



Arizona State Retirement System

EXTERNAL AFFAIRS COMMITTEE

September 11, 2015



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

HOW...

ASRS Employees Deliver Service With PRIDE!

PROFESSIONALISM

We promote, strive for and expect individuals, teams, and divisions to possess professional qualities and skills to lead the organization.

- Displays a friendly, respectful and courteous demeanor even when confronted by adversity
- Has proactive and responsive approach to internal and external customer needs
- Possesses good communication and active listening skills
- Is a trusted contributor (manager, leader, SME, analyst, teammate)
- Takes personal accountability • Has subject matter expertise
- Has critical thinking skills • Has an honest, fair, non-judgmental mind-set
- Is adaptable to beneficial change • Adheres to the ASRS Code of Conduct

RESULTS

We treasure the achievements of individuals, teams, divisions and the agency that energize the organization.

- Meets goals and objectives
- Completes projects
- Produces quality work products
- Satisfies customers
- Attains individual accomplishments
- Manages risks successfully

IMPROVEMENT

We appreciate individuals, teams or divisions who drive the agency forward with new, innovative ideas and solutions.

- Promotes new ideas
- Enhances outcomes and performance
- Solves problems
- Enhances morale
- Improves relationships
- Increases efficiency, effectiveness or reduces costs

DIVERSITY

We recognize that utilizing different talents, strengths and points of view, strengthens the agency and helps propel outcomes greater than the sum of individual contributors.

- Encourages an attitude of openness and a free flow of ideas and opinions
- Treats others with dignity and respect
- Works effectively to accomplish goals with teams comprised of dissimilar individuals
- Recognizes and promotes skills in others attained on and off the job

EXCELLENCE

We celebrate individuals, teams and divisions who exceed expectations and deliver service with a PRIDE that permeates the organization.

- Surpasses member, stakeholder and associate expectations
- Demonstrates a willingness to go the extra mile to engender a positive public image
- Embraces change in a manner that inspires others
- Accepts responsibility and challenges with enthusiasm
- Takes a personal interest in promoting teamwork through effective use of communication (verbal, non-verbal, written and technological techniques)
- Creates a motivated, healthy and productive work environment that celebrates and rewards the accomplishments of others



**ARIZONA STATE
RETIREMENT SYSTEM**



ARIZONA STATE RETIREMENT SYSTEM

3300 NORTH CENTRAL AVENUE • PO BOX 33910 • PHOENIX, AZ 85067-3910 • PHONE (602) 240-2000
7660 EAST BROADWAY BOULEVARD • SUITE 108 • TUCSON, AZ 85710-3776 • PHONE (520) 239-3100
TOLL FREE OUTSIDE METRO PHOENIX AND TUCSON 1 (800) 621-3778
EMAIL ADDRESS: ASKMAC@AZASRS.GOV • WEB ADDRESS: WWW.AZASRS.GOV

*Paul Matson
Director*

AGENDA

NOTICE OF COMBINED PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE ARIZONA STATE RETIREMENT SYSTEM EXTERNAL AFFAIRS COMMITTEE

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

September 11, 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 September 11, 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 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 Meeting Minutes of the March 13, 2015 EAC Meeting
..... Dr. Richard Jacob
3. Presentation, Discussion, and Appropriate Action Regarding ASRS Rulemaking and the 2015
Regulatory Agenda Ms. Jessica Ross
Rule Writer



ARIZONA STATE RETIREMENT SYSTEM

3300 NORTH CENTRAL AVENUE • PO BOX 33910 • PHOENIX, AZ 85067-3910 • PHONE (602) 240-2000
7660 EAST BROADWAY BOULEVARD • SUITE 108 • TUCSON, AZ 85710-3776 • PHONE (520) 239-3100
TOLL FREE OUTSIDE METRO PHOENIX AND TUCSON 1 (800) 621-3778
EMAIL ADDRESS: ASKMAC@AZASRS.GOV • WEB ADDRESS: WWW.AZASRS.GOV

Paul Matson
Director

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

HELD ON
March 13, 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 February 19, 2015 EAC Meeting

Motion: Mr. Kevin McCarthy moved to approve the minutes of the February 19, 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 Legislative initiatives and Legislative Update

Mr. Nicholas Ponder, Government Relations Officer, directed the Committee to the Bill Tracker updated Friday, March 13, 2015, 9:49 am. Mr. Ponder updated the Committee on the status of the following bills:

HB 2338: ASRS; Disability Program- Removing the word “total” when it precedes the word “disability” within A.R.S. § 38-797.07. This bill was assigned to Senate Rules Committee on March 13, 2015 and is scheduled to be heard on Monday, March 16, 2015.

