

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"

- Friendly, respectful and courteous
- Proactive and responsive
- Good communicator / active listener
- Trusted contributor / teammate
- Personally accountable
- Subject matter expert
- Critical thinker
- Honest, fair, non-judgmental
- Adaptable to change
- Adheres to the Code of Conduct

RESULTS

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

- Completes projects
- Attains individual accomplishments
- Meets goals and objectives
- Satisfies customers
- Produces quality work products
- 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 morale
- Enhances outcomes and performance
- Improves relationships
- Solves problems
- 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 contributor"

- Encourages the free flow of ideas and opinions
- Treats all people with dignity and respect
- Works effectively with dissimilar individuals
- Recognizes and promotes new skills in others

EXCELLENCE

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

- Surpasses expectations
- Engenders a positive public image
- Celebrates /rewards accomplishments and contributions of others
- Embraces change in a manner which inspires others
- Promotes teamwork /collaboration through communication
- Accepts personal responsibility and challenges with enthusiasm



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

AGENDA

NOTICE OF COMBINED PUBLIC MEETING AND POSSIBLE EXECUTIVE SESSION OF THE ARIZONA STATE RETIREMENT SYSTEM OPERATIONS, AUDIT, AND LEGISLATIVE COMMITTEE

April 8, 2020
2:30 p.m.

Pursuant to A.R.S. § 38-431.02(F), notice is hereby given to the Trustees of the Arizona State Retirement System (ASRS) Operations, Audit, and Legislative Committee (OALC) and to the general public that the ASRS OALC will hold a **telephonic** meeting open to the public on Wednesday, April 8, 2020, beginning at 2:30 p.m. In light of the Arizona Department of Health Services' recommendation to cancel or postpone mass gatherings of 10 or more people, and to help prevent community spread of COVID-19, the meeting will be audience free. **Trustees of the Board and the public may attend by telephone conference call at 877-820-7831, using Participant Passcode: 857127#.**

This is a regularly scheduled meeting of the OALC; however, due to possible attendance by other ASRS Board Trustees, this meeting may technically become a meeting of the Board or one of its committees. Actions taken will be consistent with OALC governance procedures. Actions requiring Board authority will be presented to the full Board for final decision.

The Chair may take public comment during any agenda item.

The agenda for the meeting is as follows:

1. Call to Order; Roll Call; Opening Remarks..... Mr. Clark Partridge
OALC Chair

2. Approval of the Minutes of the January 8, 2020, Public Meeting and Executive Session of the OALC (*estimated time: 1 minute*) Mr. Clark Partridge

3. Presentation, Discussion, and Appropriate Action Regarding an Update of the ASRS Employer Compliance (*estimated time: 10 minutes*) Mr. Paul Matson
Director
..... Mr. Anthony Guarino
Deputy Director and Chief Operations Officer
..... Mr. Jeremiah Scott
Assistant Director, Member Services Division
..... Mr. Patrick Toto
Employer Relations Supervisor, Member Services Division

4. Presentation, Discussion, and Appropriate Action Regarding the 2019 Rulemaking Initiative Regarding Calculating Benefits (*estimated time: 10 minutes*) Mr. Paul Matson
..... Mr. Anthony Guarino
..... Ms. Jessica Thomas
Government Relations Officer

5. Presentation, Discussion, and Appropriate Action Regarding the 2020 Five-Year Rule Review Report (*estimated time: 10 minutes*) Mr. Paul Matson
..... Mr. Anthony Guarino
..... Ms. Jessica Thomas

6. Presentation, Discussion, and Appropriate Action Regarding the Internal Audit Quarterly Update (*estimated time: 10 minutes*) Mr. Paul Matson
..... Mr. Anthony Guarino
..... Mr. Harold Mackey
Chief Internal Auditor

7. Review of Recently Conducted Audits Mr. Paul Matson
..... Mr. Anthony Guarino
..... Mr. Harold Mackey
 - Health Insurance Premium Benefits-Enrollee Updates for Other Employers – Internal Process
 - Information Risk Management (IRM) Tool – Risk Assessment – Internal Process

8. Call to the Public..... Mr. Clark Partridge

Those wishing to address the ASRS OALC will be requested to do so telephonically. Trustees of the OALC are prohibited by A.R.S. § 38-431.01(H) from discussing or taking legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. As a result of public comment, the OALC may direct staff to study and/or reschedule the matter for discussion and decision at a later date.

9. Requests for Future Agenda Items..... Mr. Clark Partridge
..... Mr. Anthony Guarino

10. The next regular public OALC meeting is scheduled for Wednesday, July 8, 2020, at 2:30 p.m.

Regarding the following agenda item, pursuant to A.R.S. § 38-431.03(A)(2), notice is hereby given to Trustees of the ASRS OALC and the general public that the ASRS OALC may vote to go into executive session, which will not be open to the public, for the purpose of discussion or consideration of records exempt by law from public inspection.

11. Presentation, Discussion, and Appropriate Action Regarding the ASRS Group Dental Services Solicitation and Request for Proposal (RFP) (estimated time: 20 minutes)..... Mr. Paul Matson
..... Mr. Anthony Guarino
..... Ms. Martha Rozen
Chief of Administrative Services
..... Ms. M. Harrison
Budget Manager, Administrative Services Division

Regarding the following agenda item, pursuant to A.R.S. § 38-431.03(A)(2), notice is hereby given to Trustees of the ASRS OALC and the general public that the ASRS OALC may vote to go into executive session, which will not be open to the public, for the purpose of discussion or consideration of records exempt by law from public inspection.

12. Presentation, Discussion, and Appropriate Action Regarding the ASRS Information Security Program (estimated time: 20 minutes) Mr. Paul Matson
..... Mr. Anthony Guarino
..... Mr. Jeff Hickman
Information Security Officer

13. Adjournment of the OALC

A copy of the agenda background material provided to the OALC Trustees (with the exception of material relating to possible executive sessions) is available for public inspection at the ASRS offices located at 3300 North Central Avenue, 14th Floor, Phoenix, Arizona and 4400 East Broadway Boulevard, Suite 200, Tucson, Arizona. The agenda is subject to revision up to 24 hours prior to meeting. These materials are also available on the ASRS website (<https://www.azasrs.gov/content/board-and-committee-meetings>) approximately 48 hours prior to the meeting.

Persons with disabilities may request alternate formats of this document by contacting Tracy Darmer, ADA Coordinator at (602) 240-5378 in Phoenix, at (520) 239-3100, ext. 5378 in Tucson, or 1-800-621-3778, ext. 5378 outside metro Phoenix or Tucson. Requests should be made as early as possible to allow time to arrange the accommodations.

Dated April 1, 2020

ARIZONA STATE RETIREMENT SYSTEM

Signature on File

Melanie Alexander
Committee Administrator

Signature on File

Anthony Guarino
Deputy Director and Chief Operations Officer

Agenda Item #2



ARIZONA STATE RETIREMENT SYSTEM

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*Paul Matson
Director*

MINUTES OF A PUBLIC MEETING OF THE ARIZONA STATE RETIREMENT SYSTEM OPERATIONS, AUDIT & LEGISLATIVE COMMITTEE

**Wednesday, January 8, 2020
2:30 p.m., Arizona Time**

A quorum of the Operations, Audit & Legislative Committee (OALC) of the Arizona State Retirement System (ASRS) met in public session in the 14th Floor Conference Room of the ASRS Office, 3300 N. Central Avenue, Phoenix, Arizona 85012.

Mr. Clark Partridge, Chair of the OALC, called the meeting to order at 2:31 p.m.

The meeting was teleconferenced to the ASRS office at 4400 E. Broadway, Tucson, Arizona 85711.

1. Call to Order; Roll Call; Opening Remarks

Present: Mr. Clark Partridge, Chair
Mr. Tom Manos, Vice-chair
Mr. Rene Guillen

A quorum of the Committee was present for the purpose of conducting business.

Mr. Clark Partridge, Chair, welcomed the attendees and thanked staff for their hard work and preparation for the meeting.

2. Approval of the Minutes of the October 9, 2019 Public Meeting and Executive Session of the OALC

Motion: Mr. Rene Guillen moved to approve the Minutes of the October 9, 2019, Public Meeting and Executive Sessions of the OALC. Mr. Tom Manos seconded the motion.

By a vote of 3 in favor, 0 opposed, 0 abstentions, and 0 excused, the motion was approved. The Trustee votes were as follows:

Mr. Clark Partridge – approved
Mr. Tom Manos – approved
Mr. Rene Guillen – approved

3. Presentation, Discussion, and Appropriate Action Regarding an Update on the ASRS Fiscal Year (FY) 2020 Administrative Spending Plan

Mr. Anthony Guarino announced there were a couple of changes made to the ASRS FY 2020 Spending Plan. Although the changes adjusted the bottom line target only minimally, staff felt they

were worthy of noting. Mr. Guarino turned the presentation over to Ms. Martha Rozen, Chief of Administrative Services and Mr. Chris Gustafson, Budget and Procurement Manager.

Mr. Gustafson provided an overview to the Committee of the budget changes since the July 26, 2019 Board Meeting when the Board approved the ASRS budget. The budget that was approved aligned security measures with continuous appropriations. To be consistent with policy, the budget team has found two items; the cost of cyber security insurance and professional security consulting services, that should be aligned to continuous appropriations funding which is reflected in the spreadsheet presented. Further, Mr. Gustafson indicated the ASRS identified additional priorities the agency believes must be addressed in FY 2020, which are as follows:

- Technology Services Technical Debt Sprints – to address and make required changes to code on completed projects that were not incorporated or coordinated before release into production.
- Manual Disbursements project – to create a systematic preventative review workflow for the manual change process of payment amounts and payment methods. External auditors identified this review step during a recent audit to mitigate the risk of fraudulent information.
- Benefits Self-Insurance project – to determine requirements to change to a self-insured model for health, pharmacy, and dental benefits for retirees and other eligible participants. This effort includes legal and professional expert consulting services to assist with the assessment and evaluation.

Mr. Gustafson concluded by stating the Budget team believes these shifts will have a minimal impact on the budget and still allow the ASRS to stay within its goal of 3% reduction of base administration spending since FY 2017 as outlined by the Board. Mr. Gustafson responded to questions from the Committee.

4. Presentation, Discussion, and Appropriate Action Regarding the Internal Audit Quarterly Update

Mr. Harold Mackey reviewed the quarterly audit report with the Committee and provided the status of projects Internal Audit Division (IAD) is currently working on. Mr. Mackey noted the items in the “Follow-up Monitoring” primarily focused on the Cash Control Audit findings identified in the CliftonLarsenAllen assessment completed a couple of years ago. With CliftonLarsenAllen onsite next week, IAD will be reviewing what they have been monitoring to determine if there are new risks or new assessments determined. Mr. Mackey briefly touched on the additional items on the “Follow-up Monitoring” slides in addition to reviewing the “Legislation Implementation”, and “Budget/Hours Allocation” slides. Mr. Mackey advised it is time to reach out to our foreign annuitants; therefore, the planning for this will begin next week.

Mr. Mackey responded to questions from the Committee.

5. Review of Recently Conducted Audits

Mr. Mackey turned the presentation over to Mr. Andrew Burch, ASRS Audit Officer, who reviewed the following audit conducted by the IAD:

a. Health Insurance Benefits Plans & Carriers – Internal Process

The IAD had eight findings from the ASRS Health Insurance Benefits Plans & Carriers review of internal processes. The agency agreed with the findings. Some of the recommendations will require a Service Request and placed on a priority list to be completed in the future, as project teams are available.

6. Presentation, Discussion, and Appropriate Action Regarding the ASRS Technology Services Division (TSD) Status and Update on the Plan and Activities

Mr. Guarino introduced the topic indicating it was time for an update on TSD plans and activities as it has been some time. TSD updates were regularly reported but as the program matured it became less risky and more routine although not less consequential. Mr. Guarino introduced Mr. Dave King, Assistant Director, Chief Information Officer, TSD, to discuss the plans and activities of the division.

Mr. King opened the presentation indicating the division is currently shifting its priorities. The Oracle Modernization Project is nearing completion with approximately one more year remaining. Upon completion, it will mark the shutdown of a second legacy system of the agency's custom pension administration system within the last ten years. The next step is to ensure that the ASRS' systems continue to be well maintained, responsive and highly effective while minimizing costs.

Mr. King provided an overview of the following major initiatives TSD has planned:

- Best practice review
- Security
- DevOps
- Cloud Migration
- Technical Debt

Additionally, Mr. King provided a summary of the following with the Committee:

- Recent TSD Team Structure Changes
- New Permanent TSD Team Structure (2020-2024)
- Major Planned Initiatives (2020-2024)
- Major Initiatives not yet planned (2022+)

7. Call to the Public

No members of the public requested to speak.

8. Presentation, Discussion, and Appropriate Action Regarding the ASRS Information Security Program

Prior to the call for a motion to move into executive session, Mr. Clark Partridge read the following statement: Pursuant to A.R.S. 38-431.03(B), minutes of and discussions made in executive session are required by law to be confidential and shall not be communicated to any person outside this meeting room.

Motion: Mr. Tom Manos moved to go into executive session pursuant to A.R.S. § 38-431.03(A)(2) for the purpose of discussion or consideration of records exempt by law from public inspection. Mr. Rene Guillen seconded the motion.

By a vote of 3 in favor, 0 opposed, 0 abstentions, and 0 excused, the motion was approved. The Trustee votes were as follows:

Mr. Clark Partridge – approved
Mr. Tom Manos – approved
Mr. Rene Guillen – approved

The Committee convened to Executive Session at 3:21 p.m.

The Committee reconvened to Public Session at 4:02 p.m.

Motion: Mr. Rene Guillen moved to accept the ASRS-SEC-100-Cybersecurity Governance Program policy as presented and forward to the full Board for approval. Mr. Tom Manos seconded the motion.

By a vote of 3 in favor, 0 opposed, 0 abstentions, and 0 excused, the motion was approved. The Trustee votes were as follows:

Mr. Clark Partridge – approved
Mr. Tom Manos – approved
Mr. Rene Guillen – approved

9. Requests for Future Agenda Items

None were requested.

10. The next regular public OALC meeting is scheduled for Wednesday, April 8, 2020, at 2:30 p.m., at 3300 N. Central Avenue, in the 14th Floor Conference room, Phoenix, Arizona.

Mr. Clark Partridge noted the next OALC meeting is scheduled for Wednesday, April 8, 2020 at 2:30 p.m.

11. Adjournment of the OALC

Motion: Mr. Tom Manos moved to adjourn the meeting at 4:03 p.m. Mr. Rene Guillen seconded the motion.

By a vote of 3 in favor, 0 opposed, 0 abstentions, and 0 excused, the motion was approved. The Trustee votes were as follows:

Mr. Clark Partridge – approved
Mr. Tom Manos – approved
Mr. Rene Guillen – approved

Respectfully Submitted,

Melanie A. Alexander
Committee Administrator
ARIZONA STATE RETIREMENT SYSTEM

Confidential Materials

Note: Executive
Session Minutes
have been provided
to the Committee and
not included in this
book

Agenda Item #3



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

TO: Mr. Clark Partridge, Chair, Arizona State Retirement System (ASRS) Operations, Audit, and Legislative Committee (OLAC)

FROM: Mr. Paul Matson, Director
Mr. Anthony Guarino, Deputy Director and Chief Operations Officer,
Mr. Jeremiah Scott, Assistant Director, Member Services Division (MSD)
Ms. Michele Briggs, Employer Relations Manager, MSD
Mr. Patrick Toto, Employer Relations Supervisor, MSD

DATE: March 25, 2020

RE: **Agenda Item #3:** Presentation, Discussion, and Appropriate Action Regarding an Update of the ASRS Employer Compliance

Background:

The Employer Compliance program was added to the Employer Relations team in February 2018. The focus of the program is to take a proactive approach comparing historical and current data to anticipate and reduce risk. This includes expanding the team concept to other areas as well as collaborating with our employer partners.

The Employer team, in conjunction with Ms. Michele Briggs and Jeremiah Scott, had scheduled to meet, in person, with three employers during the 1st quarter of 2020, but due to the current circumstances, these meetings have been postponed. The primary goal of the onsite meetings is to determine if any enhancements can be made to our communications or service methods and to discuss educational opportunities.

Purpose:

This is a mid-year update of the Health Insurance Premium Benefit compliance project and an overview of the remaining scheduled compliance projects.

Results:

- A total of 286 employers have been identified during the Health Insurance Premium Benefit project that had potential anomalies.
- Of the 286 employers surveyed, we were able to obtain 100% response rate.
- Out of the 286 employers, 61 employers were noted as needing follow up and possible further action.
- All 61 employers have been contacted to provide further clarification on the anomalies and education on the proper application of A.R.S. 38-783 E.
- Past onsite meetings have been very positive, some comments made:
 - Overall , very happy with ASRS services
 - Contribution Accounting is always responsive

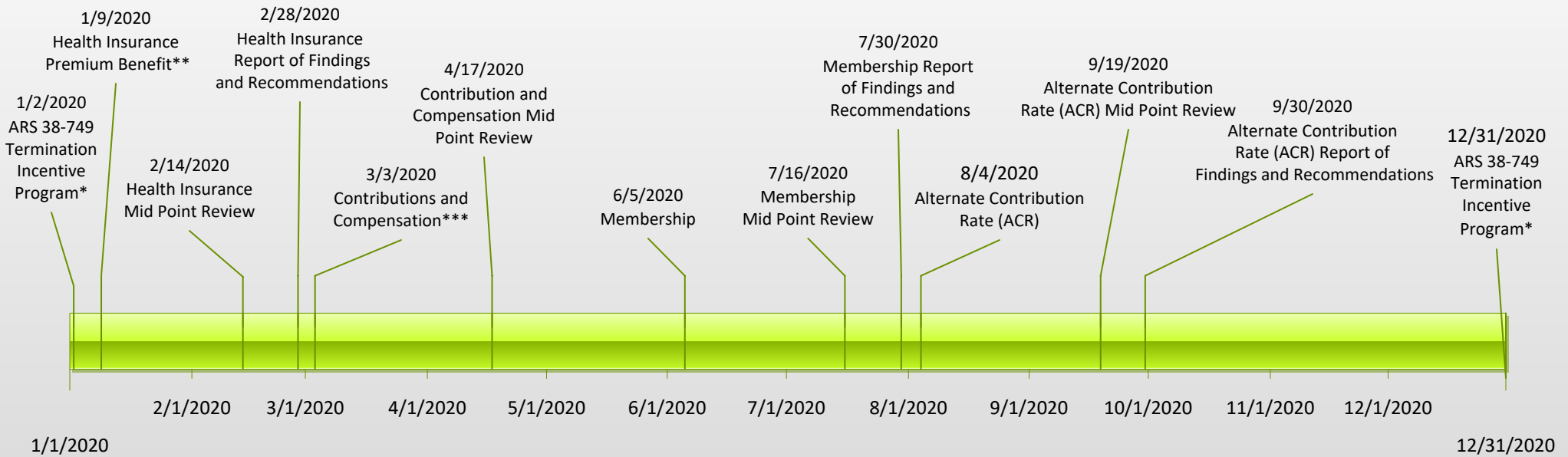
- Some employers would like more onsite member meetings to understand ASRS benefits better and understand the value of those benefits.
- ASRS staff is always helpful
- Employers appreciated the onsite meeting and would like to meet with us again
- Liked that executive contacts are being added for better communication

Employers tentatively scheduled to meet 2nd Qtr. 2020:

- U of A
- Tucson U.S.D.
- Northwest Fire District

Enhancements moving forward:

- Setting deadlines to ensure we are creating a proactive partnership with our employers instead of being an enforcer.
- Identifying and reducing errors to mitigate monetary impact to both the ASRS and our employer partners.
- Adding additional employer and member meetings to enhance communication, education to members and employers, reduce calls to MAC, mitigate errors and use our resources more efficiently.



*ARS 38-749 Termination Incentive Program began 3rd quarter of 2018. The reports and process is completed and worked monthly.

**Process Creation and Education = Letter creation (if needed), initial contacts and education, information/list of employees affected sent to each identified employer, and requests for Change Delete forms.

***Process Creation and Education = Letter creation (if needed), employer contact and education, information/list of employees affected sent to each identified employer, and requests any forms needed or corrections to be reported to Contribution Accounting.

Agenda Item #4



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

MEMORANDUM

TO: Mr. Clark Partridge, Chair, Arizona State Retirement System (ASRS) Operations, Audit, and Legislative Committee (OALC)

FROM: Mr. Paul Matson, Director
Mr. Anthony Guarino, Deputy Director and Chief Operations Officer
Ms. Jessica Thomas, Government Relations Officer

DATE: March 30, 2020

RE: **AGENDA ITEM No. 4:** Presentation, Discussion and Appropriate Action Regarding the 2019 Rulemaking Initiative Regarding Calculating Benefits

Purpose

To provide a draft of the rulemaking related to several rules regarding calculating benefits.

Recommendation

Approve the draft rulemaking language to be filed with the Secretary of State.

Background

The 2018 Regulatory Agenda listed R2-8-126 to be amended to clarify requirements related to retirement eligibility and applications. The 2019 Regulatory Agenda listed R2-8-115 and R2-8-120 to be amended to clarify requirements related to return of contributions, survivor benefits, beneficiary designation, and spousal consent. Based on the interconnected nature of these rules, staff determined to amend all these rules in one rulemaking in order to be consistent.

Ms. Jessica Thomas, Government Relations Officer, will provide a brief update of the status of this rulemaking.

Attachments: Notice of Proposed Rulemaking re Calculating Benefits

**NOTICE OF PROPOSED RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
R2-8-115	Amend
R2-8-120	Repeal
R2-8-126	Amend
R2-8-127	New Section
R2-8-128	New Section
R2-8-129	New Section
R2-8-130	New Section
R2-8-131	New Section
R2-8-132	New Section
R2-8-133	New Section

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 38-714(E)(4)

Implementing statutes: A.R.S. §§ 38-760, 38-762, 38-763, and 38-764

3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rules:

Notice of Docket Opening: 23 A.A.R. XX

4. The agency’s contact person who can answer questions about the rulemaking:

Name: Jessica A.R Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Ste. 1400

Phoenix, AZ 85012-0250
Telephone: (602) 240-2039
E-Mail: JessicaT@azasrs.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The ASRS needs to update its rules regarding the various retirement options and survivor benefits to better reflect necessary application 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:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administrates how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, 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 rule will have minimal economic impact, if any, because it merely clarifies what information is required in order to submit a retirement or survivor benefit application and how the ASRS will process such applications.

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., Ste. 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2039

E-Mail: JessicaT@azasrs.gov

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: July XX, 2020
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 requires 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:

There are no federal laws applicable to these rules.

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

Section

- 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~~
- ~~R2-8-120. Designating a Beneficiary; Spousal Consent to Designation Repealed~~
- R2-8-126. Calculating Optional Forms of Benefits Retirement Application
- R2-8-127. Re-Retirement Application
- R2-8-128. Joint and Survivor Retirement Benefit Options
- R2-8-129. Period Certain and Life Annuity Retirement Options
- R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant
- R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation
- R2-8-132. Survivor Benefit Options
- R2-8-133. Survivor Benefit Applications

ARTICLE 1. RETIREMENT SYSTEM

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~~

A. The following definitions apply to this Section unless otherwise specified:

~~1.~~ “Acceptable documentation” means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.

~~2.~~1. “Eligible retirement plan” means the same as in A.R.S. § 38-770(D)(3).

~~3.~~2. “Employer number” means a unique identifier the ASRS assigns to a member employer.

~~4.~~3. “Employer plan” means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).

4. “LTD” Means the same as in R2-8-301.

5. “On file” means ASRS has received the information.

~~5.~~6. “Process date” means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.

~~6.~~7. “Warrant” means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member’s contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member’s contributions.

C. Upon request to withdraw by the member, the ASRS shall provide:

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer, if ASRS has received contributions for the member within the six months immediately preceding the date the member submitted the request to ASRS.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number or United States Tax Identification number;
3. The member's current mailing address, if not On File with ASRS;
4. ~~The member's daytime telephone number, if applicable;~~
- 5.4. The member's birth date, if not On File with ASRS;
6. ~~The date of termination;~~
- 7.5. Dated Notarized signature of the member certifying that the member:
 - a. Is no longer employed by any ~~ASRS employer~~Employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an ~~ASRS employer~~Employer;
 - c. Is not currently in a leave of absence status with an ~~ASRS employer~~Employer;

- d. Understands that each of the member's former ~~ASRS employers~~Employers will complete a an ending payroll verification form if payroll transactions occurred with the ASRS has received contributions for the member employer within the six months before immediately preceding the process date the member submitted the request to ASRS;
- e. Understands that the member's most recent Employer will complete an ending payroll verification form for the member if the member has reached the member's required beginning date pursuant to A.R.S. § 38-775;
- e. f. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application and the member elects to waive the member's 30-day waiting period to consider a rollover or a cash distribution;
- f. g. Understands that the member is forfeiting all future retirement rights and privileges of membership with ~~the~~ ASRS;
- g. h. Understands that ~~long term disability~~LTD benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
- h. i. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;

- i. j. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and
- j. k. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for ~~rollover~~ roll over will be paid directly to the member and any taxable amounts will be subject to ~~20% federal income tax withholding and 5% state~~ applicable tax withholding;
- l. Understands that the member is not considered terminated and cannot withdraw the member's ASRS contribution if the member was called to active military service and is not currently performing services for an Employer;
- m. Understands that any person who knowingly makes any false statement with an intent to defraud the ASRS is guilty of a Class 6 felony in accordance with A.R.S. §38-793.

8.6. Specify that:

- a. The entire amount of the distribution be paid directly to the member,
- b. The entire amount of the distribution be ~~transferred~~ rolled over to an eligible retirement plan, or
- c. An identified amount of the distribution be ~~transferred~~ rolled over to an eligible retirement plan and the remaining amount be paid directly to the member; and

9. ~~7.~~ If the member selects all or a portion of the withdrawal be ~~paid~~ rolled over to an eligible retirement plan, specify;
- a. The type of eligible retirement plan; and
 - ~~b. The eligible retirement plan account number, if applicable; and~~
 - ~~e.~~ b. The name and mailing address of the eligible retirement plan.
- ~~E.~~ If the member requesting the withdrawal has been inactive for five years or more, and if the member's account balance is \$1,000 or more, the member requesting the withdrawal shall provide a copy of a driver license or a form of other government issued identification to the ASRS.
- ~~F.~~ E. If ASRS has received contributions a payroll transaction for the member occurred with any ASRS employer within six months before immediately preceding the process date the member submitted the request to ASRS each ASRS employer Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:
- 1. The member's full name;
 - 2. The member's Social Security number or United States Tax Identification number;
 - 3. The member's termination date;
 - 4. The member's final pay period ending date;
 - 5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 - 6. The ~~ASRS employer's~~ Employer's name and telephone number;
 - 7. The ~~employer~~ Employer number;

8. The name and title of the authorized ~~employer~~Employer representative;
9. Certification by the authorized ~~employer~~Employer representative that:
 - a. The member ~~terminated employment~~Terminated Employment and is neither under contract nor bound by any verbal or written agreement for employment with the ~~employer~~Employer;
 - b. There is no agreement to re-employ the member; and
 - c. ~~The authorized employer representative has the legal power to bind the employer in transactions with the ASRS; and~~ Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and
 - d. The authorized Employer representative certifies that they are the Employer user named on the Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form and their title and contact information is current and correct.
10. ~~The signature of the authorized employer representative and date of signature.~~

F. If the member has attained a required beginning distribution date as of the date the member submitted the request to ASRS, the most recent Employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the information contained in subsection (E).

G. If the member requests a return of contributions and a warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.

- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a ~~domestic relations order~~ certified copy or original DRO that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** A member may cancel an Application for Withdrawal of Contributions and Termination of Membership form at any time before the return of contributions is disbursed by submitting written notice to ASRS to cancel the request.
- K.** If an Application for Withdrawal of Contributions and Termination of Membership form is completed through the member's secure ASRS account, the secure login and successful submission of the knowledge based answers shall serve as the member's notarized signature required under subsection (D)(5).

~~J. Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, acceptable documentation that is on file with the ASRS that was received prior to the date of the member's death, unless otherwise provided by law.~~

~~K. If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § 38-762(E). The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall:~~

- ~~1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;~~
- ~~2. Provide a certified copy of the court order of appointment as administrator, if applicable; and~~
- ~~3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
 - ~~a. The deceased member's full name,~~
 - ~~b. The deceased member's Social Security number,~~
 - ~~c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
 - ~~i. Full name;~~
 - ~~ii. Mailing address;~~
 - ~~iii. Contact telephone number;~~
 - ~~iv. Date of birth, if applicable; and~~
 - ~~v. Social Security number or Tax ID number, if applicable.~~~~~~

R2-8-120. Designating a Beneficiary; Spousal Consent to Designation Repealed

- A.** ~~The following definitions apply to this Section unless otherwise specified:~~
- ~~1. “DRO” means the same as “domestic relations order” in A.R.S. § 38-773(H)(1).~~
 - ~~2. “Joint and survivor annuity” means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).~~
 - ~~3. “Period certain and life annuity” means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).~~
 - ~~4. “Spouse” means the individual to whom a member is married under Arizona law.~~
- B.** ~~Effective July 1, 2013, a married member:~~
- ~~1. Who is not retired shall name and maintain the member’s current spouse as primary beneficiary of at least 50 percent of the member’s retirement account unless:
 - ~~a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or~~
 - ~~b. The spouse consents to an alternate beneficiary; and~~~~
 - ~~2. Who retires shall choose a joint and survivor annuity and name the member’s current spouse as contingent annuitant of at least 50 percent of the member’s retirement benefit unless the spouse consents to an alternative.~~
- C.** ~~Application of subsection (B).~~
- ~~1. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (B).~~
 - ~~2. The ASRS shall not apply subsection (B) to a lump-sum retirement authorized under A.R.S. § 38-764.~~

3. ~~The ASRS shall not apply subsection (B) if a member submits a letter to the ASRS in which the member affirms under penalty of perjury that spousal consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).~~

D. ~~Changing a beneficiary designation:~~

1. ~~If a married member changes a beneficiary designation on or after July 1, 2013, the member shall ensure that the new beneficiary designation is consistent with the requirements specified in subsection (B);~~
2. ~~If a married member who retired before July 1, 2013, and:~~
 - a. ~~Chose a straight life annuity wishes to change the member's beneficiary, the member shall ensure that the new beneficiary designation is consistent with subsection (B); or~~
 - b. ~~Chose a period certain and life annuity or joint and survivor annuity wishes to change either the annuity option or the contingent annuitant, the member shall ensure that the new beneficiary designation is consistent with subsection (B).~~

E. ~~Re-retirement. A married member who re-retires, as described in A.R.S. § 38-766:~~

1. ~~Within 60 months of the member's previous retirement date, shall elect the same annuity option and beneficiary as the member made at the time of the previous retirement; or~~
2. ~~More than 60 months after the member's previous retirement date, shall comply with subsection (B).~~

F. ~~Involuntary cancellation of retirement. If a married member retires on or after July 1, 2013, and is issued one or more estimate checks but fails to comply with subsection (B) within~~

~~30 days after the member's effective retirement date, the member shall submit a signed letter to ASRS stating that the member's spouse refuses to consent to the chosen alternative and asking that the retirement be cancelled. The member may submit another retirement application that complies with subsection (B). The member's new effective retirement date is the date ASRS receives the new application. ASRS shall not issue additional estimate checks to a member whose retirement was involuntarily cancelled.~~

G. Survivor benefits:

- ~~1. If a married member last made a beneficiary designation before July 1, 2013, the ASRS shall, at the time of the member's death, honor the beneficiary designation even if the beneficiary designation is not consistent with the requirements specified in subsection (B); and~~
- ~~2. If a married member made a beneficiary designation on or after July 1, 2013, that is not consistent with the requirements specified in subsection (B), the ASRS shall, at the time of the member's death:~~
 - ~~a. Notify both the spouse and designated beneficiary and:
 - ~~i. Provide the spouse with an opportunity to waive the right under subsection (B); and~~
 - ~~ii. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (B); and~~~~
 - ~~b. Designate 50 percent of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond under subsection (G)(2)(a) within 30 days after notification.~~

~~H. Effect of legal documents. In general, a legal document such as a QDRO or prenuptial agreement will supersede the requirements in subsection (B). The ASRS shall ask the Office of the Attorney General to review the legal document before the ASRS decides how to disburse the retirement benefit.~~

~~I. Spousal waiver and consent; consent revocation~~

- ~~1. The current spouse of a member has a right to:
 - a. Be designated as primary beneficiary of at least 50 percent of the member's retirement account, and
 - b. Have the member choose a joint and survivor annuity with the spouse as contingent annuitant of at least 50 percent of the retirement benefit.~~
- ~~2. To waive the right described in subsection (I)(1) and consent to an alternative, the current spouse shall complete and have notarized a spousal consent form, which is available from the ASRS. If the current spouse is not capable of completing the spousal consent form because of a documented incapacitating mental or physical condition, a person with power of attorney or a conservator may complete the spousal consent form on behalf of the current spouse.~~
- ~~3. A spouse may revoke a waiver and consent by sending written notice to ASRS and ensuring the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.~~

R2-8-126. Calculating Optional Forms of Benefits Retirement Application

A. For the purposes of this Section, the following definitions apply, unless stated otherwise:

1. ~~“Prior service credit” means a “service credit” listed in R2-8-501(24), credited service that is earned according to A.R.S. § 38-739, or a service credit that is transferred or redeemed according to A.R.S. §§ 38-730, 38-771, or 38-921 et seq.~~
“Acceptable documentation” means any written request containing all the accurate, required information, dates, and signatures necessary to process the request.
2. “Acceptable form” means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
3. “Applicable retirement date” means the later of:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member re-retires from the ASRS after returning to active membership.
4. “Conservator” means the same as in A.R.S. § 14-7651.
5. “DRO” means the same as “domestic relations order” in A.R.S. § 38-773(H)(1).
6. “Joint and survivor retirement benefit option” means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
7. “Legal Documentation” means:
 - a. One document issued from a United States government entity; or
 - b. Two documents issued from one or more federal, state, local, sovereign, medical, or religious institution.
8. “LTD” means the same as in R2-8-301.
9. “Irrevocable PDA” means the same as in R2-8-501.
10. “On file” means the same as in R2-8-115.
- ~~2.~~ 11. “Original retirement date” means the later of:

- a. The date a member retires from the ASRS for the first time; or
- b. The date a member re-retires from the ASRS after returning to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C).

11. “Period certain and life annuity retirement benefit option” means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).

12. “Spouse” means the individual to whom a member is married under Arizona law.

13. “Straight life annuity” means the same as monthly life annuity according to A.R.S. § 38-757.

~~**B.** An individual who is 104 years of age or older at the time of retirement is not eligible to elect an option of life annuity with a term certain.~~

~~**C.** An individual who is 93 years of age or older at the time of retirement is not eligible to elect the options of life annuity with ten years certain or life annuity with 15 years certain.~~

~~**D.** An individual who is 85 years of age or older at the time of retirement is not eligible to elect the option of life annuity with 15 years certain.~~

B. A member may retire from the ASRS by submitting a Retirement Application to the ASRS that contains the following information:

1. The member’s full name;
2. The member’s Social Security number or United States Tax Identification number;
3. The member’s marital status, if not On File with ASRS;
4. The member’s current mailing address; if not On File with ASRS;
5. The member’s date of birth, if not On File with ASRS;
6. A retirement date according to A.R.S. § 38-764(A);

7. The retirement option the member is electing;
8. If the member is electing to roll over a lump sum distribution amount to another retirement account, then:
 - a. The type of account and account number, if applicable, to which the member is electing to roll over the lump sum distribution; and
 - b. The name and address of the financial institution of the account to which the member is electing to roll over the lump sum distribution;
9. The following information for each primary beneficiary, unless the member is receiving a mandatory lump sum distribution under subsection (M):
 - a. The beneficiary's full name;
 - b. The beneficiary's Social Security number, if the beneficiary is a U.S. citizen;
 - c. The beneficiary's date of birth;
 - d. The beneficiary's relationship to the member; and
 - e. The percent of benefit the beneficiary may receive upon death of the member, if the member is designating more than one beneficiary.
10. Whether the member is electing the Optional Health Insurance Premium Benefit;
11. The following spousal consent information, if the member is married and is electing a retirement option other than a Joint and Survivor Retirement Benefit Option with at least 50% of the retirement benefit designated to the member's spouse:
 - a. Whether the member's spouse consents to the member making a beneficiary election that provides the member's spouse with less than 50% of the member's account balance;

- b. Whether the member's spouse consents to the member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
 - c. The member's spouse's full name; and
 - d. The member's spouse's notarized signature;
12. Whether the member is electing to receive a partial lump sum distribution according to A.R.S. § 38- 760 and if so:
- a. How many months of annuity, up to 36 months, the member is electing to receive as a partial lump sum;
 - b. Whether the member is electing to directly receive the partial lump sum distribution reduced by applicable tax withholding amounts;
 - c. Whether the member is electing to roll over all or a portion of the partial lump sum distribution amount to one other retirement account; and
 - d. Whether the member is electing to use the partial lump sum distribution to purchase service credit with ASRS based on a service purchase request dated before January 6, 2013;
13. Acknowledgement of the following statements of understanding:
- a. The member is aware of the member's LTD stop-payment date and any disability benefits the member is receiving shall cease upon the retirement date the member elects according to subsection (B)(6);
 - b. The member understands that if an overpayment exists, ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with ASRS LTD claims administrator shall cease;

- c. The member understands that if the member is submitting written notice of a changed retirement date, benefit option, or partial lump sum increment selection, ASRS shall distribute the member's benefit as of the later of:
 - i. The date ASRS receives the most recent Acceptable Documentation; or
 - ii. The retirement date contained in the most recent Acceptable Documentation.
 - d. The member has received the Special Tax Notice Regarding Plan Payments;
 - e. The member has received the Return to Work information and will comply with the laws and rules governing the member's return to work;
 - f. The member authorizes ASRS and the banking institution identified in subsection (W) to debit the member's account for the purposes of correcting errors and returning any payments inadvertently made after the member's death;
 - g. The member understands that the member may have a one-time option to rescind a Joint and Survivor Retirement Benefit Option or a Period Certain and Life Annuity Retirement Benefit Option according to R2-8-130;
 - h. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
 - i. The member acknowledges that the member has complied with A.R.S. §§ 38-755 and 38-776 regarding spousal consent; and
14. The member's notarized signature.

- C.** If a Retirement Application is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(14).
- D.** If the retirement date the member elects according to subsection (B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.
- E.** A member who elects to roll over all or a portion of the partial lump sum distribution amount according to subsection (B)(12)(c), shall submit the following written information to the ASRS:
- 1.** The type of account and account number to which the member is electing to roll over;
 - 2.** The name and address of the financial institution of the account to which the member is electing to roll over; and
 - 3.** If the member is electing to roll over a portion of the partial lump sum distribution, then the amount the member is electing to roll over.
- F.** If the member elects to roll over all or a portion of their lump sum or partial lump sum distribution, the ASRS shall only roll over the distribution to one retirement account.
- G.** Any portion of the partial lump sum distribution that is not rolled over to another retirement account according to subsection (B) shall be distributed directly to the member.
- H.** If the member elects to use the partial lump sum distribution to purchase service credit according to subsection (B)(12)(d) the member shall submit the following written information to the ASRS:
- 1.** The number of the service purchase invoice;

2. Whether the member is electing to apply the partial lump sum distribution to all eligible service on that invoice;
 3. If the member is not electing to apply the partial lump sum distribution to all eligible service on that invoice, then:
 - a. The amount of the partial lump sum distribution to be applied to that invoice; or
 - b. The number of years on that invoice the member is electing to purchase with the partial lump sum distribution;
 4. If the member is electing to make a payment on that service purchase invoice with after-tax payments, a rollover, or termination pay according to A.R.S. § 38-711;
 5. Whether the member is electing to authorize the ASRS to increase the number of months of annuity, not to exceed 36 months, to purchase the eligible service on that service purchase invoice, if the member elected an insufficient number of months of annuity to receive as a partial lump sum according to subsection (G) to complete the service purchase invoice;
 6. If the member does not have eligible service to purchase on that invoice, whether the member is electing to cancel the member's election to receive a partial lump sum distribution.
- I.** A member who elects to receive a partial lump sum distribution shall receive an actuarially reduced annuity retirement benefit according to A.R.S. § 38-760.
- J.** ASRS shall disburse any partial lump sum amount that is not applied to a service purchase invoice according to subsection (G) directly to the member after withholding applicable taxes.

