



Arizona State Retirement System

EXTERNAL AFFAIRS COMMITTEE

November 13, 2015



A COMPONENT UNIT OF THE STATE OF ARIZONA ■ DELIVERING SERVICE WITH PRIDE



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

AGENDA NOTICE OF PUBLIC MEETING OF THE ARIZONA STATE RETIREMENT SYSTEM EXTERNAL AFFAIRS COMMITTEE

3300 North Central Avenue, 14th Floor Conference Room
Phoenix, AZ 85012

November 13, 2015
10:30 a.m. Arizona Time

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Trustees of the Arizona State Retirement System (ASRS) External Affairs Committee (EAC) and to the general public that the ASRS External Affairs Committee will meet on November 13, beginning at 10:30 a.m. in the 14th Floor Conference Room of the ASRS office, 3300 North Central Avenue, Phoenix, AZ, 85012. Trustees of the Board Committee may attend either in person or by telephone conference call.

This is a scheduled meeting of the EAC; however, due to possible attendance by other ASRS Board Trustees, this meeting may technically become a meeting of the ASRS Board or one of its committees. Actions taken will be consistent with EAC governance procedures, and no business of the Board will be transacted. Actions requiring Board authority will be presented to the full Board for final decision.

The Chair may take public comment during any agenda item. If a member of the public wishes to speak to a particular agenda item, he or she should complete a Request to Speak form indicating the item and provide it to the Committee administrator.

This meeting will be teleconferenced to the ASRS Tucson office at 7660 East Broadway Boulevard, Suite 108, Tucson, Arizona 85710. The conference call to Tucson will be disconnected after 15 minutes if there are no attendees in the Tucson audience.

The Committee may vote to hold an executive session for the purpose of obtaining legal advice from the Committee's attorney on any matter listed on the agenda pursuant to A.R.S. § 38-431.03(A)(3).

The Agenda for the meeting is as follows:

1. Call to Order; Roll Call; Opening Remarks..... Dr. Richard Jacob
Chair, External Affairs Committee
2. Approval of the Public Session and Executive Session Meeting Minutes of the September 11, 2015 EAC Meeting..... Dr. Richard Jacob
3. Presentation, Discussion, and Appropriate Action Regarding ASRS Rulemaking and the 2015 Regulatory Agenda Ms. Jessica Ross



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Paul Matson
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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 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.

Motion: Mr. Kevin McCarthy moved to adjourn the September 11, 2015 EAC meeting. Dr. Richard Jacob seconded the motion.

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

Dr. Jacob adjourned the public meeting at 11:42 a.m.



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Paul Matson
Director

TO: The Arizona State Retirement System (ASRS) External Affairs Committee

FROM: Mr. Patrick M. Klein, Assistant Director, External Affairs Division
Ms. Jessica Ross, Rule Writer

DATE: November 2, 2015

RE: **AGENDA ITEM NO. 3:** Presentation, Discussion and Appropriate Action Regarding ASRS Rulemaking contained in the 2015 and 2016 Regulatory Agendas

Purpose:

To provide an update on the rulemaking activities listed on the 2015 Regulatory Agenda and seek approval for the 2016 Regulatory Agenda.

Recommendation:

Staff recommends approval of the 2016 Regulatory Agenda.

Background:

Arizona Revised Statutes § 41-1021.02 State agencies; annual regulatory agenda requires each agency post its agenda for the coming calendar year. The attached 2015 Regulatory Agenda was approved by the committee on December 12, 2014 and lists all the rulemakings the ASRS anticipated promulgating during the 2015 calendar year. The attached 2016 Regulatory Agenda lists all the rulemakings the ASRS anticipates promulgating during the 2016 calendar year.

Ms. Jessica Ross, ASRS Rules Writer, will provide a brief update of the status for each proposed rulemaking on the 2015 Regulatory Agenda, as well as a brief overview of each proposed rulemaking on the 2016 Regulatory Agenda.

Attachments

**ARIZONA STATE RETIREMENT SYSTEM (ASRS)
REGULATORY AGENDA FOR 2016**

Pursuant to A.R.S. § 41-1021.02, the ASRS prepared a regulatory agenda for the 2016 calendar year. Pursuant to A.R.S. § 41-1021.02(D), the ASRS may undertake a rulemaking even if the rulemaking is not included in the annual regulatory agenda.

