



# ARIZONA STATE RETIREMENT SYSTEM

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*Paul Matson*  
Director

## SUMMARY OF A PUBLIC MEETING OF THE ARIZONA STATE RETIREMENT SYSTEM EXTERNAL AFFAIRS COMMITTEE

HELD ON  
September 11, 2015  
10:30 a.m., Arizona Time

The External Affairs Committee (EAC) of the Arizona State Retirement System (ASRS) met in the 14th Floor Conference Room of the ASRS Office, 3300 North Central Avenue, Phoenix, AZ, 85012. Dr. Richard Jacob, Chair, called the meeting to order at 10:30 a.m., Arizona Time.

This meeting was teleconferenced to the ASRS Tucson office at 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona, 85710.

### 1. Call to Order; Roll Call; Opening Remarks

Present: Dr. Richard Jacob, Chair  
Mr. Kevin McCarthy – Via Teleconference

Absent: Mr. Tom Manos

A quorum was present for the purpose of conducting business.

### 2. Approval of the Public Meeting Minutes of the March 13, 2015 EAC Meeting

**Motion:** Mr. Kevin McCarthy moved to approve the minutes of the March 13, 2015 Public EAC meeting. Dr. Richard Jacob seconded the motion.

By a vote of 2 in favor, 0 opposed, 0 abstained, 1 excused the minutes were approved.

### 3. Presentation, Discussion, and Appropriate Action Regarding ASRS Rulemaking and the 2015 Regulatory Agenda

Mr. Pat Klein, Assistant Director, External Affairs, gave a brief introduction for the Regulatory Agenda and introduced Ms. Jessica Ross, Rule Writer. Ms. Ross provided a brief update of the

status for each of the rules approved by the External Affairs Committee on December 12, 2014 for the 2015 calendar year.

#### **4. Presentation, Discussion and Appropriate Action Regarding 2016 Legislative Initiatives**

Mr. Klein introduced the topic by stating that ASRS Staff held meetings to compile legislative suggestions for the upcoming legislative session. Mr. Nick Ponder, Government Relations Officer, presented the ASRS 2016 legislative initiatives concerning plan design issues; plan inefficiencies, inconsistencies, and inequities; administrative concerns, and others as proposed by staff for the ASRS Board approval.

**Session Law: Regarding employees who were not covered under the state Social Security Administration Agreement Section 218-** The ASRS identified four (4) groups impacted by HB 2050 (2014), but one of the groups needed additional regulatory assistance. As a result, the ASRS submitted a Voluntary Correction Program (VCP) to the Internal Revenue Service (IRS) for those individuals who were, potentially, inappropriately enrolled in the ASRS, and whose accounts remain in the system because the legislature requested a moratorium on removing them. The ASRS received approval from the IRS and must get the approval language in session law to grandfather this group into the ASRS.

**A.R.S. § 38-797.10: LTD Disability Program, exempt from “bad faith” claims as it relates to Long Term Disability (LTD)-** The ASRS would like similar protection from “bad faith” claims as afforded to ERISA plans. The initial language proposed provided greater protection than protections for private ERISA plans. Because this was not the intent, the ASRS has modified its proposed language. A concern was raised from legislative staff that this modification would violate the anti-abrogation clause in the Arizona Constitution (Article 18, Section 6). In response to that concern the ASRS sought analysis from an outside attorney who concluded it does not violate the anti-abrogation clause in the Arizona Constitution. The analysis was provided to legislative council who concurred with the outside attorney’s analysis. Mr. Kevin McCarthy requested that Mr. Ponder confirm with legislative staff that the additional analysis alleviates their concerns.

**A.R.S. § 38-738(A): Relating to Employer Credits-** The ASRS would like to codify in statute current practice as it relates to employer credits and interest charged on these credits under A.R.S. § 38-738.

**A.R.S. § 38-738(B): Clarify the purchase of Contributions Not Withheld (CNW) service by members who are inactive, retired, or on Long Term Disability (LTD)-** Currently, the statute refers to “members” as one group and suggests they can purchase service pursuant to A.R.S. § 38-747, which would include rollovers and payroll deduction agreements. The ASRS would like to propose added language to distinguish between those members who are active versus those who are inactive, retired, or on LTD to conform to federal requirements.

**A.R.S. § 38-742(B): Purchase of Forfeited Service-** Currently, the statute indicates a member must repay what was received in a refund, plus interest, in order to receive service

credit for that period. It does not address the situation where, under a Domestic Relations Order (DRO), an ex-spouse may receive a portion of the member's benefit that was assigned to the ex-spouse. The ASRS would like to propose language to clarify that the member must repay the total amount in order to receive the full amount of service credit, not only the portion received by the member.

**A.R.S. § 38-714(E): Modifications to the ASRS Appeals Process-** The ASRS would like to propose modifications to the appeal process to enhance the process for the ASRS Board and the Appellant. The following three options were proposed:

- A. Establish an Appeals Board that would hear appeal cases separate from the full Board.
- B. Eliminate the administrative appeal process and Board participation.
- C. Establish a Committee of the Board with authority granted in statute to take legal action on appeals.

Dr. Richard Jacob asked staff to propose all three (3) options to the full Board, with the staff recommendation of Option C, above.

**A.R.S. § 41-005 Exemptions from Rulemaking-** Historically, the ASRS has acted with the understanding that the ASRS has been exempt when acting on certain financial, actuarial or investment decisions which is not properly addressed in the rulemaking process. The ASRS would like to pursue language codified in statute to clarify that.

**Motion:** Mr. Kevin McCarthy moved to go into Executive Session for the purpose of discussion or consultation for legal advice. Dr. Richard Jacob seconded the motion.

By a vote of 2 in favor, 0 opposed, 0 abstained, 1 excused the motion was approved.

The External Affairs Committee Convened to Executive Session at 11:20 a.m.

The External Affairs Committee Reconvened to Public Session at 11:25 a.m.

**Motion:** Mr. Kevin McCarthy moved that the External Affairs Committee recommend that the Board approve the 2016 legislative initiatives as presented by staff, recommend that the Board permit Staff to make all language changes and negotiate as necessary to obtain the most effective and efficient legislative provision within the construct of today's discussion. Dr. Richard Jacob seconded the motion.

By a vote of 2 in favor, 0 opposed, 0 abstained, 1 excused the motion was approved.

## 5. Call to the Public

Ms. Linda Somo and Mr. Steve Ramos, representing Arizona Education Association-Retired (AEA-Retired), requested to speak regarding the topic of an Alternate Contribution Rate (ACR) as it pertains to substitute teachers.

