

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

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- ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**
- ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**
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FIVE-YEAR-REVIEW SUMMARY

The state legislature created the Arizona State Retirement System (ASRS) in 1953 in order to provide defined contribution retirement (defined contribution plan) benefits for state employees and teachers, as well as employees of political subdivisions that elected coverage. The defined contribution plan was closed to new members in 1972. At that time, members of the defined contribution plan who chose to, and all new members, became part of the defined benefit plan. At the end of Fiscal Year 2018-2019 there were approximately 566,612 ASRS members.

The ASRS Board (Board) is appointed by the Governor. The Board consists of nine members who qualify according to A.R.S. § 38-713. The Board is responsible for supervising the administration of the ASRS, including the defined contribution plan, defined benefit plan, long-term disability plan, and health insurance benefit plan. Investment responsibilities include:

1. Prescribing investment goals, objectives, and policies;
2. Allocating assets to meet investment goals;
3. Adopting specific policy directives for the guidance of investment management;
4. Appointing investment managers;
5. Prescribing investment diversification programs; and
6. Assigning investment responsibilities.

The enabling statutes for the Board are set forth in A.R.S. §§ Title 38, Chapter 5, Articles 1 and

2. The Board currently implements its statutes with rules located at A.A.C. Title 2, Chapter 8.

This report covers Articles 1, 2, 4, and 5 of the rules.

Article 1

R2-8-104 was last amended in 2018 and R2-8-115 was last amended in 2016. R2-8-116 was last amended in 2018 and R2-8-117 was last amended in 2017. R2-8-118 was last amended in 2018 and R2-8-120 was last amended in 2015. R2-8-122 was last amended in 2020 and R2-8-123 was last amended in 2015. R2-8-124 and R2-8-125 were last amended in 2018. R2-8-126 was last amended in 2016

Article 2

All the rules in this article were last amended in 2017.

Article 4

R2-8-401, R2-8-403, and R2-8-405 were last amended in 2017. R2-8-402 and R2-8-404 have not been amended since they were created in 2005.

Article 5

All the rules in this article were last amended in 2019.

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INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

The following information is the same for all of the rules and is not restated in the analysis of each rule:

1. **Authorization of the rule by existing statute**
All of the rules have general authority in A.R.S. §§ 38-704, 38-714(E)(4), and 38-715(C).
2. **Objective of the Rules**
The objective of each rule is identified in the analysis of individual rules.
3. **Analysis of effectiveness in achieving the objective**
All of the rules are effective in achieving their objectives.
4. **Analysis of consistency with state and federal statutes and rules**
With the exception of minor grammatical errors and the issues identified in the analysis of individual rules, all of the rules are consistent with state and federal statutes and rules.
5. **Status of enforcement of the rule**
All of the rules are enforced as written.
6. **Analysis of clarity, conciseness, and understandability**
With the exception of minor grammatical errors and the issues identified in the analysis of individual rules, all of the rules are clear, concise, and understandable.
7. **Analysis of any written criticisms the agency received on the rule**
No written criticisms were received.
8. **Estimated economic, small business, and consumer impact statement comparison**
Analysis of the economic impact statement for the rules is included as Exhibit 1.
9. **Analysis of any analyses the agency received regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states**
No analyses were received.
10. **Whether the agency completed the course of action proposed in the previous Five-year-review Report**
The ASRS has completed the course of action for each rule that identified a proposed course of action in the previous Five-year-review Report.
11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The ASRS has determined that the probable benefits of the rule outweigh the probable costs because the rules impose the least burden and costs on members and employers while still achieving their regulatory purpose. The Agency consistently reviews its rules and updates its processes to require the least amount of information from member and employers and to allow the members and employers to access and submit documents through the online portal thereby minimizing the burden of the rules as much as possible.

12. Determination that the rule is not more stringent than a corresponding federal law

With the exceptions of R2-8-510 and R2-8-512, there is no corresponding federal law for the rules. R2-8-510 references A.R.S. § 38-745 which corresponds to multiple federal laws related to military service and military call-up service. R2-8-510 is not more stringent than the federal law because it references its authorizing statute, which references the federal law. R2-8-512 relates to service purchase payment via Irrevocable PDA which is a defined term that references its authorizing statute, A.R.S. § 38-747, which also refers to the various federal laws that govern how service purchase payments can be made. Similarly, R2-8-512 is not more stringent than federal law because it references its authorizing statute, which references the applicable federal laws.

13. Whether the rule complies with A.R.S. § 41-1037

The ASRS does not issue permits or licenses.

14. Proposed course of action

Amend the rules by December 2020 to address the issues identified in this report, unless otherwise indicated in the analysis of individual rules. The ASRS is currently completing a rulemaking that addresses more substantive issues in this report and intends to complete that rulemaking by December 2020 as well.