HB 2339: ASRS; Rules- Removes the words, “provided in rules” from A.R.S. § 38-703 and remove the words from A.R.S. § 38-755, “subject to rules prescribed by the Board.” This bill passed the Senate Finance Committee and is assigned to Senate Rules Committee.

HB 2340: ASRS’ LTD Program; Liability- Indemnifying the ASRS, the ASRS Board, and ASRS employees against liability for action taken in the performance of their powers and duties of the Arizona State Retirement System Long-Term Disability Program. This bill was not first read; we hope to provide clarification and run this bill in the 2016 session.

SB 1095: Community Colleges; Optional Retirement Plans- Asking for the words, “non-retired” to be included in the statute where the law will now read: “D. If an employee who is a NON-RETIRED member of the Arizona State Retirement system... the Arizona State Retirement System shall transfer the employee’s contributions... to the optional retirement program.” This bill passed from the House Government and Higher Education Committee. No issues are currently anticipated.

SB 1096: ASRS; Actuarial Valuation Method- Asking the Legislature to allow the ASRS Board to switch the actuarial valuation method on or after June 30, 2016. The legislature will be turning over authority to the ASRS Board. Dr. Jacob requested information pertaining to the 4711 amendment. Mr. Ponder explained the 4711 amendment is a technical amendment. He directed the committee to A.R.S. § 38-711. Because it was not foreseen that § 38-711 would be affected by this, language was changed to suggest it would be projected unit credit up until June 29, 2016 and thereafter it would be based on methodology determined by the Board. This bill has been assigned to House Rules and is waiting for a full House vote.

SB 1097; ASRS’ Health Insurance Benefits- Proposed by outside tax counsel and is a requirement to obtain a favorable determination letter from the Internal Revenue Service: If a member of the Arizona State Retirement System who is eligible for health insurance premium assistance forfeits the member’s interest in the account before the termination of the ASRS, and amount equal to the forfeiture must be applied as soon as possible to reduce employer contributions to fund premium assistance benefits; Retroactive to July 1, 2013. This bill passed through the House Government and Education Committee. There was no discussion on this item and is awaiting a third read in the House.

SB 1119: ASRS; Purchase of Credited Service- Modifying A.R.S. § 38-743, § 38-744, § 37-745 to reflect the Superior Court decision that Service Purchase is a contractual right protected by Article XXIX of the Arizona Constitution and thus cannot be restricted after one begins participation in ASRS; Also modifying the service purchase statutes to create two tiers regarding the prerequisite by stating that individuals with a membership date on or after 07/01/2010 must have 5 years of

credited service in order to initiate a service purchase request. This bill passed the Government and Higher Education Committee and is awaiting a third read in the full House.

Mr. Ponder explained the following non-ASRS sponsored bills:

HB 2137: ASRS; Employer Termination Incentive Program- Defining “promotion” as a true change in job duties, job title, and position held; and reducing the threshold, from thirty percent to fifteen percent, for salary increases wherein an employer is required to pay the unfunded liability to the ASRS, excluding promotions. This bill is dead for this session.

HB 2351: PSPRS; Fire Chiefs; Eligibility- Changing A.R.S. § 38-842 to state that eligible members of PSPRS must perform hazardous duty, as determined by that individual’s local Board. The employers who were interested in this particular bill have an agreement with PSPRS to not pursue this bill for the remainder of this year until a resolution is identified in the next Legislative session.

HB 2446: Tech Correction; Payment of Assistance- the Board of Regents indicated this bill is intended to be in a budget reconciliation bill. However, this item was not actually included in the budget reconciliation bill. That doesn’t preclude the Board of Regents from providing a study to legislators and the Governor. It is anticipated to be raised in the upcoming legislative session.

HB 2484: Income; Licensing: Patents: Repeal- Requiring ASU to distribute income from licensing and patents is repealed. This bill is on the ASRS bill tracker for tracking purposes only.

SB 1121: ASRS; Participation Opt Out; Continuation- Authorizing persons meeting specified requirements to elect not to participate in the ASRS at any time and removing the date of July 1, 2015 emergency clause. This bill passed the House Government and Higher Education Committee and is awaiting a third read in the full House.

SB 1379: ASU; Public Enterprise University- Authorizing Arizona State University and the Arizona Board of Regents to modify the governing structure of ASU to reestablish it as an autonomous, quasi-public, nonprofit corporate entity. ASU is authorized to establish its own personnel system and its own health insurance plan for employees. This bill is dead.

HB 2320: Firearms; Permit Holders; Public Places- allowing persons with a conceal-and-carry permit to carry a deadly weapon into a public establishment. This bill allows exclusions for universities, community colleges and schools but does not currently include situations like that of the ASRS, where a public entity owns its building and has private tenants. The ASRS is suggesting an amendment to the bill.

