
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.

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

[R16-01]

PREAMBLE

- 1. Articles, Parts, and Sections Affected (as applicable)** **Rulemaking Action**

R2-8-115	Amend
R2-8-118	Amend
R2-8-122	Amend
R2-8-126	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 statutes: A.R.S. §§ 38-711, 38-720, 38-735, 38-736, 38-737, 38-740, 38-762, 38-764, 38-769, 38-771, 38-771.01, 38-774

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

March 6, 2016

 - 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: 21 A.A.R. 1834, September 11, 2015
Notice of Proposed Rulemaking: 21 A.A.R. 2281, October 9, 2015

- 5. The agency's contact person who can answer questions about the rulemaking:**

Name: Jessica A. Ross, Rules Writer
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- 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 clarify approximately four (4) rules within Article 1. R2-8-115 needs to reflect that Ending Payroll Verification must be completed electronically by the employer. The rule also needs to state that the ASRS may require a copy of a government issued ID to verify the identity of a withdrawing member who has been inactive for 5+ years and has \$1,000+ on their account balance. R2-8-118 needs to be amended to clarify that "voluntary addi-



tional contributions” refers to contributions that are made pursuant to a service purchase, reinstatement, etc. R2-8-122 needs to be amended to be more concise by referring to the ASRS by the agency acronym and by removing unnecessary language such as “without limitation.” The ASRS needs to amend R2-8-126 subsections (B), (C), and (D) to better clarify for which annuity options each age group is eligible.

With the exception of the ID addition to R2-8-115, the amendments outlined above will clarify the rule language without substantively changing the rules’ requirements, thereby reducing the regulatory burden imposed on the public. Amending R2-8-115 to require ID verification as indicated will prevent potential fraud against the agency by ensuring that the correct person is requesting withdrawal of an inactive member’s account. This rulemaking will help the ASRS control and mitigate possible delays associated with a withdrawal of an inactive member’s account, resulting in the more efficient operation and administration of the ASRS.

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 requirements that the ASRS enforces in rule already. There may be some additional cost to some members who must provide documentation to verify their identity when specific criteria are present as mentioned above. However, those costs should be minimal because the ASRS will accept a copy of any government issued ID for such verification purposes.
10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
The ASRS chose not to remove the definition of “process date” from R2-8-115 because that term is still used in subsections (D)(7)(d) and (F) of the rule.
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 10, 2015.
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:**
Federal law applies to retirement programs. However, there is no federal law specifically applicable to this rulemaking.
 - 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; DEFINED BENEFIT PLAN

Section

- R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member
- R2-8-118. Application of Interest Rates
- R2-8-122. Remittance of contributions
- R2-8-126. Calculating Benefits

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-115. Return of Contributions Upon Termination of Membership by Separation from All ASRS Employment by Other Than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member

- A. The following definitions apply to this Section unless otherwise specified:
 - 1. "Acceptable documentation" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
 - 2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
 - 3. "Employer number" means a unique identifier the ASRS assigns to a member employer.
 - 4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
 - 5. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
 - 6. "Warrant" means a voucher authorizing payment of funds due to a member.
- B. No change
- C. Upon ~~receipt of the request to withdraw by the member~~, the ASRS shall provide ~~the member with~~:
 - 1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
 - 2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form, ~~and~~ to the employer.
 - 3. ~~The process date.~~
- D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:
 - 1. The member's full name;
 - 2. The member's Social Security number;
 - 3. The member's current mailing address;
 - 4. The member's daytime telephone number, if applicable;
 - 5. The member's birth date;
 - 6. The date of termination;
 - 7. Dated signature of the member certifying that the member:
 - a. Is no longer employed by any ASRS employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an ASRS employer;
 - c. Is not currently in a leave of absence status with an ASRS employer;
 - d. Understands that each of the member's former ASRS employers' ~~payroll departments~~ will complete a payroll verification form if payroll transactions occurred with the ASRS employer within the six months before the process date;
 - e. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application;
 - f. Understands that the member is forfeiting all future retirement rights and privileges of membership with the ASRS;
 - g. Understands that long-term disability benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
 - h. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the roll-over and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
 - i. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and
 - j. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for rollover will be paid directly to the member and any taxable amounts will be subject to 20% federal income tax withholding and 5% state tax withholding;
 - 8. Specify that:



- a. The entire amount of the distribution be paid directly to the member,
 - b. The entire amount of the distribution be transferred to an eligible retirement plan, or
 - c. An identified amount of the distribution be transferred to an eligible retirement plan and the remaining amount be paid directly to the member; and
9. If the member selects all or a portion of the withdrawal be paid to an eligible retirement plan, specify:
- a. The type of eligible retirement plan;
 - b. The eligible retirement plan account number, if applicable; and
 - c. The name and mailing address of the eligible retirement plan.
- E.** If the member requesting the withdrawal has been inactive for five years or more, and if the member's account balance is \$1,000 or more, the member requesting the withdrawal shall provide a copy of a driver license or a form of other government issued identification to the ASRS.
- F.** ~~If a payroll transaction for the member occurred with any ASRS employer within six months before the process date the member each ASRS employer shall complete and return to the ASRS an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form for each ASRS employer electronically that includes the following information:~~
- ~~1. Filled out by the member:~~
 - ~~a.~~ The member's full name; ~~and;~~
 - ~~b.~~ The member's Social Security number; ~~and~~
 - ~~2. Filled out by each ASRS employer:~~
 - ~~a.~~ The member's termination date;
 - ~~b.~~ The member's final pay period ending date;
 - ~~c.~~ The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 - ~~d.~~ The ASRS employer's name and telephone number;
 - ~~e.~~ The employer number;
 - ~~f.~~ The name and title of the authorized employer representative;
 - ~~g.~~ Certification by the authorized employer representative that:
 - ~~i.~~ The member terminated employment and is neither under contract nor bound by any verbal or written agreement for employment with the employer;
 - ~~ii.~~ There is no agreement to re-employ the member; and
 - ~~iii.~~ The authorized employer representative has the legal power to bind the employer in transactions with the ASRS; and
 - ~~h.~~ The signature of the authorized employer representative and date of signature.
- G.** If the member requests a return of contributions and a warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection ~~(F)(G)~~ or ~~(G)(H)~~ unless a present or former spouse submits to the ASRS a domestic relations order that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, acceptable documentation that is on file with the ASRS that was received prior to the date of the member's death, unless otherwise provided by law.
- K.** If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § 38-762(E). The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall:
- 1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;
 - 2. Provide a certified copy of the court order of appointment as administrator, if applicable; and
 - 3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number,
 - c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
 - i. Full name;
 - ii. Mailing address;



- iii. Contact telephone number;
- iv. Date of birth, if applicable; and
- v. Social Security number or Tax ID number, if applicable.

R2-8-118. Application of Interest Rates

- A. No change
- 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 A.R.S. § 38-924; and
 - 4. Interest credited in previous years.

R2-8-122. Remittance of contributions

- A. Remittance of employee member contributions: Each state department and employer member of the ~~Arizona State Retirement System ASRS~~, including, ~~without limitation~~, any county, municipality or political subdivision, shall certify on each payroll the amount to be contributed by each one of their employee members of the ~~Arizona State Retirement System ASRS~~ and shall remit the amount of employee member contributions to the ~~Arizona State Retirement System ASRS~~, together with such detailed report as may be required by the ~~System ASRS~~ to identify the individual owner of each such member contribution, not later than 14 calendar days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ~~Arizona State Retirement System ASRS~~ by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ~~Arizona State Retirement System ASRS~~.
- B. Remittance of employer contributions: Each state department and employer member of the ~~Arizona State Retirement System ASRS~~, including, ~~without limitation~~, any county, municipality or political subdivision, shall remit the amount of employer contributions to the ~~Arizona State Retirement System ASRS~~ not later than 14 calendar days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ~~Arizona State Retirement System ASRS~~ by the 14th calendar day after the last day of the applicable payroll period shall become delinquent after that date and shall be increased, by interest at the rate of eight percent per annum from and after the date of delinquency until payment is received by the ~~Arizona State Retirement System ASRS~~.

R2-8-126. Calculating Benefits

- A. No change
- B. An individual who is 104 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select ~~the an~~ option of ~~income for five years certain and for life thereafter.~~ life annuity with a term certain.
- C. An individual who is 93 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select the ~~option~~ options of ~~income for~~ life annuity with ten years certain ~~and~~ or life annuity with 15 years certain. ~~for life thereafter.~~
- D. An individual who is 85 years of age or older at the time of retirement ~~and who elects a life annuity~~ is not eligible to select the option of ~~income for~~ life annuity with 15 years certain ~~and for life thereafter.~~
- E. No change
- F. No change
- G. No change
- H. No change
- I. Notwithstanding subsection (H), a member who is ten or more years older than the member’s ex-spouse contingent annuitant is eligible to participate in a 100% joint-and-survivor option, if:
 - 1. The member selected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 - 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.
- J. Notwithstanding subsection (H), a member who is 24 or more years older than the member’s ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint-and-survivor option, if:
 - 1. The member selected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 - 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member’s account.