



Arizona State Retirement System

# EXTERNAL AFFAIRS COMMITTEE

January 27, 2015



*Arizona State Retirement*  
**SYSTEM**

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, 14<sup>th</sup> Floor Conference Room  
Phoenix, AZ 85012

January 27, 2015  
4:00 P.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 January 27, beginning at 4:00 P.M. in the 14<sup>th</sup> 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.....Mr. Brian McNeil  
Chair, External Affairs Committee
2. Approval of the Public Meeting Minutes of the December 17, 2014 EAC Meeting.....  
.....Mr. Brian McNeil

*Regarding the following agenda item, notice is hereby given to Trustees of the ASRS External Affairs Committee and the general public that the ASRS External Affairs Committee may vote to go into executive session pursuant to A.R.S. § 38-431.03(A)(3) for discussion or consultation for legal advice with the attorney(s) of the public body, which will not be open to the public.*

3. Presentation, Discussion, and Appropriate Action Regarding Legislative initiatives and Legislative Update ..... Mr. Nicholas Ponder  
Government Relations Officer





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*Paul Matson*  
Director

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

HELD ON  
December 17, 2014  
2:00 p.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. Mr. Brian McNeil, Chair, called the meeting to order at 2:00 p.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: Mr. Brian McNeil, Chair – Via Teleconference  
Mr. Tom Manos – Via Teleconference  
Mr. Kevin McCarthy – Via Teleconference  
Dr. Richard Jacob, Vice Chair – Via Teleconference

A quorum was present for the purpose of conducting business.

### 2. Approval of Minutes of the October 6, 2014 EAC Meeting

**Motion:** Mr. Tom Manos moved to approve the minutes of the October 6, 2014 EAC meeting. Mr. Kevin McCarthy seconded the motion. Dr. Richard Jacob abstained.

By a vote of 3 in favor, 0 opposed, 1 abstained, and 0 excused, the minutes were approved.

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

Mr. Patrick Klein, Assistant Director, External Affairs Division, gave a brief overview of the purpose for the Regulatory Agenda and introduced Ms. Jessica Ross, Rule Writer, as the presenter for this item. Ms. Ross explained that the Regulatory Agenda for 2015 proposed by the ASRS is intended to list the rulemaking actions the ASRS plans to take



**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><br>R2-8-104. Definitions  | 1/6/2015                            | 1/9/2015                                 | 5/5/2015                              |
| <u>2 A.A.C. 8, Art. 1</u><br>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><br>R2-8-116. Reemployment After Retirement  | 4/1/2015                            | 4/3/2015                                 | 9/1/2015                              |
| <u>2 A.A.C. 8, Art. 1,</u><br><u>Retirement System;</u><br><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><br><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><br><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 |

## Rulemaking Information for 2015 Regulatory Agenda Approval

Article 1: This Article contains seven rules addressing the administration of the defined benefit plan. In 2010, ASRS analyzed each rule<sup>1</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-104, R2-8-115, R2-8-118, and R2-8-122 needed to be updated.

- R2-8-104: Definitions (mostly contains excluded “classes” or “positions” of people)
- Last amended for typographical error (“required”) in 1997 and substantive revisions in 1984 before that, but otherwise, this rule remains extremely outdated.
  - This rule does not follow proper rulemaking format for a definition section because it actually does not contain a list of definitions or all the definitions that are not contained in statute that apply to at least all of article 1, if not all the articles.
  - The rule is not clear, concise, or understandable because it appears to address when certain categories of people (e.g. agricultural labor, student services, and elective positions) are excluded from participating in ASRS. This is not the typical function of a definitions section.
- R2-8-115: Return of contributions upon termination...; Payment of survivor benefits...
- Last amended in 2006, but will need further revision consistent with removing definitions from R2-8-115 to put them in R2-8-104 instead.
  - In the 2010 5YRR, the ASRS proposed to amend this rule by including language that reflects that beneficiary information can be updated electronically via the ASRS website.
  - This rule also needs to be updated to include language stating that ASRS will only distribute funds based on completed documentation on file at the time of death of a member, unless otherwise provided by law (such as QDRO).
  - This will ensure that the rule is clear and understandable, as well as consistent with other laws (our current process is consistent, and this will ensure that our rules reflect our process, making our process easier to enforce).
- R2-8-116: Expired (used to be “Reemployment after retirement” prior to 2010)
- Needs to be promulgated to define statutory language “position ordinarily filled by an employee of the employer,” and to state that payment of the ACR does not entitle the retiree to any benefit or refund based on the payment of the ACR.
  - This rule is necessary to clarify when an employer is required to remit an ACR.

