Employment upon the retired member's return to work;
  6. The intent of the retired member's employment reflected as:
    - a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or
    - b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.
  7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to submit the Working After Retirement form to the Employer and submit any additional Working After Retirement forms to the Employer as required.
- F. Upon discovering that the retired member's employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.
- H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member's retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.
- I. If the ASRS suspends the retired member's retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member's retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.
- J.** Notwithstanding any other section, a member who meets the required minimum distributions age according to A.R.S. § 38-775, may not elect to suspend the member's retirement benefit.

### ARTICLE 3. LONG-TERM DISABILITY

#### R2-8-304. Payment of Long-Term Disability Benefit

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.
- D.** Notwithstanding any other section, a member may receive Long-Term disability benefits for no more than 12 months after the member receives a required minimum distribution of the member's retirement benefit pursuant to A.R.S. § 38-775.

### NOTICE OF FINAL RULEMAKING

#### TITLE 2. ADMINISTRATION

#### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R22-121]

#### PREAMBLE

- | <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R2-8-501  | Amend                           |
| R2-8-505  | Amend                           |
| R2-8-1006   | Amend                           |
- 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 statute: A.R.S. §§ 38-711 et seq.

**3. The effective date for the rules:**

July 17, 2022

- 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: 27 A.A.R. 2700, November 19, 2021

Notice of Proposed Rulemaking: 27 A.A.R. 2685, November 19, 2021

**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

Email: [Ruleswriter@azasrs.gov](mailto: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 amend its rules relating to service purchase requirements. A.R.S. §§ 38-729, 38-743, and 38-744 indicate that a member or employer may not purchase service credit if credit or benefits have already been earned for the same time period in "another public employee retirement system." The ASRS needs to amend its service purchase rules to clarify how and if a member or employer may purchase service credit in the ASRS if the member has already earned service credit in another such system for the same time period. Additionally, the ASRS needs to clarify that pursuant to the service purchase statutes, a service purchase cannot be completed after the member's death. These rules will increase understandability of how a member may purchase or transfer service credit, 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:**

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, 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 rule will have minimal economic impact, if any, because it merely clarifies in further detail how a member may purchase or transfer service credits.

**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 December 20, 2021.

**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:**

**TITLE 2. ADMINISTRATION**  
**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 5. PURCHASING SERVICE CREDIT**

Section	
R2-8-501.	Definitions
R2-8-505.	Restrictions on Purchasing Overlapping Service Credit

**ARTICLE 10. MEMBERSHIP**

R2-8-1006.	Prior Service Purchase for New Employers
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**ARTICLE 5. PURCHASING SERVICE CREDIT**

**R2-8-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
  - a. Eligible Member's Current Years of Credited Service;
  - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;
  - c. Amount of Service Credit the member wishes to purchase; and
  - d. Member's current annual compensation.
4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
14. "LTD" means the same as in R2-8-301.
15. "Military Call-up service" means a member is called to Active Duty under A.R.S. § 38-745 in a branch of the United States Uniformed Services.
16. "Military service" means Active Duty or Active Reserve Duty under A.R.S. § 38-745 with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
  - a. The member's full name;
  - b. The member's Social Security number;
  - c. Type of discharge the member received; and

- d. Active Duty dates, if applicable; or
  - e. Active Reserve Duty dates, if applicable; and
  - f. Point history for Active Reserve Duty dates, if applicable.
18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
  19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
  20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
  21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service ~~under A.R.S. § 38-745~~, and Other Public Service that an Eligible Member may purchase.
  22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of money required to purchase a specified amount of Service Credit.
  23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
  24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
  25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
    - a. After accepting an offer to work for a new Employer;
    - b. While working as an active member for a different Employer; or
    - c. Before returning to work with any Employer within 120 days of terminating employment.
  26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
  27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
  28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

#### **R2-8-505. Restrictions on Purchasing Overlapping Service Credit**

- A.** The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:
  1. One year of credited service in any plan year, or
  2. One month of credited service in any one calendar month.
- B.** A member may not purchase Service Credit for any period of time for which the member is eligible to receive retirement benefits from another public employee retirement system.
- C.** For purposes of this section, "another public employee retirement system" means any retirement plan providing retirement benefits and maintained by the United States government, a state, territory, commonwealth, overseas possession or insular area of the United States or a political subdivision of a state, territory, commonwealth, overseas possession or insular area of the United States.

### **ARTICLE 10. MEMBERSHIP**

#### **R2-8-1006. Prior Service Purchase Cost for New Employers**

- A.** Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B.** The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
  1. The employee's full name;
  2. The employee's date of birth;
  3. The employee's Social Security number;
  4. The employee's current salary; and
  5. The date the employee began employment with the potential Employer.
- C.** An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
  1. Member's full name;
  2. Member's date of birth;
  3. Member's Social Security number;
  4. Member's date of employment;
  5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
  6. Member's current salary as of the effective date of joining the ASRS; and
  7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D.** The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E.** An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.

- F. If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.
- G. An employer may not purchase service credit pursuant to this Section for a time period for which the employee is eligible to receive retirement benefits from another public employee retirement system.
- H. For purposes of this Section, "another public employee retirement system" means the same as in R2-8-505.

## NOTICE OF FINAL RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R22-122]

#### PREAMBLE

- | <b><u>1. Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
|---|---------------------------------|
| R2-8-803  | Amend                           |
| R2-8-808  | Amend                           |
| R2-8-809  | Amend                           |
- 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 statute: A.R.S. §§ 38-711 et seq.
- 3. The effective date for the rules:**  
 July 17, 2022
- 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: 27 A.A.R. 2701, November 19, 2021  
 Notice of Proposed Rulemaking: 27 A.A.R. 2689, November 19, 2021
- 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  
 Email: [Ruleswriter@azasrs.gov](mailto: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 amend its rules relating to Overpayments. The ASRS is required to correct any errors resulting in a member receiving more than the benefits they are eligible to receive pursuant to statute. In particular, the ASRS needs to amend its overpayments rules to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability (LTD) benefits. The ASRS also needs to make additional clarifying changes to ensure its rules are consistent regarding overpayment requirements. These rules will increase understandability of how the ASRS may recover an overpayment.
- 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:**  
 The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the