- K.** After submitting a Retirement Application according to subsection (B), a member may make changes to the member's Retirement Application by submitting written notice to the ASRS of the specific changes according to A.R.S. § 38-764(H).
- E-L.** If ASRS has received contributions for the member within the three years immediately preceding the member's retirement date, the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer. If ASRS has received contributions for the member within the six months immediately preceding the member's retirement date and the member shall receive a one-time lump sum payment according to subsection (P), the ASRS shall send a New Retirement Ending Payroll Verification form to the Employer.
- M.** If the member has reached the age for minimum required distribution according to A.R.S. § 38-775(H)(4), the ASRS shall send a New Retirement Ending Payroll Verification form to the member's most recent Employer.
- N.** The Employer shall submit the completed New Retirement Ending Payroll Verification form to ASRS with the following information:
1. The member's Termination date or last day of ASRS membership with that Employer, if applicable;
 2. The member's total salary paid during their last fiscal year;
 3. The member's compensation for the last pay period;
 4. The name and title of the authorized Employer representative;
 5. Certification by the authorized Employer representative that:
 - a. Any person who knowingly makes any false statement or who falsifies any record of the retirement plan with an intent to defraud the plan, is guilty of a Class 6 felony according to A.R.S. § 38-793; and

b. The authorized Employer representative certifies that they are the Employer user named on the New Retirement Ending Payroll Verification form and their title and contact information is current and correct.

Q. The ASRS shall cancel a member's Retirement Application if ASRS does not receive all forms and information required under this section within six months immediately after the member's retirement date.

F.P. As authorized under A.R.S. § 38-764(F), if a member's the life annuity Straight Life Annuity, after any applicable early retirement reduction factor, of any Plan member is less than a monthly amount of \$100, determined by the Board, the ASRS shall not pay the annuity. Instead, the ASRS shall make a one-time mandatory lump sum payment in the amount determined by using appropriate actuarial assumptions.

Q. For purposes of calculating a member's retirement benefit according to A.R.S. §§ 38-758 and 38-759, ASRS shall calculate age to the nearest day as of the member's retirement date.

R. Based on the retirement option the member elects according to A.R.S. § 38-760, The the ASRS shall calculate a member's actuarially reduced or beneficiary's benefits, based on the attained age of the member, and if necessary, the attained age of the or contingent annuitant beneficiary, determined in years and full months, as of the date of the member's retirement as follows:

1. The date of the member's retirement; or For a partial lump sum retirement benefit option, ASRS shall calculate age to the nearest day as of the member's retirement date;

2. ~~The date of the member's death, if the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C). For a Joint and Survivor Retirement Benefit Option, ASRS shall calculate age to the nearest day as of the member's retirement date; and~~
 3. ~~For a mandatory lump sum payment according to subsection (O) or a Period Certain and Life Annuity Retirement Benefit Option, ASRS shall calculate age to the nearest full month in addition to calculating age according to subsection (P) as necessary.~~
- S.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- G.** ~~Before the ASRS applies the calculation for an optional form of retirement benefit provided in A.R.S. § 38-760, the ASRS shall include any prior service credit benefit that applicable to the life annuity of the member.~~
- H.** ~~A member who is ten years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 100% joint and survivor option. A member who is 24 years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 66 2/3% joint and survivor option.~~
- I.** ~~For members whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% joint and survivor option, if:~~

1. ~~The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and~~
 2. ~~The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.~~
- ~~J.~~ For member whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint and survivor option, if:
1. ~~The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and~~
 2. ~~The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.~~
- ~~K.~~ Notwithstanding subsection (F), for purposes of determining whether a member is eligible to participate in a joint and survivor option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant.
- T. If a member does not retire by the date minimum distribution payments are required according to A.R.S. §§ 38-759 and 38-775, the required minimum distribution payments will accrue interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) and in effect on the date the required minimum distribution payments should have begun.
- U. The ASRS shall distribute any required minimum distribution payments with interest according to subsection (T) with the member's first finalized benefits payment.

- V. If a member submits a retirement application after the member's minimum required distribution date, the ASRS shall determine that the member's Applicable Retirement Date is the date the required minimum distribution payments should have begun.
- W. Notwithstanding any other section, an inactive member who does not have contributions related to compensation is not eligible for retirement.
- X. The ASRS shall issue a debit benefit card, if the annuitant does not provide the following direct deposit information through the annuitant's secure ASRS account or by a notarized Direct Deposit form:
1. The member's full name;
 2. The member's bank account routing number;
 3. The member's bank account number; and
 4. The type of the account.
- Y. The ASRS shall disburse benefits payments according to subsection (R), only retroactive to the later date specified in A.R.S. § 38-759(B).
- Z. ASRS shall not issue additional estimate checks to a member whose retirement is canceled.

R2-8-127. Re-Retirement Application

- A. The definitions in R2-8-126 apply to this section.
- B. If a member has previously retired from ASRS, the member may re-retire from ASRS by submitting a Re-Retirement Application to the ASRS that contains:
1. The information identified in R2-8-126(B)(1) through (B)(8);

2. The retirement option the member is electing, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
3. The information identified in R2-8-126(B)(11);
4. Whether the member is electing the Optional Health Insurance Premium Benefit, if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
5. The information identified in R2-8-126(B)(13), if the member suspended the member's annuity from the member's previous retirement from ASRS and returned to work for 60 consecutive months or more according to A.R.S. § 38-766(C);
6. Acknowledgement of the following statements of understanding:
 - a. The member's signature confirms the member's intent to re-retire and applies to all the sections included in the Re-Retirement Application.
 - b. The member understands that as a re-retiree, the member must keep the same retirement option and beneficiary the member elected when the member previously retired from ASRS, unless the member returned to active membership for 60 consecutive months or more according to A.R.S. § 38-766(C);
 - c. The member may change the member's beneficiary after re-retiring and changing the beneficiary may change the member's monthly annuity;
 - d. The member has complied with A.R.S. §§ 38-755 and 38-766 regarding spousal consent;

- e. The member certifies that the member has read and understands the instructions and Special Tax Notice Regarding Plan Payments;
- f. The member authorizes ASRS and the banking institution the member listed for direct deposit to debit the member's account for the purpose of correcting errors and returning any payments inadvertently paid after the member's death;
- g. The member understands that any person who knowingly makes any false statement with the intent to defraud ASRS is guilty of a Class 6 felony in accordance with A.R.S. § 38-793; and
- h. The member understands that if an overpayment exists, the ASRS shall collect the remaining overpayment amount according to 2 A.A.C. 8, Article 8 and all repayment plans previously established with the ASRS LTD claims administrator shall cease.

7. The member's notarized signature.

C. If the retirement date the member elects according to R2-8-126(B)(6) is not allowed, the ASRS shall change the retirement date to the earliest eligible date according to A.R.S. 38-764(A), unless the member is not eligible to retire.

R2-8-128. Joint and Survivor Retirement Benefit Options

A. The definitions in R2-8-126 apply to this section.

B. A member who is ten years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 100% Joint and Survivor Retirement Benefit Option.

C. A member who is 24 years and one day, or more, older than the member's non-spouse contingent annuitant is not eligible to elect a 66 2/3% Joint and Survivor Retirement Benefit Option.

D. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (B), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% Joint and Survivor Retirement Benefit Option, if:

1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
2. The member submits an original or certified copy of a DRO to ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.

E. For members whose Original Retirement Date is on or after March 6, 2016, notwithstanding subsection (C), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% Joint and Survivor Retirement Benefit Option, if:

1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
2. The member submits an original or certified copy of a DRO to the ASRS which requires the ex-spouse to remain as the contingent annuitant on the member's account.

F. Notwithstanding any other section, for purposes of determining whether a member is eligible to participate in a Joint and Survivor Retirement Benefit Option, the ASRS shall

calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant. For purposes of this section, a contingent annuitant must be a living person.

R2-8-129. Period Certain and Life Annuity Retirement Options

- A.** The definitions in R2-8-126 apply to this section.
- B.** An individual who is 104 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option.
- C.** An individual who is 93 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with ten years certain or 15 years certain.
- D.** An individual who is 85 years of age or older at the time of retirement is not eligible to elect a Period Certain and Life Annuity Retirement Benefit Option with 15 years certain.
- E.** The ASRS shall calculate the period certain term as beginning on the first day of the first full calendar month following the member's Applicable Retirement Date.
- F.** Notwithstanding subsection (E), the ASRS shall calculate the period certain term as beginning on the member's Applicable Retirement Date if the member's Applicable Retirement Date is the first day of the month.

R2-8-130. Rescind or Revert Retirement Election; Change of Contingent Annuitant

- A.** The definitions in R2-8-126 apply to this section.
- B.** According to A.R.S. § 38-760(B)(2), for a member whose Original Retirement Date is after August 9, 2001, upon the expiration of a member's period certain term the ASRS

shall rescind the member's election and the ASRS shall provide the member a Straight Life Annuity retirement benefit subject to any retirement reductions applicable at the member's Original Retirement Date.

C. According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is after August 9, 2001 and before July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term.

D. According to A.R.S. § 38-760(B)(1), a member whose Original Retirement Date is before July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the member's death.

E. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Period Certain and Life Annuity Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the expiration of the member's period certain term if the member provides proof to ASRS of the death of the primary beneficiary or an original or certified copy of a DRO showing that the primary beneficiary has ceased to be a primary beneficiary.

F. A member whose Original Retirement Date is on or after July 1, 2008 and who elected a Joint and Survivor Retirement Benefit Option may exercise a one-time election to rescind the election and elect to receive a Straight Life Annuity retirement benefit prior to the death of the member if the member provides proof to ASRS of the death of the contingent

annuitant or an original or certified copy of a DRO showing that the contingent annuitant has ceased to be a contingent annuitant.

- G.** A member who elected to rescind a Period Certain and Life Annuity Retirement Benefit Option according to subsection (C) may elect to revert to the Period Certain and Life Annuity Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- H.** A member who elected to rescind a Joint and Survivor Retirement Benefit Option according to subsection (D) may elect to revert to the Joint and Survivor Retirement Benefit Option by submitting an Application to Rescind, Revert or Change Contingent Annuitant as specified in subsection (M).
- I.** A member may only revert to the same Period Certain and Life Annuity Retirement Benefit Option the member rescinded according to subsection (C) prior to the expiration of the period certain term the member elected at the member's most recent retirement.
- J.** A member who rescinds their election according to subsections (E) or (F) is not eligible to revert to a Period Certain and Life Annuity Retirement Benefit Option or a Joint and Survivor Retirement Benefit Option.
- K.** Notwithstanding any other provision, the time period of a Period Certain and Life Annuity Retirement Benefit Option shall be continuous from the member's retirement date until the term expires regardless of whether the member rescinds or reverts to another retirement option.
- L.** A member who wants to rescind or revert a retirement election according to subsections (C) through (H) shall ensure ASRS receives an Application to Rescind, Revert or Change Contingent Annuitant at least one day prior to the member's death.

M. In order to rescind, revert, or change a contingent annuitant, the member shall submit an Application to Rescind, Revert or Change Contingent Annuitant with the following information:

1. The member's full name;
2. The member's Social Security number or United States Tax Identification number;
3. The member's marital status, if not On File with ASRS;
4. Whether the member is electing to rescind, revert, or change a contingent annuitant;
5. The member's notarized signature acknowledging the following statements of understanding:
 - a. For rescinding a retirement election:
 - i. By this action, and the member's signature, the member is aware that the member's designated beneficiary or contingent annuitant will not continue with monthly benefits after the member's death;
 - ii. The member is aware that a certified copy of the member's designated beneficiary's or contingent annuitant's death certificate or an original or certified copy of a DRO is required if the member retired or re-retired on or after July 1, 2008;
 - iii. At the time of the member's death, if the ASRS has not disbursed the total employee contributions on the member's account, plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's

retirement date, the balance will be payable in a lump sum to the beneficiary named on the member's most recent Acceptable Form.

- b. For changing a contingent annuitant or beneficiary:
- i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named on the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
 - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of the contingent annuitant's Legal Documentation is required and the member's benefit will be recalculated based on the member's age and the age of the member's new contingent annuitant as of the effective date of the member's request according to this section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
- c. For reverting to a previously elected retirement benefit option according to A.R.S. § 38-760:

- i. For a Joint and Survivor Retirement Benefit Option, by this action, and the member's signature, the contingent annuitant named the member's most recent Acceptable Form will receive the previously elected percentage amount of the member's monthly benefit for their lifetime following the member's death;
 - ii. For a Joint and Survivor Retirement Benefit Option, the member is aware that a copy of Legal Documentation showing the contingent annuitant's date of birth is required and the member's benefit will be recalculated based on the member's age and the age of the member's contingent annuitant as of the effective date of the member's request according to this section;
 - iii. For a Joint and Survivor Retirement Benefit Option, the member is in compliance with the age difference limitations in R2-8-128; and
 - iv. For a Period Certain and Life Annuity Retirement Benefit Option, by this action, and the member's signature, the beneficiary named on the member's most recent Acceptable Form will receive the remaining term of monthly payments.
6. If the member is electing to change a contingent annuitant, the following information for the new contingent annuitant:
- a. Full name;
 - b. Social Security number, if the contingent annuitant is a U.S. citizen;
 - c. Date of birth; and
 - d. Legal relationship to the member.

7. If the member is married, whether the member's spouse consents to the following with the spouse's notarized signature:
- a. The member making a beneficiary designation that provides the member's spouse with less than 50% of the member's account balance;
 - b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option; or
 - c. The member changing or ending the spouse's contingent annuitant status.
8. Whether the spouse's consent is not required because:
- a. The spouse predeceased the member and if so, provide a copy of the spouse's death certificate; or
 - b. The member is divorced and if so, provide an original or certified copy of a DRO.
- N.** If the ASRS is unable to verify the age of the member or a contingent annuitant, the member or contingent annuitant shall provide Legal Documentation showing the member's or contingent annuitant's age.
- O.** The effective date of the member's request according to this section is the date on which ASRS receives the Application to Rescind, Revert or Change Contingent Annuitant.
- P.** According to A.R.S. § 38-760(B)(2), a member whose Original Retirement Date is on or after July 1, 2008 and who elects a Period Certain and Life Annuity Retirement Benefit Option, may rescind the election according to subsection (E) and elect to receive a Straight Life Annuity prior to the expiration of the member's period certain term if one or more of the member's primary beneficiaries dies or ceases to be a beneficiary according to the terms of an original or certified copy of a DRO.

Q. The ASRS shall cancel a member's Application to Rescind, Revert, or Change Contingent Annuitant if ASRS does not receive all forms and information required under this section within six months immediately after the ASRS receives the application.

R2-8-131. Designating a Beneficiary; Spousal Consent to Beneficiary Designation

A. The definitions in R2-8-126 apply to this section.

B. In order to designate a beneficiary, a member shall submit an Acceptable Form containing the following information:

1. The Member's full name and one or more of the following information:

a. The Member's Social Security number or United States Tax Identification number; or

b. The Member's address; or

c. The Member's date of birth;

2. The following information for the beneficiary:

a. The full name of the person or entity the member is designating as beneficiary;

b. Whether the beneficiary is being designated as primary or secondary beneficiary;

c. The percentage of the benefit the member is allocating to the beneficiary;
and

3. The member's notarized signature.

C. If a change in a designated beneficiary is completed through the member's secure ASRS account, the member's notarized signature is not required under subsection (B)(3).

- D.** If a member submits an Acceptable Form designating a beneficiary without indicating the percentage of the benefit the member is allocating to the beneficiary, the ASRS shall determine that each beneficiary is designated to receive an equal amount of the benefit.
- E.** Effective July 1, 2013, a married member:
- 1.** Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50% of the member's retirement account unless:
 - a.** Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
 - b.** The spouse consents to an alternate beneficiary;
 - 2.** Who retires shall choose a Joint and Survivor Retirement Benefit Option and name the member's current spouse as contingent annuitant unless:
 - a.** Naming or maintaining the current spouse as contingent annuitant violates another law, existing contract, or court order; or
 - b.** The spouse consents to an alternate contingent annuitant; or
 - c.** The spouse consents to an alternate annuity option under A.R.S. §§ 38-757 or 38-760.
- F.** The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (E).
- G.** Subsection (E) does not apply to a member who is receiving a mandatory lump sum distribution according to A.R.S. § 38-764.
- H.** Subsection (E) does not apply to a member who submits a Spousal Consent Exception form that contains the member's notarized signature to the ASRS affirming under penalty of

perjury that the member's spouse's consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).

I. In order to change a beneficiary designation, a member shall submit the information contained in subsection (B) and:

1. A married member who changes a beneficiary designation on or after July 1, 2013, shall ensure the new beneficiary designation is consistent with subsection (E); or
2. A married member who retired before July 1, 2013, and who wishes to change the contingent annuitant or beneficiary, shall ensure that the new designation is consistent with subsection (E).

J. A married member who re-retires according to A.R.S. § 38-766:

1. Within less than 60 consecutive months of active membership from the member's previous retirement date, is not eligible to elect a different annuity option or different beneficiary than the member elected at the time of the previous retirement; or
2. At least 60 consecutive months of active membership after the member's previous retirement date, may elect a different annuity option and different beneficiary than the member elected at the time of the previous retirement, and the election shall comply with subsection (E).

K. If a married member submits a retirement application that fails to comply with subsection (E), the member shall submit a new retirement application or written notice of new retirement elections that comply with subsection (E) within six months of the member's Original Retirement Date. The member's new Original Retirement Date is the date ASRS

receives the new application or written notice unless the member elects a later date according to A.R.S. § 38-764.

L. If a married member made a beneficiary designation on or after July 1, 2013, that is not consistent with the requirements specified in subsection (E), the ASRS shall, at the time of the member's death:

1. Notify both the spouse and designated beneficiary and:
 - a. Provide the spouse with an opportunity to waive the right under subsection (E); and
 - b. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (E); and
2. Designate 50% of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond to notification according to subsection (L)(1) within 30 days after notification.

M. If a married member designated a beneficiary before July 1, 2013 that does not comply with subsection (E), upon the death of the member, the member's spouse may submit written notice to the ASRS prior to disbursement of the member's account with the following information:

1. The member's full name;
2. The member's Social Security number or United States Tax Identification number;
3. The spouse's assertion to the spouse's right to community property;
4. An original or copy of the marriage certificate; and
5. An original or certified copy of the member's death certificate.

- N.** If a spouse submits written notice according to subsection (M), the ASRS shall designate the spouse as beneficiary of a percentage of the member's account according to A.R.S. §§25-211 and 25-214 and notify the member's designated beneficiary of the spouse's assertion.
- O.** The ASRS shall determine a spouse's percentage of the member's account according to subsection (L) based on the amount of service credit the member acquired during the marriage divided by the total amount of service credit the member acquired, multiplied by 50%.
- P.** If a beneficiary is notified of a spouse's assertion according to subsection (N), then before ASRS disburses a survivor benefit, the beneficiary may notify ASRS of the beneficiary's intent to appeal the spouse's right to a survivor benefit.
- Q.** Within 30 days, a beneficiary who has notified ASRS of the beneficiary's intent to appeal a survivor benefit disbursement according to subsection (P), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- R.** An original or certified copy of a DRO may supersede the requirements in subsection (B).
- S.** To consent to an alternative retirement benefit option or beneficiary designation, a member's spouse shall complete and have notarized a Spousal Consent form containing the following information:
- 1.** Member's full name;
 - 2.** Member's Social Security number or United States Tax Identification number;
 - 3.** Whether the member's spouse is consenting to one or more of the following:
 - a.** The member making a beneficiary designation that provides the spouse with less than 50% of the member's account balance;

- b. The member electing a retirement option other than a Joint and Survivor Retirement Benefit Option;
- c. The member naming a contingent annuitant other than the spouse; and
- d. The spouse's notarized signature.

T. A member's spouse may revoke the spouse's consent to an alternative retirement benefit option or beneficiary designation by sending written notice to ASRS with the following information:

- 1. The member's full name
- 2. The member's Social Security number or United State Tax Identification number;
- 3. The spouse's full name;
- 4. The spouse's dated signature indicating the spouse is revoking all previous Spousal Consent forms.

U. A spouse who is revoking a Spousal Consent form shall ensure the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

R2-8-132. Survivor Benefit Options

A. The definitions in R2-8-126 apply to this section.

B. If the beneficiary is eligible to elect the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits based on the attained age of the beneficiary, calculated to the nearest full month, as of the date of the member's death.

- C. If the beneficiary elects to receive the survivor benefit as monthly income for life according to A.R.S. § 38-762(C), the ASRS shall calculate the benefits effective date as of the day after the member's death and the ASRS shall pay interest up to the benefits effective date.
- D. According to A.R.S. § 38-763, if the member elected a Period Certain and Life Annuity Retirement Benefit Option and deceases prior to the expiration of the period certain term, the member's beneficiary may elect to complete the remaining period certain term or the beneficiary may elect to receive a lump sum distribution which is the greater of:
1. The present value of the benefits based on the remaining period certain term; or
 2. The member's ASRS account balance plus interest at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member.
- E. Notwithstanding subsection (D), a beneficiary is not eligible to elect to complete the remaining period certain term if the period certain term has expired.
- F. If the beneficiary elects to complete the remaining period certain term or elects to receive a lump sum that is the present value of the benefits based on the remaining period certain term according to subsection (D), the ASRS shall not pay interest.
- G. If a member's beneficiary or contingent annuitant does not want to receive a survivor benefit according to 26 U.S.C. § 2518, within nine months after the member's death, the beneficiary or contingent annuitant may submit a written request to the ASRS with the following information for the beneficiary or contingent annuitant:
1. Full name;
 2. Social Security number or United States Tax Identification number;
 3. Address; and

4. Notarized signature acknowledging the following statements:
- a. The beneficiary or contingent annuitant is aware that, as a beneficiary or contingent annuitant of the member, the beneficiary or contingent annuitant is entitled to a survivor benefit in the amount specified by the ASRS;
 - b. The beneficiary is renouncing a portion or all of the beneficiary's rights to the member's benefit;
 - c. The contingent annuitant is renouncing all of the contingent annuitant's rights to the member's benefit;
 - d. The beneficiary understands that by renouncing rights to the member's benefit, the portion that the beneficiary is renouncing will be paid to any other survivor on the member's account, or if there is no other designated survivor, the benefit will be paid to the member's estate; and
 - e. The contingent annuitant understands that by renouncing rights to the member's benefit, the ASRS shall pay the member's ASRS account balance plus interest at the Assumed Actuarial Interest and Investment Return Rate specified in R2-8-118(A) through the month prior to the member's retirement date, reduced by all retirement benefits due to the member, to any other survivor on the member's account, or if there is no other designated survivor, to the member's estate.
- H.** According to 26 U.S.C. § 2518, a minor beneficiary's or contingent annuitant's survivor benefit cannot be renounced.

R2-8-133. Survivor Benefit Applications

- A. The definitions in R2-8-126 apply to this section.
- B. The ASRS shall not distribute a survivor benefit until a claimant notifies the ASRS of a member's death by telephone or submission of a death certificate, unless the member elected a Joint and Survivor Benefit Option upon retirement.
- C. Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, Acceptable Form that is On File with the ASRS that was received at least one day prior to the date of the member's death, unless otherwise provided by law.
- D. The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall provide the following:
1. An original certified death certificate or a certified copy of a court order that establishes the member's death;
 2. If the claimant is not a designated beneficiary, but is a person specified in A.R.S. § 38-762(E), a copy of a document issued from a federal, state, local, sovereign, or medical institution showing the claimant's relationship to the deceased member;
 3. A certified copy of the court order of appointment as administrator, if applicable;
and
 4. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an Application for Survivor Benefits, provided by the ASRS that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number or United States Tax Identification number,

- c. The benefit the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing;
- d. If the designated beneficiary or other person specified in A.R.S. § 38-762(E) is electing to roll over a benefit, the following information:
 - i. The claimant's full name;
 - ii. The name of the institution to which the claimant is electing to roll over;
 - iii. The address of the institution to which the claimant is electing to roll over;
 - iv. The full name of the authorized representative of the institution to which the claimant is electing to roll over;
 - v. The signature of the authorized representative of the institution to which the claimant is electing to roll over;
- e. If the beneficiary is electing to have any of the survivor benefits directly deposited into a bank account, the following information:
 - i. Whether the bank account is a checking or savings account;
 - ii. The name of the banking institution to which the benefit is being sent;
 - iii. The routing number;
 - iv. The account number; and
- f. The following information for the designated beneficiary or other person specified in A.R.S. § 38-762(E):
 - i. Full name;

- ii. Mailing address, if not On File with ASRS;
 - iii. Date of birth, if applicable; and
 - iv. Social Security number or United States Tax Identification number, if not On File with ASRS.
- g. The following statements of understanding:
- i. The designated beneficiary or other person specified in A.R.S. § 38-762(E) has read and understands the Special Tax Notice Regarding Plan Payments they received with this application;
 - ii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit;
 - iii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death;
 - iv. Under penalties of perjury, the designated beneficiary or other person specified in A.R.S. § 38-762(E) certifies that:
 - 1. The Social Security number or Tax ID number shown on this application is correct;
 - 2. They are not subject to backup withholding because:

- a. They are exempt from backup withholding, or
 - b. They have not been notified by the Internal Revenue Service that they are subject to backup withholding as a result of a failure to report all interest or dividends, or
 - c. The Internal Revenue Service has notified them that they are no longer subject to backup withholding;
and
3. They are a legal resident of the United States, unless they are an estate or trust.
- v. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands their right to a 30-day notice period to consider a rollover or a cash distribution and they elect to waive the notice period by their election for payment on this application;
 - vi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion of their distribution to another eligible retirement plan, it is their responsibility to verify that the receiving plan will accept the rollover and, if applicable, agree to separately account for the taxable and nontaxable amounts rolled over and the related subsequent earnings on such amounts;
 - vii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over all or any portion

of their distribution to an IRA plan, it is their responsibility to verify that the receiving IRA institution will accept the rollover and, if applicable, it is their responsibility to separately account for taxable and nontaxable amounts;

viii. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to another eligible retirement plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding;

ix. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, any portion of the distribution not designated for a rollover will be paid directly to them and any taxable amounts will be subject to federal and state income tax withholding.

xi. The designated beneficiary or other person specified in A.R.S. § 38-762(E) understands if they elect to roll over to an inherited IRA plan, they may be required to receive a minimum distribution and they certify that the date of birth shown on this form is correct.

5. For a member who elected a Joint and Survivor Retirement Benefit Option, a contingent annuitant shall submit a Joint and Survivor Certification form containing:

a. The following information for the member:

i. Full name;

- ii. Social Security number or United States Tax Identification number;
- iii. Date of death; and

b. The following information for the beneficiary:

- i. Legal relationship to the member;
- ii. Full name;
- iii. Social Security number or United States Tax Identification number, if not On File with ASRS;
- iv. Mailing address, if not On File with ASRS;
- v. Date of birth, if not On File with ASRS;
- vi. If the contingent annuitant is electing to have any of the survivor benefits directly deposited into a bank account, the following information:

- 1. Whether the bank account is a checking or savings account;
- 2. The name of the banking institution to which the benefit is being sent;
- 3. The routing number;
- 4. The account number; and

c. The following statements of understanding:

- i. The contingent annuitant has read and understands the Special Tax Notice Regarding Plan Payments they received with the Joint and Survivor Certification form;
- ii. The contingent annuitant authorizes the ASRS to make payments as indicated above and agree on behalf of themselves and their

heirs that such payments shall be a complete discharge of the claim and shall constitute a release of the ASRS from any further obligation on account of the benefit; and

iii. The contingent annuitant authorizes the ASRS and the Banking Institution listed above to debit their account for the purposes of correcting errors and returning any payments inadvertently made after their death.

d. The contingent annuitant's notarized signature.

E. Notwithstanding R2-8-132(H), if the beneficiary or contingent annuitant is a minor as of the date of the member's death, the beneficiary or contingent annuitant may submit a written request with the information contained in R2-8-132(G)(1) through (4) within nine months after the minor attains 18 years of age.

F. For a member who deceases prior to the member's retirement date, if there is no designation of beneficiary or if the designated beneficiary predeceases the member, the ASRS shall pay a survivor benefit as specified in A.R.S. § 38-762(E).

G. The ASRS shall begin disbursing a survivor benefit to a contingent annuitant according to A.R.S. § 38-760(B)(1) upon notification and verification of the member's death by a third party.

H. The ASRS shall suspend a survivor benefit for a contingent annuitant unless the contingent annuitant provides the information in subsection (D) within two months of the ASRS disbursing a survivor benefit.

I. If the member is domiciled in Arizona, according to A.R.S. § 14-3971, and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a

claimant if the claimant submits an Affidavit for Collection of Personal Property to ASRS with the following:

1. The claimant's name;
2. The claimant's Social Security number or United States Tax Identification number;
3. The claimant's mailing address;
4. The member's name;
5. The member's Social Security number or United States Tax Identification number;
6. The date of the member's death;
7. The state and county where the member died;
8. Statements indicating:
 - a. According to A.R.S. § 14-3971(B)(2)(a), no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date of the member's death;
 - b. According to A.R.S. § 14-3971(B)(2)(b), the personal representative has been discharged, or more than a year has elapsed since a closing statement has been filed and the value of the member's entire estate, less liens and encumbrances, does not exceed the amount in A.R.S. § 14-3971 as valued as of the date the ASRS receives the Affidavit for Collection of Personal Property;
 - c. The claimant is the successor of the member and is entitled to the member's personal property because:

- i. The claimant is named in the member's will; or
 - ii. The member did not have a will and the claimant is entitled to the member's personal property by right of intestate succession according to A.R.S. § 14-2103;
 - d. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(i), then a copy of the member's will;
 - e. If the claimant is entitled to the member's personal property according to subsection (I)(8)(c)(ii), then the relationship between the member and the claimant and whether there are other surviving heirs;
 - f. If there are other surviving heirs, then the name and relationship of each surviving heir;
 - g. A statement indicating the claimant is making the Affidavit for Collection of Personal Property according to A.R.S. § 14-3971 for the purpose of making a claim to the member's ASRS account; and
 - h. The claimant's notarized signature.
- J.** If the member is not domiciled in Arizona and there is no designated beneficiary, the ASRS shall distribute the balance of a member's account to a claimant if the claimant submits legal documentation to claim the member's ASRS account that complies with the statutory requirements of the state in which the member was domiciled at the time of the member's death.
- 1. Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is less than \$10,000 per annum, the ASRS shall

not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's legal guardian submits the following written information:

- a. The member's full name;
- b. The member's Social Security number or United States Tax Identification number;
- c. The minor beneficiary's full name;
- d. The minor beneficiary's Social Security number or United States Tax Identification number;
- e. The full name of the minor beneficiary's legal guardian;
- f. The minor beneficiary's legal guardian's address, if not On File with ASRS; and
- g. The minor beneficiary's legal guardian's signature certifying the minor beneficiary's legal guardian has care and custody of the minor beneficiary.

K. Notwithstanding any other provision, if the amount of the survivor benefit as valued at the date of disbursement is \$10,000 or more per annum, the ASRS shall not distribute a survivor benefit to a minor beneficiary unless the minor beneficiary's conservator submits proof of court-appointed fiduciary responsibility for the minor beneficiary.

L. The ASRS shall remit payment to the minor beneficiary according to subsection (K) by sending the minor beneficiary's conservator a check, if the document providing proof of the court-appointed fiduciary responsibility requires payment to be made to a restricted or secure account.

- M.** If a person claims that a beneficiary or claimant is not entitled to a survivor benefit, then before ASRS disburses a survivor benefit, the person may notify ASRS of the person's intent to appeal the beneficiary's or claimant's right to a survivor benefit.
- N.** Within 30 days, a person who has notified ASRS of the person's intent to appeal a survivor benefit disbursement according to subsection (M), shall submit an appeal to ASRS according to 2 A.A.C. 8, Article 4.
- O.** If the ASRS receives documentation from, or confirmed by, a law enforcement agency, that a beneficiary or claimant may be guilty of the felonious and intentional killing of the member, the ASRS shall not distribute any benefits to the beneficiary or claimant that may be guilty of the felonious and intentional killing of the member until the matter has been adjudicated.
- P.** If the member's estate has an appointed personal representative, the member's estate shall submit a court document identifying the personal representative for the member's estate before ASRS may distribute a survivor benefit.
- Q.** If the member's estate is closed, the person claiming a right to the member's ASRS account shall provide a court document proving the estate is closed.
- R.** If the survivor receives a monthly annuity and does not provide the direct deposit information according to subsection (D)(4)(e) or (D)(5)(b)(vi), ASRS shall issue a debit benefit card.

Agenda Item #5



ARIZONA STATE RETIREMENT SYSTEM

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*Paul Matson
Director*

MEMORANDUM

TO: Mr. Clark Partridge, Chair, Arizona State Retirement System (ASRS) Operations, Audit, and Legislative Committee (OALC)

FROM: Mr. Paul Matson, Director
Mr. Anthony Guarino, Deputy Director and Chief Operations Officer
Ms. Jessica Thomas, Government Relations Officer

DATE: March 30, 2020

RE: **AGENDA ITEM No. 5:** Presentation, Discussion and Appropriate Action Regarding the 2020 Five-year Rule Review Report

Purpose

To provide a draft of the Five-year Review Report due to the Governor's Regulatory Review Council by May 29, 2020.

Recommendation

Approve the draft Five-year Review Report to be filed with the Governor's Regulatory Review Council.

Background

A.R.S. § 41-1056 requires every agency to review its rules at least every five years. The ASRS is required to submit a report pursuant to that statute by May 29, 2020 that analyzes various criteria for its rules related to general ASRS plan procedures (Article 1), health insurance premium benefits (Article 2), appeals procedures (Article 4), and service purchase (Article 5).

Ms. Jessica Thomas, Government Relations Officer, will provide a brief update of the status of this report.

Attachments: 2020 Five-year Review Report for Articles 1, 2, 4, and 5 (with exhibits)

Five-Year Report

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

- ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN**
- ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**
- ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD**
- ARTICLE 5. PURCHASING SERVICE CREDIT**

DRAFT

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5. CURRENT RULESExhibit 2

6. ENABLING AND RELATED STATUTESExhibit 3

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FIVE-YEAR-REVIEW SUMMARY

The state legislature created the Arizona State Retirement System (ASRS) in 1953 in order to provide defined contribution retirement (defined contribution plan) benefits for state employees and teachers, as well as employees of political subdivisions that elected coverage. The defined contribution plan was closed to new members in 1972. At that time, members of the defined contribution plan who chose to, and all new members, became part of the defined benefit plan. At the end of Fiscal Year 2018-2019 there were approximately 566,612 ASRS members.

The ASRS Board (Board) is appointed by the Governor. The Board consists of nine members who qualify according to A.R.S. § 38-713. The Board is responsible for supervising the administration of the ASRS, including the defined contribution plan, defined benefit plan, long-term disability plan, and health insurance benefit plan. Investment responsibilities include:

1. Prescribing investment goals, objectives, and policies;
2. Allocating assets to meet investment goals;
3. Adopting specific policy directives for the guidance of investment management;
4. Appointing investment managers;
5. Prescribing investment diversification programs; and
6. Assigning investment responsibilities.

The enabling statutes for the Board are set forth in A.R.S. §§ Title 38, Chapter 5, Articles 1 and

2. The Board currently implements its statutes with rules located at A.A.C. Title 2, Chapter 8.

This report covers Articles 1, 2, 4, and 5 of the rules.

Article 1

R2-8-104 was last amended in 2018 and R2-8-115 was last amended in 2016. R2-8-116 was last amended in 2018 and R2-8-117 was last amended in 2017. R2-8-118 was last amended in 2018 and R2-8-120 was last amended in 2015. R2-8-122 was last amended in 2020 and R2-8-123 was last amended in 2015. R2-8-124 and R2-8-125 were last amended in 2018. R2-8-126 was last amended in 2016

Article 2

All the rules in this article were last amended in 2017.

Article 4

R2-8-401, R2-8-403, and R2-8-405 were last amended in 2017. R2-8-402 and R2-8-404 have not been amended since they were created in 2005.

Article 5

All the rules in this article were last amended in 2019.

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FIVE-YEAR-REVIEW REPORT
TITLE 2. ADMINISTRATION
CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

- R2-8-104. Definitions
- 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
- R2-8-116. Alternate Contribution Rate
- R2-8-117. Return to Work After Retirement
- R2-8-118. Application of Interest Rates
- R2-8-120. Designating a Beneficiary; Spousal Consent to Designation
- R2-8-122. Remittance of Contributions
- R2-8-123. Actuarial Assumptions and Actuarial Value of Assets
- R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations
- R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations
- R2-8-126. Calculating Optional Forms of Benefits

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT

- R2-8-201. Definitions
- R2-8-202. Premium Benefit Eligibility and Benefit Determination
- R2-8-203. Payment of Premium Benefit
- R2-8-204. Premium Benefit Calculation
- R2-8-205. Premium Benefit Documentation
- R2-8-206. Six-Month Reimbursement Program
- R2-8-207. Optional Premium Benefit

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

- R2-8-401. Definitions

- R2-8-402. General Procedures
- R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action
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- R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order
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- R2-8-513.02. Termination Date
- R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer
- R2-8-519. Purchasing Service Credit by Termination Pay
- R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA
- R2-8-521. Adjustment of Errors

INFORMATION THAT IS IDENTICAL FOR ALL THE RULES

The following information is the same for all of the rules and is not restated in the analysis of each rule:

1. **Authorization of the rule by existing statute**
All of the rules have general authority in A.R.S. §§ 38-704, 38-714(E)(4), and 38-715(C).
2. **Objective of the Rules**
The objective of each rule is identified in the analysis of individual rules.
3. **Analysis of effectiveness in achieving the objective**
All of the rules are effective in achieving their objectives.
4. **Analysis of consistency with state and federal statutes and rules**
With the exception of minor grammatical errors and the issues identified in the analysis of individual rules, all of the rules are consistent with state and federal statutes and rules.
5. **Status of enforcement of the rule**
All of the rules are enforced as written.
6. **Analysis of clarity, conciseness, and understandability**
With the exception of minor grammatical errors and the issues identified in the analysis of individual rules, all of the rules are clear, concise, and understandable.
7. **Analysis of any written criticisms the agency received on the rule**
No written criticisms were received.
8. **Estimated economic, small business, and consumer impact statement comparison**
Analysis of the economic impact statement for the rules is included as Exhibit 1.
9. **Analysis of any analyses the agency received regarding the rule's impact on this state's business competitiveness as compared to the competitiveness of businesses in other states**
No analyses were received.
10. **Whether the agency completed the course of action proposed in the previous Five-year-review Report**
The ASRS has completed the course of action for each rule that identified a proposed course of action in the previous Five-year-review Report.
11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The ASRS has determined that the probable benefits of the rule outweigh the probable costs because the rules impose the least burden and costs on members and employers while still achieving their regulatory purpose.

12. Determination that the rule is not more stringent than a corresponding federal law

With the exceptions of R2-8-510 and R2-8-512, there is no corresponding federal law for the rules.

13. Whether the rule complies with A.R.S. § 41-1037

The ASRS does not issue permits or licenses.

14. Proposed course of action

Amend the rules by December 2021 to address the issues identified in this report, unless otherwise indicated in the analysis of individual rules.

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ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

R2-8-104. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-711, 38-747(R), 38-762(G), 38-769(O), 38-770(D), 38-771(J), and 38-924

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS is using certain terms throughout its rules.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- The definition of “authorized employer representative” should reference “Employer” instead of “ASRS employer.”
- The definition of “Contribution” should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-924.