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<sup>1</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a five-year-review report (5YRR); and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

- The current ASRS policy is to look at the “class” the position is in and whether that “class” of positions has typically been filled by employees of the employer. Defining the “class” will make the policy enforceable.

R2-8-118: Application of interest rates (table also contains investment yield rate)

- Last amended in 2013 to set the assumed actuarial interest and investment yield rate at 8%, the interest rate to determine return of contributions at 2% for Plan members and 8% for System members, and the interest rate for survivor benefits at 8%.
- In November 2014, ASRS promulgated R2-8-123 Actuarial Assumptions, which states that the Board determines the interest and investment return rate assumptions. R2-8-123 provides the Board with the flexibility to change the interest and investment return rates when necessary to meet its statutory duties. However, having specific rates in R2-8-118 limits that flexibility and this rule should be amended to remove specific interest and investment return rate assumptions in order to be consistent.
- Additionally, this rule will need revision consistent with removing definitions from R2-8-118 to put them in R2-8-104 instead.

R2-8-120: Designating a beneficiary; spousal consent to designation

- Last amended in 2014 to require members to designate their spouse as their beneficiary pursuant to statute.
- This rule needs to be amended to (1) remove “beneficiary” which is the dictionary definition and does not need to be defined otherwise; and (2) remove “contingent annuitant” because it appears in A.R.S. § 38-711. Removing these definitions will make the rule more clear, concise, and consistent.

R2-8-122: Remittance of contributions (how and when to make payment to ASRS)

- Last amended in 1982, but in the 2010 5YRR, the ASRS proposed amending the rule to remove superfluous language like “such” and “without limitation” in order to be more clear and concise.
- In the 2010 5YRR, the ASRS also proposed repealing and promulgating a new article entitled “Compensation, Payment of Contributions and Service Accrual.”
- However, this section is very useful for regular contributions, as well as ACR payments and delinquent payments. I recommend repealing this rule **only** at the same time as we promulgate its replacement.

R2-8-123: Actuarial Assumptions and actuarial value of assets

- Last amended in 2014 to notify the public of how the Board makes actuarial assumption and asset valuations.

- However, this rule needs to be amended to remove some definitions that are unnecessary because they either appear in statute (e.g. “Board”) or because they apply to more than R2-8-123 and should be moved to R2-8-104.

R2-8-126: Calculating Benefits (lists how ASRS calculates benefits based on age and annuity)

- Last amended in 2013 to remove the \$20 monthly limit for life annuity in subsection (E).
- However, this rule needs to be amended to move definitions from R2-8-126 to R2-8-104 because the definitions apply to more than R2-8-126 and moving the definitions will make the rule more clear, concise, and consistent.

Article 2: This Article contains two rules addressing the administration of the defined contribution plan. In 2010, ASRS analyzed each rule<sup>2</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-201 and R2-207 needed to be updated.

R2-8-201: Definitions

- Last amended in 2004, but the ASRS identified in its 2010 5YRR that it needs to be amended consistent with A.G. Opinion I09-009, stating that the ASRS cannot reduce System benefits.
- It also needs to be amended to remove superfluous definitions contained in statute and otherwise appearing in the general definitions section of the 2015 amended R2-8-104 section. Such an amendment will make the rule more clear and concise, as well as consistent with other rules.