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-104. Definitions

1. Authorization of the rule by existing statute

A.R.S. §§ 38-711, 38-747(R), 38-762(G), 38-769(O), 38-770(D), 38-771(J), and 38-924

2. Objective

The objective of the rule is to provide notice to the public of how the ASRS is using certain terms throughout its rules.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- The definition of “authorized employer representative” should reference “Employer” instead of “ASRS employer.”
- The definition of “Contribution” should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-924.

R2-8-115. Return of Contributions Upon Termination of Membership by Separation From Service by Other than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member

1. Authorization of the rule by existing statute

A.R.S. §§ 38-740, 38-762, and 38-773

2. Objective

The objective of the rule is to provide notice to the public of the procedures for:

- a. Distribution of a member’s contributions to ASRS when:
 - i. The member terminates employment and seeks a refund of contributions;
 - ii. A domestic relations order has been filed; and
 - iii. The member dies;
- b. The documentation ASRS will accept for proof of death of a member;
- c. The method of calculating interest on refunds; and
- d. When eligibility for payment of a refund is limited.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing new electronic processes for forfeitures and

the specific requirements for a refund/forfeiture application as well as various other clarifying and conforming changes. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

R2-8-116. Alternate Contribution Rate

1. Authorization of the rule by existing statute

A.R.S. §§ 38-766, 38-766.01, 38-766.02

2. Objective

The objective of the rule is to clarify how an Employer pays an alternate contribution rate.

R2-8-117. Return to Work After Retirement

1. Authorization of the rule by existing statute

A.R.S. §§ 38-766, 38-766.01, 38-766.02

2. Objective

The objective of the rule is to clarify what documentation is required when a retiree returns to work with an Employer.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- “Commencing employment” should be capitalized throughout the rule because it is a defined term.
- The definition of “Contribution” should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-924.
- Subsection (D) needs to account for an actual change in employment status even if the intent of the employment has not changed.
- Subsection (E) should require a social security number or a tax identification number.
- Clarify that the member is acknowledging that the member intends to submit the return to work form to the employer and intends to submit any additional forms to the employer as required by this rule.

R2-8-118. Application of Interest Rates

1. Authorization of the rule by existing statute

A.R.S. §§ 38-740 and 38-762

2. Objective

The objective of the rule is to:

- a. Inform the public of the historic and current interest rates for valuation purposes and to be paid to member accounts; and
- b. Specify when the interest is accrued on the amounts in a member's account.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (B) should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-922.
- Clarify in subsection (C) that the member's account stops accruing interest based on the "member's" retirement date.

R2-8-120. Designating a Beneficiary; Spousal Consent to Designation

1. Authorization of the rule by existing statute

A.R.S. §§ 38-755, 38-760, and 38-776

2. Objective

The objective of the rule is to provide notice to members of how to designate a spouse as a beneficiary in compliance with statute.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing what information is required in order to process different types of survivor benefits. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

R2-8-122. Remittance of Contributions

1. Authorization of the rule by existing statute

A.R.S. § 38-735

2. **Objective**

The objective of the rule is to provide notice to members and employers of when contributions are due and the interest rate for delinquent contributions.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear and understandable. However, the rule could be more concise by removing the requirement for the Employer to certify the amount of contributions for each of their members because that requirement is already contained in A.R.S. § 38-735.

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-711(2), 38-714(C), (F), and (G)(3), and 38-718(D)(1)

2. **Objective**

The objective of the rule is to provide notice to the public of the actuarial valuation method and actuarial assumptions the ASRS uses.

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability

Calculations

1. **Authorization of the rule by existing statute**

A.R.S. § 38-749

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will calculate and invoice an unfunded liability to an employer for a group termination incentive program.

R2-8-124. Termination Incentive Program by 30% Salary increase; Unfunded Liability

Calculations

1. **Authorization of the rule by existing statute**

A.R.S. § 38-749

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will calculate and invoice an unfunded liability to an employer for an individual termination incentive program.

R2-8-126. Calculating Optional Forms of Benefits

1. Authorization of the rule by existing statute

A.R.S. § 38-764(F)

2. Objective

The objective of the rule is to provide notice to the public of how the ASRS calculates various types of benefits.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing retirement eligibility requirements for inactive members and the information required in order to process retirement and re-retirement applications. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT

R2-8-201. Definitions

1. Authorization of the rule by existing statute

A.R.S. §§ 38-782 and 38-783

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to change reference to "contingent annuitant" to "beneficiary" in the definition of "Coverage."

R2-8-202. Premium Benefit Eligibility and Benefit Determination

1. Authorization of the rule by existing statute

A.R.S. §§ 38-782 and 38-783

2. Objective

The objective of the rule is to provide notice to the public of who is eligible for a premium benefit.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to remove references to “active” member in subsections (A)(4) and (B) because an active member is not eligible for a premium benefit.