Rulemakings Expected During 2016

| Identification of Rulemaking | Notice of Docket Opening (Expected) | Notice of Proposed Rulemaking (Expected) | Notice of Final Rulemaking (Expected) |
|---|--|---|--|
| <u>2 A.A.C. 8, Art. 1</u> R2-8-116. Working After Retirement <ul style="list-style-type: none"> • RTW guide in rule? | 2/5/2016 | 2/12/2016 | 5/3/2016 |
| <u>2 A.A.C. 8, Art. 7</u> Contributions Not Withheld | 3/11/2016 | 3/18/2016 | 6/7/2016 |
| <u>2 A.A.C. 8, Art. 2 (expired)</u> <u>Health Insurance</u> <ul style="list-style-type: none"> • Long-Term Disability • Premium Benefit Eligibility | 4/15/2016 | 4/22/2016 | 7/6/2016 |
| <u>2 A.A.C. 8, Art. 6</u> Public Participation in Rulemaking | 5/13/2016 | 5/20/2016 | 8/2/2016 |
| <u>2 A.A.C. 8, Art. 8</u> <u>Overpayments</u> | 6/10/2016 | 6/17/2016 | 9/7/2016 |
| <u>2 A.A.C. 8, Art. 3 (reserved)</u> <u>Membership</u> <ul style="list-style-type: none"> • Contributions • Accrual of credited service (higher education credited service) • Apportionment • Delinquency • Compensation • 20/20 criteria and status changes— “intent” / “engaged” | 10/7/2016 | 10/21/2016 | 1/4/2017 |

Existing Rules Scheduled for Review During 2016

| Rules Being Reviewed | Due Date |
|-----------------------------|-----------------|
| 2 A.A.C. 8, Article 6 | March 2016 |
| 2 A.A.C. 8, Article 7 | December 2016 |

**ARIZONA STATE RETIREMENT SYSTEM (ASRS)
REGULATORY AGENDA FOR 2015**

Pursuant to A.R.S. § 41-1021.02, the ASRS prepared a regulatory agenda for the 2015 calendar year. Pursuant to A.R.S. § 41-1021.02(D), the ASRS may undertake a rulemaking even if the rulemaking is not included in the annual regulatory agenda.

Rulemakings Expected During 2015

| Identification of Rulemaking | Notice of Docket Opening (Expected) | Notice of Proposed Rulemaking (Expected) | Notice of Final Rulemaking (Expected) |
|---|-------------------------------------|--|---------------------------------------|
| <u>2 A.A.C. 8, Art. 1</u> R2-8-104. Definitions | 1/6/2015 | 1/9/2015 | 5/5/2015 |
| <u>2 A.A.C. 8, Art. 1</u> 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 | 3/3/2015 | 3/6/2015 | 7/7/2015 |
| <u>2 A.A.C. 8, Art. 1</u> R2-8-116. Reemployment After Retirement | 4/1/2015 | 4/3/2015 | 9/1/2015 |
| <u>2 A.A.C. 8, Art. 1,</u> <u>Retirement System;</u> <u>Defined Benefit Plan</u> | 5/27/2015 | 5/29/2015 | 9/1/2015 |
| <u>2 A.A.C. 8, Art. 2, State Retirement Defined Contribution Program</u> | 2/4/2015 | 2/6/2015 | 6/2/2015 |
| <u>2 A.A.C. 8, Art. 4,</u> <u>Practice and Procedure Before the Board</u> | 7/9/2015 | 7/10/2015 | 11/3/2015 |
| <u>2 A.A.C. 8, Art. 5,</u> <u>Purchasing Service Credit</u> | 8/5/2015 | 8/7/2015 | 12/1/2015 |

Existing Rules Scheduled for Review During 2015

| Rules Being Reviewed | Due Date |
|-------------------------------------|----------|
| 2 A.A.C. 8, Articles 1, 2, 4, and 5 | May 2015 |



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Paul Matson
Director

TO: The Arizona State Retirement System (ASRS) External Affairs Committee (EAC)

FROM: Mr. Paul Matson, Director
Mr. Patrick M. Klein, Assistant Director, External Affairs Division
Mr. Nick Ponder, Government Relations Officer

DATE: November 2, 2015

RE: **AGENDA ITEM NO. 4:** Presentation, Discussion and Appropriate Action with Respect to Legislative Initiatives

Purpose:

To discuss the ASRS 2016 legislative initiatives and other legislation that may affect the ASRS.

