
NOTICES OF FINAL RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and text of the rules as filed by the agency.

Economic Impact Statements are not published but are filed by the agency with their final notice.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated them. Refer to item #5 to contact the person charged with the rulemaking.

The codified version of these rules will be published in the *Arizona Administrative Code*.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R22-130]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|--|--------------------------|
| R2-8-118 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include 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 of the rule:**
 June 6, 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):**
 An immediate effective date is justified under A.R.S. § 41-1032(A)(1) and (A)(4) to preserve public health and safety and to provide a benefit without imposing any penalty. The ASRS collects contributions and distributes retirement benefits for public employees throughout Arizona based on the Actuarial Investment Earnings Rate established by the Board. As of July 1, 2018, the Actuarial Investment Earnings Rate has been 7.50%. However, the new Actuarial Investment Earnings Rate for FY2022 will be 7.00%. Without this rulemaking, employers and members will not know what the new interest rate is and when it will be applied. This could cause significant confusion with regard to how various transactions and payments are processed and calculated, resulting in significant administrative errors that would require additional agency resources to correct. This rulemaking needs to be effective immediately upon filing with the Secretary of State in order to preserve retirees' access to accurately calculated retirement benefits.
- By promulgating this rulemaking with an immediate effective date, the ASRS will minimize any potential confusion regarding how employers should remit contributions for their employees, how the ASRS shall disburse benefits, how a member should pay for a service purchase, how the ASRS will collect an overpayment, etc. Providing such notice to employers and members as quickly as possible will ensure that the correct interest rate is applied, thereby reducing the amount of errors and necessary adjustments.
- 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):**
 None
- 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: 28 A.A.R. 818, April 22, 2022
 Notice of Proposed Rulemaking: 28 A.A.R. 795, April 22, 2022
- 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

- 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 interest rates in order to provide notice to the public of the new interest rate for the upcoming fiscal year. In 2021, the ASRS Board approved a new assumed rate of return and matching interest rate for FY2022-2023. These rules will increase understandability of what interest rate will be applied to various transactions.
- 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 administrates 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 what interest rate is applied.
- 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 May 23, 2022.
- 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 1. RETIREMENT SYSTEM

Section
R2-8-118. Application of Interest Rates

ARTICLE 1. RETIREMENT SYSTEM

R2-8-118. Application of Interest Rates

A. Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%
<u>7-1-2022</u>	<u>7.00%</u>	<u>2.00%</u>

- B.** At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member’s account as of the previous June 30. The balance on which interest is credited includes:
1. Employer and employee contributions;
 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
 3. Amounts credited by transfer under 2 A.A.C. 8, Article 11; and
 4. Interest credited in previous years.
- C.** Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the member’s retirement date.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 5. INDUSTRIAL COMMISSION OF ARIZONA

[R22-131]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable)**
- | | |
|------------|-------------|
| R20-5-1401 | Amend |
| R20-5-1405 | New Section |
| R20-5-1406 | New Section |
| R20-5-1407 | New Section |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
- Authorizing statute: A.R.S. §§ 23-107(A)(1), 23-921(B)
 Implementing statute: A.R.S. § 23-971
- Note: An exception from the moratorium on rulemaking, Executive Order 2022-01, was initially provided for this rulemaking by Brian Norman, Policy Advisor in the Office of the Arizona Governor, by email dated January 26, 2022. A final exception from the moratorium on rulemaking was provided by Brian Norman by email dated April 12, 2022.
- 3. The effective date of the rules:**
- June 10, 2022
- The Industrial Commission of Arizona (the “Commission”) requests an immediate effective date under A.R.S. § 41-1032(A)(1) (“To preserve the public peace, health or safety.”); A.R.S. § 41-1032(A)(2) (“To avoid a violation of . . . state law, if the need for an