R2-8-207: Return of Contributions (for the System only)

- Created as a new section in 2004, but the ASRS identified in its 2010 5YRR that it needs to amend subsection (A)(3) to remove the 90 day limit because a member may apply for a refund at any time prior to retirement, which renders the 90 day limit unenforceable.
- Additionally, the ASRS stated in the 2010 5YRR that this rule needs to be amended to reflect that payments of nonguaranteed balances do not need to wait for an actuarial valuation to be completed.
- Such amendments would make the rule more enforceable, clear, concise, and understandable, as well as consistent with other law.

Article 4: This article contains five rules relating to practice and procedure before the Board. Specifically, the rules address definitions, general procedures, Board decisions on hearings before OAH, and rehearing or review of a final decision. These rules need to be

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<sup>2</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a 5YRR; and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

amended to reflect the ASRS policies for agency appeals, consistent with the APA (such as time limits for appealing decisions, and whether people may appeal directly to an ASRS director, AD, or LTD provider, depending on the issue being appealed). It is important to amend the rules in this article in order to put the public on notice of how and when they may appeal agency decisions, as well as ensure that the current ASRS appeal process is enforceable. Amending these rules will also make the appeal process more clear, concise, and understandable. Specifically, R2-8-401 also needs to be amended to remove superfluous definitions that should appear in R2-8-104 instead in order to make the rules more clear, concise, and consistent.

Article 5: This article contains twenty-three rules addressing the purchase of service credit. In 2010, ASRS analyzed each rule<sup>3</sup> within the article to determine whether the rules required any rulemaking action. ASRS identified that R2-8-501, R2-8-502, R2-8-503, R2-8-508, R2-8-509, R2-8-510, R2-8-511, R-2-8-512, R2-8-513, R2-8-513.02, R2-8-514, R2-8-515, R2-8-516, R2-8-517, and R2-8-519 needed to be updated.

R2-8-501: Definitions

- Last amended in 2013 to remove reference to R2-8-123, which is now, the Spousal Consent rule, and no longer contains any actuarial assumptions.
- The ASRS identified in its 2010 5YRR that the rule needed to be amended to clarify the definitions such as “presidential call-up” (now “military call-up” in A.R.S. § 38-745), “current annual compensation” (which is superfluous because it is defined in A.R.S. § 38-711(10)), and “termination pay distribution.”
- The definitions can also be made more clear, concise, and understandable by removing to R2-8-104, any definitions that would apply to all the articles, and removing completely, any other superfluous definitions contained in statute.

R2-8-502: Request to purchase service credit and notification of cost (form requirements)

- Last amended in 2012, to remove the provision allowing the retiree to purchase the service with a partial lump sum retirement distribution.
- However, the form requirements and request process in this rule need to be amended to reflect which information ASRS must collect from a member or retiree in order to process a request to purchase service credit. Such amendments could make the rule more clear, concise, and understandable.

R2-8-503: Requirements applicable to all service credit purchases (types of service)

- Last amended in 2012, to remove the language allowing the retiree to purchase the service with a partial lump sum retirement distribution.

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<sup>3</sup> Among other criteria, clarity, conciseness, understandability, enforceability, and consistency are among those aspects of rules that an agency must analyze for each rule when completing a 5YRR; and the Council must ensure those aspects of the rules are met before approving 5YRRs or rulemakings.

- However, in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
- R2-8-508: Required documentation/calculations for leave of absence service credit (form req)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needed to be amended to define “guidelines” in subsection (A)(2).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a leave of absence service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-509: Required documentation/calculations for military service credit (form requirement)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a military service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-510: Required documentation/calculations for presidential service credit (form reqs)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect “military call-up service” instead of “presidential call-up service” in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - ASRS also stated in the 2010 5YRR that it needed to be amended because ASRS no longer enforces subsection (B) (30 days from active duty termination date is not sufficient time for employer to request service purchase).
  - The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a military call-up service credit purchase (including USERRA requirements for 90 day break in service), which would render the current ASRS process more enforceable.
- R2-8-511: Required documentation/calculations for other public service credit (form reqs)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to ensure the form requirements are clear, concise, and understandable.