R2-8-115. Return of Contributions Upon Termination of Membership by Separation From Service by Other than Retirement or Death; Payment of Survivor Benefits Upon the Death of a Member

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-740, 38-762, and 38-773

2. **Objective**

The objective of the rule is to provide notice to the public of the procedures for:

- a. Distribution of a member’s contributions to ASRS when:
 - i. The member terminates employment and seeks a refund of contributions;
 - ii. A domestic relations order has been filed; and
 - iii. The member dies;
- b. The documentation ASRS will accept for proof of death of a member;
- c. The method of calculating interest on refunds; and
- d. When eligibility for payment of a refund is limited.

6. **Analysis of clarity, conciseness, and understandability**

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing new electronic processes for forfeitures and

the specific requirements for a refund/forfeiture application as well as various other clarifying and conforming changes. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

R2-8-116. Alternate Contribution Rate

1. Authorization of the rule by existing statute

A.R.S. §§ 38-766, 38-766.01, 38-766.02

2. Objective

The objective of the rule is to clarify how an Employer pays an alternate contribution rate.

R2-8-117. Return to Work After Retirement

1. Authorization of the rule by existing statute

A.R.S. §§ 38-766, 38-766.01, 38-766.02

2. Objective

The objective of the rule is to clarify what documentation is required when a retiree returns to work with an Employer.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- “Commencing employment” should be capitalized throughout the rule because it is a defined term.
- The definition of “Contribution” should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-924.
- Subsection (D) needs to account for an actual change in employment status even if the intent of the employment has not changed.
- Subsection (E) should require a social security number or a tax identification number.
- Clarify that the member is acknowledging that the member intends to submit the return to work form to the employer and intends to submit any additional forms to the employer as required by this rule.

R2-8-118. Application of Interest Rates

1. Authorization of the rule by existing statute

A.R.S. §§ 38-740 and 38-762

2. Objective

The objective of the rule is to:

- a. Inform the public of the historic and current interest rates for valuation purposes and to be paid to member accounts; and
- b. Specify when the interest is accrued on the amounts in a member's account.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (B) should reference 2 A.A.C. 8, Article 11 instead of A.R.S. § 38-922.
- Clarify in subsection (C) that the member's account stops accruing interest based on the "member's" retirement date.

R2-8-120. Designating a Beneficiary; Spousal Consent to Designation

1. Authorization of the rule by existing statute

A.R.S. §§ 38-755, 38-760, and 38-776

2. Objective

The objective of the rule is to provide notice to members of how to designate a spouse as a beneficiary in compliance with statute.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing what information is required in order to process different types of survivor benefits. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

R2-8-122. Remittance of Contributions

1. Authorization of the rule by existing statute

A.R.S. § 38-735

2. **Objective**

The objective of the rule is to provide notice to members and employers of when contributions are due and the interest rate for delinquent contributions.

6. **Analysis of clarity, conciseness, and understandability**

The rule is clear and understandable. However, the rule could be more concise by removing the requirement for the Employer to certify the amount of contributions for each of their members because that requirement is already contained in A.R.S. § 38-735.

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-711(2), 38-714(C), (F), and (G)(3), and 38-718(D)(1)

2. **Objective**

The objective of the rule is to provide notice to the public of the actuarial valuation method and actuarial assumptions the ASRS uses.

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

1. **Authorization of the rule by existing statute**

A.R.S. § 38-749

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will calculate and invoice an unfunded liability to an employer for a group termination incentive program.

R2-8-124. Termination Incentive Program by 30% Salary increase; Unfunded Liability Calculations

1. **Authorization of the rule by existing statute**

A.R.S. § 38-749

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will calculate and invoice an unfunded liability to an employer for an individual termination incentive program.

R2-8-126. Calculating Optional Forms of Benefits

1. Authorization of the rule by existing statute

A.R.S. § 38-764(F)

2. Objective

The objective of the rule is to provide notice to the public of how the ASRS calculates various types of benefits.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable. It could be made more clear, concise, and understandable by referencing retirement eligibility requirements for inactive members and the information required in order to process retirement and re-retirement applications. The ASRS has received approval from the Governor's office to amend this rule and is currently engaged in drafting amendments to address these issues. The ASRS anticipates completing the rulemaking process by December 2020.

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT

R2-8-201. Definitions

1. Authorization of the rule by existing statute

A.R.S. §§ 38-782 and 38-783

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

4. Analysis of consistency with state and federal statutes and rules

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to change reference to "contingent annuitant" to "beneficiary" in the definition of "Coverage."

R2-8-202. Premium Benefit Eligibility and Benefit Determination

1. Authorization of the rule by existing statute

A.R.S. §§ 38-782 and 38-783

2. Objective

The objective of the rule is to provide notice to the public of who is eligible for a premium benefit.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to remove references to “active” member in subsections (A)(4) and (B) because an active member is not eligible for a premium benefit.

R2-8-203. Payment of Premium Benefit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will pay a premium benefit.

R2-8-204. Premium Benefit Calculation

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS calculates a premium benefit.

R2-8-205. Premium Benefit Documentation

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of what documentation is required in order to process a premium benefit.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (C) should require a social security number or a tax identification number.
- Remove subsection (C)(3) because it is no longer necessary.

R2-8-206. Six-Month Reimbursement Program

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will provide a premium benefit to an eligible who is not receiving a retirement benefit as an annuity.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to require a social security number or a tax identification number in subsection (D).

R2-8-207. Optional Premium Benefit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-782 and 38-783

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS will process an optional premium benefit

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended as follows:

- Subsection (D) should require a social security number or a tax identification number.
- Remove subsections (D)(3) through (6) because they are no longer necessary.
- Remove subsections (D)(8)(c) through (d) and (f) because they are no longer necessary.
- Clarify in subsection (E) that the ability to re-elect the optional premium benefit depends on the member's "original" retirement date.

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

R2-8-402. General Procedures

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS shall calculate time periods.

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to initiate an appeal with the ASRS.

R2-8-404. Board Decisions on Hearings Before the Office of Administrative Hearings

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the Board will review a recommended decision from the Office of Administrative Hearings.

4. **Analysis of consistency with state and federal statutes and rules**

The rule is not consistent with state rules and statutes. In order to be more consistent with other state rules and statutes, the rule should be amended to remove reference to “monthly” regular meetings as the regular meeting schedule changes.

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

1. **Authorization of the rule by existing statute**

A.R.S. §§ 41-1092 et seq.

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to initiate a rehearing.

ARTICLE 5. PURCHASING SERVICE CREDIT

R2-8-501. Definitions

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS is using certain terms throughout its rules.

R2-8-502. Request to Purchase Service Credit and Notification of Cost

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to request to purchase service credit with the ASRS.

R2-8-503. Requirements Applicable to All Service Credit Purchases

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of the requirements necessary for completing a service credit purchase with the ASRS.

R2-8-504. Service Credit Calculation for Purchasing Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS calculates the amount of service credits purchased.

R2-8-505. Restrictions on Purchasing Overlapping Service Credit; Transfers

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-730, 38-921, 38-922, 38-923, 38-924

2. **Objective**

The objective of the rule is to provide notice to members of the public of the restrictions on purchasing service credits.

R2-8-506. Cost Calculation for Purchasing Service Credit

1. Authorization of the rule by existing statute

A.R.S. §§ 38-743, 38-744, 38-745

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS calculates the cost for purchasing service credit for leave of absence, military service, and other public service.

R2-8-507. Required Documentation and Calculations for Forfeited Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-742

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase forfeited service credits with the ASRS and how the ASRS calculates the cost for purchasing forfeited service credits.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. The rule could be made clearer by changing “returned” to “issued” in subsection (D) to clarify that interest is calculated based on when the return of contributions is issued.

R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-744

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase leave of absence service credits with the ASRS.

R2-8-509. Required Documentation and Calculations for Military Service Credit

1. Authorization of the rule by existing statute

A.R.S. § 38-745

2. Objective

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase military service credits with the ASRS.

R2-8-510. Required Documentation and Calculations for Presidential Call-up Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. § 38-745

2. **Objective**

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase presidential call-up service credits with the ASRS and how the ASRS calculates the cost for purchasing military call-up service credits.

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

1. **Authorization of the rule by existing statute**

A.R.S. § 38-743

2. **Objective**

The objective of the rule is to provide notice to members of the public of what documentation is required to purchase other public service credits with the ASRS.

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to make a payment for a service credit purchase.

R2-8-513. Purchasing Service Credit by Irrevocable PDA

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to purchase service credits with the ASRS using an irrevocable payroll deduction authorization.

R2-8-513.01 Irrevocable PDA and Transfer of Employment to a Different Employer

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how the ASRS will handle an irrevocable payroll deduction authorization upon transfer or termination of ASRS employment.

R2-8-513.02 Termination Date

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of when the ASRS considers a member terminated from ASRS employment.

R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to purchase service credits with the ASRS using a direct rollover.

R2-8-519. Purchasing Service Credit by Termination Pay

1. **Authorization of the rule by existing statute**

A.R.S. § 38-747

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to purchase service credits by using a termination pay distribution.

R2-8-520. Termination of Employment and Request Return of Retirement

Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA

1. **Authorization of the rule by existing statute**

A.R.S. §§ 38-740, 38-747, 38-762

2. **Objective**

The objective of the rule is to provide notice to members of the public of how to request a return of contributions upon termination of ASRS employment or member's death while in the process of purchasing service credits with the ASRS.

R2-8-521. Adjustment of Errors

1. Authorization of the rule by existing statute

A.R.S. §§ 38-742, 38-743, 38-744, 38-745, 38-747

2. Objective

The objective of the rule is to provide notice to members of the public of how the ASRS will handle an error it discovers in its records.

DRAFT

Exhibit 1

**Economic Impact
Statement**

ECONOMIC IMPACT STATEMENT
Arizona State Retirement System

Title and its heading: Title 2, Administration
Chapter and its heading: Chapter 8, State Retirement System Board
Article and its heading: Article 1, Retirement System; Defined Benefit Plan
Section Numbers: R2-8-104; R2-8-115; R2-8-116, R2-8-117, R2-8-118; R2-8-120;
R2-8-122; R2-8-123; R2-8-124; R2-8-125; R2-8-126

The major employer groups participating in the Arizona State Retirement System (ASRS) include the State of Arizona, school districts and universities (including some charter schools), counties, special districts, and most cities, and towns. As of June 30, 2019 there were approximately 608,150 members.

Under A.R.S. §§ 38-736 and 38-737, ASRS employers and employees are required to contribute a percentage of the employees' compensation to fund the benefits and administrative costs of the ASRS. Employee and employer contributions are established annually through an annual actuarial valuation of the assets and liabilities of the ASRS. An actuarial valuation is the result of the contracted consulting actuary's analysis of the various components of the ASRS plan and a forecast of the activities and characteristics of the plan based on assumptions set by the Board.

The Economic impact of the rules has not changed from the impact anticipated with the most recent amendment or promulgation of the rules. The rules continue to impose the least burden on the regulated community, thus, the economic impact is minimized.

Title and its heading: Title 2, Administration
Chapter and its heading: Chapter 8, State Retirement System Board
Article and its heading: Article 2, Health Insurance Premium Benefit
Section Numbers: R2-8-201 through R2-8-207

Under A.R.S. §§ 38-782 and 38-783, the ASRS is required to provide a health insurance premium subsidy to eligible retirees. These rules clarify how the ASRS administers those benefits to its members.

The Economic impact of the rules has not changed from the impact anticipated with the most recent amendment or promulgation of the rules. The rules continue to impose the least burden on the regulated community, thus, the economic impact is minimized.

Title and its heading: Title 2, Administration
Chapter and its heading: Chapter 8, State Retirement System Board
Article and its heading: Article 4, Practice and Procedure Before the Board
Section Numbers: R2-8-401 through R2-8-405

Members who disagree with decisions of the ASRS Director have the option to present their case to the Office of Administrative Hearings (OAH). An on-site Assistant Attorney General and a

representative from the ASRS present the agency's position and the member presents his/her position. It is not necessary for the member to be represented by an attorney.

The OAH judge submits a recommended decision to the Board within 20 days of the hearing. The Board has the option to accept, reject or modify the recommended decision.

The Economic impact of the rules has not changed from the impact anticipated with the most recent amendment or promulgation of the rules. The rules continue to impose the least burden on the regulated community, thus, the economic impact is minimized.

Title and its heading: Title 2, Administration
Chapter and its heading: Chapter 8, State Retirement System Board
Article and its heading: Article 5, Purchasing Service Credit
Section Numbers: R2-8-501 through R2-8-521

Actively contributing members of the ASRS and those receiving Long Term Disability benefits are eligible to purchase service. Purchasing service may be advantageous because it has a direct impact on the member's pension benefit. The basic pension formula is: Total Credited Service x Graded Multiplier x Average Monthly Compensation. The Graded Multiplier is a factor based on the total years of service at retirement and ranges from 2.10% to 2.30%.

Types of service that may be purchased with various payment options are: previously forfeited ASRS credited service; approved unpaid leave of absence; military service, and other public service employment whether or not the member participated in a retirement system while working.

For all but forfeited service purchases, the cost is calculated using the Actuarial Present Value (APV) method. The APV method is defined as the value of a benefit in terms of the amount of money the ASRS must have on hand today to pay for a benefit upon the member's estimated date of retirement. In applying this calculation method for service purchase costs, the ASRS determines the APV of the member's retirement benefit including the purchased service, and the APV excluding the purchased service. The member pays the difference between these two values, thereby fully funding the additional retirement benefit derived from the service purchase.

Members may purchase forfeited service by paying an amount equal to the gross refund amount plus interest to the date of the request.

The Economic impact of the rules has not changed from the impact anticipated with the most recent amendment or promulgation of the rules. The rules continue to impose the least burden on the regulated community, thus, the economic impact is minimized.

Exhibit 2

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ARTICLE 1. RETIREMENT SYSTEM

R2-8-101. Repealed**Historical Note**

Former Rule, Social Security Regulation 1; Former Section R2-8-01 renumbered as Section R2-8-101 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (A) and (C) effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-102. Repealed**Historical Note**

Former Rule, Social Security Regulation 2; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-02 renumbered as Section R2-8-102 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A), (B), and (D), amended effective April 12, 1984 (Supp. 84-2). Correction, subsection (B), as amended effective April 12, 1984 (Supp. 84-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-103. Repealed**Historical Note**

Former Rule, Social Security Regulation 3; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-03 renumbered as Section R2-8-103 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule, subsections (A) thru (C), amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-104. Definitions

A. The definitions in A.R.S. § 38-711 apply to this Chapter.

B. Unless otherwise specified, in this Chapter:

1. "Actuarial assumption" means an estimate of an uncertain future event that affects pension liabilities, or assets, or both.
2. "Assumed actuarial investment earnings rate" means the assumed rate of investment return approved by the Board and contained in R2-8-118(A).
3. "Authorized employer representative" means an individual specified by the ASRS employer to provide the ASRS with information about a member who previously worked for the ASRS employer.
4. "Contribution" means:
 - a. Amounts required by A.R.S. Title 38, Chapter 5, Articles 2 and 2.1 to be paid to the ASRS by a member or an employer on behalf of a member;
 - b. Any voluntary amounts paid to the ASRS by a member to be placed in the member's account; and
 - c. Amounts credited by transfer under A.R.S. § 38-924.
5. "Day" means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
6. "Designated beneficiary" means the same as in A.R.S. § 38-762(G).
7. "Director" means the Director appointed by the Board as provided in A.R.S. § 38-715.
8. "Individual retirement account" or "IRA" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(a) and (b).
9. "Party" means the same as in A.R.S. § 41-1001(14).
10. "Person" means the same as in A.R.S. § 41-1001(15).
11. "Plan" means the same as "defined benefit plan" in A.R.S. § 38-712(B), and as administered by the ASRS.
12. "Retirement account" means the same as in A.R.S. § 38-771(J)(2).
13. "Rollover" means a contribution to the ASRS by an eligible member of an eligible rollover distribution from one or more of the retirement plans listed in A.R.S. § 38-747(H)(2) and (H)(3).
14. "Terminate employment" means to end the employment relationship between a member and an ASRS employer with the intent that the member does not return to employment with an ASRS employer.
15. "United States" means the same as in A.R.S. § 1-215(39).

Historical Note

Former Rule, Social Security Regulation 4; Former Section R2-8-04 renumbered as Section R2-8-104 without change effective May 21, 1982 (Supp. 82-3). Amended subsections (G), (J), and (K) effective April 12, 1984 (Supp. 84-2). Typographical error corrected in subsection (5)(c) "required" corrected to "required" (Supp. 97-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

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R2-8-105. Repealed**Historical Note**

Former Rule, Social Security Regulation 5; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-05 renumbered as Section R2-8-105 without change effective May 21, 1982 (Supp. 82-3). Amended as an emergency by adding subsection (E) effective January 1, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Emergency expired. Permanent rule amended effective April 12, 1984 (Supp. 84-2). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1).

R2-8-106. Reserved**R2-8-107. Reserved****R2-8-108. Reserved****R2-8-109. Reserved****R2-8-110. Reserved****R2-8-111. Reserved****R2-8-112. Reserved****R2-8-113. Emergency Expired****Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

R2-8-114. Emergency Expired**Historical Note**

New Section made by emergency rulemaking at 11 A.A.R. 579, effective January 4, 2005 (05-1). Emergency rule expired (Supp. 05-2).

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**A. The following definitions apply to this Section unless otherwise specified:**

1. "Acceptable documentation" means any ASRS form request containing all the accurate, required information, dates, and signatures necessary to process the form request.
2. "Eligible retirement plan" means the same as in A.R.S. § 38-770(D)(3).
3. "Employer number" means a unique identifier the ASRS assigns to a member employer.
4. "Employer plan" means the types of eligible retirement plans specified in A.R.S. § 38-770(D)(3)(c), (d), (e), and (f).
5. "Process date" means the calendar day the ASRS generates contribution withdrawal documents to be sent to a member.
6. "Warrant" means a voucher authorizing payment of funds due to a member.

B. A member who terminates from all ASRS employment by other than retirement or death and desires a return of the member's contributions, including amounts received for the purchase of service, any employer contributions authorized under A.R.S. § 38-740, and interest on the contributions, shall request from the ASRS, in writing or verbally, the documents necessary to apply for the withdrawal of the member's contributions.**C. Upon request to withdraw by the member, the ASRS shall provide:**

1. An Application for Withdrawal of Contributions and Termination of Membership form to the member, and
2. An Ending Payroll Verification - Withdrawal of Contribution and Termination of Membership form to the employer.

D. The member shall complete and return to the ASRS the Application for Withdrawal of Contributions and Termination of Membership form that includes the following information:

1. The member's full name;
2. The member's Social Security number;
3. The member's current mailing address;
4. The member's daytime telephone number, if applicable;
5. The member's birth date;
6. The date of termination;
7. Dated signature of the member certifying that the member:
 - a. Is no longer employed by any ASRS employer;
 - b. Is neither under contract nor has any verbal or written agreement for future employment with an ASRS employer;
 - c. Is not currently in a leave of absence status with an ASRS employer;
 - d. Understands that each of the member's former ASRS employers will complete a payroll verification form if payroll transactions occurred with the ASRS employer within the six months before the process date;

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- e. Has read and understands the Special Tax Notice Regarding Plan Payments the member received with the application;
 - f. Understands that the member is forfeiting all future retirement rights and privileges of membership with the ASRS;
 - g. Understands that long-term disability benefits will be canceled if the member elects to withdraw contributions while receiving or electing to receive long-term disability benefits;
 - h. Understands that if the member elects to roll over all or any portion of the member's distribution to another employer plan, it is the member's responsibility to verify that the receiving employer plan will accept the rollover and, if applicable, agree to separately account for the pre-tax and post-tax amounts rolled over and the related subsequent earnings on the amounts;
 - i. Understands that if the member elects to roll over all or any portion of the member's distribution to an individual retirement account, it is the member's responsibility to separately account for pre-tax and post-tax amounts; and
 - j. Understands that if the member elects a rollover to another employer plan or individual retirement account, any portion of the distribution not designated for rollover will be paid directly to the member and any taxable amounts will be subject to 20% federal income tax withholding and 5% state tax withholding;
8. Specify that:
- a. The entire amount of the distribution be paid directly to the member,
 - b. The entire amount of the distribution be transferred to an eligible retirement plan, or
 - c. An identified amount of the distribution be transferred to an eligible retirement plan and the remaining amount be paid directly to the member; and
9. If the member selects all or a portion of the withdrawal be paid to an eligible retirement plan, specify:
- a. The type of eligible retirement plan;
 - b. The eligible retirement plan account number, if applicable; and
 - c. The name and mailing address of the eligible retirement plan.
- E.** If the member requesting the withdrawal has been inactive for five years or more, and if the member's account balance is \$1,000 or more, the member requesting the withdrawal shall provide a copy of a driver license or a form of other government issued identification to the ASRS.
- F.** If a payroll transaction for the member occurred with any ASRS employer within six months before the process date each ASRS employer shall complete an Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership form electronically that includes the following information:
- 1. The member's full name;
 - 2. The member's Social Security number;
 - 3. The member's termination date;
 - 4. The member's final pay period ending date;
 - 5. The final amount of contributions, including any adjustments or corrections, but not including any long-term disability contributions;
 - 6. The ASRS employer's name and telephone number;
 - 7. The employer number;
 - 8. The name and title of the authorized employer representative;
 - 9. Certification by the authorized employer representative that:
 - a. The member terminated employment and is neither under contract nor bound by any verbal or written agreement for employment with the employer;
 - b. There is no agreement to re-employ the member; and
 - c. The authorized employer representative has the legal power to bind the employer in transactions with the ASRS; and
 - 10. The signature of the authorized employer representative and date of signature.
- G.** If the member requests a return of contributions and a warrant is distributed during the fiscal year that the member began membership in the ASRS, no interest is paid to the account of the member.
- H.** If the member requests a return of contributions after the first fiscal year of membership, the ASRS shall credit interest at the rate specified in Column 3 of the table in R2-8-118(A) to the account of the member as of June 30 of each year, on the basis of the balance in the account of the member as of the previous June 30. The ASRS shall credit interest for a partial fiscal year of membership in the ASRS on the previous June 30 balance based on the number of days of membership up to and including the day the ASRS issues the warrant divided by the total number days in the fiscal year. Contributions made after the previous June 30 are returned without interest.
- I.** Upon submitting to the ASRS the completed and accurate Application for Withdrawal of Contributions and Termination of Membership form and, if applicable, after the ASRS has received any Ending Payroll Verification - Withdrawal of Contributions and Termination of Membership forms, a member is entitled to payment of the amount due to the member as specified in subsection (G) or (H) unless a present or former spouse submits to the ASRS a domestic relations order that specifies entitlement to all or part of the return of contributions under A.R.S. § 38-773 before the ASRS returns the contributions as specified by the member.
- J.** Upon the death of a member, the ASRS shall distribute the survivor benefits according to the most recent, acceptable documentation that is on file with the ASRS that was received prior to the date of the member's death, unless otherwise provided by law.
- K.** If there is no designation of beneficiary or if the designated beneficiary predeceases the member, the survivor benefit is paid as specified in A.R.S. § 38-762(E). The designated beneficiary or other person specified in A.R.S. § 38-762(E) shall:
- 1. Provide a certified copy of a death certificate or a certified copy of a court order that establishes the member's death;
 - 2. Provide a certified copy of the court order of appointment as administrator, if applicable; and

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3. Except if the deceased member was retired and elected the joint and survivor option, complete and have notarized an application for survivor benefits, provided by the ASRS, that includes:
 - a. The deceased member's full name,
 - b. The deceased member's Social Security number,
 - c. The following, as it pertains to the designated beneficiary or other person specified in A.R.S. § 38-762(F):
 - i. Full name;
 - ii. Mailing address;
 - iii. Contact telephone number;
 - iv. Date of birth, if applicable; and
 - v. Social Security number or Tax ID number, if applicable.

Historical Note

Former Rule, Social Security Regulation 1; Amended effective Dec. 20, 1979 (Supp. 79-6). Former Section R2-8-15 renumbered as Section R2-8-115 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 644, effective February 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1).

R2-8-116. Alternate Contribution Rate

- A. For purposes of this Section, the following definitions apply:
 1. "ACR" means an alternate contribution rate pursuant to A.R.S. § 38-766.02, the resulting amount of which is not deducted from the employee's compensation.
 2. "Class of positions" means all employment positions of the employer that perform the same, or substantially similar, function or duties, for the employer as determined by the ASRS in subsection (B).
 3. "Compensation" has the same meaning as A.R.S. § 38-711(7) and does not include ACR amounts.
 4. "Leased from a third party" means:
 - a. The employee is not employed by an employer; and
 - b. A co-employment relationship, as defined in A.R.S. § 23-561(4), does not exist.
- B. An employer that employs a retired member shall pay an ACR to the ASRS, unless the employer provides proof that:
 1. The retired member is leased from a third party; and
 2. All employees in the entire class of positions, to which the retired member's position belongs, have been leased from a third party; and
 3. No employee who has not been leased is performing the same, or substantially similar, function or duties, as the retired member.
- C. In order to determine whether an employer satisfies the criteria in subsection (B), the employer shall submit information and documentation, pursuant to A.R.S. § 38-766.02(E), within 14 days of written request by the ASRS.
- D. The employer shall directly remit payment of an ACR to the ASRS from the employer's funds, through the employer's secure ASRS account within 14 days of the first pay period end date after the hire of the retired member.
- E. If the employer does not remit the ACR by the date it is due pursuant to subsection (D), the ASRS shall charge interest on the ACR amount from the date it was due to the date the ACR payment is remitted to the ASRS at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- F. A payment of an ACR on behalf of a retired member pursuant to A.R.S. § 38-766.02, shall not entitle a retired member to a refund of an ACR payment or any additional ASRS benefit as described in A.R.S. § 38-766.01(E).

Historical Note

Former Rule, Retirement System Regulation 2; Former Section R2-8-16 renumbered as Section R2-8-116 without change effective May 21, 1982 (Supp. 82-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 22 A.A.R. 1341, effective July 4, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

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 through the Employer's secure website account 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

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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.

Historical Note

Former Rule, Retirement System Regulation 3; Former Section R2-8-17 renumbered as Section R2-8-117 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). New Section made by final rulemaking at 23 A.A.R. 209, effective March 5, 2017 (Supp. 17-1).

R2-8-118. Application of Interest Rates

- A.** Application of interest from inception of the ASRS Plan through the present is as follows:

Effective Date of Interest Rate Change	Assumed Actuarial Investment Earnings Rate	Interest Rate Used to Determine Return of Contributions Upon Termination of Membership by Separation from Service by Other Than Retirement or Death
7-1-1953	2.50%	2.50%
7-1-1959	3.00%	3.00%
7-1-1966	3.75%	3.75%
7-1-1969	4.25%	4.25%
7-1-1971	4.75%	4.75%
7-1-1975	5.50%	5.50%
7-1-1976	6.00%	5.50%
7-1-1981	7.00%	5.50%
7-1-1982	7.00%	7.00%
7-1-1984	8.00%	8.00%
7-1-2005	8.00%	4.00%
7-1-2013	8.00%	2.00%
7-1-2018	7.50%	2.00%

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- B.** At the beginning of each fiscal year, interest is credited to the retirement account of each member on the June 30 that marks the end of the fiscal year based on the balance in the member's account as of the previous June 30. The balance on which interest is credited includes:
1. Employer and employee contributions;
 2. Voluntary additional contributions made by members pursuant to A.R.S. §§ 38-742, 38-743, 38-744, and 38-745, if applicable;
 3. Amounts credited by transfer under A.R.S. § 38-922; and
 4. Interest credited in previous years.
- C.** Notwithstanding subsection (B), the retirement account of each member stops accruing interest the last full month prior to the retirement date.

Historical Note

Former Rule, Retirement System Regulation 4; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-18 renumbered and amended as Section R2-8-118 effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 11 A.A.R. 1416, effective April 5, 2005 (Supp. 05-2). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-119. Expired**Historical Note**

Former Rule, Retirement System Regulation 5; Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Former Section R2-8-19 renumbered and amended as Section R2-8-119 effective May 21, 1982 (Supp. 82-3). Section R2-8-119 and Appendix A and B expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-120. Designating a Beneficiary; Spousal Consent to Designation

- A.** The following definitions apply to this Section unless otherwise specified:
1. "DRO" means the same as "domestic relations order" in A.R.S. § 38-773(H)(1).
 2. "Joint and survivor annuity" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(1).
 3. "Period certain and life annuity" means an optional form of retirement benefits described in A.R.S. § 38-760(B)(2).
 4. "Spouse" means the individual to whom a member is married under Arizona law.
- B.** Effective July 1, 2013, a married member:
1. Who is not retired shall name and maintain the member's current spouse as primary beneficiary of at least 50 percent of the member's retirement account unless:
 - a. Naming or maintaining the current spouse as beneficiary violates another law, existing contract, or court order; or
 - b. The spouse consents to an alternate beneficiary; and
 2. Who retires shall choose a joint and survivor annuity and name the member's current spouse as contingent annuitant of at least 50 percent of the member's retirement benefit unless the spouse consents to an alternative.
- C.** Application of subsection (B).
1. The ASRS shall honor a beneficiary designation last made or a retirement election submitted before July 1, 2013, even if the beneficiary designation or retirement election fails to comply with subsection (B).
 2. The ASRS shall not apply subsection (B) to a lump-sum retirement authorized under A.R.S. § 38-764.
 3. The ASRS shall not apply subsection (B) if a member submits a letter to the ASRS in which the member affirms under penalty of perjury that spousal consent is not required because of one of the reasons specified in A.R.S. § 38-776(C).
- D.** Changing a beneficiary designation:
1. If a married member changes a beneficiary designation on or after July 1, 2013, the member shall ensure that the new beneficiary designation is consistent with the requirements specified in subsection (B);
 2. If a married member who retired before July 1, 2013, and:
 - a. Chose a straight-life annuity wishes to change the member's beneficiary, the member shall ensure that the new beneficiary designation is consistent with subsection (B); or
 - b. Chose a period certain and life annuity or joint and survivor annuity wishes to change either the annuity option or the contingent annuitant, the member shall ensure that the new beneficiary designation is consistent with subsection (B).
- E.** Re-retirement. A married member who re-retires, as described in A.R.S. § 38-766:
1. Within 60 months of the member's previous retirement date, shall elect the same annuity option and beneficiary as the member made at the time of the previous retirement; or
 2. More than 60 months after the member's previous retirement date, shall comply with subsection (B).
- F.** Involuntary cancellation of retirement. If a married member retires on or after July 1, 2013, and is issued one or more estimate checks but fails to comply with subsection (B) within 30 days after the member's effective retirement date, the member shall submit a signed letter to ASRS stating that the member's spouse refuses to consent to the chosen alternative and asking that the retirement be cancelled. The member may submit another retirement application that complies with subsection (B). The member's new effective retirement date is the date ASRS receives the new application. ASRS shall not issue additional estimate checks to a member whose retirement was involuntarily cancelled.

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- G. Survivor benefits:**
1. If a married member last made a beneficiary designation before July 1, 2013, the ASRS shall, at the time of the member's death, honor the beneficiary designation even if the beneficiary designation is not consistent with the requirements specified in subsection (B); and
 2. If a married member made a beneficiary designation on or after July 1, 2013, that is not consistent with the requirements specified in subsection (B), the ASRS shall, at the time of the member's death:
 - a. Notify both the spouse and designated beneficiary and:
 - i. Provide the spouse with an opportunity to waive the right under subsection (B); and
 - ii. Provide the designated beneficiary with an opportunity to provide documentation that revokes the spouse's right under subsection (B); and
 - b. Designate 50 percent of the member's retirement benefit to the spouse if neither the spouse nor designated beneficiary respond under subsection (G)(2)(a) within 30 days after notification.
- H. Effect of legal documents.** In general, a legal document such as a QDRO or prenuptial agreement will supersede the requirements in subsection (B). The ASRS shall ask the Office of the Attorney General to review the legal document before the ASRS decides how to disburse the retirement benefit.
- I. Spousal waiver and consent; consent revocation**
1. The current spouse of a member has a right to:
 - a. Be designated as primary beneficiary of at least 50 percent of the member's retirement account, and
 - b. Have the member choose a joint and survivor annuity with the spouse as contingent annuitant of at least 50 percent of the retirement benefit.
 2. To waive the right described in subsection (I)(1) and consent to an alternative, the current spouse shall complete and have notarized a spousal consent form, which is available from the ASRS. If the current spouse is not capable of completing the spousal consent form because of a documented incapacitating mental or physical condition, a person with power of attorney or a conservator may complete the spousal consent form on behalf of the current spouse.
 3. A spouse may revoke a waiver and consent by sending written notice to ASRS and ensuring the written notice is received no later than the earlier of one day before the member dies or ASRS disburses a retirement benefit to the member.

Historical Note

Former Rule, Social Security Regulation 6; Amended effective June 19, 1975 (Supp. 75-1). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-20 renumbered and amended as Section R2-8-120 effective May 21, 1982 (Supp. 82-3). Repealed effective July 24, 1985 (Supp. 85-4). New Section made by final rulemaking at 20 A.A.R. 2236, effective October 4, 2014 (Supp. 14-3). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-121. Repealed**Historical Note**

Former Rule, Retirement System Regulation 7; Amended effective April 15, 1980 (Supp. 80-2). Former Section R2-8-21 renumbered as Section R2-8-121 without change effective May 21, 1982 (Supp. 82-3). Amended subsection (A) effective May 30, 1985 (Supp. 85-3). Section repealed by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (05-1).

R2-8-122. Remittance of Contributions

- A.** Each Employer shall certify on each payroll the amount to be contributed by each one of their employee members of the ASRS and shall remit the amount of employee member contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employee member contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- B.** Each Employer shall remit the amount of employer contributions to the ASRS not later than 14 days after the last day of each payroll period. Payments of employer contributions not received in the offices of the ASRS by the 14th day after the last day of the applicable payroll period shall become delinquent after that date and shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A) per annum from and after the date of delinquency until payment is received by the ASRS.
- C.** Each Employer shall remit contributions pursuant to this section based on the contribution rate in effect on the pay period end date.
- D.** Each Employer shall certify on each payroll that each employee included on that payroll has met the requirements for active member eligibility and that all contributions to be remitted are for eligible compensation under A.R.S. § 38-711.

Historical Note

Former Rule, Retirement System Regulation 8; Amended effective Dec. 8, 1978 (Supp. 78-6). Former Section R2-8-22 renumbered as Section R2-8-122 without change effective May 21, 1982 (Supp. 82-3). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2). Amended by final rulemaking at 26 A.A.R. 371, effective April 11, 2020 (Supp. X-X).

R2-8-123. Actuarial Assumptions and Actuarial Value of Assets

- A.** For the purposes of this Section, "market value" means an estimated monetary worth of an asset based on the current demand for the asset and the amount of that type of asset available for sale.

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- B.** The Board adopts the following actuarial assumptions and asset valuation method:
1. The interest and investment return rate assumptions are determined by the Board.
 2. The actuarial value of assets equals the market value of assets:
 - a. Minus a 10-year phase-in of the excess for years in which actual investment return exceeds expected investment return; and
 - b. Plus a 10-year phase-in of the shortfall for years in which actual investment return falls short of expected investment return.

Historical Note

Adopted effective July 1, 1975 (Supp. 75-1). Amended effective June 23, 1976 (Supp. 76-3). Amended effective December 20, 1977 (Supp. 77-6). Former Section R2-8-23 renumbered and amended as Section R2-8-123 effective May 21, 1982 (Supp. 82-3). Emergency amendments effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent amendments adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 9 A.A.R. 1006, effective February 24, 2003 for a period of 180 days (Supp. 03-1). Emergency rulemaking renewed at 9 A.A.R. 3963, effective August 21, 2003 for a period of 180 days (Supp. 03-3). Amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 20 A.A.R. 3043, effective January 3, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

Table 1. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 1 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 2. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 2 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3. Repealed**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Emergency amendments to Table 3 adopted effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Permanent amendments adopted effective September 12, 1997 (Supp. 97-3). Table 3 repealed; new Table 3 renumbered from Table 4 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 3A. Expired

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Historical Note

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 3B. Expired**Historical Note**

New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 4 renumbered as Table 3 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). New Table made by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 4A. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4B. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 4C. Repealed**Historical Note**

New Table made by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Table 5. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table 5 repealed, new Table 5 adopted by emergency action effective January 30, 1997, pursuant to A.R.S. § 41-1026 for a maximum of 180 days (Supp. 97-1). Emergency expired. Table 5 repealed, new Table 5 adopted by regular rulemaking action effective September 12, 1997 (Supp. 97-3). Table 5 repealed; new Table 5 renumbered from Table 6 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 5 renumbered to Table 6; new Table 5 made by final rulemaking at 10 A.A.R. 4012, effective

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November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 6. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Former Table 6 renumbered to Table 5; new Table 6 renumbered from Table 7 and amended by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). Table repealed; new Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Former Table 6 renumbered to Table 7; new Table 6 renumbered from Table 5 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

Table 7. Expired**Historical Note**

Emergency adoption effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Table repealed, new Table adopted effective September 12, 1997 (Supp. 97-3). Renumbered to Table 6 by final rulemaking at 9 A.A.R. 4614, effective December 6, 2003 (Supp. 03-4). New Table made by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Table 7 renumbered from Table 6 and amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Table expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3).

R2-8-124. Termination Incentive Program by Agreement; Unfunded Liability Calculations

- A.** The following definitions apply to this Section unless otherwise specified:
1. "Compensation" means the same as in A.R.S. § 38-711(7).
 2. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(2).
- B.** An Employer that intends to implement a Termination Incentive Program shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. Within 90 days before implementation of the program, a complete description of the program terms and conditions, including the program contract, understanding, or agreement; and
 2. Within 90 days before implementation of the program, the following information for each member who may be eligible to participate in the program:
 - a. The member's full name;
 - b. The member's date of birth; and
 - c. The member's current Compensation;
- C.** The ASRS may use the information provided by the Employer pursuant to subsection (B) and the information on file with the ASRS to determine an estimated unfunded liability amount in consultation with the ASRS actuary, which may result from the implementation of the Employer's Termination Incentive Program.
- D.** If the ASRS determines an estimated unfunded liability amount pursuant to subsection (C), the ASRS may send a Notice of Estimated Liability to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the estimated unfunded liability amount the Employer may owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B). An Employer may owe the ASRS more or less than the estimated unfunded liability amount based on actual employee participation in the Employer's Termination Incentive Program pursuant to subsection (F).
- E.** Within 30 days of termination of employment of each member who participated in a Termination Incentive Program identified under subsection (B), the Employer shall provide the following information to the ASRS through the Employer's secure ASRS account:
1. The member's full name;
 2. The member's date of birth;
 3. The member's Compensation at termination;
 4. The date the member terminated employment; and
 5. The amount and type of any additional pay the member received, or was entitled to receive, from the Employer as a result of participating in the Employer's Termination Incentive Program.
- F.** Upon receipt of all the information identified in subsection (E) and in consultation with the ASRS actuary, the ASRS shall calculate the actual unfunded liability amount which resulted from the implementation of the Employer's Termination Incentive Program.
- G.** If the ASRS calculates an unfunded liability of less than \$0.00 for any member who participated in the Employer's Termination Incentive Program, the amount will be applied against the aggregate unfunded liability of the Employer.