Recommendation:

Information only; no action required.

Background:

The 2016 Legislative Session will begin on January 11, 2016. The ASRS has been working with legislators to secure sponsorship of legislation prior to the session.



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Paul Matson
Director

TO: The Arizona State Retirement System (ASRS) External Affairs Committee (EAC)

FROM: Mr. Paul Matson, Director
Mr. Patrick M. Klein, Assistant Director, External Affairs Division
Mr. Nick Ponder, Government Relations Officer

DATE: November 12, 2015

RE: **AGENDA ITEM NO. 5:** Presentation, Discussion and Appropriate Action with Respect to Approval for Additional Legislative Initiatives

Purpose:

To discuss ASRS 2016 legislative initiatives already approved and two additional items the ASRS is requesting to be approved by the EAC and forwarded to the Board for approval in December.

Recommendation:

Recommend moving two additional 2016 legislative initiatives to the ASRS Board for approval.

Background:

Over the past month ASRS staff received and assessed two additional statutory modifications to be included in the 2016 legislative initiatives. These items were approved by the Executive Management Team for presentation to the EAC. In addition, the 2016 Legislative Session will begin on January 11, 2016. The ASRS has been working with legislators to secure sponsorship of legislation prior to the session.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: Session Law

PROPOSED BY: Chuck Whetstine, External Tax Counsel

SPONSOR: Representative Phil Lovas

PROPOSAL: In 2014 the legislature approved passage of HB2050 which removed the requirement that an employee be covered under a Social Security Administration Section 218 Agreement (paying into Social Security).

In the lead up to the legislation the ASRS identified four groups of individuals impacted by the 218 requirement in statute:

1. Those who were erroneously enrolled in ASRS and whose accounts remain in the system because the legislature requested a moratorium on removing them.
2. Those who were erroneously enrolled in ASRS and then removed from the ASRS upon discovery.
3. Those who were never enrolled in ASRS because the employer understood they did not qualify to participate, but who also were not participating in some other retirement plan.
4. Those who were enrolled in the § 38-955 defined contribution plan created in the 2013 legislative session.

Groups 2, 3, and 4 were satisfied with the passage of HB2050. However, the ASRS was required to submit a request to the IRS called a Voluntary Correction Program (VCP) asking they grandfather group one into ASRS. The ASRS received approval from the IRS and in accordance with that approval must get the following language in a session law:

SESSION LAW

CONSISTENT WITH THE COMPLIANCE STATEMENT ISSUED BY THE UNITED STATES INTERNAL REVENUE SERVICE, AN EMPLOYEE WHO IS EMPLOYED WITH AN ASRS EMPLOYER IN A POSITION EXEMPT FROM ASRS MEMBERSHIP BECAUSE THE POSITION WAS NOT INCLUDED IN AGREEMENTS PROVIDING FOR THE EMPLOYEE'S COVERAGE UNDER THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM, BUT ON WHOSE BEHALF THE EMPLOYER HAS REMITTED ASRS CONTRIBUTIONS SHALL RETAIN CREDITED SERVICE FOR THE PERIOD OF EMPLOYMENT FOR WHICH THE EMPLOYER REMITTED ASRS CONTRIBUTIONS ON THE EMPLOYEE'S BEHALF.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-797.10

PROPOSED BY: Jothi Beljan, Assistant Attorney General

SPONSOR: Representative Karen Fann

PROPOSAL: Exempt the ASRS from “bad faith” claims as they relate to our long term disability (LTD) program. ERISA plans are protected from bad faith claims and, because we use ERISA as guidance for our plan in many circumstances, we would like a similar protection.

Last year the ASRS realized and volunteered to the legislature that our initial language provided greater protections than ERISA and that was not our intent. We modified our proposed language to the language that is found below. Additionally, some in the legislature believed this language would violate the anti-abrogation clause in the Arizona Constitution (Article 18, Section 6).

The ASRS has provided this analysis to Representative Fann (the 2015 sponsor of HB2340) and Legislative Council and we are awaiting, currently, an opinion from Legislative Council.