- In the 2010 5YRR, the ASRS identified it also needs to be amended to be consistent with the information the ASRS needs to determine if the service falls under A.R.S. § 38-738, when the request to purchase service credit is with an ASRS employer.
- R2-8-512: Purchasing service credit by check, Cashier's check, or money order (when/how)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect certain restrictions placed on service purchases by the Internal Revenue Code when made with after-tax monies.
  - Such amendments will ensure that the rule is clear and understandable, as well as consistent with other laws.
- R2-8-513: Purchasing service credit by irrevocable payroll deduction authorization (info reqs)
- Last amended in 2012, to remove the language allowing the retiree to purchase the service with a partial lump sum retirement distribution.
  - However, in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect "military call-up service" instead of "presidential call-up service" in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this method of service credit purchase, which would render the current ASRS process more enforceable.
- R2-8-513.02: Termination date (sets the termination dates for purchases under R2-8-513)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect "military call-up service" instead of "presidential call-up service" in order to be more clear, understandable, and consistent with statute (A.R.S. § 38-745).
  - The rule also needs to be amended to ensure the information is clear, concise, and understandable, as well as consistent with the current process the ASRS uses, which would render the current ASRS process more enforceable.
- R2-8-514: Purchasing service credit by direct rollover (form requirements)
- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.

- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process a rollover service credit purchase, which would render the current ASRS process more enforceable.

R2-8-515: Purchasing service credit by trustee-to-trustee transfer (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this transfer service credit purchase, which would render the current ASRS process more enforceable.

R2-8-516: Purchasing service credit by indirect IRA rollover (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs to process this IRA service credit purchase, which would render the current ASRS process more enforceable.

R2-8-517: Purchasing service credit by distributed rollover contribution (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to provide members a longer timeframe to submit rollover requests, because the current (90 day?) timeframe is not enough if termination pay is allowed to be used.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the information the ASRS needs (only one form now instead of two) to process this contribution service credit purchase, which would render the current ASRS process more enforceable.

R2-8-519: Purchasing service credit by termination pay distribution (form requirements)

- Last amended in 2006, but in the 2010 5YRR, the ASRS identified that the rule needs to be amended to reflect that the ASRS does not send Termination Pay Authorization forms automatically, but only on request from a member.

- The ASRS also identified in the 2010 5YRR that it needed to be amended to clarify that a member must be actively contributing in order to request a recalculation of the service purchase cost.
- The rule also needs to be amended to ensure the form requirements are clear, concise, and understandable, as well as consistent with the required information the ASRS needs to process this service credit purchase, which would render the current ASRS process more enforceable.



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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  
Mr. Nick Ponder, Government Relations Officer

**DATE:** January 27, 2015

**RE:** **AGENDA ITEM NO. 3:** Presentation, Discussion and Appropriate Action with Respect to Legislative Initiatives and Legislative Update

**Purpose:**

To view and discuss three additional ASRS 2015 legislative initiatives for the 2015 session.

**Recommendation:**

Approve three additional 2015 legislative initiatives presented by staff.

**Background:**

The 2014 Legislative Session began on January 12, 2015. The link to the most up-to-date bill tracker can be found at any time at: <https://www.azasrs.gov/web/Legislation.do>.

Attachment



## ASRS Bill Tracker 2015 Legislative Session

52nd Legislature - 1st Regular Session, 2015

Friday, Jan 23 2015 1:09 PM

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### ASRS Bill Tracker

#### Posted Calendars and Committee Hearings

S1054: CORP; HELATH BENEFITS; RETIREMENT BENEFITS

*Hearing:* Senate Rules (Monday 01/26/15 at 1:00 PM, Senate Caucus Rm.)

S1055: EORP; HEALTH BENEFITS; RETIREMENT BENEFITS

*Hearing:* Senate Rules (Monday 01/26/15 at 1:00 PM, Senate Caucus Rm.)