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- H. Upon calculating the unfunded liability pursuant to subsections (F) and (G), the ASRS shall send the Employer a Termination Incentive Program Liability Invoice through the Employer's secure ASRS account.
- I. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- J. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- K. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective August 25, 1975 (Supp. 75-1). Former Section R2-8-24 renumbered as Section R2-8-124 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-125. Termination Incentive Program by 30% Salary Increase; Unfunded Liability Calculations

- A. The following definitions apply to this Section unless otherwise specified:
 1. "Average monthly compensation" means the same as in A.R.S. § 38-711(5).
 2. "Baseline salary" means a member's Average Monthly Compensation during the 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit. The Baseline Salary shall include only Compensation from the Same Employer that paid the Compensation used in the calculation of a member's retirement benefit. If the member has less than 12 consecutive months in which the member received Compensation immediately preceding the first month of Compensation used to calculate the member's retirement benefit, then the ASRS will calculate the member's Baseline Salary as the total of the 12 months of Compensation the member received:
 - a. Starting with the first month of Compensation the member received in the 12 months immediately preceding the member's Average Monthly Compensation, or within the Average Monthly Compensation; and
 - b. Ending with the 12th month of Compensation the member received after the first month of Compensation used in subsection (A)(2)(a).
 3. "Compensation" means the same as in A.R.S. § 38-711(7).
 4. "Job reclassification" means a change in the classification of an employment position made by the Employer when it finds the duties and responsibilities of the position have changed significantly, materially, and permanently from when the position was last classified.
 5. "Promotion" means, excluding a Salary Regrade or Job Reclassification, the act of advancing an employee to a higher salary or higher rank within the organization, which is characterized by:
 - a. A change in the employee's primary job responsibilities; and
 - b. A pay increase that is supported by a standard salary administration practice that is documented by the Employer; and
 - c. A competitive selection process or a noncompetitive selection process supported by a standard hiring practice that is documented by the Employer.
 6. "Salary regrade" means a change in the salary scale of an employment position made by the Employer in order to align the position's salary scale with market factors and/or the Employer's current salary practices.
 7. "Same employer" means the Employer has the same ownership as another Employer, except that for purposes of this Section, each agency, board, commission, and department of the State of Arizona shall be considered a separate Employer.
 8. "Termination Incentive Program" means the same as in A.R.S. § 38-749(D)(1).
- B. Upon a member's retirement on or after January 1, 2018, the ASRS shall compare the member's Baseline Salary to the Average Monthly Compensation for each consecutive 12 months of Compensation used to calculate the member's retirement benefit in order to determine whether an Employer utilized a Termination Incentive Program as defined in A.R.S. § 38-749(D)(1). This subsection only applies to members who earned the Compensation used to calculate the member's Baseline Salary, on or after July 1, 2005.
- C. Upon determining that a Termination Incentive Program exists under subsection (B), the ASRS shall send a Request for Documentation to the Employer through the Employer's secure ASRS account, in order to notify the Employer that the ASRS has identified a Termination Incentive Program for a particular member and the Employer may be required to pay the ASRS for the unfunded liability resulting from the Termination Incentive Program, unless the Employer can prove the increase in the member's salary was the result of a Promotion.
- D. Within 90 days of the date on the Request for Documentation, the Employer shall respond to the Request for Documentation by:
 1. Submitting documentation through the Employer's secure ASRS account that shows the member's increase in Compensation was the result of a Promotion; or
 2. Acknowledging in writing that the increase in the member's salary was not the result of a Promotion.
- E. Pursuant to subsection (D), the Employer bears the burden of producing evidence that a Promotion has occurred as defined in subsection (A)(5).
- F. The ASRS shall use any evidence the Employer submits to the ASRS pursuant to subsection (D) to determine whether a Promotion occurred.
- G. If the Employer does not respond to the Request for Documentation within 90 days of the date on the Request for Documentation, the ASRS shall determine that the increase in the member's salary was not the result of a Promotion.

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- H. If the ASRS determines that the increase in the member's salary was not the result of a Promotion pursuant to subsections (F) or (G), the ASRS shall calculate the unfunded liability amount pursuant to subsection (I).
- I. In consultation with the ASRS actuary, the ASRS shall use a determination under subsection (B) to calculate the unfunded liability resulting from the implementation of the Employer's Termination Incentive Program.
- J. Upon calculating an unfunded liability amount pursuant to subsection (I), the ASRS shall send a Termination Incentive Program Liability Invoice to the Employer through the Employer's secure ASRS account, in order to notify the Employer of the unfunded liability amount the Employer shall owe to the ASRS as a result of implementing the Termination Incentive Program identified under subsection (B).
- K. An Employer that owes an unfunded liability amount to the ASRS pursuant to A.R.S. § 38-749, shall remit full payment of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice.
- L. Pursuant to A.R.S. § 38-735(C), if the ASRS does not receive full payment from the Employer of the unfunded liability amount by the due date specified in the Termination Incentive Program Liability Invoice, the unpaid portion of the unfunded liability amount shall accrue interest at the assumed actuarial investment earnings rate listed in R2-8-118(A).
- M. The ASRS may collect any unfunded liability amount pursuant to A.R.S. §§ 38-723 and 38-735(C).

Historical Note

Adopted as an emergency effective July 30, 1975 (Supp. 75-1). Former Section R2-8-25 renumbered as Section R2-8-125 without change effective May 21, 1982 (Supp. 82-3). Section repealed by final rulemaking at 10 A.A.R. 669, effective February 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 23 A.A.R. 2743, effective January 1, 2018 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 1861, effective June 11, 2018 (Supp. 18-2).

R2-8-126. Calculating Optional Forms of Benefits

- A. For the purposes of this Section, the following definitions apply, unless stated otherwise:
 1. "Prior service credit" means a "service credit" listed in R2-8-501(24), credited service that is earned pursuant to A.R.S. § 38-739, or a service credit that is transferred or redeemed pursuant to A.R.S. §§ 38-730, 38-771, or 38-921 et seq.
 2. "Original retirement date" means:
 - a. The date a member retires from the ASRS for the first time; or
 - b. The date a member retires from the ASRS after returning to active membership for 60 consecutive months or more pursuant to A.R.S. § 38-766(C).
- B. An individual who is 104 years of age or older at the time of retirement is not eligible to elect an option of life annuity with a term certain.
- C. An individual who is 93 years of age or older at the time of retirement is not eligible to elect the options of life annuity with ten years certain or life annuity with 15 years certain.
- D. An individual who is 85 years of age or older at the time of retirement is not eligible to elect the option of life annuity with 15 years certain.
- E. As authorized under A.R.S. § 38-764(F), if the life annuity of any member is less than a monthly amount determined by the Board, the ASRS shall not pay the annuity. Instead, the ASRS shall make a lump sum payment in the amount determined by using appropriate actuarial assumptions.
- F. The ASRS shall calculate a member's or beneficiary's benefits, based on the attained age of the member or beneficiary, determined in years and full months, as of:
 1. The date of the member's retirement; or
 2. The date of the member's death, if the beneficiary is eligible to elect the survivor benefit as monthly income for life pursuant to A.R.S. § 38-762(C).
- G. Before the ASRS applies the calculation for an optional form of retirement benefit provided in A.R.S. § 38-760, the ASRS shall include any prior service credit benefit that is applicable to the life annuity of the member.
- H. A member who is ten years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 100% joint-and-survivor option. A member who is 24 years and one day, or more, older than the member's non-spousal contingent annuitant is not eligible to participate in a 66 2/3% joint-and-survivor option.
- I. For members whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is ten years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 100% joint-and-survivor option, if:
 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.
- J. For members whose original retirement date is on or after March 6, 2016, notwithstanding subsection (H), a member who is 24 years and one day, or more, older than the member's ex-spouse contingent annuitant is eligible to participate in a 66 2/3% joint-and-survivor option, if:
 1. The member elected the ex-spouse as the contingent annuitant prior to divorce from the ex-spouse; and
 2. The member submits a DRO to the ASRS which requires the ex-spouse to be the contingent annuitant on the member's account.
- K. Notwithstanding subsection (F), for purposes of determining whether a member is eligible to participate in a joint-and-survivor option, the ASRS shall calculate the difference in a member's age and the contingent annuitant's age based on the birthdates of the member and the contingent annuitant.

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Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Amended effective July 13, 1979 (Supp. 79-4). Former Section R2-8-26 renumbered and amended as Section R2-8-126 effective May 21, 1982 (Supp. 82-3). Amended subsections (A) through (D) effective October 18, 1984 (Supp. 84-5). Amended subsections (A) through (D) effective July 24, 1985 (Supp. 85-4). Amended by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency amendments adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Amended by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3). Amended by final rulemaking at 19 A.A.R. 332, effective April 6, 2013 (Supp. 13-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 22 A.A.R. 79, effective March 6, 2016 (Supp. 16-1). Amended by final rulemaking at 22 A.A.R. 3081, effective December 3, 2016 (Supp. 16-4).

Table 1. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 1 repealed, new Table 1 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 2. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 2 repealed, new Table 2 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 3. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 3 repealed, new Table 3 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 4. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 4 repealed, new Table 4 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 5. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 5 repealed, new Table 5 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 6. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 6 repealed, new Table 6 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 7. Repealed

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Historical Note

Adopted effective September 12, 1977 (Supp. 77-5). Table 7 repealed, new Table 7 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 8. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 8 repealed, new Table 8 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 9. Repealed**Historical Note**

Adopted effective September 12, 1977 (Supp. 77-5). Table 9 repealed, new Table 9 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 10. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 10 repealed, new Table 10 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Table 11. Repealed**Historical Note**

Adopted effective October 18, 1984 (Supp. 84-5). Table 11 repealed, new Table 11 adopted effective July 24, 1985 (Supp. 85-4). Repealed by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed again by emergency effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Repealed effective December 22, 1993 (Supp. 93-4).

Exhibit A. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit B, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

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Exhibit B, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit C. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 4. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit D, Table 6. Repealed

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Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 4. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit E, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 1. Repealed

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Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 4. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit F, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit G. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit H. Repealed

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Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit I. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit J. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit K. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 4. Repealed

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Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 5. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit L, Table 7. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Amended by emergency rulemaking at 7 A.A.R. 1621, effective March 21, 2001 (Supp. 01-1). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 1. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 2. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 3. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 4. Repealed

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Historical Note

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

Exhibit M, Table 5. Repealed**Historical Note**

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Exhibit M, Table 6. Repealed**Historical Note**

Adopted by emergency effective July 6, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Emergency rule adopted again effective September 29, 1993, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 93-3). Permanent rule adopted effective December 22, 1993 (Supp. 93-4). Repealed by emergency rulemaking under A.R.S. § 41-1026 at 10 A.A.R. 2496, effective August 2, 2004 for 180 days (Supp. 04-2). Repealed by final rulemaking at 10 A.A.R. 4012, effective November 13, 2004 (Supp. 04-3).

ARTICLE 2. HEALTH INSURANCE PREMIUM BENEFIT**R2-8-201. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Coverage" means a medical and/or dental insurance plan a retired member, Disabled member, or contingent annuitant obtains through the ASRS or an Employer.
2. "Contingent annuitant" means the same as in A.R.S. § 38-711(8) and the person is eligible for Coverage.
3. "Disabled" means the member has a disability and is receiving long-term disability benefits pursuant to A.R.S. § 38-797 et seq.
4. "Family calculation" means the family Coverage premium described in A.R.S. § 38-783(B).
5. "Joint & survivor" means the annuity option described in A.R.S. § 38-760(B)(1).
6. "Net premium" means the amount of the Coverage premium reduced by the amount of the Premium Benefit provided by the ASRS.
7. "Original retirement date" means the same as in R2-8-126.
8. "Optional premium benefit" means the election, upon retirement, to have the Premium Benefit paid on behalf of the member's Contingent Annuitant upon death of the member pursuant to A.R.S. § 38-783.
9. "Period-certain" means the annuity option described in A.R.S. § 38-760(B)(2).
10. "Premium benefit" means the amount the ASRS provides on behalf of a retired member or Disabled member in order to offset the Coverage premium of the retired or Disabled member pursuant to A.R.S. § 38-783.
11. "Single calculation" means the single Coverage premium calculation described in A.R.S. § 38-783(A).
12. "Subsidized" means the same as in A.R.S. § 38-783(M)(4).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-202. Premium Benefit Eligibility and Benefit Determination

- A.** A retired member or Disabled member who has five or more years of service and who elects to maintain Coverage is eligible for a Premium Benefit as follows:
1. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member only, is eligible for a Single Calculation of the Premium Benefit as described in R2-8-204(A);
 2. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is not a retired member or Disabled member is eligible for a Family Calculation of the Premium Benefit as described in R2-8-204(B).
 3. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and a dependent who is a retired member or Disabled member is eligible for the greater of:
 - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
 - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).

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4. A retired member or Disabled member who is enrolled as a dependent on an active member's insurance plan is eligible for a Single Calculation of the Premium Benefit described in R2-8-204(A) if:
 - a. The retired member has an Original Retirement Date prior to August 2, 2012; or
 - b. The Disabled member became Disabled prior to August 2, 2012;
5. A retired member or Disabled member who elects to maintain Coverage for the retired member or Disabled member and multiple dependents, some of whom are retired members or Disabled members, is eligible for the greater of:
 - a. Two Single Calculations of the Premium Benefit described in R2-8-204(A); or
 - b. One Family Calculation of the Premium Benefit described in R2-8-204(B).
- B. Pursuant to A.R.S. § 38-783(E), a retired member who returns to work as an active member with an Employer and elects to maintain Coverage is eligible to receive a Premium Benefit if the member has an Original Retirement Date prior to August 2, 2012.
- C. Pursuant to A.R.S. § 38-783(E), a Disabled member who elects to maintain Coverage is eligible to receive a Premium Benefit if the Disabled member became Disabled prior to August 2, 2012.
- D. A member who receives a lump sum distribution from the ASRS upon retirement is eligible to receive a Premium Benefit pursuant to this Article.
- E. Notwithstanding any other Section, a retired member who has an Original Retirement Date on or after August 2, 2012, or a Disabled member who became Disabled on or after August 2, 2012 is eligible to receive a Premium Benefit pursuant to this Article, only if Coverage is not Subsidized.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 10 A.A.R. 4259, effective September 30, 2004 (Supp. 04-3). Amended by final rulemaking at 10 A.A.R. 4346, effective October 5, 2004 (Supp. 04-3). Section amended and Table 1 repealed by final rulemaking at 13 A.A.R. 4581, effective February 2, 2008 (Supp. 07-4). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-203. Payment of Premium Benefit

- A. Every month, the ASRS shall provide a Premium Benefit to the Employer on behalf of a retired member, Disabled member, or Contingent Annuitant who maintains Coverage and is eligible to receive a Premium Benefit pursuant to R2-8-202.
- B. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration or the ASRS, the ASRS shall reduce the retired member's pension amount by the amount of the retired member's Net Premium for Coverage pursuant to this Article, unless the Net Premium exceeds the pension amount.
- C. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the ASRS and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the retired member's insurance company and the ASRS shall:
 1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the retired member's insurance company.
- D. Notwithstanding subsection (A), if a retired member who is eligible to receive a Premium Benefit pursuant to R2-8-202 elects to maintain Coverage with the Arizona Department of Administration and the Net Premium exceeds the retired member's pension amount, the retired member shall be responsible for remitting the Net Premium to the Arizona Department of Administration and the ASRS shall:
 1. Not reduce the retired member's pension amount; and
 2. Remit payment of the Premium Benefit to the Arizona Department of Administration.
- E. If a Disabled member who is eligible to receive a Premium benefit pursuant to R2-8-202 maintains Coverage with the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the Arizona Department of Administration, unless the Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- F. If a Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with the ASRS, the ASRS shall remit the Premium Benefit to the Disabled member's insurance company and the Disabled member shall be responsible for remitting the Net Premium to the Disabled member's insurance company.
- G. If a retired member or Disabled member who is eligible to receive a Premium Benefit pursuant to R2-8-202 maintains Coverage with an Employer other than the ASRS or the Arizona Department of Administration, the ASRS shall remit the Premium Benefit to the retired member's or Disabled member's Employer, unless the retired member or Disabled member is participating in the Six-Month Reimbursement Program pursuant to R2-8-206.
- H. If a retired member or Disabled member is eligible to receive a Premium Benefit pursuant to R2-8-202, the ASRS shall provide the lesser of the following for any one retired member or Disabled member:
 1. The actual cost of the Coverage premium; or
 2. The greatest Premium Benefit calculation for which the retired member or Disabled member is eligible pursuant to R2-8-202.
- I. If a retired member is eligible to receive a Premium Benefit pursuant to R2-8-202 and the member retires from the ASRS in addition to retiring from another State retirement system or plan described in A.R.S. § 38-921, each month, the ASRS shall remit any Premium Benefit for which the retired member is eligible under this Article to the other State retirement system or plan from which the member retired.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-204. Premium Benefit Calculation

- A. A Single Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or non-Medicare status.
- B. A Family Calculation for a Premium Benefit is based on the retired member's or Disabled member's Coverage election, years of service, and Medicare or Non-Medicare status, and the Medicare or Non-Medicare status of any dependents for which the retired member or disabled member has obtained Coverage.
- C. A Contingent Annuitant who is eligible to receive an Optional Premium Benefit pursuant to R2-8-207 shall receive an Optional Premium Benefit amount based on:
 1. The retired member's years of service and optional retirement benefit election pursuant to A.R.S. § 38-760; and
 2. The Contingent Annuitant's Coverage and Medicare or non-Medicare status.
- D. Notwithstanding R2-8-203(H), if a Contingent Annuitant is a retired member, the Contingent Annuitant may be entitled to receive more than one Premium Benefit.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-205. Premium Benefit Documentation

- A. Every year, prior to the effective date of Coverage, an Employer shall report to the ASRS all the Coverage plans and premium rates the Employer offers to its retired or Disabled employees.
- B. An Employer shall inform the ASRS of any changes to the retired member's, Disabled member's, or Contingent Annuitant's Coverage, including enrollment in Coverage, maintained through the Employer within 30 days of the changes taking effect.
- C. Using the Employer's secure ASRS website account, or another ASRS approved method, an Employer shall submit the following health insurance enrollment, change, and/or deletion information pursuant to subsection (B):
 1. The retired member's, Disabled member's, or Contingent Annuitant's social security number;
 2. The retired member's, Disabled member's, or Contingent Annuitant's full name;
 3. The retired member's, Disabled member's, or Contingent Annuitant's residential mailing address and telephone number;
 4. The retired member's, Disabled member's, or Contingent Annuitant's date of birth;
 5. The Coverage in which the retired member, Disabled member, or Contingent Annuitant is enrolling;
 6. The type of change that is being made to the Coverage;
 7. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social security number;
 - c. Date of birth; and
 - d. Medicare number, if applicable.
 8. The old and new premium amounts for Coverage;
 9. The effective date of the change, deletion, and/or enrollment;
 10. The Employer's name and telephone number;
 11. A certification by the Employer representative's dated signature that the information is current and correct.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-206. Six-Month Reimbursement Program

- A. For a retired member or Disabled member who is eligible for a Premium Benefit pursuant to R2-8-202(A)(4) or (B), the ASRS shall remit the Premium Benefit to the retired member or Disabled member pursuant to subsection (B).
- B. Pursuant to subsection (A), the ASRS shall remit the Premium Benefit to the retired member or Disabled member every six months, payable in July and January. For purposes of this Section, the Premium Benefit shall be the aggregate amounts of the Premium Benefit the retired member or Disabled member is entitled to receive during the previous six months.
- C. In order to receive a Premium Benefit payment pursuant to subsection (B), a retired member or Disabled member shall submit to the ASRS the Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form after the last day of the last month for which the retired member or Disabled member is seeking reimbursement.
- D. The Reimbursement of Medical and/or Dental Cost (Six-Month Reimbursement Program) form that a retired member or Disabled member submits pursuant to subsection (C) shall include the following information:
 1. The retired member's or Disabled member's social security number;

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2. The retired member's or Disabled member's full name;
3. The retired member's or Disabled member's mailing address and phone number;
4. The retired member's or Disabled member's date of birth;
5. The retired member's or Disabled member's status with the ASRS
6. The retired member's or Disabled member's status with the retired member's or Disabled member's Employer.
7. The following Coverage information for the Coverage policy holder:
 - a. First and last names;
 - b. Social security number;
 - c. Date of birth;
 - d. Effective date of Coverage;
8. The following information for each dependent enrolled in, or to be enrolled in, Coverage:
 - a. First and last name;
 - b. Social security number;
 - c. Date of birth;
 - d. Effective date of Coverage;
9. Six-month reimbursement totals identified by:
 - a. The month and year the premium is due for Coverage;
 - b. The total medical plan premium per month;
 - c. The total dental plan premium per month;
 - d. The employee's out-of-pocket payroll deduction for a medical premium per month;
 - e. The employee's out-of-pocket payroll deduction for a dental premium per month;
 - f. The employee's total out-of-pocket payroll deduction for medical and dental premiums per month;
10. The Employer's name;
11. The Employer's phone number;
12. The Employer's email address;
13. The name of the Employer's representative; and
14. The dated signature of the Employer's representative.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(E) at 16 A.A.R. 1765, effective July 14, 2010 (Supp. 10-3). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

R2-8-207. Optional Premium Benefit

- A. A member who retires on or after January 1, 2004 is eligible to elect the Optional Premium Benefit to be effective on the date of the retired member's retirement and may designate a Contingent Annuitant to receive the Optional Premium Benefit upon the death of the retired member if:
 1. The retired member elects a retirement option under A.R.S. § 38-760; and
 2. The retired member elects to maintain Coverage.
- B. A retired member who returns to active membership for 60 consecutive months or more before retiring again, may elect or re-elect the Optional Premium Benefit pursuant to subsection (A).
- C. A retired member who does not return to active membership for 60 consecutive months or more before retiring again is not eligible to elect the Optional Premium Benefit pursuant to subsection (A) unless the retired member elected the Optional Premium Benefit to be effective on the date of the retired member's Original Retirement Date.
- D. In order to elect, re-elect, or terminate the Optional Premium Benefit pursuant to subsection (A), the retired member shall submit to the ASRS the Optional Premium Benefit Program Election or Termination form containing the following information:
 1. The retired member's Social Security Number;
 2. The retired member's full name and gender;
 3. The retired member's current mailing address;
 4. The retired member's date of birth;
 5. The retired member's email address;
 6. The retired member's phone number;
 7. Whether the retired member is electing, declining, or terminating the Optional Premium Benefit;
 8. The following information for the Contingent Annuitant if the retired member is electing or re-electing the Optional Premium Benefit:
 - a. The Social Security Number;
 - b. The full name;
 - c. The mailing address;
 - d. The phone number;
 - e. The date of birth; and
 - f. The gender and relationship to the retired member; and
 9. Certification of understanding by the retired member's dated signature of the following statements:

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- a. I have a one-time election at the time of retirement for this benefit, and have a retirement date on or after January 1, 2004;
 - b. I must elect a Joint & Survivor or Period-Certain annuity option;
 - c. If I elect to participate, my Contingent Annuitant must either be participating or eligible to participate in my retiree health care plan at the time of my death;
 - d. I must provide a Social Security Number and proof of birth date for my Contingent Annuitant;
 - e. The Premium Benefit will be actuarially reduced for the remainder of my benefit and my Contingent Annuitant's benefit as long as the Optional Premium Benefit is elected; and
 - f. I may rescind the election at any time and be eligible for the unreduced Premium Benefit payable as provided by law.
- E.** In order to elect or re-elect the Optional Premium Benefit, a member shall submit the Optional Premium Benefit Program Election or Termination form to the ASRS prior to the member's retirement date.
- F.** A Contingent Annuitant the retired member designates to receive the Optional Premium Benefit upon the retired member's death is eligible to receive a Premium Benefit if:
1. The retired member designates the Contingent Annuitant as the primary beneficiary on the member's retirement account;
 2. The Contingent Annuitant is enrolled in a Coverage plan at the time of the member's death or the Contingent Annuitant enrolls in a Coverage plan within six months of the retired member's death pursuant to A.R.S. § 38-782(A); and
 3. The Contingent Annuitant is eligible to receive at least one monthly payment.
- G.** Upon the death of a retired member who elected the Optional Premium Benefit pursuant to subsection (A), the ASRS shall provide the Optional Premium Benefit on behalf of the retired member's Contingent Annuitant who is eligible to receive the Optional Premium Benefit pursuant to subsection (F).
- H.** Notwithstanding subsection (G), the amount of the Optional Premium Benefit the ASRS provides on behalf of a Contingent Annuitant shall not exceed the actual amount of the Coverage premium.
- I.** Unless otherwise indicated by law, the Optional Premium Benefit shall not terminate upon the death of the retired member if a Contingent Annuitant is eligible for the Optional Premium Benefit pursuant to subsection (F).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1962, effective May 4, 2004 (Supp. 04-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 34, effective May 31, 2015 (Supp. 16-4). New Section made by final rulemaking at 23 A.A.R. 1414, effective July 3, 2017 (Supp. 17-2).

ARTICLE 3. LONG-TERM DISABILITY**R2-8-301. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Attending Physician" means a provider:
 - a. Who is a qualified medical provider or other legally qualified practitioner of a healing art that the claims administrator recognizes or is required by law to recognize;
 - b. Whose medical training and clinical experience are qualified to treat the member's disabling condition;
 - c. Whose diagnosis and treatment is consistent with the diagnosis of the disabling condition, according to guidelines established by medical, research, and rehabilitative organizations;
 - d. Who is licensed to practice in the jurisdiction where care is being given;
 - e. Who is practicing within the scope of the license; and
 - f. Who is not related to the member by blood or marriage.
2. "Direct Care" means the member is actively receiving treatment from a provider for the member's disability at least once per calendar year.
2. "Estimated Social Security disability income amount" means the same as in R2-8-801(2).
3. "Legal proceeding" means an appeal of an appealable agency decision at the Office of Administrative Hearings pursuant to A.R.S. § 41-1092 et seq. or an appeal of a Social Security determination at the Social Security Administration, or any other review by a formal body, which determines the rights and responsibilities of the member or survivor.
4. "LTD" means the Long-Term Disability program described in A.R.S. § 38-797 et seq.
5. "LTD benefit" means the amount of funds the member receives from the ASRS or the ASRS contracted LTD claims administrator, for the period of time a member has an eligible disability as described in A.R.S. § 38-797.07(A)(11).
6. "LTD contribution" means the amount of funds the member remits to the ASRS from the member's compensation as payment for the LTD program.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-302. Application for Long-Term Disability Benefit

- A.** In order to claim an LTD benefit, a disabled member shall submit to the disabled member's Employer all the completed forms prescribed by the ASRS contracted LTD claims administrator within 12 months of the date the disabled member became disabled.

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- B. Pursuant to A.R.S. § 38-797.07(D), in order to continue receiving an LTD benefit, a disabled member shall submit documentation regarding the disabled member's ongoing disability and occupation as required by the ASRS contracted LTD claims administrator to determine the disabled member's continuing eligibility for an LTD benefit.
- C. Pursuant to A.R.S. § 38-797.07(11), in order to submit an application for an LTD benefit, a member must provide objective medical evidence from an Attending Physician.
- D. Pursuant to A.R.S. § 38-797.07(7)(b)(i), in order to continue receiving an LTD benefit, the disabled member must be under the Direct Care of a doctor.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-303. Long-Term Disability Calculation

- A. The ASRS contracted LTD claims administrator shall calculate an LTD benefit for a member using the member's monthly compensation as described in A.R.S. § 38-797(11).
- B. For a member whose monthly compensation is \$0 as of the date of disability, the ASRS shall pay a monthly benefit of \$50 unless the benefit is reduced pursuant to R2-8-807 or required to be reduced pursuant to A.R.S. § 38-797.07(A)(2).
- C. The ASRS shall reduce a member's LTD benefit in accordance with A.R.S. § 38-797.07(A).

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-304. Payment of Long-Term Disability Benefit

- A. The ASRS contracted LTD claims administrator shall begin providing an LTD benefit to an eligible disabled member no sooner than six months after the date the disabled member became disabled.
- B. Notwithstanding subsection (A), the ASRS contracted LTD claims administrator may begin providing an LTD benefit to an eligible disabled member sooner than six months if the disability is related to the member's disability that occurred within six months immediately preceding the disability.
- C. The ASRS contracted LTD claims administrator may provide an eligible disabled member's LTD benefit to a third party pursuant to A.R.S. § 38-797.09.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3). Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-305. Social Security Disability Appeal

- A. Upon request by the ASRS contracted LTD claims administrator, a member who claims an LTD benefit pursuant to R2-8-302(A) shall submit a Social Security disability income application as prescribed by the ASRS contracted LTD claims administrator.
- B. In order to continue receiving an LTD benefit, a member whose application for Social Security disability income has been denied or terminated must appeal the most recent determination of denial or termination through a hearing before an administrative law judge pursuant to A.R.S. § 38-797.07(A)(10)(a) until the ASRS contracted LTD claims administrator or the Social Security Claims Administrator determines the member is not eligible for a Social Security benefit.
- C. Within 10 days after a member receives notice of the status of the member's Social Security disability income application, the member shall notify:
 - 1. The ASRS of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS, if the member is not receiving an LTD benefit; or
 - 2. The ASRS contracted LTD claims administrator of the member's application status by submitting a copy of the notice identifying the status of the member's Social Security disability income application to the ASRS contracted LTD claims administrator, if the member is not receiving an LTD benefit.
- D. A member who disagrees with an LTD determination by the ASRS contracted LTD claims administrator may submit an appeal pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

R2-8-306. Approval of Social Security Disability

Upon receipt of a Social Security disability income benefit, a member shall immediately remit to:

- 1. The ASRS the amount of the Social Security disability income benefit necessary to offset the LTD benefit; or
- 2. The ASRS contracted LTD claims administrator the amount of the Social Security disability income benefit necessary to offset the LTD benefit.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2746, effective November 13, 2017 (Supp. 17-3).

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ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

R2-8-401. Definitions

The following definitions apply to this Article, unless otherwise specified:

1. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
2. "Board" means, if established, a Committee designated by the Board to take action on appeals as described in A.R.S. § 38-714(E)(1) or, if a Committee is not established, the same as in A.R.S. § 38-711(6).
3. "Final administrative action" has the same meaning as in A.R.S. § 41-1092 and is rendered by the Board.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1). Amended by final rulemaking at 23 A.A.R. 2749, effective November 13, 2017 (Supp. 17-3).

R2-8-402. General Procedures

In computing any time period, parties shall exclude the day from which the designated time period begins to run. Parties shall include the last day of the period unless it falls on a Saturday, Sunday, or legal holiday. When the time period is 10 days or less, parties shall exclude Saturdays, Sundays, and legal holidays.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-403. Letters of Appeal; Request for a Hearing of an Appealable Agency Action

- A. After receipt of an agency decision, a person who is not satisfied with the agency decision, may submit a letter of appeal:
 1. To the ASRS's vendor for long-term disability benefits, if the appeal relates to a long-term disability decision; or
 2. To the ASRS Member Services Division Assistant Director, or such director's designee, if the appeal relates to an agency decision other than a long-term disability decision.
- B. Upon receipt of a letter of appeal, the long-term disability vendor, or the Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal notifying the person of:
 1. The decision the agency is making in response to the letter of appeal; and
 2. The person's right to appeal the agency response by submitting a letter of appeal to the ASRS Director or such director's designee.
- C. A person who is not satisfied with the agency response pursuant to subsection (B) may submit a letter of appeal to the ASRS Director or such director's designee within 60 days of the date on the agency response letter.
- D. Within 30 days of the date the ASRS receives a letter of appeal pursuant to subsection (C), the ASRS director or such director's designee shall send a response letter by certified mail to the person requesting the appeal that includes:
 1. The agency action the ASRS is taking in response to the letter of appeal; and
 2. Notice of Appealable Agency Action, as required pursuant to A.R.S. § 41-1092.03 informing the person requesting the appeal, that the person has a right to appeal the agency action by submitting a Request for Hearing pursuant to subsections (E) and (F).
- E. For an appealable agency action, a person who is not satisfied with an agency action pursuant to subsection (D) may file a Request for a Hearing, in writing, with the ASRS. The date the Request is filed is established by the ASRS date stamp on the face of the first page of the Request. The Request shall include the following:
 1. The name and mailing address of the member, employer, or other person filing the Request;
 2. The name and mailing address of the attorney for the person filing the Request, if applicable;
 3. A concise statement of the reasons for the appeal.
- F. The person requesting a hearing shall file the Request for a Hearing with the ASRS within 30 days after receiving a response letter including a Notice of an Appealable Agency Action, pursuant to subsection (E).
- G. Upon receipt of the Request for a Hearing, the ASRS shall notify the Office of Administrative Hearings as required in A.R.S. § 41-1092.03(B).
- H. Pursuant to subsection (B):
 1. The long-term disability vendor shall send a response letter to the person requesting the appeal within 120 days of the date the long-term disability vendor receives the letter of appeal; and
 2. The Member Services Division Assistant Director, or such director's designee, shall send a response letter to the person requesting the appeal within 30 days of the date the ASRS receives the letter of appeal.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

R2-8-404. Board Decisions on Hearings before the Office of Administrative Hearings

A recommended decision from the Office of Administrative Hearings that is sent to ASRS at least 30 days before the Board's next regular monthly meeting, shall be reviewed by the Board at that monthly meeting. At the monthly meeting, the Board shall render a decision to accept, reject, or modify the findings of fact, conclusions of law and recommendations in whole or in part. If the Board modifies or rejects a

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recommended decision, the Board shall state the reasons for the modification or rejection. The Board shall deliver the Board's final decision to the Office of Administrative Hearings within five days after the monthly meeting at which the Board made the final decision.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1).

R2-8-405. Motion for Rehearing Before the Board; Motion for Review of a Final Decision

- A. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party in an appealable agency action may file with the Board a Motion for Rehearing Before the Board, in writing, specifying the particular grounds for rehearing before the Board.
- B. Except as provided in subsection (H), within 30 days after service of the final administrative decision, any aggrieved party of an appealable agency action may file with the Board a Motion for Review of a Final Decision, in writing, specifying the particular grounds for reviewing the Board's final administrative decision.
- C. A party may amend a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision at any time before the Board rules on the motion. A party may file a response within 15 days after the motion or the amended motion is filed. The Board may require the filing of written briefs upon the issues raised in the motion or the amended motion, and may provide for oral argument.
- D. The Board may grant a Motion for Rehearing Before the Board or a Motion for Review of a Final Decision for any of the following causes that materially affects the moving party's rights:
 1. Irregularity in the administrative proceedings of the agency or the hearing officer, or any order or abuse of discretion that deprives the moving party of a fair hearing;
 2. Misconduct of the Board, the hearing officer, or the prevailing party;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing or during the process of the action; or
 7. That the decision, or findings of fact, is not justified by the evidence or is contrary to law.
- E. The Board may affirm or modify the final administrative decision or grant a rehearing before the Board or review of final administrative decision to all or any of the parties on all or part of the issues for any of the reasons in subsection (C). An order granting a rehearing or review shall specify with particularity the grounds for the order.
- F. Not later than 10 days after the final administrative decision, the Board may, after giving each party notice and an opportunity to be heard, order a rehearing or review of its final administrative decision for any reason for which it might have granted a rehearing or review on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing or review for a reason not stated in the motion. In either case, the order granting a rehearing or review shall specify the grounds on which it is granted.
- G. When a motion for rehearing or review is based upon an affidavit, the affidavit shall be filed with the motion. An opposing party may, within 15 days after filing, file an opposing affidavit. The Board may extend the period for filing an opposing affidavit for not more than 20 days for good cause shown or by written stipulation of the parties. The Board may permit a reply affidavit.
- H. The Board shall rule on the motion within 15 days after the response to the motion is filed or if a response is not filed, within five days of the expiration of the response period.
- I. If the Board makes a specific finding that the immediate effectiveness of a particular decision is necessary for the preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, an application for judicial review of the decision may be made within the time limits permitted for applications for judicial review of the Board's final decisions.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 444, effective January 4, 2005 (Supp. 05-1). Amended by final rulemaking at 23 A.A.R. 487, effective April 8, 2017 (Supp. 17-1).

ARTICLE 5. PURCHASING SERVICE CREDIT**R2-8-501. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "Active duty" means full-time duty in a branch of the United States uniformed service, other than Active Reserve Duty.
2. "Active reserve duty" means participating in required meetings and annual training in a Reserve or National Guard branch of the United States uniformed service.
3. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Eligible Member's Current Years of Credited Service;
 - b. Eligible Member's age as of the date the Eligible Member submits to the ASRS a request to purchase service pursuant to this Article;

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- c. Amount of Service Credit the member wishes to purchase; and
- d. Member's current annual compensation.
- 4. "Authorized representative" means an individual who has been delegated the authority to act on behalf of a Custodian, Trustee, Plan Administrator, or a member, if the member's IRA or 403(b) is not maintained by the member's Employer.
- 5. "Current years of credited service" means the amount of credited service a member has earned or purchased, and the amount of Service Credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase Service Credit for which the member has not yet paid.
- 6. "Custodian" means a financial institution that holds financial assets for guaranteed safekeeping.
- 7. "Direct rollover" means distribution of Eligible Funds made payable to the ASRS as a contribution for the benefit of an eligible member from a retirement plan listed in A.R.S. § 38-747(H)(2) or (H)(3).
- 8. "Eligible funds" means payments listed in A.R.S. § 38-747(H)(2) and (H)(3).
- 9. "Eligible member" means a member who is eligible to purchase service pursuant to A.R.S. §§ 38-742, 38-743, 38-744, or 38-745.
- 10. "Forfeited service" means credited service for which the ASRS has returned retirement contributions to the member under A.R.S. § 38-740.
- 11. "IRC" means the same as "Internal Revenue Code" in A.R.S. § 38-711(18).
- 12. "Irrevocable PDA" means an irrevocable "Payroll Deduction Authorization" contract between an Eligible Member, an Employer, and the ASRS that requires the Employer to withhold payments from an Eligible Member's pay for a specified amount and for a specified number of payments, as provided in A.R.S. § 38-747.
- 13. "Leave of absence service" means an approved leave of absence without pay as specified in A.R.S. § 38-744.
- 14. "LTD" means the same as in R2-8-301.
- 15. "Military Call-up service" means a member is called to Active Duty in a branch of the United States Uniformed Services.
- 16. "Military service" means Active Duty or Active Reserve Duty with any branch of the United States Uniformed Services or the Commissioned Corps of the National Oceanic and Atmospheric Administration.
- 17. "Military service record" means a United States Uniformed Services or National Oceanic and Atmospheric Administration document that provides the following information:
 - a. The member's full name;
 - b. The member's Social Security number;
 - c. Type of discharge the member received; and
 - d. Active Duty dates, if applicable; or
 - e. Active Reserve Duty dates, if applicable; and
 - f. Point history for Active Reserve Duty dates, if applicable.
- 18. "Other public service" means previous employment listed in A.R.S. § 38-743(A).
- 19. "PDA pay-off invoice" means written correspondence from the ASRS to an Eligible Member that specifies the amount necessary to be paid by the Eligible Member to complete an Irrevocable PDA to receive the total credited service specified in the Irrevocable PDA.
- 20. "Plan administrator" means the person authorized to represent a specific eligible plan as addressed in IRC § 414(g).
- 21. "Service credit" means Forfeited Service, Leave of Absence Service, Military Service and Military Call-up Service under A.R.S. § 38-745, and Other Public Service that an Eligible Member may purchase.
- 22. "SP invoice" means a written correspondence from the ASRS informing an Eligible Member of the amount of money required to purchase a specified amount of Service Credit.
- 23. "Termination pay" means an Employer's payment to the ASRS of an Eligible Member's pay received as a result of terminating employment to purchase Service Credit as specified in A.R.S. § 38-747(B)(2).
- 24. "Three full calendar months" means the first day of the first full month through the last day of the third consecutive full month.
- 25. "Transfer employment" means to terminate employment with one Employer with which an Eligible Member has an Irrevocable PDA:
 - a. After accepting an offer to work for a new Employer;
 - b. While working as an active member for a different Employer; or
 - c. Before returning to work with any Employer within 120 days of terminating employment.
- 26. "Trustee-to-Trustee transfer" means a transfer of assets to the ASRS as authorized in A.R.S. § 38-747(I), from a retirement program from which, at the time of the transfer, a member is not eligible to receive a distribution.
- 27. "Uniformed services" means the United States Army, Army Reserve, Army National Guard, Navy, Navy Reserve, Air Force, Air Force Reserve, Air Force National Guard, Marine Corps, Marine Corps Reserve, Coast Guard, Coast Guard Reserve, and the Commissioned Corps of the Public Health Service.
- 28. "Window credit" means overpayments made on previously purchased Service Credit by members of the ASRS as provided by Laws 1997, Ch. 280, § 21, and Laws 2003, Ch. 164, § 3.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 764, effective June 1, 2013 (Supp. 13-2). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

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R2-8-502. Request to Purchase Service Credit and Notification of Cost

- A. An Eligible Member may request to purchase Service Credit electronically. The Eligible Member shall verify at the time of request, the following information for the Eligible Member:
1. Name;
 2. Mailing address;
 3. Date of birth;
 4. Marital status;
 5. Gender;
 6. Primary email address;
 7. Primary phone number; and
 8. Which category of Service Credit the Eligible Member is requesting to purchase.
- B. An Eligible Member who requests to purchase Service Credit pursuant to subsection (A) shall acknowledge the following statements of understanding:
1. Any person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the retirement plan with an intent to defraud the plan is guilty of a class 6 felony per Arizona Revised Statutes Section 38-793; and
 2. This transaction is subject to audit. If any errors or misrepresentations are discovered as a result of an audit, the Eligible Member's total credited service with the ASRS will be adjusted as necessary and if the Eligible Member is retired, the Eligible Member's retirement benefit will also be adjusted. Any overpayment(s) will be refunded. However, if a payment made with a rollover or pre-tax dollars is returned to the Eligible Member, there may be tax consequences as a result of this refund.
- C. Upon receipt of the documentation required by this Article from the Eligible Member and if the Eligible Member's request to purchase Service Credit meets the requirements of this Article, the ASRS shall provide the following to the Eligible Member:
1. A SP Invoice stating the cost to purchase the amount of Service Credit the member is eligible to purchase;
 2. Instructions for electing method of payment; and
 3. The date payment election is due.
- D. An Eligible Member who requests to purchase Service Credit pursuant to this section shall elect one or more methods of payment and submit the election to the ASRS by the date payment election is due.
- E. An Eligible Member who elects to purchase Service Credit using after-tax payments shall acknowledge the following information:
1. After-tax payments must be from the Eligible Member and remitted to the ASRS by the Eligible Member;
 2. After-tax payments cannot be used to purchase political subdivision employment with a United States territory, commonwealth, overseas possession, or insular area; and
 3. If the Eligible Member joined the ASRS on or after July 1, 1999, §§ 415(b) and 415(c) of the IRC limit the after-tax money the Eligible Member can use to purchase Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-503. Requirements Applicable to All Service Credit Purchases

- A. To purchase Service Credit at the amount provided in an SP Invoice, an Eligible Member shall purchase the Service Credit by check or money order, or request an Irrevocable PDA, Direct Rollover, Trustee-to-Trustee Transfer, or Termination Pay as specified in this Article, by the due date specified by the method of payment the Eligible Member elected.
- B. An Eligible Member may purchase all of the Service Credit or a portion of the Service Credit. If the Eligible Member wishes to purchase only a portion of the Service Credit, the Eligible Member shall specify:
1. Either the number of years or partial years of Service Credit the Eligible Member wishes to purchase; or
 2. The cost for the number of years or partial years of Service Credit the Eligible Member wishes to purchase, not exceeding the years or partial years and cost specified on the SP Invoice.
- C. The ASRS shall not consider more than one active request at a time from a member to purchase Service Credit in a single category. The categories are:
1. Leave of Absence Service;
 2. Military Service;
 3. Forfeited Service; and
 4. Other Public Service.
- D. An Eligible Member may cancel an active request by notifying the ASRS in writing.
- E. If an Eligible Member is entitled to a Window Credit, the Eligible Member may apply the Window Credit to purchase Service Credit. To apply a Window Credit to a purchase of Service Credit, the Eligible Member shall make a request to the ASRS in writing by the date payment election is due as specified on the SP Invoice and include the following information:
1. The amount the Eligible Member wants to apply, and
 2. The Eligible Member's dated signature
- F. On or before the due date specified on the SP Invoice, an Eligible Member may request an extension of a due date for purchasing Service Credit.