38-797.10. Assurances and liabilities

F. THIS ARTICLE DOES NOT PROVIDE ANY PRIVATE RIGHT OR CAUSE OF ACTION TO OR ON BEHALF OF ANY MEMBER OR EMPLOYER, AND THERE IS NO LIABILITY ON THE PART OF ASRS, THE BOARD, ANY MEMBER OF THE BOARD OR ANY AGENT OR EMPLOYEE OF ASRS OR THE BOARD, FOR ANY ACTION TAKEN IN THE PERFORMANCE OF THEIR POWERS AND DUTIES PURSUANT TO THIS ARTICLE UNLESS THE ACTION WAS INTENDED TO CAUSE INJURY OR WAS GROSSLY NEGLIGENT.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 41-1005

PROPOSED BY: Assistant Attorney General

SPONSOR: Representative Karen Fann

PROPOSAL: Statute allows 32 current exceptions from rulemaking. However, the ASRS is not specifically named in the list of exceptions. Specifically, Article XXIX of the Arizona Constitution reads:

ARTICLE XXIX

1. Public retirement systems

Section 1. A. Public retirement systems shall be funded with contributions and investment earnings using actuarial methods and assumptions that are consistent with generally accepted actuarial standards.

B. The assets of public retirement systems, including investment earnings and contributions, are separate and independent trust funds and shall be invested, administered and distributed as determined by law solely in the interests of the members and beneficiaries of the public retirement systems.

C. Membership in a public retirement system is a contractual relationship that is subject to article II, section 25, and public retirement system benefits shall not be diminished or impaired.

It is our belief based on the underlined language above that the rulemaking process is not the proper forum for actuarial, investment, and accounting related decisions and consequently the ASRS believes it is unnecessary to have rules for these particular items. However, in being consistent with our beliefs the ASRS would like to have that language codified in statute.

41-1005

A. This chapter does not apply to any:

33. RULE THAT RELATES TO ACTUARIAL, INVESTMENT, AND ACCOUNTING ASSUMPTIONS BY THE ARIZONA STATE RETIREMENT SYSTEM.

The ASRS would like to include a Statement of Purposes to articulate our belief the ASRS always had an exemption for these certain issues. Below is an example of a Statement of Purpose regarding the Arizona Procurement Code.

Purpose

Laws 1984, Ch. 251, 1 and 40 provide:

Section 1 Purpose

The purposes of this act are to:

- 1. Simplify, clarify and modernize the law governing procurement by the state.*

2016 LEGISLATIVE SUGGESTIONS

- 2. Permit the continued development of procurement policies and practices.*
- 3. Make as consistent as possible the procurement laws among various state agencies.*
- 4. Provide for increased public confidence in the procedures followed in public procurement.*
- 5. Ensure the fair and equitable treatment of all persons who deal with the procurement system of this state.*
- 6. Provide increased economy in state procurement activities and maximize to the fullest extent practicable in purchasing value of public monies of this state.*
- 7. Foster effective broad-based competition within the free enterprise system.*
- 8. Provide safeguards for the maintenance of a procurement system of quality and integrity.*

The ASRS will work with legal and Legislative Council to draft a statement of purpose consistent with Article XXIX of the Arizona Constitution and the belief actuarial, investment and certain financial decisions are and have been exempt from the rule making process.

DRAFT

STATUTE: 38-738(A)

PROPOSED BY: Assistant Attorney General

SPONSOR: Senator Debbie Lesko

PROPOSAL: To codify in statute current practice as it relates to employer credits under A.R.S. 38-738. Currently the statute indicates that employers are permitted to take a credit within one year of the overpaid contributions. However, the ASRS allows these credits into perpetuity so long as there are employer monies still on account. Additionally, the statute indicates that the ASRS will charge interest on these credits if the ASRS does not meet the 8% return. However, we do not charge interest in these scenarios.

38-738. Adjustment and refund

A. If more than the correct amount of employer or member contributions is paid into ASRS by an employer through a mistake of fact, ASRS shall return those contributions to the employer if the employer requests return of the contributions **THROUGH AN EMPLOYER CREDIT OR** within one year after the date of overpayment **BY CHECK ON REQUEST OF THE EMPLOYER.** ~~ASRS shall not pay an employer earnings attributable to excess contributions but shall reduce the amount returned to an employer pursuant to this section by the amount of losses attributable to the excess contributions.~~ **IF MORE THAN THE CORRECT AMOUNT OF EMPLOYER OR MEMBER CONTRIBUTIONS IS PAID INTO ASRS BY AN EMPLOYER THROUGH A MISTAKE OF LAW, ASRS SHALL RETURN THOSE CONTRIBUTIONS TO THE EMPLOYER IF THE EMPLOYER REQUESTS RETURN OF THE CONTRIBUTIONS THROUGH AN EMPLOYER CREDIT.**

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-738(B)

PROPOSED BY: Assistant Attorney General

SPONSOR: Senator Debbie Lesko

PROPOSAL: To clarify that members who are inactive, retired, or on long term disability can only purchase CNW service with an after tax check. Currently, the statute just refers to "members" as one group and suggests they can purchase service pursuant to 38-747 which would include rollovers and payroll deduction agreements.