S1057: PSPRS; HEALTH BENEFITS; RETIRMENT BENEFITS

*Hearing:* Senate Rules (Monday 01/26/15 at 1:00 PM, Senate Caucus Rm.)

S1058: CORP; NONDESIGNATED POSITIONS

*Hearing:* Senate Rules (Monday 01/26/15 at 1:00 PM, Senate Caucus Rm.)

S1095: COMMUNITY COLLEGES; OPTIONAL RETIREMENT PLANS

*Hearing:* Senate Finance (Wednesday 01/28/15 at 9:00 AM, Senate Rm. 3)

S1096: ASRS; ACTUARIAL VALUATION METHOD

*Hearing:* Senate Finance (Wednesday 01/28/15 at 9:00 AM, Senate Rm. 3)

S1097: ASRS; HEALTH INSURANCE BENEFITS

*Hearing:* Senate Finance (Wednesday 01/28/15 at 9:00 AM, Senate Rm. 3)

S1121: ASRS; PARTICIPATION OPT OUT; CONTINUATION

*Hearing:* Senate Finance (Wednesday 01/28/15 at 9:00 AM, Senate Rm. 3)

#### ASRS Sponsored Bills

##### Bill Summaries

H2338: ASRS; DISABILITY PROGRAM

[Questions/Comments](#)

For the purpose of participation in the Arizona State Retirement System Long-Term Disability Program, a member must develop a disability, instead of a "total" disability.

First sponsor: Rep. Fann

Categories: ASRS Sponsored Bills

**General Comments (all lists):**

**General Comments (all lists):**

**HB2338 is part of the ASRS's 2015 Legislative Initiatives.**

#### **ASRS Staff Summary:**

##### Provisions

- The ASRS would like to remove the word "total" when it precedes the word "disability" within A.R.S. 38-797.07.

- The definition of disability for ASRS purposes is that one cannot be able to do their own job they had at the time they became disabled. If they meet that qualification they are eligible for disability for up to 30 months. After 30 months the individual is reassessed to determine if they are able to do any job after 30 months. If it is determined they cannot the member will then continue on disability.
- The ASRS believes that by removing the word "total" we are clarifying the statute for our members so that one doesn't believe they need to be totally disabled or incapacitated in order to qualify for disability benefits.

#### H2338 Daily History Date Action

No actions posted for this bill.

H2339: ASRS; RULES

[Questions/Comments](#)

The Arizona State Retirement System is required to make specified information concerning a member's account accessible to the member in written or electronic form, instead of being required to furnish an account to each member subject to rules prescribed by the ASRS Board.

First sponsor: Rep. Fann

Categories: ASRS Sponsored Bills

**General Comments (all lists):**

**HB2339 is part of the ASRS's 2015 Legislative Initiatives.**

**ASRS Staff Summary:**

Provisions

- In a recent sunset audit performed by the Office of the Auditor General it was discovered that there are two statutes that require rules, A.R.S. 38-703 & 38-755, however we do not have rules on these items.
- As a result of the rules moratorium the ASRS would like to remove from these statutes the language requiring rules.

#### H2339 Daily History Date Action

No actions posted for this bill.

H2340: ASRS; LTD PROGRAM; LIABILITY

[Questions/Comments](#)

Statutes governing the Arizona State Retirement System Long-Term Disability Program do not provide any private right or cause of action to or on behalf of any ASRS member or employer. ASRS, the ASRS Board, and ASRS employees are indemnified against liability for any action taken in the performance of their powers and duties.

First sponsor: Rep. Fann

Categories: ASRS Sponsored Bills

**General Comments (all lists):**

**HB2340 is part of the ASRS's 2015 Legislative Initiatives.**

**ASRS Staff Summary:**

Provisions

- The ASRS is asking the legislature to provide the ASRS with protection from bad faith claims as it relates to our Long Term Disability (LTD) program.
- All Employee Retirement Income Security Act (ERISA) of 1974 private retirement plans are provided this protection through their LTD programs and the ASRS would like the same protection.
  - ERISA "shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan ... ." ERISA § 514(a), 29 U.S.C. § 1144(a). A saving clause then provides that some state laws are not preempted: "nothing in this

subchapter shall be construed to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities." ERISA § 514(b)(2)(A), 29 U.S.C. § 1144(b)(2)(A).

