

# ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>

## TITLE 2. ADMINISTRATION

### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

#### 1. Identification of the rulemaking:

The ASRS needs to amend its rules relating to Overpayments. The ASRS is required to correct any errors resulting in a member receiving more than the benefits they are eligible to receive pursuant to statute. In particular, the ASRS needs to amend its overpayments rules to clarify how the ASRS may correct an overpayment error related to a health insurance premium benefit and Long-term Disability (LTD) benefits. The ASRS also needs to make additional clarifying changes to ensure its rules are consistent regarding overpayment requirements. These rules will increase understandability of how the ASRS may recover an overpayment.

#### a. The conduct and its frequency of occurrence that the rule is designed to change:

Within the past fiscal year, approximately 1,617 members received an overpayment from the ASRS totaling approximately \$5.8 million. However, the ASRS collected approximately \$3.2 million owed to the agency as a result of the agency providing an overpayment to an individual in previous years. Overpayments may occur as the result of LTD claims for which the member must reimburse the ASRS if the member receives Social Security Disability benefits. Overpayments may also occur if there is missing or inaccurate information on file when a member retires or when the ASRS issues health insurance premium benefits. Finally, an overpayment may occur if the ASRS pays retirement benefits to a member who has deceased. Members and employers seem to misunderstand how the ASRS collects overpayment amounts from various benefits payments. The ASRS receives numerous

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<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

inquiries regarding the collection of overpayments such as how the member's benefits will be affected and how members may repay overpayment amounts. The ASRS needs to update its rules to clarify how the ASRS collects overpayment amounts.

- b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

Members are confused about how the ASRS collects overpayment amounts. In particular, members seem to misunderstand how their benefits may be affected if they receive an overpayment that must then be collected on a later date. In the past fiscal year, the ASRS has received approximately 22 appeals related to the collection of overpayments. After the ASRS receives all necessary documentation, a typical overpayment appeal requires approximately 10 days for the ASRS to review. By promulgating these rules, members will have a better understanding of the various methods the ASRS may use to collect an overpayment amount. Increasing understanding of how the ASRS collects overpayments from various benefits and/or property should reduce appeals that arise out of members' misconceptions.

- c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify how the ASRS may collect an overpayment amount, thereby increasing understandability of how members' benefits may be affected and increasing the efficiency of the administration. Clarifying how the ASRS collects overpayment amounts will ensure that collection efforts are processed more efficiently. As discussed above and below, these rules will increase the clarity and effectiveness of collecting overpayments, which should result in reducing confusion, as well as any potential administrative delay caused by a misunderstanding that the member must repay an overpayment amount.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

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 statutory requirements that already exist. Clarifying how the ASRS may collect an outstanding overpayment amount in various situations, will increase understandability of the statutory requirements in A.R.S. § 38-765, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS members have notice about how their benefits may be affected by an outstanding overpayment and how the ASRS will collect an overpayment amount. Thus, the economic impact is minimized.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

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4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS, as well as their beneficiaries, will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 627,975.

Specifically, retired members, beneficiaries, and alternate payees who received an overpayment from the ASRS will be affected by this rulemaking. These rules will clarify how the ASRS may collect an overpayment from various benefits and other methods of collection. Such clarification will benefit retired members, beneficiaries, and alternate payees by increasing public understanding of how the ASRS will collect

overpayment amounts and how an individual's benefits may be affected by such collection.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

This rulemaking does not directly affect state agencies and the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment.

7. Impact on small businesses<sup>2</sup>:

- a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

- b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

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<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(20).

- c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

- 8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS retired members, beneficiaries, and Employers are directly affected by the rulemaking. The effect has been previously described above.

- 9. Probable effects on state revenues:

There will be no effect on state revenues.

- 10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify how the ASRS collects overpayment amounts without imposing additional requirements on the public.