38-738. Adjustment and refund

B. If less than the correct amount of employer or member contributions is paid into ASRS by an employer, the following apply:

1. The member shall pay an amount that is equal to the amount that would have been paid in member contributions for the period in question. ~~The member's~~ **FOR ACTIVE MEMBERS**, payments shall be made as provided in section 38-747. **FOR MEMBERS WHO ARE INACTIVE, RETIRED OR ON LONG-TERM DISABILITY, PAYMENTS SHALL BE MADE USING AFTER-TAX INCOME**. If the member does not make the payment within ninety days ~~of~~ **AFTER** being notified by ASRS that the employer has paid all amounts due from the employer, the unpaid amount accrues interest until the amount is paid in full. The member is responsible for payment of the unpaid amount and interest. The interest rate is the interest rate assumption that is approved by the board for actuarial equivalency for the period in question to the date payment is received.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-742(B)

PROPOSED BY: Jessica Ross

SPONSOR: Senator Debbie Lesko

PROPOSAL: To clarify any potential confusion in our reinstatement statute regarding the 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. However, there is potential for confusion in that under a DRO, an ex-spouse may receive a portion of the member's benefit that was assigned to the ex-spouse. One could argue that the statute only suggests the member repay what the member had received and not the total amount paid, and would receive full service credit once that amount was repaid.

38-742. Reinstatement

B. Notwithstanding subsection A of this section, the member may redeposit the amount of the contributions ~~the member received~~ **THE ASRS PAID** at the time of the member's separation from service, with interest on that amount to the date of redeposit at the interest rate assumption approved by the board for actuarial equivalency. On satisfaction of this obligation, the member's service credits acquired by the previous employment shall be reinstated. The member is subject to the benefits and duties in effect at the time of the member's most recent reemployment except as provided in section 38-711, paragraph 5, subdivision (a). If a member redeposits less than the amount required under this subsection, ASRS shall proportionately reduce the member's reinstated service credits.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-714(E)

PROPOSED BY: Agency

SPONSOR: Senator Debbie Lesko

PROPOSAL: To consider modifications to the appeals process with an emphasis being placed on what represents best practice for the Board as well as an enhanced process for the appellant.

Establish a Committee of the Board with authority granted in statute to take legal action on appeals.

1. Assistant Director Appeal
2. Deputy Director Appeal
3. Office of Administrative Hearings
4. Committee of the Board final determination
5. Superior Court

38-714. Powers and duties of ASRS and board

E. The board may:

1. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination a hearing on the determination. **THE BOARD MAY DELEGATE THE DUTY AND AUTHORITY TO ACT ON THE BOARD'S BEHALF TO A COMMITTEE OF THE BOARD FOR THE PURPOSES OF THIS PARAGRAPH AND TITLE 41, CHAPTER 6, ARTICLE 10 RELATING TO ANY DECISION MADE UNDER THIS PARAGRAPH BY THAT COMMITTEE OF THE BOARD.**

2. Determine the amount, manner and time of payment of any benefits under this article.

3. Recommend amendments to this article and articles 2.1 and 7 of this chapter that are required for efficient and effective administration.

4. Adopt, amend or repeal rules for the administration of the plan, this article and articles 2.1 and 7 of this chapter.

F. Beginning June 30, 2016, the board shall determine which of the generally accepted actuarial cost methods shall be used in the annual actuarial valuation of the plan.

G. The board shall submit to the governor and legislature for each fiscal year no later than eight months after the close of the fiscal year a report of its operations and the operations of ASRS. The report shall follow generally accepted accounting principles and generally accepted financial reporting standards and shall include:

2016 LEGISLATIVE SUGGESTIONS

1. A report on an actuarial valuation of ASRS assets and liabilities.
2. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of ASRS and the results of board operations.
3. On request of the governor or the legislature, a list of investments owned. This list shall be provided in electronic format.