- The ASRS believes that it is not only reasonable but a requirement that our LTD program is operated through a process by which our LTD provider can determine if a member is disabled. If it is determined the individual is not eligible for disability benefits there is a 4 step appeals process in place whereby the member can attempt to obtain those benefits and if it is ultimately determined they are eligible for benefits they will be provided those benefits retroactive to their date of eligibility. We believe this is a reasonable process and the ASRS should not operate the plan out of fear of potential lawsuits and for that reason we ask for this provision.

**H2340 Daily History**    **Date**    **Action**

No actions posted for this bill.

S1095: COMMUNITY COLLEGES; OPTIONAL RETIREMENT PLANS

[Questions/Comments](#)

Employees of a community college district who are members of the Arizona State Retirement System may only elect to participate in an optional retirement plan established by the community college district board if they are a nonretired ASRS member.

First sponsor: Sen. Lesko

Categories: ASRS Sponsored Bills

**S1095 Daily History**

**Date**    **Action**

COMMUNITY COLLEGES; OPTIONAL RETIREMENT PLANS 1/21 referred to Senate fin.

S1096: ASRS; ACTUARIAL VALUATION METHOD

[Questions/Comments](#)

Beginning June 30, 2016, the Arizona State Retirement System Board is required to determine which of the generally accepted actuarial cost methods will be used in the annual actuarial valuation of the ASRS plan, which is used to determine contribution rates. The projected unit credit method must continue to be used through June 29, 2016.

First sponsor: Sen. Lesko

Categories: ASRS Sponsored Bills

**S1096 Daily History**

**Date**    **Action**

ASRS; ACTUARIAL VALUATION METHOD 1/21 referred to Senate fin.

S1097: ASRS; HEALTH INSURANCE BENEFITS

[Questions/Comments](#)

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 ASRS, an 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.

First sponsor: Sen. Lesko

Categories: ASRS Sponsored Bills

**S1097 Daily History**

**Date**    **Action**

ASRS; HEALTH INSURANCE BENEFITS 1/21 referred to Senate fin.

**Non-ASRS Sponsored Bills**

**Bill Summaries**

H2137: ASRS; EMPLOYER TERMINATION INCENTIVE PROGRAM

[Questions/Comments](#)

For the purpose of statute requiring an ASRS employer to pay the amount of unfunded liability to ASRS resulting from a termination incentive program offered by that employer, the definition of "termination incentive program" means a total increase in compensation of 15

percent or more, decreased from 30 percent or more, given to a member in any year or years before termination that are ultimately used to calculate the member's retirement benefits, and the definition of "promotion" means a true change in position, job duties and job title from the position occupied by the member before ASRS retirement.

First sponsor: Rep. McCune Davis

Categories: Non-ASRS Sponsored Bills

**General Comments (all lists):**

**HB2137**

Provisions

- Reduces 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.
- Defines promotions as a true change in job duties, job title, and position held.
- This is an effort to stem potential salary spiking.

**H2137 Daily History**    **Date**    **Action**

No actions posted for this bill.

H2351: PSPRS; FIRE CHIEFS; ELIGIBILITY

[Questions/Comments](#)

Beginning retroactively to January 1, 2009, a fire chief is included in the definition of "member" of the Public Safety Personnel Retirement System only if the fire chief is "regularly assigned to hazardous duty" (defined) as determined by the local board, unless the fire chief is already a member of the system. Emergency clause.

