



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

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

[R20-184]

**PREAMBLE**

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| <p><b>1. <u>Article, Part, or Section Affected (as applicable)</u></b><br/>R2-8-121<br/>R2-8-122</p> | <p><b><u>Rulemaking Action</u></b><br/>New Section<br/>Amend</p> |
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- 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 statutes: A.R.S. §§ 38-711, 38-735, 38-736, 38-737, and 38-748.
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**  
Notice of Rulemaking Docket Opening: 26 A.A.R. 2857, November 6, 2020 (*in this issue*)
- 4. 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: [JessicaT@azasrs.gov](mailto:JessicaT@azasrs.gov)
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**  
R2-8-121 will clarify how the ASRS may invoice an employer for an unfunded liability under A.R.S. § 38-748. R2-8-122 clarifies that the Employer shall certify that each employee for whom they are remitting contributions has met the requirements for active member eligibility and that all contributions are eligible for compensation under A.R.S. § 38-711. However, the ASRS needs to clarify that if the employer improperly certifies that the employee has met the requirements for active member eligibility or that all the contributions for that employee are eligible for compensation under A.R.S. § 38-711, the ASRS may charge the Employer an unfunded liability amount pursuant to A.R.S. § 38-748.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or 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.**  
None
- 7. 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
- 8. The preliminary 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 rules will have minimal economic impact, if any, because it merely clarifies in further detail how the ASRS may charge the Employer an unfunded liability amount pursuant to A.R.S. § 38-748.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

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: JessicaT@azasrs.gov

**10. The time, place, and nature of the proceedings for to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request and oral proceedings on the proposed rule:**

An oral proceeding regarding the proposed rule will be held as follows:

Date: December 22, 2020  
Time: 9:00 a.m.  
Location: Virtual Meeting  
Dial: 469-573-4865  
Enter Passcode: 411-983-384#

**11. All agencies shall list 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:**

None of the rules requires 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 on the competitive-ness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

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

**ARTICLE 1. RETIREMENT SYSTEM**

Section

- R2-8-121. ~~Repealed~~ Employer Payments for Ineligible Contributions; Unfunded Liability Invoice
- R2-8-122. Remittance of Contributions

**ARTICLE 1. RETIREMENT SYSTEM**

**R2-8-121. ~~Repealed~~ Employer Payments for Ineligible Contributions; Unfunded Liability Invoice**

- A.** Upon calculating an unfunded liability amount under A.R.S. § 38-748, the ASRS shall send an Unfunded Liability Invoice to the Employer through the Employer's secure ASRS account.
- B.** An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-748, shall remit full payment of the unfunded liability amount within 90 days of being notified of the unfunded liability pursuant to subsection (A).
- C.** Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount within 90 days of being notified of the unfunded liability amount, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- D.** The ASRS may collect any unfunded liability and interest amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

**R2-8-122. Remittance of Contributions**

- A.** Each Employer shall certify on each payroll the amount to be contributed by each one of their employee members of the ASRS and shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable pay-roll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.



- B. Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C. Each Employer shall remit contributions pursuant to this Section based on the contribution rate in effect on the pay period end date.
- D. Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.
- E. If an Employer improperly certifies that an employee has met the requirements for active member eligibility and that all contributions remitted for the employee are eligible for compensation under subsection (D), the ASRS may charge the employer an unfunded liability amount under A.R.S. § 38-748.