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Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-504. Service Credit Calculation for Purchasing Service Credit

- A. An Eligible Member who purchases Service Credit shall receive one month of credited service for one or more days of service in a calendar month.
- B. Pursuant to A.R.S. 38-739(B), an Eligible Member who purchases Service Credit shall receive a proportionate amount of credited service based on the length of the Eligible Member's service year.
- C. Notwithstanding any other provision, an Eligible Member whose membership date is on or after July 20, 2011, cannot purchase more than five years of Service Credit for each of the following based on the length of the Eligible Member's service year:
 1. Leave of Absence Service;
 2. Military Service; and
 3. Other Public Service.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-505. Restrictions on Purchasing Overlapping Service Credit

The ASRS shall not permit an Eligible Member to purchase Service Credit that, when added to credited service earned in any plan year, results in more than:

1. One year of credited service in any plan year, or
2. One month of credited service in any one calendar month.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-506. Cost Calculation for Purchasing Service Credit

- A. For Service Credit for Leave of Absence Service, Military Service, and Other Public Service, the ASRS shall calculate, as of the date of the request to purchase Service Credit:
 1. The Actuarial Present Value of the future retirement benefit for the Eligible Member including the Service Credit that the Eligible Member requests to purchase, and
 2. The Actuarial Present Value of the future retirement benefit for the Eligible Member without the Service Credit that the Eligible Member requests to purchase.
- B. The cost for purchasing the Service Credit that the Eligible Member requests to purchase is the difference between the Actuarial Present Value in subsection (A)(1) and the Actuarial Present Value in subsection (A)(2).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-507. Required Documentation and Calculations for Forfeited Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Forfeited Service under A.R.S. § 38-742 shall provide the ASRS:
 1. The name of an Employer, if known, for which the Eligible Member is requesting to purchase Service Credit for Forfeited Service; and
 2. The year and month the Eligible Member believes the ASRS returned retirement contributions.
- B. Upon receipt of payment as specified in subsection (D), the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- C. Notwithstanding subsection (B), if an Eligible Member has more than one return of contributions pursuant to A.R.S. § 38-740, the Eligible Member may elect to purchase Forfeited Service for any of the return of contributions and the ASRS shall apply the Service Credit to the Eligible Member's account based on the most recent Forfeited Service available for purchase.
- D. The amount the Eligible Member shall pay to purchase Service Credit for previously Forfeited Service is the amount of retirement contributions that the ASRS returned, plus interest on that amount from the date on the return of retirement contributions check to the date of redeposit at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

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R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Leave of Absence Service under A.R.S. § 38-744 shall provide to the ASRS an Approved Leave of Absence form that includes:
1. The following information completed by the Eligible Member:
 - a. The start date and end date of the approved leave of absence;
 - b. The date the Eligible Member returned to work or a statement of why employment was not resumed;
 - c. The name of the Employer;
 - d. Whether the Eligible Member participated in another public retirement system during this leave of absence; and
 - e. If the Eligible Member participated in another public retirement system during the leave of absence, whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the other public retirement system; and
 2. Acknowledgement of the following statements of understanding:
 - a. The Eligible Member understands that up to one year of Service Credit may be purchased for each approved leave of absence, if the Eligible Member returns to work for the Employer that approved the leave of absence unless employment could not be resumed because of disability or nonavailability of a position;
 - b. The Eligible Member authorizes the Employer to provide any necessary personal information to ASRS in order to process this request; and
 - c. The Eligible Member certifies that if the Eligible Member participated in another public retirement system during the approved leave of absence, the Eligible Member is not receiving, and is not eligible to receive, a benefit from the other public retirement system for the time during the approved leave of absence; and
 3. The Eligible Member's dated signature.
- B. Pursuant to A.R.S. § 38-744, a member who participated in another public retirement system during the leave of absence, and is receiving a benefit or is eligible to receive a benefit from the other public retirement system, is not an Eligible Member for purposes of this section.
- C. If the information provided by the Eligible Member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the Eligible Member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account.
- D. Upon submitting the information specified in subsection (B), the Employer shall acknowledge the following statements of understanding:
1. The Employer has verified all the dates for the approved leave of absence period are correct; and
 2. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- E. The amount the Eligible Member shall pay to purchase Service Credit for an approved leave of absence is determined as provided in R2-8-506.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-509. Required Documentation and Calculations for Military Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Military Service under A.R.S. § 38-745(A) and (B) shall provide to the ASRS:
1. A copy of the Eligible Member's Military Service Record within 30 days of the Eligible Member's request to purchase Service Credit; and
 2. A Military Service form that contains:
 - a. Whether the Eligible Member is receiving a benefit or is eligible to receive a benefit, from the military.
 - b. The branch of the Uniformed Services the Eligible Member was in;
 - c. Whether the Eligible Member was on Active Duty or Active Reserve Duty;
 - d. The start date and end date of the Eligible Member's Military Service for which the Eligible Member is requesting to purchase Service Credit;
 - e. Acknowledgement that the Eligible Member will submit to the ASRS:
 - i. Proof of honorable separation for each type of Military Service listed on the form; and
 - ii. The Eligible Member's Military Service Record that supports all of the service listed on the form;
 - f. Acknowledgement of the following statements of understanding:
 - i. The Eligible Member understands that the service listed on this form does not include time that the Eligible Member either volunteered or was ordered into Active Duty service as part of a military call-up while employed by an Employer. This service is purchased under Military Call-up Service and requires a Military Call-up form to be completed by the Eligible Member's Employer; and
 - ii. The Eligible Member understands that any time the Eligible Member has listed on this form for Reserve or National Guard time reflects the months that the Eligible Member attended at least one drill or assembly for each month listed.
- B. The amount the Eligible Member pays to purchase Service Credit for Military Service is determined as provided in R2-8-506.

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- C. The ASRS determines the amount of Service Credit an Eligible Member receives for Active Duty and Active Reserve Duty time by the time listed on the Military Service form, if the service listed is supported by the information contained in the Eligible Member's Military Service Record.
- D. If the ASRS has not received complete and correct documents pursuant to this section within 30 days of the request to purchase Service Credit, the ASRS shall cancel the Eligible Member's request to purchase Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-510. Required Documentation and Calculations for Military Call-up Service Credit

- A. An Eligible Member who meets the requirements under A.R.S. § 38-745(D) shall receive up to 60 months of Service Credit, not to exceed 5 years of Service Credit for Military Call-up Service under A.R.S. § 38-745(D) through (K). In order to determine the amount of contributions the Employer owes to purchase Service Credit for Military Call-up Service, the Eligible Member's Employer shall provide to the ASRS a copy of the Eligible Member's Military Service Record and a completed Military Call-up form that includes the following:
 - 1. The Eligible Member's full name;
 - 2. The Eligible Member's Social Security number;
 - 3. The start date of Military Call-up Service;
 - 4. The end date of Military Call-up Service;
 - 5. The date the Eligible Member returned to work for the Employer;
 - 6. The salary for each pay period in each fiscal year while the Eligible Member was on military call-up, including any salary increases the Eligible Member would have received had the Eligible Member not left work due to military call-up;
 - 7. The name of a contact individual for the Employer, and that individual's business telephone number;
 - 8. The contact individual's dated signature;
 - 9. If applicable, the dates that the Eligible Member was hospitalized and released from the hospital as a result of participating in a military call-up.
 - 10. If applicable, the date the Eligible Member became disabled during or as a result of participating in a military call-up;
 - 11. If applicable, the date of the Eligible Member's death during or as a result of participating in a military call-up; and
 - 12. Acknowledgement of the following statements of understanding:
 - a. All the dates and payroll information for the Military Call-up Service are correct;
 - b. The Eligible Member:
 - i. Was honorably separated from Active Duty and returned to the same Employer within 90 days of either discharge from Active Duty or release from service-related hospitalization; or
 - ii. Was disabled and unable to return to work; or
 - iii. Died during or as a result of Active Duty.
 - c. The Employer must pay both the employee and Employer contributions in a lump sum upon the Eligible Member returning to employment, receipt of a declaration of disability, or receipt of a death certificate. These contributions are based on the salary the Eligible Member would have earned if the Eligible Member had not volunteered or been ordered into Active Duty;
 - d. The Eligible Member may receive a maximum of 60 months of Service Credit for Military Call-up Service pursuant to A.R.S. § 38-745; and
 - e. The contact individual has the legal power to bind the Employer in transactions with the ASRS.
- B. An Employer shall make the request to purchase Service Credit for Military Call-up Service within 30 days after the earlier of the dates listed in A.R.S. § 38-745(E).
- C. The ASRS calculates the amount the Employer pays to purchase Military Call-up Service pursuant to A.R.S. § 38-745(G) by multiplying the Eligible Member's salary per pay period at the time Active Duty commences, by the contribution rate in effect for the period of Active Duty. Included in the calculation are any salary increases the Eligible Member would have received if the Eligible Member had not left work to participate in a military call-up.
- D. The ASRS shall send the Employer a statement of cost for purchase of the Service Credit for Military Call-up Service based on the calculation in subsection (C). Within 90 days from the date on the ASRS statement of cost, the Employer shall pay to the ASRS the amount on the statement. If the Employer fails to make full payment within 90 days, interest shall accrue on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect on the date of the statement of cost as specified in R2-8-118(A). The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- E. If an Employer remits retirement or long-term disability contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, the Employer shall reverse the contributions after the ASRS receives the information in subsection (A).
- F. If an Employer remits retirement contributions on behalf of an Eligible Member while the Eligible Member is on military call-up, and the Eligible Member does not return to the Employer after separation from active Military Service, the ASRS shall apply the retirement contributions to the Eligible Member's credited service.

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Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-511. Required Documentation and Calculations for Other Public Service Credit

- A. An Eligible Member who requests to purchase Service Credit for Other Public Service under A.R.S. § 38-743 shall provide to the ASRS a completed Other Public Service form, signed and dated by the Eligible Member, that includes the following:
1. The name and mailing address of the Other Public Service employer;
 2. The position the Eligible Member held while working for the Other Public Service employer;
 3. The start date and end date of the Eligible Member's employment with the Other Public Service employer;
 4. The actual months and years the Eligible Member was employed with the Other Public Service employer;
 5. A statement of whether the Eligible Member participated in the Other Public Service employer's retirement plan;
 6. If the Eligible Member participated in the Other Public Service employer's retirement plan, the name of the retirement plan, identifying whichever one of the following applies:
 - a. The approximate date the Eligible Member took a return of retirement contributions;
 - b. The plan is non-contributory and the Eligible Member is not eligible for benefits from the plan; or
 - c. That, if not using all of the retirement contributions as a rollover, the Eligible Member will request a return of retirement contributions and forfeit all rights to any benefits from the plan and provide the ASRS with documentation that the Eligible Member has forfeited all rights to benefits from the plan no later than the due date specified on the SP Invoice; and
 7. Acknowledgement that
if an audit determines that the Eligible Member is eligible for a benefit from the Other Public Service employer's retirement plan, the Eligible Member is required to take necessary steps to forfeit the benefit, and if the forfeiture is not completed within 90 days of being notified of the audit results, the Service Credit purchase listed on this application will be revoked and any funds paid to purchase the Service Credit will be refunded to the member.
- B. The amount the Eligible Member shall pay to purchase Service Credit for Other Public Service is determined as provided in R2-8-506.
- C. Notwithstanding R2-8-512, the ASRS shall not accept after-tax monies for the purchase of Service Credit for Other Public Service with a territory, commonwealth, overseas possession or insular area pursuant to A.R.S. § 38-743.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order

- A. An Eligible Member may purchase Service Credit by personal check in the Eligible Member's name, cashier's check, or money order remitted by the Eligible Member.
- B. By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives a check, cashier's check, or money order made payable to the ASRS in the amount to purchase the requested Service Credit.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513. Purchasing Service Credit by Irrevocable PDA

- A. An Eligible Member may purchase Service Credit by Irrevocable PDA.
- B. If the Eligible Member elects to pay for Service Credit by Irrevocable PDA, the Eligible Member shall elect the terms of the Irrevocable PDA and submit the Irrevocable PDA to the ASRS and the Employer with the following:
1. Acknowledgements:
 - a. This Irrevocable PDA is binding and irrevocable;
 - b. This Irrevocable PDA shall remain in effect until the earlier of:
 - i. The authorized payroll deductions are completed; or
 - ii. The Eligible Member terminates employment.
 - c. The ASRS cannot terminate the Irrevocable PDA due to financial hardship;
 - d. The amount of Irrevocable PDA payments the Eligible Member makes is subject to federal laws;
 - e. The cost to purchase Service Credit by Irrevocable PDA includes an administrative interest charge at the Assumed Actuarial Investment Earnings Rate in effect at the time of the authorization as specified in R2-8-118(A);
 - f. Payments specified in this Irrevocable PDA are in addition to the regular contributions required pursuant to A.R.S. §§ 38-736 and 38-797.05;
 - g. The ASRS shall apply credited service to the Eligible Member's account upon receipt of payments authorized by the Eligible Member under this Irrevocable PDA; and

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- h. The ASRS shall not transfer, refund, or disburse the administrative interest that the ASRS charges pursuant to subsection (B)(1)(e); and
- 2. Statements of Understanding:
 - a. It is the Eligible Member's responsibility to ensure the Eligible Member's Employer properly deducts payments and submits contributions as provided by the terms of the Irrevocable PDA;
 - b. Payments specified by the terms of this Irrevocable PDA shall be made directly to the ASRS from the Eligible Member's Employer and the Eligible Member does not have the option of receiving such payments directly from the Employer;
 - c. The Eligible Member's Employer shall make payments pursuant to this Irrevocable PDA after other mandatory deductions are made;
 - d. The Eligible Member's Employer cannot accept an election to change this Irrevocable PDA;
 - e. The Eligible Member has up to 14 days to request the ASRS calculate the remaining balance of this Irrevocable PDA after the earlier of:
 - i. Terminating employment;
 - ii. Terminating LTD without returning to work with an Employer; or
 - iii. The effective ASRS retirement date;
 - f. The Eligible Member must complete a purchase of the remaining balance on this Irrevocable PDA by the due date specified on the PDA Pay-off Invoice;
 - g. It is the Eligible Member's responsibility to notify the ASRS of any changes in the Eligible Member's employment that may affect the status of this Irrevocable PDA;
 - h. If the Eligible Member terminates employment and returns to work with an Employer within 120 days of terminating employment, this Irrevocable PDA must continue with the new Employer pursuant to R2-8-513.01; and
 - i. If the Eligible member terminates employment and does not return to work with an Employer within 120 days of terminating employment, the ASRS shall terminate this Irrevocable PDA pursuant to R2-8-513.01.
- C. By submitting the Irrevocable PDA to the ASRS, the Irrevocable PDA is deemed to be signed by the Eligible Member.
- D. At the time the Eligible Member elects the Irrevocable PDA, the Eligible Member may elect to use Termination Pay towards the balance of the Irrevocable PDA if the Eligible Member terminates employment. If the Eligible Member elects to use Termination Pay, the Eligible Member shall submit the Irrevocable PDA to the ASRS with the following information:
 - 1. A statement that the Eligible Member:
 - a. Understands and agrees that the Eligible Member must continue working at least Three Full Calendar Months after the date of submission of the form before Termination Pay may be used on a pre-tax basis;
 - b. Understands that if the Termination Pay exceeds the balance owed on the Irrevocable PDA, the overage will be returned to the Employer to be distributed to the Eligible Member;
 - c. Understands that the election to use Termination Pay is binding and irrevocable;
 - d. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - e. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay;
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
 - 2. Whether the Eligible Member is electing either all Termination Pay or a specified amount of Termination Pay to be applied to the balance of the Irrevocable PDA.
- E. The ASRS shall:
 - 1. Charge interest on the unpaid balance at the Assumed Actuarial Investment Earnings Rate in effect at the time the Eligible Member submitted the request to purchase service as specified in R2-8-118(A);
 - 2. Limit the payroll deduction time period to a maximum of 520 payments; and
 - 3. Require a minimum payment of \$10.00 per payroll period, or payment in an amount to purchase at least .001 years of Service Credit per payroll period, whichever is greater.
- F. The Employer shall implement the payroll deduction on the first pay period after receiving the Irrevocable PDA.
- G. If a deduction is not made under an Irrevocable PDA within six months after the Eligible Member submits the authorization, the authorization lapses and the Eligible Member may make another request, which is recalculated based on the new request date unless the failure to begin deductions is due to an ASRS error.
- H. A period of leave of absence, LTD, or military call-up shall not cancel the Irrevocable PDA. The Employer shall resume deductions immediately upon the Eligible Member's return to that Employer. The period during which the Eligible Member is on leave of absence, on LTD, or leaves work because of a military call-up is not included in the payment time limitation under subsection (D)(2). If the Eligible Member does not return to active working status, whether due to termination of employment or retirement, the Eligible Member may elect to purchase the balance of unpaid service under the Irrevocable PDA at the time of termination or retirement as specified in this Section.
- I. Deductions made pursuant to an Irrevocable PDA continue until the:
 - 1. Irrevocable PDA is completed;

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2. Eligible Member retires, whether or not the Eligible Member continues employment as allowed in A.R.S. §§ 38-766.01 and 38-764(I);
 3. Eligible Member terminates all ASRS employment without transferring employment; or
 4. Date of the Eligible Member's death.
- J.** If an Eligible Member retires or terminates employment from all Employers without transferring employment as stated in R2-8-513.01 before all deductions are made as authorized by the Irrevocable PDA, the ASRS shall cancel the Eligible Member's Irrevocable PDA unless the Eligible Member notifies the ASRS of the Eligible Member's intent to purchase the remaining amount within 14 days after the earlier of either termination or retirement.
- K.** When the Eligible Member notifies the ASRS of retirement or termination from all ASRS employment and requests to pay off the Irrevocable PDA, the ASRS shall send the Eligible Member a PDA Pay-off Invoice through the Eligible Member's secure ASRS account. The ASRS shall calculate the amount owed by the Eligible Member.
- L.** By the date payment election is due, the Eligible Member shall ensure that the ASRS receives the information specified in R2-8-502(C).
- M.** The Eligible Member may purchase the remaining Service Credit by one or more of the following methods by the due date specified on the PDA Pay-off Invoice:
1. By any method specified in R2-8-512;
 2. By making a request to the ASRS for a rollover or transfer under R2-8-514 and completing the rollover or transfer by the due date specified on the PDA Pay-off Invoice; or
 3. By Termination Pay under R2-8-519, if the Eligible Member authorized this option at the time the Eligible Member signed the Irrevocable PDA.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513.01. Irrevocable PDA and Transfer of Employment to a Different Employer

- A.** If an Eligible Member Transfers Employment, the Eligible Member's new Employer shall continue to make deductions pursuant to an Irrevocable PDA.
- B.** If an Eligible Member terminates employment without having accepted an offer to work with an Employer, the ASRS shall terminate an Irrevocable PDA.
- C.** Notwithstanding subsection (B), if a retirement contribution is due from a new Employer within 120 days from the Eligible Member's termination date with the previous Employer, the ASRS shall determine that the Eligible Member Transferred Employment, unless the Eligible Member notified the ASRS of the termination of employment.
- D.** If an Eligible Member who has elected Termination Pay pursuant to R2-8-513(D) Transfers Employment, the ASRS shall not accept any Termination Pay that the ASRS receives from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-513.02. Termination Date

For the purpose of an Irrevocable PDA, the date an Eligible Member is considered terminated from an Employer is:

1. For an Eligible Member terminating employment, the Eligible Member's last pay period end date with that Employer;
2. For an Eligible Member on military call-up who does not return to the same Employer:
 - a. 90 days from the date of separation from military call-up;
 - b. 90 days from the date released from the hospital, if injured while on military call-up; or
 - c. The date the Eligible Member has been hospitalized for two years for injuries sustained as a result of participating in a military call-up.
3. For an Eligible Member on leave of absence without pay who does not return to the same Employer, the date the Employer required the Eligible Member to return to work;
4. For an Eligible Member who is unable to work because of a disability, the later of:
 - a. The date the Eligible Member's request for long-term disability benefits are denied;
 - b. The date the Eligible Member no longer has leave with pay available; or
 - c. For an Eligible Member on long-term disability who does not return to the same Employer or Transfer Employment, the date long-term disability benefits are terminated.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-514. Purchasing Service Credit by Direct Rollover or Trustee-to-Trustee Transfer

- A.** An Eligible Member may purchase Service Credit by Direct Rollover or Trustee-to-Trustee Transfer pursuant to this Article.

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- B.** By the due date specified by the method of payment the Eligible Member elected, the Eligible Member shall ensure that the ASRS receives the payment for the service purchase and a completed Direct Rollover/Transfer Certification to Purchase Service Credit form.
- C.** An Eligible Member who chooses to purchase Service Credit shall provide the following to the ASRS:
1. The name of the financial institution or plan;
 2. Whether the Eligible Member is choosing to rollover/transfer the entire balance of their account and if not, the amount of the rollover/transfer;
 3. Acknowledgement of the following information:
 - a. After-tax funds are only acceptable from 401(a) and 403(b) plans and must be listed separately from the portion that is pre-tax on the payment as after-tax amounts. This information must be provided to the ASRS with the payment.
 - b. The only fund types that the ASRS accepts are:
 - i. 401(a);
 - ii. 401(k) pre-tax only;
 - iii. 403(b);
 - iv. Governmental 457 pre-tax only;
 - v. 403(a) pre-tax only;
 - vi. 408 Traditional IRA pre-tax only;
 - vii. 408(k) SEP IRA pre-tax only;
 - viii. 408(p) Simple IRA pre-tax only and only if the Eligible Member participated for at least 2 years in this plan;
 - c. The ASRS shall not accept the following fund types:
 - i. Roth funds;
 - ii. Funds already distributed to the Eligible Member from a retirement plan listed in subsection (3)(b);
 - iii. Inherited IRA;
 - iv. Coverdale Education Savings Account funds;
 - v. Hardship distributions;
 - vi. Funds not includable in gross income;
 - vii. Funds required under § 401(a)(9) of the IRC because the Eligible Member have attained age 70½;
 - viii. One of a series of substantially equal periodic payments made at least annually for the Eligible Member's life;
 - ix. One of a series of substantially equal periodic payments made for 10 years or more;
 - x. After-tax contributions from any plan other than a 401(a) or 403(b) qualified plan;
 - d. The funds must be sent as a Direct Rollover from a plan listed in subsection (3)(b) and issued to the ASRS for the benefit of the Eligible Member. If the payment is issued to anyone other than the ASRS, including the Eligible Member, then within 60 days of the plan issuing the payment, the Eligible Member must place the payment into a plan specified in subsection (3)(b) to be reissued directly to the ASRS.
 - e. It is the Eligible Member's responsibility to contact the administrator of the plan from which the Direct Rollover will be made and have it initiated. The Eligible Member must also ensure all rollovers are completed by the due date. If the ASRS does not receive payment by the due date, the invoice will expire and the payment will be returned to the Eligible Member.
 - f. If the ASRS accepts a rollover and later determines that it was not eligible, the ASRS will distribute the invalid payment directly to the Eligible Member. Any taxes, penalties, and interest that the IRS, any taxing authority, or financial institution may assess against the Eligible Member due to an invalid payment are solely the Eligible Member's responsibility.
 - g. The plan from which the Eligible Member is rolling over funds must be solely in the Eligible Member's name. The Eligible Member may be a spousal beneficiary of a deceased person or an alternate payee on the plan from which the Eligible Member is rolling over funds.
- D.** An Eligible Member who chooses to purchase Service Credit pursuant to this section shall submit a Direct Rollover/Transfer Certification to Purchase Service Credit form that includes:
1. The Eligible Member's full name;
 2. The last 4 digits of the Eligible Member's Social Security number;
 3. The Eligible Member's signature certifying that the Eligible Member understands the requirements, limitations, and entitlements for the rollover/transfer that is being used to purchase Service Credit, and has read and understands the Direct Rollover/Transfer Certification to Purchase Service Credit form and any accompanying instructions and information;
 4. The Authorized Representative's name and title;
 5. The Authorized Representative's telephone number; and
 6. Certification by the Authorized Representative's dated signature that:
 - a. The plan is either:
 - i. A qualified pension, profit sharing, or 401(k) plan described in IRC § 401(a), or a qualified annuity plan described in IRC § 403(a);
 - ii. A deferred compensation plan described in IRC § 457(b) maintained by a state of the United States, a political subdivision of a state of the United States, or an agency or instrumentality of a state of the United States;
 - iii. An annuity contract described in IRC § 403(b); or
 - iv. An IRA described in A.R.S. § 38-747(H)(3);
 - b. The rollover/transfer specified on the form from which the pre-tax funds are being rolled over or transferred is intended to satisfy the requirements of the applicable section of the IRC;

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- c. The Authorized Representative is not aware of any plan provision or any other reason that would cause the plan/IRA not to satisfy the applicable section of the IRC; and
- d. The funds will be sent to the ASRS as a direct plan rollover, IRA rollover, or a Trustee-to-Trustee Transfer.
- E. The Eligible Member shall contact the Plan Administrator to have the funds distributed and transferred to the ASRS. Unless the ASRS receives a check for the correct amount from the plan and all documents required by this Article by the due date specified by the method of payment the Eligible Member elected, the ASRS shall cancel the request to purchase Service Credit.
- F. The Eligible Member shall ensure that the ASRS receives a check from the plan, made payable to the ASRS, for an amount that does not exceed the amount specified on the SP Invoice.
- G. If the payment from the eligible plan exceeds the amount specified on the SP Invoice, the ASRS shall return the entire payment to the Eligible Member.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-515. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-516. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-517. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 3195, effective October 11, 2016 (Supp. 16-3).

R2-8-518. Repealed**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 18 A.A.R. 3130, effective January 6, 2013 (Supp. 12-4).

R2-8-519. Purchasing Service Credit by Termination Pay

- A. To purchase Service Credit using Termination Pay, an Eligible Member shall elect to use Termination Pay by the date payment election is due.
- B. An Eligible Member who elects to use Termination Pay pursuant to this section, shall provide the ASRS with the Eligible Member's anticipated termination date which cannot be more than six months from the date the ASRS issues the SP Invoice and must be at least Three Full Calendar Months after the date the Eligible Member elects and submits Termination Pay as a method of payment.
- C. An Eligible Member who elects to use Termination Pay pursuant to this section, shall provide the ASRS with a Termination Pay Authorization for the Purchase of Service Credit form with the following information:
 - 1. The name of the Employer that will be submitting the Termination Pay to the ASRS;
 - 2. Whether the Eligible Member elects to use all Termination Pay or a specific amount of Termination Pay;
 - 3. Signature of the Eligible Member, certifying that the Eligible Member understands that:
 - a. The Eligible Member is required to continue working at least Three Full Calendar Months after the date the Eligible Member submits the Termination Pay Authorization for the Purchase of Service Credit form before Termination Pay may be used on a pre-tax basis;
 - b. If the Eligible Member terminates employment more than six months after the date on the SP Invoice, the Eligible Member may purchase the Service Credit at a newly calculated rate and possibly at a higher cost;
 - c. The terms elected in the Termination Pay Authorization for the Purchase of Service Credit form are binding and irrevocable;
 - d. The Eligible Member's Employer is required to make payment directly to the ASRS after mandatory deductions are made, and the Eligible Member does not have the option of receiving the funds directly from the Employer;

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- e. The Eligible Member's Termination Pay must be received and processed before the ASRS will accept any other form of payment;
 - f. It is the Eligible Member's responsibility to ensure that the Eligible Member's Employer properly deducts Termination Pay, as provided in the Termination Pay Authorization for the Purchase of Service Credit form; and
 - g. The amount of Termination Pay the Eligible Member elects is irrevocable pursuant to § 414(h)(2) of the IRC;
 - h. If the Termination Pay exceeds the balance due on the SP Invoice, the ASRS will return the difference to the Eligible Member's Employer to be distributed to the Eligible Member;
 - i. If the Eligible Member terminates employment and immediately retires, the Eligible Member's retirement processing may be delayed; and
 - j. The ASRS will send a notification to the Eligible Member's Employer two weeks prior to the Eligible Member's termination date, as indicated on the Termination Pay Authorization form, to notify the Employer that the Eligible Member's Termination Pay must be sent directly to the ASRS.
- D.** The ASRS shall not apply Termination Pay to an SP Invoice covered by an Irrevocable PDA in effect at the time of termination, unless the Eligible Member elected the Termination Pay pursuant to R2-8-513(D) at the time the member authorized the Irrevocable PDA.
- E.** If an Eligible Member elects to use Termination Pay to purchase Service Credit, the ASRS shall not apply any other form of payment to the Service Credit purchase until the ASRS receives the Termination Pay.
- F.** Notwithstanding any other section, if an Eligible Member dies prior to terminating employment, the ASRS shall not accept Termination Pay.
- G.** If an Eligible Member Transfers Employment, the ASRS shall not accept Termination Pay from the Eligible Member's previous Employer.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-520. Termination of Employment and Request Return of Retirement Contributions or Death of Member While Purchasing Service Credit by an Irrevocable PDA

- A.** If an Eligible Member terminates employment without transferring employment as specified in R2-8-513.01 while purchasing Service Credit by an Irrevocable PDA and requests return of retirement contributions pursuant to A.R.S. § 38-740, the ASRS shall return any principal payments made for the purchase of Service Credit including interest earned on those principal payments at the interest rate specified in R2-8-118(A), column 3.
- B.** If an Eligible Member dies while purchasing Service Credit, the ASRS shall credit the Eligible Member's account with:
1. The Service Credit for which the ASRS received payment pursuant to a PDA before the Eligible Member's death;
 2. The principal payments made by the Eligible Member; and
 3. Interest earned on payment through the date of distribution at the Assumed Actuarial Investment Earnings Rate specified in R2-8-118(A).
- C.** If an Eligible Member dies while purchasing Service Credit, the ASRS shall not permit the survivor or an estate to purchase the remaining balance.
- D.** The ASRS shall not transfer, disburse, or refund the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.
- E.** The ASRS shall not credit a member's account with the administrative interest the ASRS charged as part of an Irrevocable PDA as specified in R2-8-513.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 4667, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-521. Adjustment of Errors

- A.** If the ASRS determines an error has been made in the information provided by the member or in the calculations made by the ASRS, the ASRS shall make an adjustment to the member's account and return ineligible payments, if any.
- B.** The ASRS shall notify the member in writing of any adjustments.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2640, effective June 30, 2005 (Supp. 05-2). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING**R2-8-601. Definitions**

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The following definitions apply to this Article unless otherwise specified:

1. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
2. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
3. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
4. "Substantive policy statement" means the same as in A.R.S. § 41-1001(22).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4).

R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements

Except on a state holiday, a person may review a rulemaking record or the directory of substantive policy statements at the Phoenix office of the ASRS, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-603. Petition for Rulemaking

- A.** A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
1. The name and current address of the person submitting the petition;
 2. An identification of the rule to be made or amended;
 3. The suggested language of the rule;
 4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
 - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
 - b. If applicable, statistical data with references to attached exhibits;
 5. The signature of the person submitting the petition; and
 6. The date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1).

Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement

- A.** A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the person alleges constitutes a rule shall include the following in the petition:
1. The name and current address of the person submitting the petition,
 2. The reason the person alleges that the agency practice or substantive policy statement constitutes a rule,
 3. The signature of the person submitting the petition, and
 4. The date the person signs the petition.
- B.** The person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C.** The ASRS shall send a written notice of the ASRS's decision regarding the petition to the person within 60 days of receipt of the petition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact

- A.** A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the person submitting the objection;
 2. Identification of the rule;
 3. Either evidence that the actual economic, small business and consumer impact:
 - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or

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- b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
 - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 - 4. The signature of the person submitting the objection; and
 - 5. The date the person signs the objection.
- B.** The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-606. Oral Proceedings

- A.** A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the person making the request;
 2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the person represents; and
 3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B.** The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, transcripts, lists, speaker slips, and written comments received shall become part of the official record.
- C.** A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
1. Provide a method for a person who attends the oral proceeding to voluntarily note the person's attendance;
 2. Provide a Request to Present Oral Comment form that includes space for:
 - a. The name of the person submitting the Request to Present Oral Comment form,
 - b. The entity the person represents, if applicable, and
 - c. The rule on which the person wishes to comment or about which the person has a question;
 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
 4. Explain the background and general content of the proposed rulemaking;
 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D.** A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

R2-8-607. Petition for Delayed Effective Date

- A.** A person who wishes to delay the effective date of a rule under A.R.S. § 41-1032 shall file a petition with the ASRS prior to the proposed rule's close of record date. The petition shall contain the:
1. Name and current address of the person submitting the petition;
 2. Identification of the proposed rule;
 3. Need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted;
 4. Reason why the public interest will not be harmed by the delayed effective date;
 5. Signature of the person submitting the petition; and
 6. Date the person signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the person within 30 days of receipt of the Petition for Delayed Effective Date.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 964, effective March 7, 2006 (Supp. 06-1). Section amended by final rulemaking at 22 A.A.R. 3323, effective January 1, 2017 (Supp. 16-4).