First sponsor: Rep. Fann

Categories: Non-ASRS Sponsored Bills

**General Comments (all lists):**

**HB2351**

Provisions

- In 2012 the legislature passed SB1423 which in A.R.S. 38-842 defined a member of PSPRS as "beginning retroactively to January 1, 2009, who is a police chief or fire chief."
- This legislative item would propose to change that statute for fire chiefs only by saying that they would be a member of PSPRS if they perform hazardous duty, as determined by that individuals local board.
- In other words, the board would determine if the individuals job is hazardous and if it is that individual would become a member of PSPRS, however if the job was non-hazardous that individual would become a member of ASRS.

**H2351 Daily History**    **Date**    **Action**

No actions posted for this bill.

S1121: ASRS; PARTICIPATION OPT OUT; CONTINUATION

[Questions/Comments](#)

Persons meeting specified requirements are authorized to elect not to participate in the Arizona State Retirement System at any time, instead of only until July 1, 2015. Emergency clause.

First sponsor: Sen. Lesko

Categories: Non-ASRS Sponsored Bills

**S1121 Daily History**    **Date**    **Action**

ASRS; PARTICIPATION OPT OUT; CONTINUATION 1/22 referred to Senate fin.

**PSPRS/CORP/EORP Bills**

**Bill Summaries**

S1054: CORP; HELATH BENEFITS; RETIREMENT BENEFITS

[Questions/Comments](#)

If a member of the Corrections Officer Retirement Plan who is eligible for group health and accident coverage benefits forfeits his/her interest in the account before the termination of the plan, an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the benefits. Retroactive to September 27, 1990. Also, lump sum payments made for an increase in retirement benefits under specified conditions are no longer eligible for a direct rollover distribution.

First sponsor: Sen. Lesko

Categories: PSPRS/CORP/EORP Bills

| <u>S1054</u> Daily History                 | Date | Action                   |
|--|------|--------------------------|
| CORP; HELATH BENEFITS; RETIREMENT BENEFITS | 1/21 | from Senate fin do pass. |
| CORP; HELATH BENEFITS; RETIREMENT BENEFITS | 1/14 | referred to Senate fin.  |

S1055: EORP; HEALTH BENEFITS; RETIREMENT BENEFITS

[Questions/Comments](#)

If a member of the Elected Officials' Retirement Plan who is eligible for group health and accident coverage benefits forfeits his/her interest in the account before the termination of the plan, an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the benefits. Retroactive to May 16, 1990. Also, lump sum payments made for an increase in retirement benefits under specified conditions are no longer eligible for a direct rollover distribution.

First sponsor: Sen. Lesko

Categories: PSPRS/CORP/EORP Bills

| <u>S1055</u> Daily History                 | Date | Action                   |
|--|------|--------------------------|
| EORP; HEALTH BENEFITS; RETIREMENT BENEFITS | 1/21 | from Senate fin do pass. |
| EORP; HEALTH BENEFITS; RETIREMENT BENEFITS | 1/14 | referred to Senate fin.  |

S1057: PSPRS; HEALTH BENEFITS; RETIRMENT BENEFITS

[Questions/Comments](#)

If a member of the Public Safety Personnel Retirement System who is eligible for group health and accident coverage benefits forfeits his/her interest in the account before the termination of the plan, an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the benefits. Retroactive to September 30, 1988. Also, lump sum payments made for an increase in retirement benefits under specified conditions are no longer eligible for a direct rollover distribution.

First sponsor: Sen. Lesko

Categories: PSPRS/CORP/EORP Bills

| <u>S1057</u> Daily History                 | Date | Action                   |
|--|------|--------------------------|
| PSPRS; HEALTH BENEFITS; RETIRMENT BENEFITS | 1/21 | from Senate fin do pass. |
| PSPRS; HEALTH BENEFITS; RETIRMENT BENEFITS | 1/14 | referred to Senate fin.  |

S1058: CORP; NONDESIGNATED POSITIONS

[Questions/Comments](#)

The Corrections Officer Retirement Plan local board of the judiciary is authorized to specify a designated position within the department as a nondesignated position if the position is filled by an employee with at least 5 years of credited service under the Arizona State Retirement System and who makes a written request to the local board to do so within 90 days of accepting the position. Session law specifies that existing employees who meet these qualifications may submit a written request within 90 days after the effective date of this legislation.