4. Call to the Public

No members of the public requested to speak.



ARIZONA STATE RETIREMENT SYSTEM

3300 NORTH CENTRAL AVENUE • PO BOX 33910 • PHOENIX, AZ 85067-3910 • PHONE (602) 240-2000
7660 EAST BROADWAY BOULEVARD • SUITE 108 • TUCSON, AZ 85710-3776 • PHONE (520) 239-3100
TOLL FREE OUTSIDE METRO PHOENIX AND TUCSON 1 (800) 621-3778
EMAIL ADDRESS: ASKMAC@AZASRS.GOV • WEB ADDRESS: WWW.AZASRS.GOV

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: September 4, 2015

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

Purpose:

To provide an update on the rulemaking activities listed on the 2015 Regulatory Agenda.

Recommendation:

No action is recommended at this time.

Background:

Arizona Revised Statutes § 41-1021.02 State agencies; annual regulatory agenda requires each agency to 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 anticipates promulgating during the 2015 calendar year.

Ms. Jessica Ross, ASRS Rule Writer, will provide a brief update of the status for each proposed rulemaking.

Attachment

**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



ARIZONA STATE RETIREMENT SYSTEM

3300 NORTH CENTRAL AVENUE • PO BOX 33910 • PHOENIX, AZ 85067-3910 • PHONE (602) 240-2000
7660 EAST BROADWAY BOULEVARD • SUITE 108 • TUCSON, AZ 85710-3776 • PHONE (520) 239-3100
TOLL FREE OUTSIDE METRO PHOENIX AND TUCSON 1 (800) 621-3778
EMAIL ADDRESS: ASKMAC@AZASRS.GOV • WEB ADDRESS: WWW.AZASRS.GOV

*Paul Matson
Director*

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

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

DATE: September 9, 2015

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

Purpose:

Discuss potential ASRS initiatives for the 2016 legislative session, which begins January 11, 2016.

Recommendation:

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

Background:

During the summer, the External Affairs Division (EAD) received legislative suggestions from ASRS staff and Trustees concerning plan design issues; plan inefficiencies, inconsistencies, and inequities; administrative concerns; and others. The EAD researched and discussed each suggestion in conjunction with Trustees, Executive Management, and other internal staff. Staff is seeking a recommendation to move the items to the full ASRS Board for approval.

2016 LEGISLATIVE SUGGESTIONS

STATUTE: Session Law

PROPOSED BY: Chuck Whetstine, External Tax Counsel

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 prior to the moratorium.
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

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).

In response to the anti-abrogation concern the ASRS provided some analysis from an outside attorney who wrote:

“...because ASRS is a governmental body and any entitlement to benefits is created by statute, the real issue is whether a claim against a state agency is covered by the anti-abrogation clause, especially when the liability at issue is created by statute. As a state agency the Clouse and Dickey decisions provide strong support (although not unanimous) for concluding that a statute limiting bad faith claims against ASRS will not violate the anti-abrogation clause. Adding further support is the fact that any liability for benefits is created by statute, not the common law.”

With the assistance of Representative Fann (the 2015 sponsor of HB2340) the above analysis was provided to Legislative Council who concurred that it does not violate the anti-abrogation clause in the Arizona Constitution.

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

PROPOSAL: Statute allows 32 current exceptions from rulemaking. However, the ASRS does not have an exemption from rulemaking. 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 certain financial related decisions and consequently the ASRS does not need rules for these items. However, in being consistent with our beliefs the ASRS would like to have than 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.*
- 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.*

2016 LEGISLATIVE SUGGESTIONS

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

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 **VIA AN EMPLOYER CREDIT, OR WITHIN ONE YEAR OF THE DATE OF THE OVERPAYMENT A CHECK UPON REQUEST OF THE EMPLOYER. 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 VIA AN EMPLOYER CREDIT.** ~~within one year after the date of overpayment. 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.~~

2016 LEGISLATIVE SUGGESTIONS

STATUTE: 38-738(B)

PROPOSED BY: Assistant Attorney General

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~~ 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 MUST BE MADE WITH AN AFTER TAX CHECK. If the member does not make the payment within ninety days of 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

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

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.

- A. Establish an Appeals Board that would hear these cases separate from the full board.
 - 1. Assistant Director Appeal
 - 2. Deputy Director Appeal
 - 3. Office of Administrative Hearings
 - 4. Appeals Board final determination
 - 5. Superior Court

- B. Eliminate the administrative appeals process and Board participation
 - 1. Assistant Director Appeal
 - 2. Deputy Director Appeal
 - 3. Superior Court

- C. 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