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD**R2-8-701. Definitions**

The following definitions apply to this Article unless otherwise specified:

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1. "218 agreement" means a written agreement between the state, political subdivision, or political subdivision entity and the Social Security Administration, under the provisions of § 218 of the Social Security Act, to provide Social Security and Medicare or Medicare-only coverage to employees of the state, political subdivision, or political subdivision entity.
2. "Documentation" means a pay stub, completed W-2 form, completed Verification of Contributions Not Withheld form, Employer letter or spreadsheet, completed State Personnel Action Request Form, Social Security Earnings Report, employment contract, payroll record, timesheet, or other Employer-provided form that includes:
 - a. Whether the employee was covered under the Employer's 218 Agreement prior to July 24, 2014,
 - b. The number of hours the member worked for the Employer per pay period, and
 - c. The amount and type of compensation earned by the member within each pay period.
3. "Eligible service" means employment with an Employer:
 - a. That is no more than 15 years before the date the ASRS receives written credible evidence that less than the correct amount of contributions were paid into the ASRS or the ASRS otherwise determines that less than the correct amount of contributions were made as specified in A.R.S. § 38-738(C); and
 - b. In which the member was Engaged to Work for an Employer.
4. "Engaged to Work" means the same as in R2-8-1001.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 2515, effective December 5, 2015 (Supp. 15-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-702. General Information

- A. The Employer shall pay the Employer's portion of the contributions the ASRS determines is owed under R2-8-706 whether or not the member pays the member's portion of the contributions.
- B. The person who initiates the claim that contributions were not withheld for Eligible Service has the burden to prove a contribution error was made.
- C. The ASRS shall not waive payment of contributions or interest owed under this Article.
- D. If a member is not able to establish eligibility for purchasing service credit pursuant to this Article, the member may be eligible to purchase service pursuant to A.R.S. § 38-743 and Article 5 of this Chapter.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-703. Employer's Discovery of Error

If an Employer determines that any amount of contributions have not been withheld for a member for a period of Eligible Service, the Employer shall notify the ASRS by submitting through the Employer's secure ASRS account a Verification of Contributions Not Withheld form with the following information:

1. The member's full name;
2. The member's Social Security number;
3. The range of dates that any contribution was not withheld;
4. The member's position title during the date range listed in subsection (3);
5. The amount and type of compensation the member was entitled to receive, and the number of hours the member worked for the Employer per pay period for each fiscal year;
6. The member's hire date;
7. Whether the member was Engaged to Work for the Employer;
8. Whether the position was covered under the Employer's 218 Agreement for periods prior to July 24, 2014; and
9. The dated signature of the Employer's authorized agent certifying:
 - a. All the dates and salary information is correct;
 - b. The person submitting this form has the legal power to enter into binding transactions with the ASRS;
 - c. Acknowledgement the Employer will receive an invoice for the contributions owed for Eligible Service only, as well as the accumulated interest on the contributions that were not withheld for both the member and Employer contributions; and
 - d. Acknowledgement the member will receive an invoice for their contributions owed.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-704. Member's Discovery of Error

- A. If a member believes that an Employer has not withheld contributions for the member for a period of Eligible Service, the member shall:

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1. Notify the member's Employer that the Employer has not withheld contributions correctly by contacting the Employer directly; or
2. Submit to the ASRS a Contributions Not Withheld Request form through the member's secure ASRS account with the following:
 - a. The name of the Employer that should have remitted contributions;
 - b. The range of dates that any contribution was not withheld;
 - c. The member's position title during the date range listed in subsection (b);
 - d. Whether the member was Engaged to Work for the Employer; and
 - e. Dated signature of the member certifying the member understands:
 - i. The ASRS will be providing the member's Social Security number to the Employer for verification; and
 - ii. If the member's Employer cannot verify this request, it is the member's responsibility to provide Documentation of Eligible Service.
- B. If the information provided by the eligible member pursuant to subsection (A) is correct, the Employer shall validate the information and submit the information to the ASRS through the Employer's secure ASRS account. If the information provided by the eligible member pursuant to subsection (A) is incorrect, the Employer shall correct the information and submit the information to the ASRS through the Employer's secure ASRS account, along with the information identified in R2-8-703.
- C. If the Employer refuses to fill out the Verification of Contributions Not Withheld form, or if the member disputes the information the Employer completes on the form, the member shall provide the ASRS with the Documentation the member believes supports the allegation that contributions should have been withheld.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-705. ASRS' Discovery of Error

If the ASRS determines, as specified in A.R.S. § 38-738(B)(7), that all contributions have not been withheld for a member for a period of Eligible Service, the ASRS shall notify the Employer in writing and shall request the Employer submit through the Employer's secure ASRS account a Verification of Contributions Not Withheld form pursuant to R2-8-703.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-706. Determination of Contributions Not Withheld

- A. Upon receipt of the information listed in R2-8-703, R2-8-704, or R2-8-705, the ASRS shall review the information to determine whether or not member contributions should have been withheld by the Employer, the length of time those contributions should have been withheld, and the amount of contributions that should have been withheld.
- B. Except for a member who met the requirements to be an active member while simultaneously contributing to another retirement plan listed in subsection (B)(2), for purposes of this Article, the ASRS shall determine that contributions should not have been withheld for the period of service in question if:
 1. An Employer remits an accurate ACR amount pursuant to R2-8-116; or
 2. The employee participates in:
 - a. Another Arizona retirement plan listed in A.R.S. Title 38, Chapter 5, Articles 3, 4, or 6; or
 - b. In an optional retirement plan listed in A.R.S. Title 15, Chapter 12, Article 3 or A.R.S. Title 15, Chapter 13, Article 2.
- C. Except for returning to work under A.R.S. § 38-766.01, the presence of a contract between a member and the Employer does not alter the contribution requirements of A.R.S. §§ 38-736 and 38-737.
- D. If there is any discrepancy between the Documentation provided by the Employer and the Documentation provided by the member, a document used in the usual course of business prepared at the time in question is controlling.
- E. The ASRS shall provide to each, the Employer and the member, an invoice with the following:
 1. The amount of Eligible Service for which contributions were not withheld,
 2. The dollar amount of the contributions to be paid to the ASRS by the Employer,
 3. The interest on the Employer contributions and member contributions to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-738,
 4. The amount of the delinquent interest late charge to be paid to the ASRS by the Employer pursuant to A.R.S. § 38-735, and
 5. The dollar amount of contributions to be paid to the ASRS by the member.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section amended by final rulemaking at 22 A.A.R. 3326, effective January 1, 2017 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-707. Submission of Payment

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- A. Within 90 days from the date on the statement identified in R2-8-706(E), the Employer shall pay to the ASRS the amount due to be paid by the Employer. An Employer who makes payment under A.R.S. § 38-738(B)(3) is not liable for additional interest that may accrue as a result of a member's failure to remit payment required by A.R.S. § 38-738(B)(1). If the ASRS does not receive full payment of the Employer's amount due within 90 days after the ASRS notifies the Employer of the amount due, the full amount due will accrue interest as provided in A.R.S. § 38-738. The ASRS may collect the unpaid balance plus interest pursuant to A.R.S. § 38-735(C).
- B. The member shall make payment to the ASRS pursuant to A.R.S. § 38-738 by the due date specified on the member's invoice identified in R2-8-706(E).
- C. If the ASRS does not receive full payment of the member's amount due by the due date specified on the member's invoice identified in R2-8-706(E), the full amount due will accrue interest, as provided in A.R.S. § 38-738.
- D. A member does not receive service credit or credit for salary until both the Employer and member portions of the contributions and all interest has been paid pursuant to A.R.S. § 38-738.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R2-8-709. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4793, effective December 5, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

ARTICLE 8. RECOVERY OF OVERPAYMENTS**R2-8-801. Definitions**

For purposes of this article, the following definitions apply, unless specified otherwise:

1. "DRO" means the same as in R2-8-120.
2. "Estimated Social Security disability income amount" and "Revised Social Security disability income amount" mean the amount of funds the ASRS is entitled to collect pursuant to R2-8-802.
3. "LTD" means long-term disability program as described in A.R.S. § 38-797 et seq.
4. "LTD benefit" means the same as in R2-8-301
5. "Overpayment" means:
 - a. Any funds the ASRS distributes in excess of the amount to which the recipient is legally entitled; and
 - b. Any estimated social security disability income amount or revised social security disability income amount the ASRS is entitled to collect pursuant to A.R.S. § 38-765.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-802. Estimated Social Security Disability Income Amount and Revised Social Security Disability Income Amount

- A. The ASRS contracted LTD claims administrator shall determine a member's estimated Social Security disability income amount as follows:
 1. Prior to the death, retirement, or forfeiture of a member, the estimated Social Security disability income amount shall be equal to the member's full monthly LTD benefit reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9); and
 2. Upon the member's death, retirement, or forfeiture, the estimated Social Security disability income amount shall be equal to the total amount of the member's LTD benefit, reduced by \$50 per month pursuant to A.R.S. § 38-797.07(A)(9).
- B. A member or survivor who disputes the estimated Social Security disability income amount based on the conclusions of a legal proceeding may request a revised Social Security disability income amount by submitting supporting documentation from the legal proceeding to the ASRS contracted LTD claims administrator within 30 days of the date of conclusion of the legal proceeding.
- C. Pursuant to subsection (B), the ASRS or the ASRS contracted LTD claims administrator shall determine whether the estimated Social Security disability income amount needs to be revised based on the conclusions of the legal proceeding.

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- D. If the ASRS or the ASRS contracted LTD claims administrator determines the estimated Social Security disability income amount was inaccurate, the ASRS or the ASRS contracted LTD claims administrator shall calculate a revised Social Security disability income amount based on the supporting documentation provided by the member or survivor pursuant to subsection (B).
- E. Pursuant to subsection (B), if the revised Social Security disability amount is less than the amount of the estimated Social Security disability benefit, the ASRS or the ASRS contracted LTD claims administrator shall:
1. Refund a portion of the amount of the estimated Social Security disability benefit that the ASRS retained upon forfeiture of the member in order to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount, or
 2. Adjust the member's retirement benefits or the survivor's benefits to offset the difference between the estimated Social Security disability income amount and the revised Social Security disability income amount.
- F. If a member or survivor is not satisfied with the determination on the request for a revised Social Security disability income amount, the member or survivor may appeal the determination pursuant to 2 A.A.C. 8, Article 4.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-803. Reimbursement of Overpayments

- A. Upon the ASRS discovering that it has made an overpayment to a member, survivor, or alternate payee, the ASRS shall send a letter to notify the necessary person that an overpayment was provided and the person shall reimburse the ASRS in the amount of the overpayment.
- B. A person who reimburses the ASRS for an overpayment shall do so by remitting a check, made payable to the ASRS, by the due date specified in the letter providing notice of the overpayment.
- C. If the ASRS is unable to collect the amount of an overpayment by reducing future payments to members, survivors, or alternate payees as provided in this Article, the ASRS shall allow the appropriate person to reimburse the ASRS for the amount of the overpayment by making payments over the course of as many months as the number of months in which an overpayment was made by the ASRS, not to exceed 36 months.
- D. A person may request to reimburse the amount of the overpayment to the ASRS sooner than provided in this Article.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-804. Collection of Overpayments from Forfeiture

- A. Unless a member cancels a forfeiture request by submitting written notice to the ASRS within 30 days of the request to forfeit, the ASRS shall reduce a member's refund amount in order to offset the member's overpayment amount pursuant to subsection (B).
- B. The ASRS shall reduce the member's refund amount by the amount of any overpayment and the ASRS shall:
1. Pursue collection of any remaining overpayment amount pursuant to this Article; and
 2. Distribute the remaining refund amount to the member pursuant to R2-8-115.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-805. Collection of Overpayments from Retirement Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. Upon retirement, the ASRS shall reduce the amount of a member's retirement benefit by the amount of any overpayments that have not been reimbursed to the ASRS, pursuant to R2-8-803 as follows:
1. If the member elects to receive a lump sum or partial lump sum benefit, the amount of the lump sum or partial lump sum shall be reduced by the amount of the overpayment to no less than \$5.00 and the ASRS shall pursue overpayment collections for any remaining overpayment amount pursuant to this Article;
 2. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment is equal to or less than the amount of the member's first annuity disbursement minus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of any overpayment to no less than \$5.00;
 3. If the member elects to receive retirement benefits as a monthly annuity and the amount of the overpayment exceeds the amount of the member's first annuity disbursement plus \$5.00, the ASRS shall reduce the amount of the first annuity disbursement by the amount of the overpayment to no less than \$5.00 and pursue collection pursuant to subsection (C).
- C. The ASRS shall reduce a member's or alternate payee's monthly annuity as follows in order to offset any overpayments which have not been reimbursed or collected pursuant to this Article:
1. The ASRS shall reduce the member's monthly annuity by up to 10% for 36 months, if the amount of the overpayment can be collected by the ASRS within that time.
 2. If the amount of the overpayment cannot be collected pursuant to subsection (C)(1), the ASRS will notify the member that the member must make payment arrangements within 60 days of the date on the notice. If the member does not make payment arrangements within 60 days of the date on the notice, the ASRS shall actuarially reduce the amount of the member's monthly annuity.

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- D. Notwithstanding subsection (B), the ASRS shall not reduce a member's or alternate payee's monthly annuity by an estimated Social Security disability income amount while the member is pursuing a Social Security disability income determination pursuant to R2-8-305, if the member submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-806. Collection of Overpayments from Survivor Benefit

- A. Notwithstanding A.R.S. § 38-768, the ASRS may reduce a person's benefit pursuant to this Section.
- B. If a member, survivor, or alternate payee does not repay the amount of an overpayment pursuant to this Article, the ASRS shall reduce the necessary person's amount of benefits pursuant to subsection (C).
- C. The ASRS shall collect the amount of any remaining overpayment by reducing the necessary person's monthly annuity over the same number of months in which the overpayment was made, up to 3 months for each month an overpayment was made by the ASRS.
- D. If the ASRS is unable to collect the amount of any overpayment pursuant to subsection (C), the ASRS shall pursue collection of any remaining overpayment amount pursuant to this Article.
- E. Notwithstanding subsection (C), the ASRS shall not reduce a survivor's monthly annuity by an estimated Social Security disability income amount while the survivor is pursuing a Social Security disability income determination on behalf of the member pursuant to R2-8-305, if the survivor submits documentation to the ASRS every six months informing the ASRS of the status of the member's Social Security disability income request until a determination is made regarding the amount of Social Security disability income to which the member was entitled.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-807. Collection of Overpayments from LTD Benefit

Upon disability of the member, the ASRS shall reduce the amount of the disabled member's LTD benefit by the amount of any overpayment the member received from the ASRS and has not reimbursed pursuant to this Section.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

Amended by final rulemaking at 25 A.A.R. 2471, effective November 3, 2019 (Supp. 19-3).

R2-8-808. Collection of Overpayments by the Attorney General

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Attorney General's Office.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-809. Collection of Overpayments by the Arizona Department of Revenue

If a member does not reimburse the ASRS for an overpayment pursuant to R2-8-802, the ASRS may submit the overpayment amount for collection by the Arizona Department of Revenue.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

R2-8-810. Collection of Overpayments by Garnishment or Levy

Pursuant to A.R.S. § 38-723, the ASRS may collect the amount of any overpayment that has not been reimbursed or collected pursuant to this article by garnishing wages and/or placing a levy on the appropriate person's bank account.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 2750, effective November 13, 2017 (Supp. 17-3).

ARTICLE 9. EXPIRED**R2-8-901. Expired****Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).

Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

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R2-8-902. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).
Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

R2-8-903. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).
Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

R2-8-904. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).
Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

R2-8-905. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2754, effective January 1, 2018 (Supp. 17-3).
Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 1872, effective June 12, 2018 (Supp. 18-2).

ARTICLE 10. MEMBERSHIP**R2-8-1001. Definitions**

The following definitions apply to this Article unless otherwise specified:

1. "218 Agreement" means the same as in R2-8-701.
2. "218 Resolution" means written authorization for a potential Employer to provide Social Security and Medicare or Medicare-only coverage to employees under the provisions of § 218 of the Social Security Act.
3. "Acceptable Documentation" means the same as in R2-8-115.
4. "Designated Employer Administrator" means an individual designated by the Employer and who has authorized access to the Employer's secure ASRS account in order to fulfill the Employer's responsibilities.
5. "Engaged To Work" means the earlier of:
 - a. The date the employee begins rendering services for the Employer and the Employer intends the employee to work for at least 20 hours a week for at least 20 weeks in a fiscal year or;
 - b. The week an employee renders services to an Employer for at least 20 hours a week for at least 20 weeks in a fiscal year.
6. "Leasing An Employee From A Third Party" means the same as "Leased from a third party" in R2-8-116.
7. "State Social Security Administrator" means the ASRS staff designated by the Board to approve 218 Agreements.
8. "Week" means 12:00 a.m. on Sunday through 11:59 p.m. on the following Saturday.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1002. Employee Membership

- A. For purposes of active member eligibility, an employee of an Employer becomes a member of the ASRS pursuant to A.R.S. § 38-711(23) when the employee is Engaged To Work for the Employer.
- B. If the Employer does not provide an accurate date for which an employee was Engaged To Work pursuant to subsection (A), the ASRS shall determine that an employee's membership effective date will be the member's hire date, if provided by the Employer and within 30 days of the first pay period end date after the hire date, for which the Employer was required to submit contributions.
- C. If the Employer does not provide a hire date pursuant to subsection (B), the effective date is the first pay period end date of contributions received for that member.
- D. Unless a member terminates employment or retires from the ASRS, for purposes of determining active member eligibility, a member will continue to be an active member for the remainder of a fiscal year in which the employee met the requirements to be an active member in the ASRS with that Employer pursuant to A.R.S. § 38-711.
- E. Within 30 days of employment, an employee who is eligible for ASRS membership pursuant to A.R.S. § 38-711(23) shall create a secure ASRS account and submit to the ASRS through the employee's secure ASRS account the following information:
 1. The Employee's full name;
 2. The Employee's Social Security number;
 3. The Employee's date of birth;
 4. The Employee's gender;

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5. The Employee's marital status;
 6. The Employee's primary phone number;
 7. The Employee's personal email address;
 8. The Employee's current mailing address; and
 9. The Employee's designated beneficiary.
- F.** Within 30 days of a change in the member's name, the member shall submit to the ASRS through the member's secure ASRS account a Change of Name form that contains:
1. The member's full name that is on file with the ASRS;
 2. The member's Social Security number;
 3. The member's current mailing address;
 4. The member's date of birth;
 5. The member's personal email address;
 6. The member's primary phone number;
 7. The member's gender;
 8. The member's marital status;
 9. The member's retired, active, inactive, or LTD status with the ASRS;
 10. The member's new full name;
 11. The type of legal document establishing the member's new name;
 12. A copy of the legal document establishing the member's new name; and
 13. The member's dated signature.
- G.** Within 30 days of a change in the member's contact information, the member shall notify the ASRS of the change.
- H.** If an employee of an Employer meets the requirements of A.R.S. § 38-727(A)(8), the employee may elect to not participate in the ASRS.
- I.** Within 30 days after employment, an Employer whose employee is 65 years of age or older as of the date of employment and who has elected not to participate in the ASRS pursuant to subsection (H), shall submit to the ASRS through the Employer's secure ASRS account a 65+ Membership Waiver form that contains:
1. The employee's full name;
 2. The employee's Social Security number;
 3. The employee's current mailing address;
 4. The employee's date of birth;
 5. The employee's dated signature acknowledging the following statements:
 - a. The employee is electing to waive any rights to ASRS membership and the employee will not be eligible for any retirement, disability, or health insurance benefits offered by the ASRS;
 - b. The employee is not a member of the ASRS as of the date of employment; and
 - c. The employee understands that this election is irrevocable for the remainder of the employee's employment with that Employer and the time the employee works under this election is not eligible for purchase in the ASRS;
 6. The Employer's name;
 7. The date employee's employment began; and
 8. The name and dated signature of the Employer's representative.
- J.** A corrected and completed 65+ Membership Waiver form must be resubmitted to the ASRS pursuant to subsection (I) within 14 days of the date the ASRS notifies the employee that the 65+ Membership Waiver form is incorrect or incomplete.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1003. Charter School Employer Membership

- A.** Pursuant to A.R.S. § 15-187(C), a charter school in Arizona is considered a political subdivision that is eligible to participate in the ASRS if the charter school is sponsored by:
1. A state university;
 2. A community college district;
 3. A group of community college districts;
 4. The state board of education; or
 5. The state board for charter schools.
- B.** In order to participate as an Employer in the ASRS, a charter school shall notify the ASRS in writing of the charter school's intent to join the ASRS and provide:
1. A copy of the current and active Charter Contract, including any amendments, which is approved by the entity sponsoring the charter school pursuant to subsection (A);
 2. Documentation showing the name and location of all schools authorized by the Charter Contract identified in subsection (B)(1); and
 3. Documentation showing the charter school board's approval to pursue ASRS membership and complete ASRS requirements for membership.

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- C. Upon receipt of the information contained in subsection (B), the ASRS shall determine if the charter school is eligible to participate in the ASRS. If the charter school is not eligible to participate in the ASRS, the ASRS shall send the charter school a notice of ineligibility. If the charter school is eligible to participate, the ASRS shall provide the charter school a Potential New Employer Letter.
- D. In order to participate as an Employer in the ASRS, an eligible charter school shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the charter school acknowledging there is no current retirement plan.
 2. Two ASRS Agreements showing:
 - a. The legal name and current mailing address of the charter school as sponsored pursuant to subsection (A);
 - b. What amount of prior service the charter school shall purchase for employees pursuant to R2-8-1006;
 - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - d. The name, title, email address, and telephone number of the designated authorized agent for the charter school;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The ASRS Agreement is binding and irrevocable;
 - g. The effective date of the ASRS Agreement;
 - h. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - i. The dated signature of the designated authorized agent for the charter school.
 3. Two ASRS Resolutions showing:
 - a. The legal name of the charter school as sponsored pursuant to subsection (A);
 - b. The charter school is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - c. The charter school agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - d. The designated authorized agent for the charter school;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The dated and notarized signature of the designated authorized agent.
 4. Two 218 Agreements either electing or declining coverage. If the charter school is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
 5. Two 218 Resolutions, if the charter school is electing coverage pursuant to subsection (D)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- E. Upon receipt of Acceptable Documentation identified in subsection (D), the ASRS may approve the charter school's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (D) to the charter school.
- F. Any charter school that is established under the charter contract of a participating charter school shall participate in the ASRS.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1004. Other Political Subdivision and Political Subdivision Entity Employer Membership

- A. A political subdivision or political subdivision entity, other than a charter school, may be eligible to participate in the ASRS pursuant to A.R.S. §§ 38-711 and 38-729 if it notifies the ASRS in writing of the political subdivision's or political subdivision entity's intent to join the ASRS and provides to the ASRS:
1. A copy of the current legal authority establishing the political subdivision or political subdivision entity;
 2. Documentation showing the name and location of the political subdivision or political subdivision entity; and
 3. Documentation showing the political subdivision or political subdivision entity has taken the necessary legal action to be eligible to participate pursuant to A.R.S. § 38-729.
- B. Upon receipt of the information contained in subsection (C), the ASRS shall determine if the political subdivision or political subdivision entity is eligible to participate in the ASRS. If the political subdivision or political subdivision entity is not eligible to participate in the ASRS, the ASRS shall send the political subdivision or political subdivision entity a notice of ineligibility. If the political subdivision or political subdivision entity is eligible to participate, the ASRS shall provide the political subdivision or political subdivision entity a Potential New Employer Letter.
- C. In order to participate as an Employer in the ASRS, an eligible political subdivision or political subdivision entity shall submit to the ASRS the following original documents by the due date listed on the Potential New Employer Letter:
1. The current retirement plan or a statement signed by the designated authorized agent for the political subdivision or political subdivision entity acknowledging there is no current retirement plan.
 2. Two ASRS Agreements showing:
 - a. The legal name and current mailing address of the political subdivision or political subdivision entity;

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- b. What amount of prior service the political subdivision or political subdivision entity shall purchase for employees pursuant to R2-8-1006;
 - c. The approximate number of employees that will become members upon the effective date of the ASRS Agreement;
 - d. The name, title, email address, and telephone number of the designated authorized agent for the political subdivision or political subdivision entity;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The ASRS Agreement is binding and irrevocable;
 - g. The effective date of the ASRS Agreement;
 - h. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law; and
 - i. The dated signature of the designated authorized agent for the political subdivision or political subdivision entity.
3. Two ASRS Resolutions showing:
- a. The legal name of the political subdivision or political subdivision entity;
 - b. The political subdivision or political subdivision entity is adopting a supplemental ASRS retirement plan pursuant to A.R.S. § 38-729;
 - c. The political subdivision or political subdivision entity agrees to be bound by the provisions of A.R.S. Title 38, Chapter 5, Article 2 and Article 2.1 unless otherwise indicated by law;
 - d. The designated authorized agent for the political subdivision or political subdivision entity;
 - e. The designated authorized agent is authorized and directed to conduct all negotiations, conclude all arrangements, and sign all documents necessary to administer the supplemental ASRS retirement plan pursuant to A.R.S. Title 38, Chapter 5, Articles 2 and 2.1; and
 - f. The dated and notarized signature of the designated authorized agent.
4. Two 218 Agreements either electing or declining coverage. If the political subdivision or political subdivision entity is electing coverage pursuant to a 218 Agreement, the 218 Agreement must be completed and approved by the Social Security Administration prior to joining the ASRS.
5. Two 218 Resolutions, if the political subdivision or political subdivision entity is electing coverage pursuant to subsection (C)(4). The 218 Resolutions must be completed and approved by the Social Security Administration prior to joining the ASRS.
- D.** Upon receipt of Acceptable Documentation identified in subsection (B), the ASRS may approve the political subdivision's or political subdivision entity's request for membership pursuant to A.R.S. § 38-729. If the request to join the ASRS is approved, the state Social Security administrator shall sign the 218 Agreements and the ASRS Director shall sign the ASRS Agreements before the ASRS shall send one of each of the original documents identified in subsection (B) to the political subdivision or political subdivision entity.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1005. Employer Reporting

- A.** An Employer shall submit contribution information and contribution payments pursuant to A.R.S. § 38-735, through the Employer's secure ASRS account.
- B.** Within 14 days of receiving the information contained in subsection R2-8-1002(E)(1) through (E)(3), the Employer shall:
 - 1. Verify the information the employee provided;
 - 2. Confirm the employee meets membership requirements pursuant to A.R.S. § 38-711; and
 - 3. Submit the verified information to the ASRS through the Employer's secure ASRS account.
- C.** For an Employer whose employee elects to participate in an Optional Retirement Plan in lieu of the ASRS pursuant to A.R.S. § 15-1628, within 30 days of electing to participate in an Optional Retirement Plan, the Employer shall submit to the ASRS through the Employer's secure ASRS account the:
 - 1. Employee's full name;
 - 2. Employee's Social Security number;
 - 3. Date of the employee's employment; and
 - 4. Date of the employee's Optional Retirement Plan election.
- D.** For an Employer who has submitted information pursuant to subsection (C), within 30 days of that employee terminating employment with that Employer, the Employer shall notify the ASRS through the Employer's secure ASRS account of the employee's termination date.
- E.** Within 14 days before the effective date of joining the ASRS, an Employer shall submit an initial online authorization and designation form in writing to the ASRS with the following information:
 - 1. The Employer's name;
 - 2. The following information for the person authorized by the Employer to approve the Employer's Designated Employer Administrator:
 - a. The person's full name;
 - b. The person's title;
 - c. The person's phone number;

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- d. The person's email address;
 - e. The person's dated signature affirming that person has the authority to approve the Employer's Designated Employer Administrator;
 3. The full name of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 4. The title of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 5. The phone number of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 6. The email address of the individual the Employer is designating as the Employer's Designated Employer Administrator;
 7. The dated signature of the individual the Employer is designating as the Employer's Designated Employer Administrator.
- F.** An Employer's Designated Employer Administrator shall establish a new Employer's Designated Employer Administrator as needed through the Employer's secure ASRS account.
- G.** Within 30 days of an Employer no longer having an Employer's Designated Employer Administrator, the Employer shall submit in writing an initial online authorization and designation form pursuant to subsection (E).
- H.** Within 30 days of change in the Employer's address, the Employer shall notify the ASRS of the change through the Employer's secure ASRS account.
- I.** Within 10 days of any change in the name or ownership of the Employer, the Employer shall provide written notice of the change to the ASRS through the Employer's secure ASRS account by providing the Employer's previous account information and the changes to that information.
- J.** Within 30 days of any change in the character of an Employer's organizational structure, the Employer shall send to the ASRS through the Employer's secure ASRS account, written notice of the previous organizational structure and the effective changes to the Employer's organizational structure.
- K.** Within 30 days of Leasing An Employee From A Third Party, an Employer shall submit the following information:
1. The employee's full name;
 2. The number of hours per week the employee works for the Employer;
 3. The title of the employee's position;
 4. A copy of the agreement showing the Employer Leasing An Employee From A Third Party; and
 5. Whether the employee is retired from the ASRS.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

R2-8-1006. Prior Service Purchase Cost for New Employers

- A.** Pursuant to A.R.S. § 38-729, upon the effective date of joining the ASRS, an Employer may elect to purchase service credit for a period of employment prior to the effective date of joining the ASRS for employees Engaged To Work for the Employer on the effective date of joining the ASRS who are members of the ASRS as of the effective date of joining the ASRS.
- B.** The ASRS may provide to a potential Employer an estimated cost to purchase service credit pursuant to this Section. In order for the ASRS to estimate the cost to purchase service pursuant to this Section, a potential Employer shall provide the following information to the ASRS for each employee of the potential Employer who is Engaged To Work for the potential Employer and for whom the potential Employer intends to purchase service credit pursuant to this Section:
1. The employee's full name;
 2. The employee's date of birth;
 3. The employee's Social Security number;
 4. The employee's current salary; and
 5. The date the employee began employment with the potential Employer.
- C.** An Employer who elects to purchase service credit pursuant to this Section shall submit the following information for each member for which the Employer is purchasing service credit:
1. Member's full name;
 2. Member's date of birth;
 3. Member's Social Security number;
 4. Member's date of employment;
 5. Documentation showing the Member is Engaged To Work for the Employer as of the effective date of joining the ASRS;
 6. Member's current salary as of the effective date of joining the ASRS; and
 7. The number of years the Employer is electing to purchase for the member pursuant to this Section or the dollar amount the Employer is electing to pay to purchase service for the member pursuant to this Section.
- D.** The cost to purchase service credit pursuant to this Section shall be determined using an actuarial present value calculation.
- E.** An Employer who elects to purchase service credit pursuant to this Section shall submit payment for the full cost of the service purchase to the ASRS within 90 days of the date of notification by the ASRS.
- F.** If an Employer who elects to purchase service credit pursuant to this Section does not submit payment for the full cost of the service purchase within 90 days of the date of notification, the Employer is not eligible to purchase service credit pursuant to this Section.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3407, effective February 4, 2019 (Supp. 18-4).

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ARTICLE 11. TRANSFER OF SERVICE CREDIT

R2-8-1101. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "Actuarial present value" means an amount in today's dollars of a member's future retirement benefit calculated using appropriate actuarial assumptions and the:
 - a. Member's Current Years of Credited Service;
 - b. Member's age as of the date the Member submits to the ASRS a request to transfer service credit pursuant to this Article; and
 - c. Member's most recent annual compensation.
2. "Current years of credited service" means:
 - a. For Transfer In Service, the amount of credited service a member has earned or purchased, and the amount of service credit for which an Irrevocable PDA is in effect for which the member has not yet completed payment, but does not include any current requests to purchase service credit for which the member has not yet paid; and
 - b. For transferring service credit to the Other Retirement Plan, the amount of credited service a member has earned or purchased, but does not include service credit for which the member has not yet paid.
3. "Irrevocable PDA" means the same as in R2-8-501.
4. "Funded Actuarial Present Value" means the Actuarial Present Value reduced to the extent funded on market value basis as of the most recent actuarial evaluation of the ASRS.
5. "Member's accumulated contribution account balance" means the sum of all the member's retirement contributions and any principal payments made for:
 - a. The purchase of service credit;
 - b. Contributions not withheld; and
 - c. Previous transfers of service credit.
6. "Other retirement plan" means the state retirement plans specified in A.R.S. § 38-921, other than the ASRS, or a retirement plan of a charter city as specified in A.R.S. § 38-730.
7. "Other Retirement Plan's cost" means the amount determined by the ASRS pursuant to R2-8-1102(D).
8. "Other public service" means the same as in R2-8-501.
9. "Transfer in service" means credited service with the Other Retirement Plan that a member is eligible to transfer to the ASRS pursuant to A.R.S. §§ 38-730 and 38-921.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1102. Required Documentation and Calculations for Transfer In Service Credit

- A. A member who is eligible to Transfer In Service credit, may request to transfer service credit by providing a Transfer In form to the ASRS with the following:
 1. The name of the Other Retirement Plan;
 2. The date the member either terminated employment with an employer of the Other Retirement Plan or ceased to participate in the Other Retirement Plan;
 3. The date the member began employment with the employer through which the member was participating in the Other Retirement Plan;
 4. The number of years the member participated in the Other Retirement Plan;
 5. Acknowledgement the member agrees that:
 - a. Knowingly making a false statement or falsifying or permitting falsification of any record of the ASRS with an intent to defraud ASRS is a Class 6 felony, pursuant to A.R.S. § 38-793; and
 - b. The Transfer In Service credit transaction is subject to audit and if any errors are discovered, the ASRS shall adjust a member's account, or if the member is already retired, adjustments to the member's account may affect the member's retirement benefit.
- B. Upon receipt of the information specified in subsection (A), the ASRS shall submit the information to the Other Retirement Plan and request:
 1. The Other Retirement Plan's Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922;
 2. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;
 3. The amount of service credit the member has accumulated in the Other Retirement Plan; and
 4. The start date and end date for the member's participation in the Other Retirement Plan.
- C. Upon receipt of the information specified in subsection (B), the ASRS shall calculate the Actuarial Present Value as specified in R2-8-506 necessary to transfer full service credit to the ASRS.
- D. The ASRS shall calculate the Other Retirement Plan's Cost as follows:
 1. If the ASRS Actuarial Present Value is greater than the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The Other Retirement Plan's Funded Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan;

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2. If the ASRS Actuarial Present Value is less than or equal to the Other Retirement Plan's Funded Actuarial Present Value, then the Other Retirement Plan's Cost is the greater of:
 - a. The ASRS Actuarial Present Value; or
 - b. The Member's Accumulated Contribution Account Balance in the Other Retirement Plan.
- E. The ASRS shall compare the Other Retirement Plan's Cost to the ASRS Actuarial Present Value calculated pursuant to subsection (C) and:
 1. If the Other Retirement Plan's Cost is less than the ASRS Actuarial Present Value, then the member may elect to transfer service credit to the ASRS and:
 - a. Pay the difference between the Other Retirement Plan's Cost and the ASRS Actuarial Present Value; or
 - b. Accept a proportionately reduced amount of service credit;
 2. If the Other Retirement Plan's Cost is greater than or equal to the ASRS Actuarial Present Value, then the member may elect to transfer the service to the ASRS pursuant to subsection (F).
- F. Upon completion of the comparison specified in subsections (D) and (E), the ASRS shall send the member a transfer in invoice notifying the member of the member's options to complete the transfer of service credit through the member's secure ASRS account.
- G. The member may elect to complete a transfer of service credit pursuant to this section by submitting the member's election by the election due date specified on the transfer in invoice.
- H. Upon receipt of the member's election to complete a transfer of service credit, the ASRS shall send the transfer in invoice to the Other Retirement Plan and the Other Retirement Plan shall make payment to the ASRS by submitting a check made payable to the ASRS for the Other Retirement Plan's Cost specified on the transfer in invoice by the payment due date specified on the transfer in invoice.
- I. If a member elects to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E), the member shall elect the method of payment by the payment due date specified on the transfer in invoice.
- J. A member may elect to pay the total difference between the ASRS Actuarial Present Value and the Other Retirement Plan's Cost pursuant to R2-8-1102(E) by any one or more methods specified in R2-8-512, R2-8-513, R2-8-514, or R2-8-519.
- K. For a member who elects to accept a proportionately reduced amount of service pursuant to subsection (E)(1)(b), the ASRS shall calculate the proportionately reduced amount of service credit based on the member's service credits in the Other Retirement Plan multiplied by the ratio of the Other Retirement Plan's Cost to the ASRS Actuarial Present Value.
- L. The member shall submit payment to transfer service credit pursuant to this section by the payment due date specified on the transfer in invoice.
- M. If the member does not submit payment for the total difference in the calculations pursuant to R2-8-1102(E) by the payment due date specified on the transfer in invoice, the member may be eligible to purchase the remaining service credit as Other Public Service, and the member is not eligible to purchase the remaining service credit based on the cost specified in the transfer in invoice.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

R2-8-1103. Transferring Service to Other Retirement Plans

- A. Upon receipt of a request to transfer a member's service credit from the ASRS to the Other Retirement Plan, the ASRS shall calculate:
 1. The ASRS Funded Actuarial Present Value pursuant to A.R.S. §§ 38-730 and 38-922; and
 2. The Member's Accumulated Contribution Account Balance in the ASRS.
- B. Upon completing the calculations specified in subsection (A), the ASRS shall submit the calculations and member information to the Other Retirement Plan with a due date for the Other Retirement Plan to submit a fund request to the ASRS pursuant to subsection (C).
- C. If a member elects to transfer service credit to the Other Retirement Plan, the member shall ensure that the Other Retirement Plan submits a fund request on the Other Retirement Plan's letterhead by the due date specified in subsection (B) to the ASRS with the following information:
 1. The member's full name;
 2. The last four digits of the member's Social Security number;
 3. The name of the Other Retirement Plan; and
 4. The Actuarial Present Value necessary to transfer full service credit to the Other Retirement Plan.
- D. Upon receipt of the information specified in subsection (C), the ASRS shall compare the calculations specified in subsection (A) to the Other Retirement Plan's Actuarial Present Value specified in subsection (C) and transfer funds as follows:
 1. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is greater than the ASRS Funded Actuarial Present Value specified in subsection (A), then the ASRS shall transfer the greater of:
 - a. The ASRS Funded Actuarial Present Value specified in subsection (A); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.
 2. If the Other Retirement Plan's Actuarial Present Value specified in subsection (C) is less than or equal to the ASRS Funded Actuarial Present Value, then the ASRS shall transfer the greater of:
 - a. The Other Retirement Plan's Actuarial Present Value specified in subsection (C); or
 - b. The Member's Accumulated Contribution Account Balance in the ASRS.
- E. Transferring service credit to the Other Retirement Plan pursuant to this section constitutes a withdrawal from ASRS membership and results in a forfeiture of all other benefits under ASRS.
- F. Notwithstanding subsection (E), pursuant to A.R.S. § 38-750, a transferred employee who continues an Irrevocable PDA after transferring service credit to the Other Retirement Plan may be eligible to:

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1. Transfer service credit associated with the remaining balance of the Irrevocable PDA for which the transferred employee paid for the purchase of service credit plus interest at the Assumed Actuarial Investment Earnings Rate pursuant to A.R.S. § 38-922, not including any administrative interest charge the transferred employee paid pursuant to an Irrevocable PDA; or
2. Receive a return of contributions plus interest as specified in R2-8-118(A), column 3, pursuant to A.R.S. § 38-740.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 303, effective March 18, 2019 (Supp. 19-1).

TITLE 2. ADMINISTRATION

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Title 2

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Supp. 19-3

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2019 through

19-1, 1-44 pages

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Exhibit 3

Statutes

38-704. Rule making powers of state agency

The state agency shall adopt rules that are not inconsistent with this article and that it finds necessary or appropriate for the efficient administration of the functions with which it is charged under this article.

38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.
2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.
3. "ASRS" means the Arizona state retirement system established by this article.
4. "Assets" means the resources of ASRS including all cash, investments or securities.
5. "Average monthly compensation" means:
 - (a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the higher of either:
 - (i) The monthly average of compensation that is calculated pursuant to subdivision (b) of this paragraph.
 - (ii) The monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay which, before August 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan if all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.
 - (b) For a member whose membership in ASRS commenced on or after January 1, 1984 but before July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

(c) For a member whose membership in ASRS commenced on or after July 1, 2011, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation shall be based on the total consecutive months worked.

6. "Board" means the ASRS board established in section 38-713.

7. "Compensation" means the gross amount paid to a member by an employer as salary or wages, including amounts that are subject to deferred compensation or tax shelter agreements, for services rendered to or for an employer, or that would have been paid to the member except for the member's election or a legal requirement that all or part of the gross amount be used for other purposes, but does not include amounts paid in excess of compensation limits established in section 38-746. Compensation includes amounts paid as salary or wages to a member by a second employer if the member meets the requirements prescribed in paragraph 23, subdivision (b) of this section with that second employer. Compensation, as provided in paragraph 5, subdivision (b) or (c) of this section, does not include:

(a) Lump sum payments, on termination of employment, for accumulated vacation or annual leave, sick leave, compensatory time or any other form of termination pay whether the payments are made in one payment or by installments over a period of time.

(b) Damages, costs, attorney fees, interest or other penalties paid pursuant to a court order or a compromise settlement or agreement to satisfy a grievance or claim even though the amount of the payment is based in whole or in part on previous salary or wage levels, except that, if the court order or compromise settlement or agreement directs salary or wages to be paid for a specific period of time, the payment is compensation for that specific period of time. If the amount directed to be paid is less than the actual salary or wages that would have been paid for the period if service had been performed, the contributions for the period shall be based on the amount of compensation that would have been paid if the service had been performed.

(c) Payment, at the member's option, in lieu of fringe benefits that are normally paid for or provided by the employer.

(d) Merit awards pursuant to section 38-613 and performance bonuses paid to assistant attorneys general pursuant to section 41-192.

(e) Amounts that are paid as salary or wages to a member for which employer contributions have not been paid.

8. "Contingent annuitant" means the person named by a member to receive retirement income payable following a member's death after retirement as provided in section 38-760.

9. "Credited service" means, subject to section 38-739, the number of years standing to the member's credit on the books of ASRS during which the member made the required contributions.

10. "Current annual compensation" means the greater of:

(a) Annualized compensation of the typical pay period amount immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount shall be determined by taking the five pay periods immediately before

the date of a request, disregarding the highest and lowest compensation amount pay periods and averaging the three remaining pay periods.

(b) Annualized compensation of the partial year, disregarding the first compensation amount pay period, if the member has less than twelve months total compensation on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(c) The sum of the twelve months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

(d) The sum of the thirty-six months of compensation immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745 divided by three.

(e) If the member has retired one or more times from ASRS, the average monthly compensation that was used for calculating the member's last pension benefit times twelve.

11. "Early retirement" means retirement before a member's normal retirement date after five years of total credited service and attainment of age fifty.

12. "Effective date" means July 1, 1970, except with respect to employers and members whose contributions to ASRS commence thereafter, the effective date of their membership in ASRS is as specified in the applicable joinder agreement.

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment manager" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

- (c) Means any person receiving a benefit under ASRS.
- (d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.
- (e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.
- (f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:
 - (i) Is not otherwise an employee of an employer.
 - (ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.
 - (iii) Performs services under the primary direction or control of the employer.
- 24. "Member contributions" means all amounts paid to ASRS by a member.
- 25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year using the projected unit credit method.
- 26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.
- 27. "Normal retirement date" means the earliest of the following:
 - (a) For a member whose membership commenced before July 1, 2011:
 - (i) A member's sixty-fifth birthday.
 - (ii) A member's sixty-second birthday and completion of at least ten years of credited service.
 - (iii) The first day that the sum of a member's age and years of total credited service equals eighty.
 - (b) For a member whose membership commenced on or after July 1, 2011:
 - (i) A member's sixty-fifth birthday.
 - (ii) A member's sixty-second birthday and completion of at least ten years of credited service.
 - (iii) A member's sixtieth birthday and completion of at least twenty-five years of credited service.
 - (iv) A member's fifty-fifth birthday and completion of at least thirty years of credited service.
- 28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.
- 29. "Political subdivision entity" means an entity:
 - (a) That is located in this state.
 - (b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.
 - (c) Where a majority of the membership of the entity is composed of political subdivisions.
 - (d) Whose primary purpose is the performance of a government related service.
- 30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.
- 31. "Service year" means fiscal year, except that:
 - (a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

32. "State" means this state, including any department, office, board, commission, agency, institution or other instrumentality of this state.