First sponsor: Sen. Griffin

Categories: PSPRS/CORP/EORP Bills

| <u>S1058</u> Daily History    | Date | Action                   |
|-------------------------------|------|--------------------------|
| CORP; NONDESIGNATED POSITIONS | 1/21 | from Senate fin do pass. |
| CORP; NONDESIGNATED POSITIONS | 1/14 | referred to Senate fin.  |

**(No Category Assigned)**

**Bill Summaries**

H2297: STATE AGENCY RULEMAKING; RESTRICTIONS [Questions/Comments](#)

State agencies are prohibited from adopting any new rule that would increase existing regulatory restraints or burdens on the free exercise of property rights or the freedom to engage in an otherwise lawful business or occupation, unless the rule is a component of a comprehensive effort to reduce regulatory restraints or burdens or is strictly ministerial in implementing legislation standards. Some exceptions. Any person subject to a civil or criminal proceeding arising from the enforcement of a rule in violation has a defense to the enforcement action.

First sponsor: Rep. E. Farnsworth

Categories:

| <u>H2297</u> Daily History       | Date | Action |
|----------------------------------|------|--------|
| No actions posted for this bill. |      |        |

## NEW PROPOSED ASRS LEGISLATIVE INITIATIVES

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1. Addressing membership and charging employers an ACR should employers attempt to extract themselves from or circumvent ASRS membership.

In recent weeks the ASRS has become aware of an effort by some parties within the Arizona Board of Regents and Arizona State University to allow each university to create its own retirement plan. Each of the universities currently participates in their own respective Optional Retirement Plan and, presumably, the university plan could be the ORP or new plan. This retirement/savings plan would be open to all eligible university employees. The motivation by the Board of Regents appears to be the contribution rate paid to the ASRS.

**OPTION:** Draft a statute that would require that an ACR be paid for each employee who is no longer filling an ASRS contributing position.

2. Addressing issues that arose from SB1609 in 2011 that limited Service Purchase to a total of 60 months of service. The ASRS recently was denied its request for review from the Arizona Supreme Court regarding whether Service Purchase is a benefit protected by Article XXIX of the Arizona Constitution.

As a result of the High Court's decision not to review this case, it is now law that anyone with an ASRS membership date prior to July 20, 2011 is eligible to purchase unlimited service. The court's decision did not address those who become ASRS members on or after July 20, 2011. Those employees may only purchase a total of 60 months of service.

**NOTE:** Another service purchase issue that originated in 2009 with HB2118 was a change to §38-743 stating that, as of July 1, 2010, a member of ASRS must have 5 years of credited service in order to request a service purchase. In 2011, SB1609 changed that requirement to ten years but, then in 2012, HB2745 reduced the requirement back to five years.

**OPTION:** Request legislation this year that would address the legal issues surrounding these two statutory issues. The statute would read something like this:

**38-743(A):** If an active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 was previously employed by the United States government, a state, territory, commonwealth, overseas possession or insular area of the United States or a political subdivision of a state, territory, commonwealth, overseas possession or insular area of the United States, excluding any time worked for a prison while the member was incarcerated, the member may receive ~~up to sixty months of~~ credited service for this prior employment if the member pays into ASRS the amount prescribed in subsection B of this section, **IF THE MEMBER'S MOST RECENT MEMBERSHIP DATE IS ON OR**

AFTER JULY 20, 2011 THE MEMBER MAY RECEIVE UP TO SIXTY MONTHS OF CREDITED SERVICE. *[This language would be replicated in 38-744(A)(4), & 38-745(E)]*

**38-743(D):** IF A MEMBER'S MOST RECENT MEMBERSHIP DATE IS ON OR AFTER JULY 1, 2010, a member must have at least five years of credited service in ASRS before electing to receive credit for service pursuant to this section. *[This language would be replicated in 38-744(D), & 38-745(A)(3)]*

3. Address issues relating to interest paid on overpayments or charged on underpayments. A.R.S. § 38-765.