R2-8-203. Payment of Premium Benefit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will pay a premium benefit.

R2-8-204. Premium Benefit Calculation

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS calculates a premium benefit.

R2-8-205. Premium Benefit Documentation

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of what documentation is required in order to process a premium benefit.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (C) should require a social security number or a tax identification number.
- Remove subsection (C)(3) because it is no longer necessary.

R2-8-206. Six-Month Reimbursement Program

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will provide a premium benefit to an eligible who is not receiving a retirement benefit as an annuity.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to require a social security number or a tax identification number in subsection (D).

R2-8-207. Optional Premium Benefit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will process an optional premium benefit

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (D) should require a social security number or a tax identification number.
- Remove subsections (D)(2) through (6) because they are no longer necessary.
- Remove subsections (D)(8)(c) through (d) and (f) because they are no longer necessary.
- Clarify in subsection (E) that the ability to re-elect the optional premium benefit depends on the member's "original" retirement date.

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

R2-8-402. General Procedures

1. Authorization of the rule by existing statute

A.R.S. §§ 41-1092 et seq.

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS shall calculate time periods.

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

1. Authorization of the rule by existing statute

A.R.S. §§ 41-1092 et seq.

2. Objective

The objective of the rule is to provide notice to members of the public of how to initiate an appeal with the ASRS.

R2-8-404. Board Decisions on Hearings Before the Office of Administrative Hearings

1. Authorization of the rule by existing statute

A.R.S. §§ 41-1092 et seq.

2. Objective

The objective of the rule is to provide notice to members of the public of how the Board will review a recommended decision from the Office of Administrative Hearings.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to remove reference to “monthly” regular meetings as the regular meeting schedule changes.

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

1. Authorization of the rule by existing statute

A.R.S. §§ 41-1092 et seq.

2. Objective

The objective of the rule is to provide notice to members of the public of how to initiate a rehearing.

ARTICLE 5. PURCHASING SERVICE CREDIT

R2-8-501. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

R2-8-502. Request to Purchase Service Credit and Notification of Cost

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to request to purchase service credit with the ASRS.

R2-8-503. Requirements Applicable to All Service Credit Purchases

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of the requirements necessary for completing a service credit purchase with the ASRS.

R2-8-504. Service Credit Calculation for Purchasing Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS calculates the amount of service credits purchased.

R2-8-505. Restrictions on Purchasing Overlapping Service Credit; Transfers

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-730, 38-921, 38-922, 38-923, 38-924

2. **Objective**

The objective of the rule is to provide notice to members of the public of the restrictions on purchasing service credits.

R2-8-506. Cost Calculation for Purchasing Service Credit

1. Authorization of the rule by existing statute

A.R.S. §§ 38-743, 38-744, 38-745

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS calculates the cost for purchasing service credit for leave of absence, military service, and other public service.

R2-8-507. Required Documentation and Calculations for Forfeited Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-742

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase forfeited service credits with the ASRS and how the ASRS calculates the cost for purchasing forfeited service credits.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. The rule could be made clearer by changing “returned” to “issued” in subsection (D) to clarify that interest is calculated based on when the return of contributions is issued.

R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-744

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase leave of absence service credits with the ASRS.

R2-8-509. Required Documentation and Calculations for Military Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-745

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase military service credits with the ASRS.

R2-8-510. Required Documentation and Calculations for Presidential Call-up Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. § 38-745

2. **Objective**

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase presidential call-up service credits with the ASRS and how the ASRS calculates the cost for purchasing military call-up service credits.

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. § 38-743

2. **Objective**

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase other public service credits with the ASRS.

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to make a payment for a service credit purchase.

R2-8-513. Purchasing Service Credit by Irrevocable PDA

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to purchase service credits with the ASRS using an irrevocable payroll deduction authorization.

R2-8-513.01 Irrevocable PDA and Transfer of Employment to a Different Employer

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS will handle an irrevocable payroll deduction authorization upon transfer or termination of ASRS employment.

R2-8-513.02 Termination Date

1. Authorization of the rule by existing statute

A.R.S. § 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of when the ASRS considers a member terminated from ASRS employment.

R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer

1. Authorization of the rule by existing statute

A.R.S. § 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of how to purchase service credits with the ASRS using a direct rollover.

R2-8-519. Purchasing Service Credit by Termination Pay

1. Authorization of the rule by existing statute

A.R.S. § 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of how to purchase service credits by using a termination pay distribution.

R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA

1. Authorization of the rule by existing statute

A.R.S. §§ 38-740, 38-747, 38-762

2. Objective

The objective of the rule is to provide notice to members of the public of how to request a return of contributions upon termination of ASRS employment or member's death while in the process of purchasing service credits with the ASRS.

R2-8-521. Adjustment of Errors

1. Authorization of the rule by existing statute

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS will handle an error it discovers in its records.