33. "Vested" means that a member is eligible to receive a future retirement benefit.

38-714. Powers and duties of ASRS and board

A. ASRS shall have the powers and privileges of a corporation, shall have an official seal and shall transact all business in the name "Arizona state retirement system", and in that name may sue and be sued.

B. The board is responsible for supervising the administration of this article by the director of ASRS.

C. The board is responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the retirement trust fund established by section 38-712.

D. The board shall not advocate for or against legislation providing for benefit modifications, except that the board shall provide technical and administrative information regarding the impact of benefit modification legislation.

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.

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. 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:

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.

G. 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.

H. The auditor general may make an annual audit of ASRS and transmit the results to the governor and the legislature.

38-715. Director; powers and duties

A. The board shall appoint a director. The director shall serve at the pleasure of the board.

B. The director shall appoint a deputy director and assistant directors with the approval of the board.

C. The director, under the supervision of the board, shall:

1. Administer this article.

2. Be responsible for the recruitment, hiring and day-to-day management of employees.

3. Prescribe procedures to be followed by members and their beneficiaries in filing applications for benefits.

4. Prescribe procedures to be followed by employers for remitting data and monies to ASRS and for receiving data and monies from ASRS.

5. Be responsible for:

(a) Income and the collection of income and the accuracy of all expenditures.

(b) Maintaining books and maintaining and processing records of ASRS.

(c) Providing continuing education programs for the board to keep the board members informed of current issues and information needed to carry out their duties.

6. Perform additional powers and duties as may be prescribed by the board and delegated to the director.

D. The director, under the supervision and approval of the board, may:

1. Delegate duties and responsibilities to such state departments as the director deems feasible and desirable to administer this article.

2. Appoint a custodian for the safekeeping of all investments owned by ASRS and register stocks, bonds and other investments in the name of a nominee.

3. Establish one or more reserve holding accounts, into which the board shall close periodically the account balances of inactive accounts. If any person files a claim and furnishes proof of ownership of any amounts in any inactive account, the claim shall be paid from the reserve holding account on the same basis as if no action had been taken under this paragraph. Interest and supplemental credits shall be allocated to each reserve holding account on June 30 of each year, as determined by the board. For the purposes of this paragraph, "inactive account" means an account to which contributions have not been paid for six months or more.

4. Make retirement under this article effective retroactively to on or after the day following the date employment is terminated if the member was unable to apply before the retroactive effective date through no fault of the member.

E. For current or prospective employees of ASRS, the director, under the supervision of the board, may:

1. Conduct criminal records checks. The director may require a current or prospective employee to submit a full set of fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

2. Conduct credit checks for accounting, investment and other finance-related positions. The director shall establish a policy for conducting credit checks on a current employee that includes the method for determining when a credit check may be conducted, retaining records relating to

the reason for the credit check and notifying an employee of the credit check and the result of the credit check.

F. The director, under supervision of the governing committee for tax deferred annuity and deferred compensation plans, may hire and supervise employees and obtain services the director deems necessary to administer article 5 of this chapter. The tax deferred annuity and deferred compensation programs established pursuant to article 5 of this chapter shall bear the costs for these employees and services.

G. The director and all persons employed by the director are subject to section 38-611 and title 41, chapter 4, article 4.

H. In consultation with the director of the department of administration, the board may enter into employment agreements and establish the terms of those agreements with persons holding any of the following ASRS positions:

1. Director.
2. Deputy director.
3. Chief investment officer.
4. Fiduciary or investment counsel.

38-718. Investment managers; general powers and duties; investment of monies; limitations

A. A financial institution serving as an investment manager does not have a conflict of interest because it is also a depository in which ASRS monies are deposited.

B. The board shall appoint and may remove multiple investment managers to invest and reinvest the assets of ASRS. The board may authorize the director to retain and manage staff to make investments as an investment manager.

C. An investment manager shall be qualified to make the type of investments for which the investment manager is appointed.

D. The board shall:

1. Prescribe investment goals and policies that are consistent with the purposes of this article and the limitations and standard of care prescribed in this section.
2. Allocate assets and use investment strategies to meet the investment goals and policies ASRS prescribes.
3. Adopt specific directives for the guidance of investment managers.
4. Review the performance of each investment manager at least annually or at the request of a board member.
5. Prescribe investment diversification programs and assign investment manager responsibilities regarding those programs as it deems appropriate to achieve its investment goals, objectives and policies.

E. An investment manager shall discharge the duties of the position with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with the same matters would use in the conduct of an enterprise of a like character and with like aims as that of ASRS.

F. An investment manager may invest and reinvest in the name of ASRS all ASRS monies assigned to the investment manager and shall purchase and sell in the name of ASRS any of the securities and investments held by ASRS under this article. An investment manager may hold, purchase, sell, assign, loan, borrow, transfer and dispose of any of the securities and investments in which any of its account monies are invested, subject to the specific directives determined by

ASRS. An investment manager shall redeposit the proceeds of sales, maturities and calls in the ASRS depository.

G. The director may enter into security loan agreements with one or more security lending entities.

H. No more than eighty per cent of ASRS assets may be invested at any given time in equities, measured at market value.

I. No more than forty per cent of ASRS assets may be invested in non-United States public investments, measured at market value.

J. No more than sixty per cent of ASRS assets may be invested internally, measured at market value.

K. No more than five per cent of ASRS assets may be invested in securities issued by any one institution, agency or corporation, other than securities issued as direct obligations of or fully guaranteed by the United States government or mortgage backed securities and agency debentures issued by federal agencies, measured at market value.

L. No more than ten per cent of ASRS assets may be invested in bonds or other evidences of indebtedness of those multinational development banks in which the United States is a member nation, including the international bank for reconstruction and development, the African development bank, the Asian development bank and the inter-American development bank, measured at market value.

M. If a limitation in subsection H, I, J, K or L of this section is reached, ASRS is not required to sell assets, but shall not make any further investments of that type until the limit is no longer exceeded.

N. Notwithstanding any other law, an investment manager is not required to invest in any type of investment that is intended to fund economic development projects, public works or social programs but may consider such economically targeted investments pursuant to its fiduciary responsibility.

O. For the purpose of exercising the investment responsibilities prescribed in this section, the board may enter into contracts to receive market data and other market information from securities, commodities, options and monetary exchanges. These contracts may be interpreted and enforced under the laws of a jurisdiction other than this state and are not subject to section 35-214 or 38-511 or title 41, chapter 23.

P. Proprietary commercial information that is provided to the board, director, investment manager, employees of the director and attorneys of the board or the director relating to investments in which an investment manager has invested or has considered for investment is confidential and not a public record if the information is information that customarily would not be released to the public by the person or entity from whom the information was obtained.

38-730. Charter city or ASRS retirement service credits; transfers

A. On application the retirement service credits of an employee of a charter city that is not an employer under ASRS or an employee of an employer that is an employer under ASRS whose job functions are shifted by law from one employer jurisdiction to another shall be transferred to the retirement system of the new employer.

B. An employee of a charter city that is not an employer under ASRS or an employee of an employer that is an employer under ASRS who becomes employed by the other employer jurisdiction may apply to have the employee's retirement service credits transferred to the retirement system of the new employer. The retirement service credits of an employee of a

charter city that is not an employer under ASRS shall not be transferred unless the governing body of that city approves the transfer. The retirement service credits of an employee of an employer that is an employer under ASRS shall not be transferred unless the board approves the transfer.

C. The transfer shall be made pursuant to section 38-922.

D. The accumulated retirement contributions of an employee whose retirement service credits are transferred that are paid to the retirement system of the new employer shall not be withdrawn by the employee unless the employee's employment terminates.

E. The retirement system to which the employee is transferring shall not apply service credits to the employee's account until such time as complete payment is made to the retirement system to which the employee is transferring. On completion of the transfer provided for in this section, the employee's rights in the retirement system from which the employee is transferring are extinguished.

38-735. Payment of contributions; recovery of delinquent payments

A. All amounts deducted from a member's compensation as provided in section 38-736 and employer contributions required pursuant to section 38-737 shall be paid to ASRS for deposit in the ASRS depository.

B. Each employer shall certify on each payroll the amount to be contributed and shall remit that amount to ASRS.

C. Payments made by employers pursuant to this article or article 2.1, 7 or 8 of this chapter become delinquent after the due date prescribed in the board's rules and thereafter shall be increased by interest from and after that date until payment is received by ASRS. ASRS shall charge interest on the delinquent payments at an annual rate equal to the interest rate assumption approved by the board from time to time for actuarial equivalency. Delinquent payments due under this article or article 2.1, 7 or 8 of this chapter, together with interest charges as provided in this subsection, may be recovered by action in a court of competent jurisdiction against an employer that is liable for payments or, at the request of the director, may be deducted from any other monies, including excise revenue taxes, payable to the employer by any department or agency of this state. The employer shall record delinquent payments that are recovered or deducted from other monies pursuant to this subsection pursuant to applicable accounting and financial reporting standards.

38-740. Return of contributions

A. A member whose membership commenced before July 1, 2011 and who leaves employment other than by retirement or death may elect to receive a return of the contributions as follows:

1. If the member has less than five years of credited service, the member shall receive all of the member's contributions.

2. If a member has five or more years of credited service, the member shall receive the member's contributions and an amount equal to a percentage of the employer contributions paid on behalf of the member. This amount excludes payments made by an employer pursuant to section 38-738, subsection B, paragraph 3, unless the member has made the payment required by section 38-738, subsection B, paragraph 1. The percentage of employer contributions paid on behalf of the member shall be as follows:

(a) 5.0 to 5.9 years of credited service, twenty-five per cent.

- (b) 6.0 to 6.9 years of credited service, forty per cent.
- (c) 7.0 to 7.9 years of credited service, fifty-five per cent.
- (d) 8.0 to 8.9 years of credited service, seventy per cent.
- (e) 9.0 to 9.9 years of credited service, eighty-five per cent.
- (f) 10.0 or more years of credited service, one hundred per cent.

3. Interest on the returned contributions as determined by the board.

B. A member whose membership commenced on or after July 1, 2011 and who leaves employment other than by retirement or death may elect to receive a return of all of the member's contributions with interest as determined by the board.

C. Notwithstanding subsection B of this section, if a member has five or more years of credited service and the member is terminated solely because of an employer reduction in force by reason of a lack of monies or elimination of the member's position, the member is entitled to receive the amounts prescribed in subsection A of this section.

D. Withdrawal of contributions with interest constitutes a withdrawal from membership in ASRS and results in a forfeiture of all other benefits under ASRS.

E. Notwithstanding any other provision of this article, a member who has not received a return of contributions pursuant to this section may combine any two or more periods of service for purposes of determining the member's benefits.

F. If a member receives more than the amount due to a member pursuant to this section, the member shall repay the amount of the overpayment together with interest at the interest rate earned on ASRS investments as reported on a quarterly basis, but not less than the valuation rate established by the board, from the time of overpayment to the settlement of the debt.

38-742. Reinstatement

A. If an active member who received a return of contributions on termination of employment and by receipt of those contributions forfeited credited service earned on that employment, as provided in section 38-740, subsection A or B, is subsequently reemployed by an employer, the member's service shall be credited only from the date the member's most recent reemployment period commenced.

B. Notwithstanding subsection A of this section, the member may redeposit the amount of the contributions the member received 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.

C. A member who is receiving benefits pursuant to section 38-797.07 and who received a return of contributions on termination of employment and by receipt of those contributions forfeited credited service earned on that employment, as provided in section 38-740, subsection A or B, may redeposit the amount of the contributions the member received at the time of the member's previous 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 redeposit of the contributions and interest, 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.

38-743. Public service credit

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.

B. A member who elects to receive credit for service with 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 shall pay to ASRS an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

C. A member who previously was a member of another public employee retirement system and who receives or is eligible to receive retirement benefits from that system for any period of employment is ineligible to receive retirement benefits from ASRS for the same period.

D. A member shall have at least five years of credited service in ASRS before electing to receive credit for service pursuant to this section.

38-744. Leave of absence; credit for leave without pay

A. A member may elect to be credited with service for retirement purposes for an officially granted leave of absence from employment without pay if all of the following apply:

1. At the time the absence was granted the member was an active member of ASRS or a member who was receiving benefits pursuant to section 38-797.07.

2. At the time the credit is requested the member is an active member of ASRS, receiving benefits pursuant to section 38-797.07 or a former active member of ASRS who has not withdrawn contributions from ASRS pursuant to section 38-740 and who was unable to resume employment because a position is not available.

3. The member returns to employment with the same employer, unless employment could not be resumed because of disability or a position was not available.

4. The member elects not more than one year of the leave and not more than a total of sixty months pursuant to this section.

5. The member pays the amount provided in subsection B of this section.

6. The member's employer has certified that the leave of absence benefits or is in the best interests of the employer.

B. A member who elects to be credited with a leave period as provided in subsection A of this section shall pay to ASRS an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.

- C. A member who previously was a member of another public employee retirement system and who receives or is eligible to receive a retirement benefit from that system for any period of employment is ineligible to receive retirement benefits from ASRS for the same period.
- D. A member shall have at least five years of credited service in ASRS before electing to receive credit for service pursuant to this section.
- E. For the purposes of subsection A of this section, each employer shall adopt rules establishing guidelines for a leave of absence that benefits or is in the best interests of the employer.

38-745. Credit for military service

- A. An active member of ASRS or a member who is receiving benefits pursuant to section 38-797.07 may purchase up to sixty months of credited service in ASRS for active military service if all of the following apply:
 - 1. The member was honorably separated from the military service.
 - 2. The member submits a copy of the member's military service record (DD-214) or its equivalent with the member's application for military service credit.
 - 3. A member has at least five years of credited service in ASRS.
 - 4. Except as provided by 10 United States Code section 12736, the member is not yet eligible for a military retirement benefit.
- B. The cost to purchase military service credit is an amount equal to the present value of the additional benefit that is derived from the purchased credited service using the actuarial assumptions that are approved by the board.
- C. An active member of ASRS who is called to active military service may receive credited service for not more than sixty months of active military service, except as provided by the uniformed services employment and reemployment rights act (38 United States Code section 4312(c)). The member's employer shall make employer contributions and member contributions for the member if the member meets the following requirements:
 - 1. Was an active member of ASRS on the day before the member began active military service.
 - 2. Is a member of the Arizona national guard or is a member of the reserves of any military establishment of the United States.
 - 3. Volunteers or is ordered into active military service of the United States as part of a military call-up.
 - 4. One of the following occurs:
 - (a) Is honorably separated from active military service and returns to employment for the same employer from which the member left for active military service within ninety days after the date active military service is terminated.
 - (b) Is hospitalized as a result of military service and returns to employment for the same employer from which the member left for active military service within ninety days after release from service related hospitalization.
 - (c) Becomes a person with a disability as a result of or during the military service and is unable to return to the same employer.
 - (d) Dies as a result of or during the military service.
- D. Contributions made pursuant to subsection C of this section shall be for the period of time beginning on the date the member began active military service and ending on the later of one of the following dates:

1. The date the member returns to employment or the date the member should have returned to employment pursuant to 20 Code of Federal Regulations section 1002.115, whichever date is earlier.
 2. The date the member is released from service related hospitalization or two years after initiation of service related hospitalization, whichever date is earlier.
 3. One year after the date of disability.
 4. The date the member dies as a result of or during active military service.
- E. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C of this section, the member shall be credited with service for retirement purposes for the period of time of active military service of not more than sixty months.
- F. The employer shall make contributions pursuant to subsection C of this section as follows:
1. Contributions shall be based on the compensation that a member would have received but for the period that the member was ordered into active military service.
 2. If the employer cannot reasonably determine a member's rate of compensation for the period that the member was ordered into active military service, the employer shall make contributions based on the member's average rate of compensation during the twelve-month period immediately preceding the period of active military service.
 3. If a member has been employed less than twelve months before being ordered into active military service, the employer shall make contributions based on the employment period immediately preceding the period of active military service.
 4. Employer contributions shall be made in a lump sum and without penalty when the member returns to employment, when it is determined that the member is unable to return to employment because of a disability as a result of or that occurred during military service or on receipt of the member's death certificate. If a member suffers a service related death, the employer shall make the employer and member contributions up to and including the date of the member's death. Death benefits shall be calculated as prescribed by law.
- G. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.
- H. Notwithstanding any other law, the member is not required to reimburse the member's employer or ASRS for any contribution made pursuant to subsection C of this section.
- I. In addition to, but not in duplication of, the provisions of subsection C of this section, contributions, benefits and credited service provided pursuant to this section shall be provided in accordance with section 414(u) of the internal revenue code.
- J. A member who does not currently perform services for an employer by reason of qualified military service, as that term is defined in section 414(u) of the internal revenue code, and who is receiving differential wage payments, as that term is defined in section 3401(h)(2) of the internal revenue code, shall not be considered as having a severance from employment for all purposes under ASRS during the period the differential wages are being paid by the employer to the employee.

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

- A. A member who purchases credited service pursuant to section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:
1. Make payments directly to ASRS as provided in subsection H of this section.

2. Elect to have the member's employer make payments as provided in subsection B of this section.

B. A member may elect to have the member's employer make payments for all or any portion of the amounts payable for the member's purchase of credited service pursuant to the sections prescribed in subsection A of this section through a salary reduction program in accordance with the following:

1. The amounts paid pursuant to a salary reduction program are in lieu of contributions by the electing member. The electing member's salary or other compensation shall be reduced by the amount paid by the employer pursuant to this subsection. For the purposes of this paragraph, "other compensation" includes a member's termination pay.

2. The member shall make an election pursuant to this subsection at any time on or after the date the member elects to purchase credited service pursuant to the sections prescribed in subsection A of this section and before the member's termination of employment. The election shall specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods. In the case of an election to utilize all or any part of the member's termination pay to purchase credited service, the member's election shall be made at least three full calendar months before the date of the member's termination of employment and entitlement to receive the termination pay. After an election is made pursuant to this subsection, the election is binding on and irrevocable for the member and the member's employer during the member's remaining period of current employment. After a member makes an irrevocable election pursuant to this subsection, the member does not have the option of choosing to receive the contributed amounts directly. For the purposes of this paragraph, "termination pay" means any lump sum that is paid at the member's termination of employment for accrued vacation, sick leave or overtime pay.

3. A member who makes an irrevocable election pursuant to this subsection to have the member's employer make payments for less than all of the amounts payable for the member's purchase of credited service may irrevocably elect to have the member's employer make payments for all or any portion of the remaining amounts payable for the member's purchase of credited service. A member who makes one or more irrevocable elections pursuant to this subsection may also make other contributions to ASRS pursuant to subsection H of this section to the extent of any remaining amounts payable for which the member has not made an election pursuant to this subsection. An additional election or contribution with respect to a portion of the amounts payable for the member's purchase of credited service does not alter, amend or revoke an irrevocable election already made pursuant to this subsection for any other portion of the amounts payable for the member's purchase of credited service.

4. If on termination of the member's employment with an ASRS employer all amounts have not been paid to ASRS pursuant to the member's irrevocable election pursuant to this subsection, the member may pay ASRS, within thirty days after the member's termination of employment and subject to other limitations prescribed in this section, all or any portion of the unpaid amounts as provided in subsection H of this section. These payments do not alter, amend or revoke any irrevocable election already made pursuant to this subsection with respect to any amount to be paid by the member's employer while the member is employed by the member's employer.

5. Amounts paid by an employer pursuant to this subsection shall be treated as employer contributions for the purpose of determining tax treatment under the internal revenue code. The effective date of employer payments pursuant to this subsection shall not be before the date ASRS receives notification from the United States internal revenue service that pursuant to

section 414(h)(2) of the internal revenue code the amounts paid by an employer pursuant to this subsection will not be included in the member's gross income for income tax purposes until those amounts are distributed by refund or retirement benefit payments.

6. Unless otherwise provided, member contributions paid by an employer pursuant to this subsection are treated for all other purposes under ASRS in the same manner and to the same extent as member contributions that are not paid by an employer pursuant to this subsection. ASRS shall not grant credited service for contributions made pursuant to this subsection until those contributions are received by ASRS. ASRS may assess interest or administrative charges attributable to any salary reduction election made pursuant to this subsection. The interest or administrative charges shall be added to the amount of contributions that is made to ASRS by the member each payroll period and that is paid by the member's employer. The interest or administrative charges shall not be treated as member contributions for any purposes under this article and a member or a member's beneficiary does not have a right to the return of the interest or administrative charges pursuant to any other provision of this article. Interest assessed pursuant to this subsection shall be at the rate specified by the board pursuant to section 38-711, paragraph 2.

7. If a member transfers employment from one participating employer with which the member has made an irrevocable election pursuant to this subsection to another participating employer, the member and the successor participating employer shall complete the terms of the irrevocable election that the member made with the original participating employer.

C. A member who elects before July 1, 1999 to receive retirement benefits based on section 38-771, subsection C, paragraph 2 or a member who elects to make contributions to ASRS pursuant to section 38-771.01, subsection F, paragraph 4 shall either make the member's additional contributions required pursuant to section 38-771, subsection E or allowed pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as provided in subsection H of this section or shall elect to have the member's employer make payments for those additional contributions as provided in subsection D of this section. A member who elected to be covered or who was deemed to be covered by section 38-771 on or before December 31, 1995 or who elects to make member contributions pursuant to section 38-771.01, subsection F, paragraph 3 is deemed to have made an irrevocable election pursuant to subsection D of this section to make the member's contributions to ASRS that are required by section 38-771, subsection D or allowed by section 38-771.01, subsection F, paragraph 3.

D. Any member contributions that are required by section 38-771, subsection D or that are allowed pursuant to section 38-771.01, subsection F, paragraph 3 are deemed to be made by the member to ASRS through a salary reduction program in accordance with the following:

1. A member may make member contributions pursuant to section 38-771, subsection E or section 38-771.01, subsection F, paragraph 4 through a salary reduction program elected pursuant to this subsection. If a member makes an irrevocable election pursuant to this subsection before July 1, 1999 to have the member's employer make payments for additional contributions pursuant to section 38-771, subsection E, the election continues in effect from and after June 30, 1999 and shall not be revoked, amended or altered by any election made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant to a salary reduction program are in lieu of contributions by the electing member. The member's salary or other compensation shall be reduced by the amount paid by the employer pursuant to this subsection.

2. Before a member's termination of employment, the member may make an election pursuant to this subsection at any time after the date the member elects to receive retirement benefits based

on section 38-771, subsection C, paragraph 2 but before July 1, 1999 or at any time after the member elects to make member contributions pursuant to section 38-771.01, subsection F, paragraph 4. The election shall specify the number of payroll periods that deductions will be made from the member's compensation and the dollar amount of deductions for each payroll period during the specified number of payroll periods. After an election is made pursuant to this subsection, the election is binding on and irrevocable for the member and the member's employer during the member's remaining period of employment.

3. After a member makes or is deemed to have made an irrevocable election pursuant to this subsection, the member does not have the option of choosing to receive the contributed amounts directly. A member who makes an irrevocable election pursuant to this subsection to have the member's employer make payments for less than all of the amounts payable for the member's additional contributions allowed by section 38-771.01, subsection F, paragraph 4 may irrevocably elect to have the member's employer make payments for all or any portion of the remaining amounts payable for the member's additional contributions. A member who makes one or more irrevocable elections pursuant to this subsection may also make other contributions to ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to subsection H of this section to the extent of any remaining amounts payable for which the member has not made an election pursuant to this subsection. An additional election or contribution with respect to a portion of the amounts payable for the member's additional contributions pursuant to section 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an irrevocable election already made pursuant to this subsection for any other portion of the amounts payable for the member's additional contributions allowed by section 38-771.01, subsection F, paragraph 4.

4. If on termination of the member's employment all amounts have not been paid to ASRS pursuant to the member's irrevocable election pursuant to this subsection, the member may pay ASRS, within thirty days after the member's termination of employment and subject to other limitations prescribed in this section, all or any portion of the unpaid amounts as provided in subsection H of this section. These payments do not alter, amend or revoke any irrevocable election already made pursuant to this subsection with respect to any amount to be paid by the member's employer while the member is employed by the member's employer.

5. Amounts paid by an employer pursuant to this subsection shall be treated as employer contributions for the purpose of determining tax treatment under the internal revenue code. The effective date of employer payments pursuant to this subsection shall not be before the date ASRS receives notification from the United States internal revenue service that pursuant to section 414(h)(2) of the internal revenue code the amounts paid by an employer pursuant to this subsection will not be included in the member's gross income for income tax purposes until those amounts are distributed by refund or retirement benefit payments.

6. Unless otherwise provided, member contributions paid by an employer pursuant to this subsection are treated for all other purposes under ASRS in the same manner and to the same extent as member contributions that are not paid by an employer pursuant to this subsection.

7. If a member transfers employment from one participating employer with which the member has made an irrevocable election pursuant to this subsection to another participating employer, the member and the successor participating employer shall complete the terms of the irrevocable election that the member made with the original participating employer.

E. The following limits apply to contributions to ASRS:

1. Except to the extent paragraphs 2 and 3 of this subsection apply to certain contributions made by a member to ASRS and to the extent permitted under section 414(v) of the internal revenue

code, if applicable, in any one limitation year, the annual additions contributed or allocated to ASRS for or on behalf of a member shall not exceed the lesser of either:

(a) Forty thousand dollars or a larger amount that is prescribed by the board and that is due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. The board shall increase the amount prescribed by this subdivision as of the effective date of the increase announced by the United States secretary of the treasury.

(b) One hundred per cent of the member's compensation for the limitation year. The compensation limit prescribed in this subdivision does not apply to any contribution to ASRS for medical benefits after a member's separation from service, within the meaning prescribed in section 401(h) or 419A(f)(2) of the internal revenue code, that is otherwise treated as an annual addition.

2. Unless paragraph 4 of this subsection applies, for plan years beginning on or after July 1, 1998, in any one limitation year, the annual additions credited to ASRS for or on behalf of a member who makes contributions to ASRS to purchase credited service pursuant to section 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable election has not been made pursuant to subsection B of this section shall not exceed the greater of either:

(a) The requirements of section 38-769. For the purposes of applying the limits prescribed in section 38-769 under this subdivision, the accrued benefit derived from the contributions shall be treated as an annual benefit and the reduced limit for certain early retirement in section 38-769, subsection C, paragraph 2 does not apply.

(b) Except as provided in paragraph 3 of this subsection, the requirements of paragraph 1 of this subsection. The contributions shall be treated as annual additions and any of the member's other annual additions for the limitation year shall be taken into account. For the purposes of applying the requirements of paragraph 1 of this subsection under this subdivision, the percentage of compensation limit in paragraph 1, subdivision (b) of this paragraph does not apply.

3. For plan years beginning on or after July 1, 1998, the requirements of paragraph 1 of this subsection shall not be applied to reduce the amount of credited service that may be purchased by an eligible member pursuant to section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the amount of credited service allowed to be purchased pursuant to those sections on August 5, 1997 without the application of any of the limits prescribed in this section or section 415 of the internal revenue code. For the purposes of this paragraph, "eligible member" means a person who first becomes a member of ASRS before July 1, 1999.

4. Member contributions to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-922 shall not be made by a member if recognition of that service would cause a member to receive a retirement benefit for the same service from ASRS and one or more other retirement plans. This paragraph does not apply to either of the following:

(a) Contributions made by an eligible member as defined in paragraph 3 of this subsection, except that any service purchase by an eligible member is subject to any other limitations, including limitations on duplicative service purchase, otherwise provided in this article.

(b) Any member contributions with respect to which an irrevocable election has been made by a member pursuant to subsection B of this section, except that the service purchase is subject to any other limitations, including limitations on duplicative service purchase, otherwise provided in this article.

F. If a member's contributions are subject to the limitations of subsection E of this section, the contributions shall be treated as being made to a separate defined contribution plan. If the

member's contributions exceed the limits prescribed in subsection E of this section when taking into account other member and employer contributions to ASRS on behalf of the member for the limitation year, the amount to be paid by the member shall be reduced to not exceed the limits prescribed in subsection E of this section and the remaining amount shall be carried forward to the next limitation year, unless the limits are exceeded in the next limitation year. If the limits are exceeded in the next limitation year, the procedure prescribed by this subsection shall be repeated until all payments have been made.

G. If, after the application of subsection F of this section, the annual additions on behalf of a member exceed the limitations prescribed in subsection E of this section, ASRS shall dispose of excess amounts by either of the following:

1. Returning to the member any contributions that are made by the member and that are nondeductible under the internal revenue code.
2. Holding the amounts in a suspense account established pursuant to subsection L of this section and allocating the amounts as either member or employer contributions for the benefit of the member in the next limitation year and before any further member or employer contributions are made that would constitute annual additions made to a defined contribution plan pursuant to section 415 of the internal revenue code. ASRS shall allocate contributions as prescribed in this section, and the amount allocated shall reduce the amount of the member or employer contributions for the limitation year in which the allocation is made.

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.
4. Providing by rule that the contributions may be made in installment payments over a period of time.

I. 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 a member pursuant to subsection B or D of this section, the board may accept a direct trustee-to-trustee transfer from retirement programs

that are qualified under section 401(a) or 403(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code or an eligible deferred compensation plan described in section 457(b) of the internal revenue code for the payment for credited service purchases pursuant to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct trustee-to-trustee transfer is from a retirement program that is qualified under section 401(a) of the internal revenue code and that includes a cash or deferred arrangement described in section 401(k) of the internal revenue code, the member on whose behalf the transfer was made is not eligible to retire under section 38-764, subsection I before the date the member attains fifty-nine and one-half years of age.

J. ASRS shall separately account for all amounts rolled over or directly transferred to ASRS. Subject to the limitations contained in the internal revenue code applicable to the type of plan from which an eligible rollover distribution is transferred, to the extent any eligible rollover distribution that is directly transferred to ASRS consists wholly or partially of amounts that would otherwise not be included in the member's gross income if not so transferred, ASRS shall separately account for the amounts so transferred, and earnings on those amounts, including separately accounting for the portion of the amount that is includable in gross income and the portion of the amount that is not includable in gross income.

K. ASRS shall not grant credited service under section 38-738, 38-742, 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of this section until the contributions are received by ASRS. ASRS may assess interest or administrative charges attributable to any installment payment made pursuant to subsection H, paragraph 4 of this section to purchase credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or 38-922. The interest or administrative charges shall be added to the amount of contributions made to ASRS by the member. The interest or administrative charges shall not be treated as member contributions for any purposes under this article, and a member or a member's beneficiary does not have a right to the return of the interest or administrative charges pursuant to any other provision of this article. Interest assessed pursuant to this subsection shall be at the rate specified by the board pursuant to section 38-711, paragraph 2.

L. Notwithstanding any provision of this article to the contrary, if the annual additions credited on behalf of an ASRS member during any limitation year exceed the limits of section 415(c) of the internal revenue code and subsection E of this section, ASRS may only correct the excess pursuant to the employee plans compliance resolution system prescribed in internal revenue service revenue procedure 2008-50 or any future guidance issued by the internal revenue service, including the preamble of the final treasury regulations issued under section 415 of the internal revenue code.

M. If the member retires before all payments are made pursuant to this section, ASRS shall calculate the member's benefits based only on the payments actually made.

N. On satisfaction of the requirements of this section, ASRS shall adjust the member's credited service history and add any additional service credits acquired.

O. Annual additions on behalf of a member in any limitation year shall be the sum of:

1. The amount of the member contributions made to ASRS to purchase credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable election made pursuant to subsection B of this section is not in effect.

2. The amount of member and employer contributions made to ASRS on behalf of a member who elected or was deemed to have elected to receive retirement benefits pursuant to section 38-771 or who is entitled to benefits pursuant to section 38-771.01, except that, other than as

provided in subsection P of this section, corrective contributions shall be considered annual additions for the limitation years to which the contributions relate and interest and gains shall not be considered as annual additions for the purpose of any limitation prescribed in this article or in section 415 of the internal revenue code. If the corrective contributions exceed the limit on annual additions for a limitation year prior to the limitation year in which the corrective contributions are contributed by the employer to ASRS, the retirement benefit attributable to the excess corrective contributions shall be treated as an excess benefit and shall be payable to the member as any other excess benefit is payable pursuant to section 38-774, and the employer shall pay the excess corrective contributions to the separate unfunded governmental excess benefit arrangement administered by the board pursuant to section 38-774.

3. Any member or employer contributions made to ASRS or any other plan that are treated as being made to a defined contribution plan maintained by an employer of the member.

4. Any forfeitures, including any income attributable to forfeitures, allocated for or on behalf of a member of ASRS or any other plan that are treated as being allocated under a defined contribution plan maintained by an employer of the member.

P. To the extent any portion of the subject benefits, if treated as subject to the benefit limitations of section 415(b) of the internal revenue code, exceed the applicable limitation on benefits pursuant to section 38-769 for the form of distribution, a percentage of corrective contributions and interest and gains shall be treated as annual additions for the limitation year in which contributed by the employer to ASRS. This percentage of corrective contributions and interest and gains shall be equal to the percentage determined by dividing the subject benefits that exceed the limitation on benefits pursuant to section 38-769 by the subject benefits. If the corrective contributions and interest and gains that are treated as annual additions for the limitation year in which the corrective contributions and interest and gains are contributed by the employer to ASRS exceed the limit on annual additions for the limitation year, the retirement benefit attributable to the excess shall be treated as an excess benefit and shall be payable to the member as any other excess benefit is payable pursuant to section 38-774, and the employer shall pay the excess to the separate unfunded governmental excess benefit arrangement administered by the board pursuant to section 38-774.

Q. Subsection O of this section shall be construed and interpreted in accordance with section 415 of the internal revenue code and the final treasury regulations issued under that section.

R. For the purposes of this section:

1. "Compensation" has the same meaning prescribed in section 38-769.

2. "Corrective contributions" means any contributions that are paid by an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that are attributable to employer contributions that should have been made for prior limitation years.

3. "Defined contribution plan" has the same meaning prescribed in section 38-769.

4. "Eligible rollover distribution" has the same meaning prescribed in section 38-770.

5. "Interest and gains" means employer contributions to ASRS pursuant to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are attributable to earnings and supplemental credits that would have been earned or added to a member's annuity payment.

6. "Limitation year" has the same meaning prescribed in section 38-769.

7. "Participating employer" means an employer that participates in ASRS.

8. "Subject benefits" means the retirement benefit received by a member pursuant to section 38-771.01 minus the sum of the portion of such retirement benefit attributable to contributions that were made by or on behalf of the member to the defined contribution program administered by

ASRS for periods before July 1, 1981 and contributions that were made by the member after June 30, 1981 and that were not picked up as provided in section 414(h)(2) of the internal revenue code.

38-755. Information as to member's status; beneficiary designation; spousal consent; confidentiality

A. Subject to rules prescribed by the board, on application of a member, the board shall furnish information concerning the member's status. In addition, the board shall furnish to each member an account, that may be electronic or online, showing the status of the member's account, including the name of the member's beneficiary as last listed with the board.

B. The member may change the member's beneficiary at any time in a manner established by ASRS.

C. A member who is married shall name and maintain the member's current spouse as a beneficiary to receive at least fifty per cent of the member's account, unless naming or maintaining the current spouse as a beneficiary violates another law, an existing contract or a court order. The member's current spouse may consent to a waiver of this requirement pursuant to section 38-776.

D. In order to protect a member's identity from fraud, abuse, theft or civil or criminal activity, information about a member is not subject to inspection pursuant to title 39, chapter 1, article 2, except that the following information about a member is subject to inspection:

1. The member's name.
2. Whether the member is an active member as defined in section 38-711, an inactive member as defined in section 38-711 or a retired member as defined in section 38-711.
3. The member's current or most recent employer.
4. For a retired member, the average monthly compensation, as defined in section 38-711, used to calculate the member's retirement benefit.
5. The credited service as defined in section 38-711 on account for an active or inactive member or the credited service used to calculate the retirement benefit for a retired member.
6. The gross pension amount actually paid to a retired member.
7. The most recent retirement date.
8. The current account balance for an active or inactive member.
9. The gross long-term disability program benefit actually paid to a member with a disability pursuant to article 2.1 of this chapter.
10. The amount paid to purchase credited service pursuant to section 38-743, 38-744 or 38-745.
11. The amount of credited service purchased pursuant to section 38-743, 38-744 or 38-745.

E. ASRS shall not permit any unredacted record to be inspected that contains a member's social security number, bank account information, address, telephone number, e-mail address, medical records, health insurance information, beneficiary or survivor information or disability information or any information that is protected by any federal or state law.

38-760. Optional forms of retirement benefits

A. On retirement, members may elect an optional form of retirement benefit as provided in this section.

B. The optional retirement benefits available under this section include the following:

1. Joint and survivor annuity in a reduced amount payable to the retiring member during life, with the provisions that after the member's death all, two-thirds or one-half of the retirement income, as the member elects, shall be continued during the lifetime of the contingent annuitant

designated by the retiring member subject to the restrictions prescribed in section 38-764. The amount of retirement income shall be the actuarial equivalent of the retirement income to which the member would be entitled under normal or early retirement. The election in a manner prescribed by the board shall name the contingent annuitant. The election may be revoked at any time before the member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

(a) If a different contingent annuitant is named, the annuity of the member under the same joint and survivor annuity option previously elected shall be adjusted to the actuarial equivalent of the original annuity, based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases in retirement income that are authorized by law after the member's date of retirement. Payment of this adjusted annuity shall continue under the provisions of the option previously elected by the member.

(b) If the member rescinds the election, the member shall thereafter receive a straight life annuity equal to what the member would otherwise be entitled to receive if the member had not elected the joint and survivor annuity option, including all postretirement increases in retirement income that are authorized by law after the date of retirement. The increased payment shall continue during the remainder of the member's lifetime.

(c) If a member whose original date of retirement is before July 1, 2008 rescinds the joint and survivor annuity option previously elected and receives the straight life annuity pursuant to subdivision (b) of this paragraph, the member may again elect the same joint and survivor annuity option previously elected subject to the same restrictions prescribed in subdivision (a) of this paragraph.

(d) A member whose original date of retirement is on or after July 1, 2008 may exercise a one-time election to rescind the joint and survivor annuity option elected by the member if the contingent annuitant dies or ceases to be a contingent annuitant pursuant to the terms of a qualified domestic relations order.

(e) If the member's contingent annuitant is the member's current spouse, the member shall obtain the consent of the contingent annuitant pursuant to section 38-776 before the member names a new contingent annuitant or before the member rescinds the election, except that consent is not required if the rescission is pursuant to subdivision (d) of this paragraph.

2. A period certain and life annuity actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the member but whose payments continue for the member's lifetime beyond the five, ten or fifteen year period. At the time of electing this option the member shall name a period certain beneficiary or beneficiaries who are entitled to receive the payments for any portion of the period certain beyond the lifetime of the member. The member may name a different beneficiary at any time. If no beneficiary survives the member, any remaining payments are the property of the member's estate. A member who retires after August 9, 2001 and before July 1, 2008 may rescind the election of a period certain and life annuity. If the member rescinds the election of a period certain and life annuity, the member shall thereafter receive a straight life annuity equal to what the member would otherwise be entitled to receive if the member had not elected the period certain and life annuity option, including all postretirement increases in retirement income that are authorized by law after the date of retirement. The increased payment shall continue during the remainder of the member's lifetime. If the member reverts to a straight life annuity pursuant to this paragraph, the member may again elect a period certain and life annuity subject to the same provisions of the period

certain and life annuity previously elected by the member. If the member's contingent annuitant is the member's current spouse, the member shall obtain the consent of the contingent annuitant pursuant to section 38-776 before the member rescinds the election of a period certain and life annuity or again elects a period certain and life annuity. A member whose original date of retirement is on or after July 1, 2008 may exercise a one-time election to rescind the period certain and life annuity option elected by the member if the beneficiary dies or ceases to be a beneficiary pursuant to the terms of a qualified domestic relations order or at the expiration of the member's period certain term.