H. The board shall:

1. Prepare and publish a synopsis of the annual report for the information of ASRS members.
 2. Contract for a study of the mortality, disability, service and other experiences of the members and employers participating in ASRS. The study shall be conducted for fiscal year 1990-1991 and for at least every fifth fiscal year thereafter. A report of the study shall be completed within eight months of the close of the applicable fiscal year and shall be submitted to the governor and the legislature.
 3. Conduct an annual actuarial valuation of ASRS assets and liabilities.
- I. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-747(H)

PROPOSED BY: Member Services and Contribution Accounting Teams

PROPOSAL: To limit the purchase of credited service so that the ASRS is only accepting direct rollovers from a qualifying plan and not accepting indirect rollovers. Currently, the ASRS does allow for an indirect rollover; however, allowing indirect rollovers can present tax issues for participants and they could be ultimately double taxed.

In addition to the tax issue, the ASRS is currently going through technology upgrades and one of the items being worked on is the service purchase process. In the past 3 years the ASRS has processed 4,616 rollovers for service purchases and received only 30 indirect rollovers, 0.6% of the total.

38-747. Purchase of credited service; payment; limitations; definitions

H. To the extent that a payment under this subsection does not alter, amend or revoke any one or more currently effective irrevocable elections made by the member pursuant to subsection B or D of this section, the board may accept contributions made pursuant to section 38-771 or member contributions for the payment for credited service purchases pursuant to section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in part, by any one or a combination of the following methods:

1. In lump sum payments.

2. Subject to the limitations prescribed in sections 401(a)(31) and 402(c) of the internal revenue code and subsection J of this section, accepting a direct transfer of any eligible rollover distribution or a contribution by a member of an eligible rollover distribution from one or more:

(a) Retirement programs that are qualified under section 401(a) or 403(a) of the internal revenue code.

(b) Annuity contracts described in section 403(b) of the internal revenue code.

(c) Eligible deferred compensation plans described in section 457(b) of the internal revenue code that are maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state.

3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii) of the internal revenue code, accepting from a member a rollover contribution of that portion of a distribution from an individual retirement account or individual retirement annuity described in section 408(a) or 408(b) of the internal revenue code that is eligible to be rolled over and would otherwise be includable as gross income.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-738(B)

PROPOSED BY: Benefits Accounting Team

PROPOSAL: To clarify in law that a person who has forfeited membership in ASRS but who returns to work for an ASRS employer cannot request a Contributions Not Withheld for any period of employment prior to the member's most recent date of membership. Currently, it could be interpreted that by returning to active status, the member has CNW rights in A.R.S. 38-738 for employment prior to the member's most recent ASRS membership date.

38-738. Adjustment and refund

B. If less than the correct amount of employer or member contributions is paid into ASRS by an employer, the following apply:

8. A MEMBER WHO PREVIOUSLY RECEIVED A RETURN OF CONTRIBUTIONS UNDER A.R.S. 38-740 MAY ONLY RECEIVE A CONTRIBUTIONS NOT WITHHELD PURSUANT TO THIS SECTION FOR QUALIFYING EMPLOYMENT AND COMPENSATION THAT OCCURRED AFTER THE MEMBER'S MOST RECENT MEMBERSHIP DATE.



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

TO: The Arizona State Retirement System (ASRS) External Affairs Committee

FROM: Mr. Patrick Klein, Assistant Director, External Affairs Division
Mr. Nick Ponder, Government Relations Officer

DATE: November 2, 2015

RE: **AGENDA ITEM NO. 6:** Presentation, Discussion and Appropriate Action Regarding the 2016 ASRS External Affairs Committee Meeting Calendar.

Purpose:

Accept the following 2016 ASRS External Affairs Committee Meeting dates.

External Affairs Committee 2016

February 12, 2016, Friday, 10:30 a.m.
March 11, 2016, Friday, 10:30 a.m.
April 8, 2016, Friday, 10:30 a.m.
May 13, 2016, Friday, 10:30 a.m.
September 9, 2016, Friday, 10:30 a.m.
October 14, 2016, Friday, 10:30 a.m.
November 18, 2016, Friday, 10:30 a.m.
December 9, 2016, Friday, 10:30 a.m.