





of determining which retired members return to work under the return to work statute(s). In other words, the ASRS may need to clarify that in order to “return to work,” a member must terminate, retire, and then, seek subsequent employment with an ASRS Employer. Also, the ASRS needs to clarify that a retired member must submit the Working After Retirement form within 30 days of commencing employment with an ASRS Employer. The Employer is also responsible for submitting a Working After Retirement form within 30 days of a change in employment status such as the intent to engage the retired member for 20 or more hours per week for 20 or more weeks in a fiscal year. Finally, the ASRS needs to clarify what may happen if a retired member or the retired member’s ASRS Employer is found to be in violation of the return to work statute(s). These clarifications will ensure that the ASRS, its Employers, and its members have prompt notice about which retired members are returning to work for which ASRS Employers, and the process for reporting return to work information.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.**

None

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

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. There may be some economic impact to an Employer who employs a retired member because the Employer must submit a verified Working After Retirement form for each retired member. However, A.R.S. § 38-766.01 already requires the retired member to submit the Working After Retirement form and requires the Employer to verify that form before submitting it to the ASRS. Clarifying how a retired member and an ASRS Employer must submit the Working After Retirement form, will increase understandability of the statutory requirements in A.R.S. § 38-766.01, thereby reducing the regulatory burden imposed on the public. This clarification will ensure that ASRS Employers have notice about which personnel require the ASRS Employer to submit a Working After Retirement form to the ASRS. Thus, the economic impact is minimized.

**9. The agency’s contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Jessica A.R. Thomas, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Suite 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
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**10. The time, place, and nature of the proceedings for to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request and oral proceedings on the proposed rule:**

An oral proceeding regarding the proposed rule will be held as follows:

Date: November 21, 2016  
Time: 9:00 a.m.  
Location: Arizona State Retirement System  
10th Floor Board Room  
3300 N. Central Ave.  
Phoenix, AZ 85012-0250

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

None of the rules require a permit.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law applies to retirement programs, but no federal law specifically applies to this rulemaking.

**c. Whether a person submitted an analysis to the agency that compares the rule’s impact on the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.



**12. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

**ARTICLE 1. RETIREMENT SYSTEM; ~~DEFINED BENEFIT PLAN~~**

Section

R2-8-117. Return to Work After Retirement

**ARTICLE 1. RETIREMENT SYSTEM; ~~DEFINED BENEFIT PLAN~~**

**R2-8-117. Return to Work After Retirement**

**A. Unless otherwise specified, in this Section:**

1. “Commencing employment” means the date a retired member who is not independently contracted or leased from a third party pursuant to R2-8-116(A)(4) renders services directly to an Employer for which the retired member is entitled to be paid.

2. “Returns to work” means the member retired from the ASRS prior to commencing employment with an Employer.

**B. Pursuant to A.R.S. § 38-766.01(C), a retired member who returns to work directly with an Employer shall submit a Working After Retirement form to each of the retired member’s current Employers through the retired member’s secure website account within 30 days of the retired member commencing employment with an Employer.**

**C. Pursuant to A.R.S. § 38-766.02(E), within 14 days of receipt of a Working After Retirement form, an Employer shall verify the retired member’s employment information and submit the verified Working After Retirement form to the ASRS through the Employer’s secure website account for each retired member who returns to work with the Employer.**

**D. After a retired member returns to work, the Employer shall submit a verified Working After Retirement form to the ASRS within 30 days of a change in the intent of each retired member’s employment that results in:**

1. The member’s number of hours worked per week increasing from less than 20 hours per week to 20 or more hours per week; or

2. The member’s number of weeks worked in a fiscal year increasing from less than 20 weeks per fiscal year to 20 or more weeks per fiscal year.

**E. The Working After Retirement form shall contain the following information:**

1. The retired member’s social security number;

2. The retired member’s full name;

3. The date the member retired;

4. Whether the retired member terminated employment, and if so, the date the retired member terminated employment;

5. The first date of commencing employment upon the retired member’s return to work;

6. The intent of the retired member’s employment reflected as:

a. The anticipated number of hours the retired member is engaged to work per week and the anticipated number of weeks the retired member is engaged to work per fiscal year; or

b. The actual number of hours the retired member works for an Employer per week and the actual number of weeks the retired member works for an Employer in a fiscal year.

7. Acknowledgement by the retired member that the retired member has read the Return to Work information on the ASRS website and intends to continue submitting the Working After Retirement form to the retired member’s Employer.

**F. Upon discovering that the retired member’s employment violates A.R.S. §§ 38-766 or 38-766.01, the ASRS shall send the retired member a Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.**

**G. By the due date specified on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form, the retired member shall return the completed form and any supporting documentation to the ASRS indicating the action the retired member will take to correct the violation of A.R.S. §§ 38-766 or 38-766.01.**

**H. If the member does not submit the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form pursuant to subsection (G), the ASRS shall suspend the retired member’s retirement benefits from the date on the Retiree Return to Work Notice of Non-Compliance with ASRS Statutes form.**

**I. If the ASRS suspends the retired member’s retirement benefits pursuant to subsection (H), the ASRS shall reinstate the retired member’s retirement benefits upon notice from the Employer that all violations pursuant to subsection (F) have been corrected.**