3. Beginning on July 1, 2002, a lump sum payment equal to not more than thirty-six months of the member's retirement benefits based on the actuarial equivalent of the retirement income to which the member would be entitled under normal or early retirement. The member's benefit shall be actuarially reduced to provide for the lump sum payment. The lump sum payment shall be made at the time of retirement. Any benefit increase granted to a member who elects a lump sum payment pursuant to this paragraph is subject to the following conditions:

- (a) If the benefit increase is a percentage increase of the member's retirement benefit, the increase shall be based on the actuarially reduced retirement benefit of the member.
- (b) If the benefit increase is pursuant to section 38-767, the amount of the member's benefit increase shall be calculated without regard to the lump sum payment pursuant to this paragraph.

4. Other forms of actuarially reduced optional benefits prescribed by the board.

C. A member who is married at the time of retirement shall elect a monthly benefit in the form of a joint and survivor annuity pursuant to subsection B, paragraph 1 of this section, and the member's current spouse shall be the contingent annuitant unless the member's current spouse consents to a waiver of this requirement pursuant to section 38-776 or the election would violate another law, an existing contract or a court order. If the married member does not elect a type of joint and survivor annuity for the member's current spouse and the member's current spouse has not waived the requirements of this subsection, ASRS shall cancel the member's retirement. The member may reapply for retirement at any time in a manner established by ASRS.

38-762. Survivor benefits before retirement; definition

A. On the death of any active or inactive member before retirement, the designated beneficiary of the member shall be paid a survivor benefit equal to the sum of both of the following:

1. The member's contribution and interest and the employer's contribution and interest to the defined benefit plan established by this article for credited service that a member earned by working for an employer, plus all contributions and interest made for the purchase of military service, leave without pay or other public service credit. This amount excludes payments made by an employer pursuant to section 38-738, subsection B, paragraph 3, unless the member has made the payment required by section 38-738, subsection B, paragraph 1.

2. The amount of the member's employee account and the member's employer account together with supplemental credits, if any, transferred from the defined contribution program administered by ASRS to the defined benefit program established by this article.

B. Subsection A, paragraphs 1 and 2 of this section shall be accumulated at compound interest at a rate determined by the board through the day of the payment of the benefit.

C. In lieu of a single payment, a designated beneficiary who is eligible for a survivor benefit pursuant to subsection A of this section may elect to receive the actuarial equivalent of the survivor benefit as monthly income for life, if the resulting monthly amount is greater than or equal to the amount determined by the board under section 38-764, subsection F.

D. If a member dies before distribution of the member's benefits commences, the member's entire benefits shall be distributed within the required distribution provisions of section 401(a)(9) of the internal revenue code and the regulations that are issued under that section by the United States secretary of the treasury as prescribed in section 38-775.

E. If a deceased member did not designate a beneficiary or the beneficiary named by a member predeceases the member, ASRS shall pay the member's survivor benefit to the following persons in the following order of priority:

1. The member's surviving spouse.
2. The member's surviving natural or adopted children in equal shares.
3. The member's surviving parents in equal shares.
4. The member's estate.

F. Any payment pursuant to this section is payment for the account of the member or the member's beneficiary and all persons entitled to payment and, to the extent of the payment, is a full and complete discharge of all liability of the board or ASRS, or both, under or in connection with ASRS.

G. For the purposes of this section, "designated beneficiary" means any individual designated by the member as the member's beneficiary.

38-764. Commencement of retirement; payment of retirement benefits; lump sum payments

A. Retirement is deemed to commence on a date elected by the member. That date shall not be earlier than the day following the date of termination of employment, the date ASRS receives the member's completed retirement application or the date specified by the member pursuant to subsection I of this section.

B. Except as provided in subsection C of this section, all retirement benefits:

1. Are normally payable in monthly installments beginning on the commencement of retirement as prescribed in subsection A of this section.
2. Continue to and include the first day of the month in which death occurs or continue until the date of their cessation in accordance with any optional method of payment that may have been elected.

C. In the case of incapacity of a retired member or contingent annuitant, or in the case of any other emergency, as determined by the board, the board may make the payment to or on behalf of the retired member or contingent annuitant or to another person or persons the board determines to be lawfully entitled to receive payment. The payment is payment for the account of the retired member or contingent annuitant and all persons entitled to payment and, to the extent of the payment, is a full and complete discharge of all liability of the board or ASRS, or both, under or in connection with ASRS.

D. Except as provided in subsection E of this section, at the request of a retired member, a retired member's guardian or a court appointed conservator, the board may pay any increase in retirement benefits or the entire retirement benefit in a lump sum payment based on the actuarial present value of the benefit or the increase in the benefit if the payment of the benefits would result in ineligibility, reduction or elimination of social service programs provided to the member by this state, its political subdivisions or the federal government.

E. The board may pay the entire retirement benefit in a lump sum pursuant to subsection D of this section only if continued membership in ASRS will result in additional requests for lump sum payments based on cost of living adjustments or the establishment of minimum benefit awards.

F. If any benefit that is payable as a series of periodic payments amounts to less than a threshold amount determined by the board, the board, in its sole discretion and based on uniform rules it establishes, may order the amount to be paid in a lump sum. A member who receives a lump sum payment pursuant to this subsection remains a member of ASRS and is eligible for the coverage provided pursuant to section 38-782 and the payment pursuant to section 38-783, but is not eligible for a benefit increase pursuant to section 38-767.

G. All distributions of retirement benefits to a member shall be distributed within the required distribution provisions of section 401(a)(9) of the internal revenue code and the regulations that are issued under that section by the United States secretary of the treasury as prescribed in section 38-775.

H. A member may elect to cancel the effective date of retirement within thirty days of retirement or before the member's receipt of retirement benefits, whichever is later.

I. A member who attains a normal retirement date may retire at any time without terminating employment if the member is employed for less than the hours required for active membership pursuant to section 38-711, paragraph 23, subdivision (b).

38-769. Maximum retirement benefits; termination; definitions

A. Notwithstanding any other provision of this article, except as provided in subsection C of this section, the employer provided portion of a member's annual benefit payable in the form of a straight life annuity, at any time within a limitation year, shall not exceed one hundred sixty thousand dollars or a larger amount that is effective as of January 1 of each calendar year, is prescribed by the board and is due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. The board shall increase the amount pursuant to this subsection as of the effective date of the increase as prescribed by the United States secretary of the treasury. Benefit increases provided in this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001 shall be provided to all current and former members who have benefits that are limited by section 415(b) of the internal revenue code and who have an accrued benefit under ASRS immediately before July 1, 2001, other than an accrued benefit resulting from a benefit increase solely as a result of the increases provided by this section resulting from the increase in the limitations of section 415(b) of the internal revenue code as amended by the economic growth and tax relief reconciliation act of 2001.

B. Notwithstanding the limitations of subsection A of this section, the benefits payable to a member are deemed not to exceed the limitations determined under subsection A of this section if the retirement benefits payable to the member under this article do not exceed ten thousand dollars for the limitation year and if an employer has not at any time maintained a defined contribution plan in which the member has participated.

C. The limitations determined under subsection A of this section are subject to the following adjustments:

1. If a member has less than ten years of membership in ASRS, the maximum dollar limitation determined under subsection A of this section shall be multiplied by a fraction, the numerator of which is the number of years, or partial years, of membership in ASRS and the denominator of which is ten. The reduction provided in this paragraph also applies to the ten thousand dollar floor limitation provided in subsection B of this section, except that the reduction applies to years of service with an employer rather than to years of membership in ASRS. The reduction in this

paragraph does not reduce the limitations determined under subsection A of this section to an amount less than one-tenth of the limitations as determined without regard to this paragraph.

2. If the member's benefit under ASRS commences before the member reaches sixty-two years of age, the benefit will be limited to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for early retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity start date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-two and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-two, determined without applying the limitations of section 415 of the internal revenue code.

3. If the retirement benefit under ASRS commences after the member reaches sixty-five years of age, the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section on that benefit is increased to:

(a) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) as adjusted under section 415(d) of the internal revenue code, with actuarial equivalence computed using whichever of the following produces the smaller annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for determining actuarial equivalence for delayed retirement purposes.

(ii) A five per cent interest rate assumption and the applicable mortality table.

(b) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS does not have an immediately commencing straight life annuity payable at both age sixty-five

and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the member's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, with actuarial equivalence computed using a five per cent interest rate assumption and the applicable mortality table and expressing the member's age based on completed calendar months as of the annuity starting date.

(c) If the annuity starting date is in a limitation year beginning on or after July 1, 2007 and ASRS has an immediately commencing straight life annuity payable at both age sixty-five and the age of benefit commencement, the lesser of:

(i) The adjusted dollar limitation determined in accordance with subdivision (b) of this paragraph, determined without applying the limitations of section 415 of the internal revenue code.

(ii) The product of the dollar limitation under section 415(b)(1)(A) of the internal revenue code as adjusted in subsection A of this section, multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under ASRS at the member's annuity starting date to the annual amount of the immediately commencing straight life annuity under ASRS at age sixty-five, determined without applying the limitations of section 415 of the internal revenue code.

4. For purposes of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other than a straight life annuity and that is not subject to section 417(e)(3) of the internal revenue code must be adjusted to an actuarially equivalent straight life annuity that equals either:

(a) For limitation years beginning on or after July 1, 2007, the greater of the annual amount of the straight life annuity, if any, payable under ASRS at the same annuity starting date, and the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using an interest rate of five per cent and the applicable mortality table under section 417(e)(3) of the internal revenue code.

(b) For limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five per cent interest rate assumption and the applicable mortality table.

5. For the purpose of applying the limits of section 415 of the internal revenue code, a retirement benefit that is payable in any form other than a straight life annuity to which section 417(e)(3) of the internal revenue code would apply if that section of the internal revenue code were applicable to ASRS must be adjusted to an actuarially equivalent straight life annuity that equals:

(a) If the annuity starting date is in a plan year beginning on or after July 1, 2006, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest rate assumption and the applicable mortality table.

(iii) The applicable interest rate under section 417(e)(3) of the internal revenue code and the applicable mortality table, divided by 1.05. The stability period during which the applicable interest rate remains constant is the plan year. The look-back month that is used to determine the applicable interest rate during the stability period is the third full calendar month preceding the first day of the stability period. For the purposes of this item, "applicable interest rate" means the annual interest rate on thirty-year treasury securities as specified by the commissioner of the United States internal revenue service for a month in revenue rulings or notices or another guidance published by the commissioner in the internal revenue bulletin.

(b) If the annuity starting date is in a plan year beginning in July 1, 2004 or July 1, 2005, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit payable, using whichever of the following produces the greater annual amount:

(i) The interest rate and mortality table or other tabular factor specified by the board for adjusting benefits in the same form.

(ii) A five and one-half per cent interest assumption and the applicable mortality table.

(c) If the annuity starting date is on or after July 1, 2004 and before December 31, 2004, and ASRS applies the transition rule in section 101(d)(3) of the pension funding equity act of 2005 in lieu of the rule in subdivision (b) of this paragraph, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, determined in accordance with internal revenue service notice 2004-78.

6. When calculating the limitations of paragraph 4 or 5 of this subsection, the portion of any joint or survivor annuity that constitutes a qualified joint and survivor annuity as defined in section 417 of the internal revenue code shall be disregarded.

D. Subsection C, paragraphs 1 and 2 of this section do not apply to income received from ASRS as a pension, annuity or similar allowance as a result of the recipient developing a disability by personal injury or sickness or to amounts received from ASRS by beneficiaries, survivors or the estate of a member as a result of the death of the member.

E. Notwithstanding any other provision of this section, the annual benefit payable under this article may be reduced to the extent necessary, as determined by the board, to prevent disqualification of ASRS under section 415 of the internal revenue code that imposes additional limitations on the annual benefits payable to members who also may be participating in another tax qualified pension or savings plan of this state. An employer shall not provide employee retirement or deferred benefits if the benefits authorized by this section and as required by federal law result in the failure of ASRS to meet federal qualification standards as applied to public pension plans. The board shall advise affected members of any additional information concerning their annual benefits required by this subsection. All benefits payable pursuant to this subsection shall comply with the limitations of benefits contained in section 415 of the internal revenue code and the final treasury regulations issued under that section. Notwithstanding any provision of this article to the contrary, if the annual benefits within the meaning of section 415 of the internal revenue code for any member exceed the limits of section 415(b) of the internal revenue code and this section, ASRS may only correct the excess pursuant to the employee plans compliance resolution system prescribed in internal revenue service revenue procedure 2008-50 or any future guidance by the internal revenue service, including the preamble of the final treasury regulations issued under section 415 of the internal revenue code.

F. If the maximum amount of benefit allowed under section 415 of the internal revenue code is increased after the commencement date of a member's benefit due to any cost of living adjustment announced by the United States secretary of the treasury pursuant to the provisions of section 415(d) of the internal revenue code, the amount of the monthly benefit payable under ASRS to a member whose benefit is restricted due to the provisions of section 415(d) of the internal revenue code shall be increased by the board as of the date prescribed by the United States secretary of the treasury on which the increase shall become effective. The increase shall reflect the increase in the amount of retirement income that may be payable under this article as a result of the cost of living adjustment.

G. In determining the adjustments to the defined benefit dollar limitation authorized by subsection A of this section, the board shall prescribe a larger defined benefit dollar limitation if prescribed by the United States secretary of the treasury pursuant to section 415(d) of the internal revenue code. An adjustment to the defined benefit dollar limitation prescribed in subsection A of this section is not effective before the first calendar year for which the United States secretary of the treasury publishes the adjustment. After it is prescribed by the board, the new defined benefit dollar limitation applies to the limitation year ending with or within the calendar year for which the secretary of the treasury makes the adjustment.

H. For the purposes of the limitations prescribed by this section, all member and employer contributions made to ASRS to provide a member benefits pursuant to section 38-771 or 38-771.01 and all member contributions that are not treated as picked up by the employer under section 414(h)(2) of the internal revenue code shall be treated as made to a separate defined contribution plan.

I. On termination or partial termination of ASRS, the accrued benefit of each member is, as of the date of termination or partial termination, fully vested and nonforfeitable to the extent then funded.

J. If ASRS terminates, the benefit of any highly compensated employee as defined in section 414(q) of the internal revenue code and any highly compensated former employee is limited to a benefit that is nondiscriminatory under section 401(a)(4) of the internal revenue code and as follows:

1. Benefits distributed to any of the twenty-five active and former highly compensated employees with the greatest compensation in the current or any prior fiscal year are restricted so that the annual payments are no greater than an amount equal to the payment that would be made on behalf of the member under a straight life annuity that is the actuarial equivalent of the sum of the member's accrued benefit, the member's other benefits under ASRS, excluding a social security supplement as defined in 26 Code of Federal Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is entitled to receive under a social security supplement.

2. Paragraph 1 of this subsection does not apply if either:

- (a) After payment of the benefit to a member described in paragraph 1 of this subsection, the value of ASRS assets equals or exceeds one hundred ten per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS.

- (b) The value of the benefits for a member described in paragraph 1 of this subsection is less than one per cent of the value of the current liabilities, as defined in section 412(l)(7) of the internal revenue code, of ASRS before distribution.

- (c) The value of the benefits payable by ASRS to a member described in paragraph 1 of this subsection does not exceed three thousand five hundred dollars.

K. For the purposes of subsection J of this section, "benefit" includes loans in excess of the amount prescribed in section 72(p)(2)(A) of the internal revenue code, any periodic income, any withdrawal values payable to a living member and any death benefits not provided for by insurance on the member's life.

L. On retirement of a member who was a retired member, who resumed active membership and who subsequently retires, the limitations of this section in effect on the member's subsequent retirement apply to the member's retirement benefit payable as recomputed pursuant to section 38-766. In addition, the sum of the present value of the member's recomputed retirement benefits plus the present value of the benefits the member received during the member's prior retirement shall not exceed the present value of the limitations in effect on the member's subsequent retirement. The limitations prescribed in this subsection shall not reduce a member's retirement benefit below the retirement benefit the member was receiving before the member resumed active membership. For the purposes of determining present value under this subsection, the board shall use the actuarial equivalent assumptions provided in section 38-711, paragraph 2.

M. For the purposes of this section:

1. The following adjustments shall be made to the definition of compensation prescribed in subsection O of this section:

(a) Compensation shall be adjusted for the types of compensation that are prescribed in this paragraph and that are paid after a member's severance from employment with an employer. Amounts described in subdivisions (b), (c) and (d) of this paragraph may be included only as compensation to the extent the amounts are paid by the later of two and one-half months after severance from employment or by the end of the limitation year that includes the date of the severance from employment. Any other payment of compensation paid after severance of employment that is not described in the types of compensation prescribed in this paragraph is not considered compensation for purposes of this section, even if payment is made within the time period prescribed in this subdivision.

(b) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services performed during the member's regular working hours or compensation for services performed outside the member's regular working hours, such as overtime or shift differential, commission, bonus or other similar payments, and the payment would have been paid to the member before a severance from employment if the member had continued in employment with the employer.

(c) Leave cash-outs shall be included in compensation if those amounts would have been included in compensation if they were paid before the member's severance from employment and the amounts are payment for unused accrued bona fide sick, vacation or other leave, but only if the member would have been able to use the leave if employment had continued.

(d) Deferred compensation shall be included in compensation if the compensation would have been included in compensation if it had been paid before the member's severance from employment and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the member had continued in employment with the employer and only to the extent that the payment is includable in the member's gross income.

(e) Compensation does not include payments to an individual who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code to the extent those payments do not exceed the amounts the individual

would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

(f) Compensation does not include compensation paid to a member who is a person with a permanent and total disability as defined in section 22(e)(3) of the internal revenue code.

(g) Compensation shall include amounts that are includable in the gross income of a member as required by section 409A or section 457(f)(1)(A) of the internal revenue code or because the amounts are constructively received by the member.

2. Compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

3. Payments awarded by an administrative agency or court or pursuant to a bona fide agreement by an employer to compensate a member for lost wages are compensation for the limitation year to which the back pay relates, but only to the extent the payments represent wages and compensation that would otherwise be included in compensation under this section.

N. The definition of limitation year prescribed in subsection O of this section may only be changed by an amendment to subsection O, except that if ASRS is terminated effective as of a date other than the last day of the limitation year, the termination shall be treated as if this section has been amended to change the definition of limitation year.

O. For the purposes of this section:

1. Annual additions shall be determined as provided in section 38-747, subsection O.

2. "Annual benefit" means a benefit, including any portion of a member's retirement benefit payable to an alternate payee under a qualified domestic relations order that satisfies the requirements prescribed in section 414(p)(1)(A)(i) of the internal revenue code and section 38-773, payable annually in the form of a straight life annuity, disregarding the portion of a joint and survivor annuity that constitutes a qualified joint and survivor annuity as defined in section 417 of the internal revenue code, with no ancillary or incidental benefits or rollover contributions and excluding any portion of the benefit derived from member contributions or other contributions that are treated as a separate defined contribution plan under section 415 of the internal revenue code but including any of those contributions that are picked up by the employer under section 414(h) of the internal revenue code, or that otherwise are not treated as a separate defined contribution plan. If the benefit is payable in another form, the determination as to whether the limitation described in subsection A of this section has been satisfied shall be made by the board by adjusting the benefit so that it is actuarially equivalent to the annual benefit described in this paragraph in accordance with the regulations promulgated by the United States secretary of the treasury. In addition, for determining the annual benefit attributable to member contributions, the factors described in section 411(c)(2)(B) of the internal revenue code and the regulations promulgated under the internal revenue code shall be used by the board regardless of whether section 411 of the internal revenue code applies to ASRS. The factors described in section 411(c)(2)(B) of the internal revenue code shall be those factors described under section 417(e)(3) of the internal revenue code and determined on the basis of the 417(e) mortality table and an interest rate as prescribed in subsection C, paragraph 5 of this section.

3. "Applicable mortality table" means the mortality table described in internal revenue service revenue ruling 2001-62.

4. "Compensation" means the member's earned income, wages, salaries, fees for professional service and other amounts received for personal services actually rendered in the course of employment with the employer and includes amounts described in sections 104(a)(3) and 105(a) of the internal revenue code, but only to the extent that these amounts are includable in the gross

income of the member. Compensation also includes any elective deferral as defined in section 402(g)(3) of the internal revenue code and any amount that is contributed or deferred by an employer at the election of a member and that is not includable in the gross income of the member by reason of section 125, 132(f)(4) or 457 of the internal revenue code. Compensation does not mean:

(a) Employer contributions to a plan of deferred compensation to the extent the contributions are not included in the gross income of the employee for the taxable year in which contributed and any distributions from a plan of deferred compensation, regardless of whether the amounts are includable in gross income of the employee when distributed, except that any amount received by a member pursuant to an unfunded nonqualified plan may be considered as compensation for the purposes of this section in the year the amounts are includable in the gross income of the member under the internal revenue code.

(b) Other amounts that receive special tax benefits, such as premiums for group term life insurance, but only to the extent that the premiums are not includable in the gross income of the employee, qualified transportation fringe benefits as defined in section 132 of the internal revenue code and, effective for plan years beginning from and after December 31, 1987, any amounts under section 125 of the internal revenue code that are not available to a member in cash in lieu of group health coverage because the member is unable to certify that the member has other health coverage.

5. "Defined benefit dollar limitation" means the dollar limitation determined under subsection A of this section.

6. "Defined benefit plan" has the same meaning prescribed in section 414(j) of the internal revenue code.

7. "Defined contribution plan" has the same meaning prescribed in section 414(i) of the internal revenue code.

8. "Limitation year" and "years of service" mean the fiscal year.

38-770. Eligible rollover distribution; definitions

A. Notwithstanding any other provision of this article that would limit a distributee's election under this section, a distributee may elect, at any time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. An eligible rollover distribution may commence less than thirty days after the notice required under section 402(f) of the internal revenue code is given to the distributee, provided that both:

1. ASRS clearly informs the distributee that the distributee has a right to a period of at least thirty days after receiving the notice to consider the decision of whether or not to elect a direct rollover.
2. The distributee, after receiving the notice, affirmatively elects a distribution.

C. In addition to the other elections permitted in this section, effective for distributions made from and after December 31, 2006, a designated beneficiary of a member who is not the member's surviving spouse may elect, at any time and in the manner prescribed by ASRS, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan described in subsection D, paragraph 3, subdivisions (a) and (b) of this section. For the purposes of this subsection, "designated beneficiary" has the same meaning prescribed in section 38-775.

D. For the purposes of this section:

1. "Direct rollover" means a payment by ASRS to the eligible retirement plan specified by the distributee.

2. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under an acceptable domestic relations order as defined in section 38-773.
3. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:
 - (a) An individual retirement account described in section 408(a) of the internal revenue code.
 - (b) An individual retirement annuity described in section 408(b) of the internal revenue code.
 - (c) An annuity plan described in section 403(a) of the internal revenue code.
 - (d) A qualified trust described in section 401(a) of the internal revenue code.
 - (e) An annuity contract described in section 403(b) of the internal revenue code.
 - (f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is 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 and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from ASRS.
 - (g) Beginning January 1, 2008, a roth individual retirement account described in section 408A of the internal revenue code.
4. "Eligible rollover distribution" means distribution of all or any portion of the balance to the credit of the distributee but does not include any of the following:
 - (a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's designated beneficiary or for a specified period of ten years or more.
 - (b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.
 - (c) Except as provided in this paragraph, the portion of any distribution that is not includable in gross income. A distribution does not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income if the portion is paid only to an individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code, to a qualified plan described in section 401(a) of the internal revenue code or an annuity contract described in section 403(b) of the internal revenue code that agrees to separately account for amounts so transferred, and earnings on those amounts, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.
 - (d) Any distribution that is made due to hardship of the member.

38-771. Benefit options for transferred defined contribution program members; definitions

A. On or before December 31, 1995 a nonretired ASRS member who was a member of the defined contribution program administered by ASRS and who was transferred to the defined benefit program established by this article on July 1, 1981 shall elect to receive either retirement benefits provided under this section or retirement benefits as otherwise provided by this article. An election under this subsection is irrevocable. A member who fails to make an election under this subsection is deemed to have elected to receive retirement benefits provided under this section.

B. A member who elects to receive retirement benefits provided under this section is eligible only for those benefits.

C. If a member elects to receive retirement benefits provided under this section, the member shall elect to receive retirement benefits based on either of the following:

1. The contributions paid by the member and member's employer, plus all earnings attributed to the member's retirement account, through the member's retirement date.

2. Except as provided in subsections E and F of this section, contributions paid by the member and member's employer at the contribution rate in effect before July 1, 1975 and an employee and employer contribution rate of seven per cent calculated from July 1, 1975, plus all earnings attributed to the member's retirement account, through the member's retirement date.

D. Notwithstanding sections 38-736 and 38-737, members who elect to receive retirement benefits provided under this section and their employers shall each make contributions at a rate of seven per cent of the member's compensation and, beginning on July 1, 1998, employers shall make contributions to ASRS on behalf of their respective members who have elected to receive retirement benefits provided under this section to pay the actuarially determined amount necessary to provide the group health and accident insurance benefits for those retired members and their dependents as provided under section 38-783. Member contributions pursuant to this subsection shall be salary reduction contributions pursuant to section 38-747, subsections C and D.

E. Subject to subsection F of this section, if a member desires to receive retirement benefits based on subsection C, paragraph 2 of this section, the member shall make the election on or before June 30, 1999 and during the member's active employment. The election shall be made in accordance with section 38-747, subsections C, D and H. If a member elects to receive retirement benefits based on subsection C, paragraph 2 of this section, both the member and the member's employer shall pay to ASRS the difference between the contributions made and seven per cent of the member's gross compensation from July 1, 1984 through December 31, 1995. If a member elects to have the member's employer make payments for all or a portion of the contributions pursuant to section 38-747, subsection D, the member's employer shall make the contributions as required by section 38-747, subsection D. If a member elects to make contributions pursuant to section 38-747, subsection H, both the member and the member's employer shall pay to ASRS the portion of the difference between the total required contributions and that portion of the required contributions that the member has elected to have the member's employer pay pursuant to section 38-747, subsection D. The member's employer shall make the employer's contributions attributable to a member's period of employment before July 1, 1999 in a single lump sum payment at the time and computed in the manner prescribed in section 38-771.01, subsections G and H. If a member elects pursuant to subsection C, paragraph 2 of this section to have contributions made or to make contributions pursuant to section 38-747, subsection D or H for less than the full amount permitted by this subsection the member's benefits shall be computed only with reference to the contributions actually made. A member shall make an election pursuant to this section with respect to contributions to be made by the member before July 1, 1999. This election shall remain in full force and effect on and after July 1, 1999 and may be modified or revoked by the member only if the modification or revocation is specifically authorized in section 38-747. Section 38-771.01 governs any elections made by a member with respect to contributions to be made by the member to ASRS on or after July 1, 1999.

F. Contributions made to ASRS by a member and the member's employer pursuant to subsections D and E of this section shall not exceed, in any one limitation year, the limits of section 38-747, subsection E. If for any reason, the member and employer contributions to ASRS

made pursuant to subsections D and E of this section would, at the time such contributions are due, taking into account other employer and member contributions due to ASRS for the limitation year, exceed the limits of section 38-747, the amount to be paid by the member and the member's employer under subsection E of this section shall be proportionately reduced and such reduction shall be carried into the succeeding limitation year and paid by the member and the member's employer within thirty days of the beginning of such limitation year, unless the limits of section 38-747 would again be exceeded, in which event this procedure will be repeated until all such contributions have been made. If more than one employer is contributing on behalf of a member, the reduction and contributions in succeeding years shall be proportionately allocated among the employers. If a member retires prior to making all contributions under subsections D and E of this section because of the limitations of section 38-747, the member's benefits under this section shall be calculated only with reference to the contributions actually made. For purposes of this subsection, "limitation year" has the same meaning prescribed in section 38-769. G. A member who elects to receive retirement benefits provided under this section is subject to the provisions of section 38-771.01, subsection K that are equivalent to those imposed before the member's transfer from the defined contribution program administered by ASRS to the defined benefit program established by this article.

H. ASRS shall handle all retirement accounts of members who elect retirement benefits provided under this section and all member and employer contributions attributable to those members in the same manner as retirement accounts and contributions that are part of the defined contribution program administered by ASRS. Retirement accounts of members who elect to receive retirement benefits provided under this section are eligible for interest and supplemental credits on the same basis as members who retired under the defined contribution program administered by ASRS.

I. The election of retirement benefits by a member pursuant to this section is a waiver of all claims and demands by the member that the retirement benefits are less than the amount of retirement benefits payable to the member under the defined contribution program administered by ASRS if the member had remained a member of the defined contribution program administered by ASRS.

J. For purposes of this section:

1. "Member's employer" means an employer who compensated the member during a period when the member's contributions were less than seven per cent.
2. "Retirement account" means the combined member and employer contributions with interest or earnings on the contributions including any allocations credited as employer contributions.

38-773. Benefit payments to alternate payee under acceptable domestic relations order; termination of marriage; revocation of beneficiary designation; definitions

A. The board shall review any domestic relations order to which a member is a party and that is submitted to the board to determine if the domestic relations order is acceptable under this section. After a determination that a domestic relations order is acceptable under this section, the board shall notify the member and the named alternate payee of its acceptance of the domestic relations order and ASRS shall pay benefits in accordance with the applicable requirements of the order.

B. An acceptable domestic relations order shall not require the board to provide any type, form or time of payment of severance, survivor or retirement benefits or any severance, survivor or retirement benefit option that is not provided under this article.

C. An acceptable domestic relations order shall specify all of the following:

1. The name and last known mailing address of the member.
2. The name and last known mailing address of each alternate payee covered by the order.
3. The method of determining the amount of the member's severance, survivor or retirement benefits to be paid by ASRS to each alternate payee covered by the order.
4. The number of payments or period to which the order applies.

D. Except as provided by the express terms of a domestic relations order, the divorce or annulment of a member's marriage revokes any revocable:

1. Disposition or appointment of benefits made by a divorced member to that member's former spouse or to a relative of the divorced member's former spouse in an instrument executed by the member before the divorce or annulment of the member's marriage to the former spouse.
2. Provision in an instrument executed by the member before the divorce or annulment of the member's marriage to the former spouse conferring any power or right on the divorced member's former spouse or on a relative of the divorced member's former spouse.

E. ASRS shall give effect to provisions of an instrument executed by a member before the divorce or annulment of the member's marriage to a former spouse as follows:

1. In the case of disposition or appointment of benefits, as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section.
2. In the case of a revoked power or right, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

F. Provisions of an instrument revoked solely as provided by this section are revived by the divorced member's remarriage to the former spouse or by a nullification of the member's divorce or annulment.

G. If an alternate payee predeceases the member, amounts payable to the alternate payee cease on the death of the alternate payee. ASRS shall cause the amount formerly payable to the alternate payee to revert to the member.

H. For the purposes of this section:

1. "Domestic relations order" means any judgment, decree, order or approval of a property settlement agreement entered in a court of competent jurisdiction that:
 - (a) Relates to marital property rights of a spouse or former spouse.
 - (b) Creates or recognizes in the spouse or former spouse the existence of an alternate payee's right to severance, survivor or retirement benefits.
 - (c) Assigns the spouse or former spouse as alternate payee the right to receive all or part of the severance, survivor or retirement benefits payable to the member.
2. "Relative of the divorced member's former spouse" means a person who is related to the divorced member's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced member by blood, adoption or affinity.

38-776. Spousal waiver and consent

A. A member's current spouse may consent to one of the following requirements established in section 38-755 or 38-760 by signing and submitting an acknowledgement in a manner established by ASRS:

1. A change of beneficiary that provides the member's current spouse with less than fifty per cent of the member's account balance.
2. The member's retirement application that does not name the member's current spouse as a contingent annuitant of a joint and survivor annuity.

3. A change or rescission of the member's current spouse's contingent annuitant status.
- B. If the member's current spouse is not capable of executing the acknowledgement because of an incapacitating mental or physical condition, a power of attorney or guardian may execute the acknowledgment on the current spouse's behalf.
- C. The member may affirm in writing under penalty of perjury in a manner determined by ASRS that spousal consent is not required because of one of the following reasons:
 1. The member is not married.
 2. The member's current spouse has no identifiable community property interest in the member's benefits.
 3. The member does not know, and has taken all reasonable steps to determine, the location of the member's current spouse.
 4. The member has received notification from the board that a domestic relations order is acceptable pursuant to section 38-773 and that domestic relations order requires ASRS to pay benefits to an alternate payee that is contrary to the requirements of section 38-760.
 5. Obtaining consent violates another law, an existing contract or a court order.
- D. This section does not abrogate any community property laws of this state.
- E. Payments or distributions made by ASRS in good faith reliance on the consent or waiver of a member's current spouse, the affirmations of a member contained in documents submitted to ASRS pursuant to this section or the member's indication to ASRS that the member is not married constitute a full and complete discharge and release of all liability of the board or ASRS, or both, respecting these payments or distributions.
- F. If questions arise as to the distribution of a particular member's account, ASRS shall use reasonable judgment to distribute the account in a manner that is consistent with Arizona community property laws and interpretations of those laws.

38-782. Group health and accident coverage for retired public employees and elected officials and their dependents; definition

A. The board shall establish group health and accident coverage for eligible retired, surviving and members with a disability and their dependents. The board may establish a self-insurance program for the purposes of this subsection if the board determines that self-insuring would be less expensive than and at least as effective as a fully insured plan, while considering the risks and costs. If the board establishes a self-insurance program, the board shall provide that the self-insurance program include all health coverage benefits that are required pursuant to title 20. ASRS shall establish a separate account for any self-insurance program established pursuant to this section in an amount determined appropriate by ASRS. ASRS shall not use or divert any part of the corpus or income of the account for any purpose other than to administer the self-insurance program unless the board determines that a self-insurance program should no longer be offered. If a self-insurance program is no longer offered, monies in the account shall be transferred to another account of ASRS as determined by ASRS. If an insured retired or member with a disability dies before the insured member's dependent beneficiary or an insured surviving dependent, the dependent beneficiary or insured surviving dependent is entitled to coverage at group rates if the dependent beneficiary or surviving dependent elects to continue in the coverage within six months of the insured member's death and the dependent beneficiary or surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On

notification of the insured member's death, the board shall immediately notify a dependent beneficiary or an insured surviving dependent of the provisions of this section.

B. Retired members of the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who are receiving benefits from the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and who are not covered by section 38-651.01 may participate in group health and accident coverage provided pursuant to this section. On the death of an insured member of the public safety personnel retirement system, the elected officials' retirement plan, the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628, the insured surviving dependent is entitled to coverage at group rates. Except as provided in subsection H of this section, the surviving dependent shall be charged amounts that are sufficient to pay for the premium and administrative expense of providing the coverage.

C. The board may enter into agreements with retired, surviving and members with a disability of ASRS and retired members of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter who elect to obtain the coverage provided pursuant to subsection A of this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing the coverage.

D. The board of trustees of the public safety personnel retirement system may enter into agreements with retired members of the public safety personnel retirement system, the elected officials' retirement plan, the corrections officer retirement plan and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under their retirement benefits and the administrative expense of providing the coverage.

E. The board may enter into agreements with retired members of the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage.

F. If an insured member receiving long-term disability benefits pursuant to article 2.1 of this chapter becomes ineligible for the long-term disability benefits, the member and the covered dependents of the member may continue to participate in the group health and accident coverage provided pursuant to this section subject to the following conditions:

1. Participation in the coverage is limited to twelve months from the date the member ceases eligibility for benefits under article 2.1 of this chapter or the member commences employment, whichever occurs first.

2. The member shall pay the full premium cost of the coverage selected, and the member is not eligible for benefits pursuant to section 38-783.

3. If a member who participates in the coverage dies during the twelve month period provided by this subsection, covered dependents of the member may continue coverage after the death of the member through the end of the twelve month period. Covered dependents of the member who continue coverage pursuant to this paragraph shall pay the full premium cost of the coverage selected and are not eligible for benefits pursuant to section 38-783.

G. Retired, surviving or members with a disability who are not eligible for medicare, who live in this state, who enroll in a qualifying health maintenance organization under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option of enrolling with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the member.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the member living outside the area of the qualifying health maintenance organization.

H. Public monies shall not be spent to pay all or any part of the insurance premium pursuant to this section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

I. A retired member of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected and is not eligible for benefits pursuant to section 38-783 or 38-817.

J. For the purposes of this section, "eligible retired, surviving and member with a disability" means a retired member who is receiving retirement benefits from ASRS, a designated beneficiary of a deceased member who is receiving a survivor benefit pursuant to section 38-762,

subsection C as monthly income or a member with a disability who is receiving long-term disability benefits pursuant to section 38-651.03 or article 2.1 of this chapter, and who does not otherwise elect to obtain coverage under a group health and accident insurance plan or program.

38-783. Retired members; dependents; health insurance; premium payment; separate account; definitions

A. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the single coverage premium of any health and accident insurance for each retired member, contingent annuitant or member with a disability of ASRS if the member elects to participate in the coverage provided by ASRS or section 38-651.01 or elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer. A contingent annuitant must be receiving a monthly retirement benefit from ASRS in order to obtain any premium payment provided by this section. The board shall pay:

1. Up to one hundred fifty dollars per month for a member of ASRS who is not eligible for medicare if the retired member or member with a disability has ten or more years of credited service.

2. Up to one hundred dollars per month for each member of ASRS who is eligible for medicare if the retired member or member with a disability has ten or more years of credited service.

B. Subject to subsections G, H and I of this section, the board shall pay from ASRS assets part of the family coverage premium of any health and accident insurance for a retired member, contingent annuitant or member with a disability of ASRS who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. If a member of ASRS and the member's spouse are both either retired or have disabilities under ASRS and apply for family coverage, the member who elects family coverage is entitled to receive the payments under this section as if they were both applying under a single coverage premium unless the payment under this section for family coverage is greater. Payment under this subsection is in the following amounts:

1. Up to two hundred sixty dollars per month if the member of ASRS and one or more dependents are not eligible for medicare.

2. Up to one hundred seventy dollars per month if the member of ASRS and one or more dependents are eligible for medicare.

3. Up to two hundred fifteen dollars per month if either:

(a) The member of ASRS is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The member of ASRS is eligible for medicare and one or more dependents are not eligible for medicare.

C. In addition each retired member, contingent annuitant or member with a disability of ASRS with less than ten years of credited service and a dependent of such a retired member, contingent annuitant or member with a disability who elects to participate in the coverage provided by ASRS or section 38-651.01 or who elects to participate in a health and accident insurance program provided or administered by an employer or paid for, in whole or in part, by an employer to an insurer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 9.0 to 9.9 years of credited service, ninety percent.
2. 8.0 to 8.9 years of credited service, eighty percent.
3. 7.0 to 7.9 years of credited service, seventy percent.
4. 6.0 to 6.9 years of credited service, sixty percent.
5. 5.0 to 5.9 years of credited service, fifty percent.
6. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a member of ASRS.

E. Notwithstanding subsections A, B and C of this section, for a member who retires on or after August 2, 2012, the board shall not make a payment under this section to a retired member, contingent annuitant or member with a disability who is enrolled in an employer's active employee group health and accident insurance program either as the insured or as a dependent, except that if the retired member, contingent annuitant or member with a disability is enrolled as a dependent and the premium paid to the employer's active employee group health and accident insurance program is not subsidized by the employer, the retired member, contingent annuitant or member with a disability is entitled to receive the amount provided in subsection A of this section.

F. The board shall establish a separate account that consists of the benefits provided by this section. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of benefits under this section unless the liabilities of ASRS to provide the benefits are satisfied. If the liabilities of ASRS to provide the benefits described in this section are satisfied, the board shall return any amount remaining in the account to the employer.

G. Payment of the benefits provided by this section is subject to the following conditions:

1. The payment of the benefits is subordinate to the payment of retirement benefits payable by ASRS.

2. The total of contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five percent of the total actual employer and employee contributions to ASRS, less contributions to fund past service credits, after the day the account is established.

3. The board shall deposit the benefits provided by this section in the account.

4. The contributions by the employer to the account shall be reasonable and ascertainable.

H. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 1 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced to the retiring member for life. The amount of the optional premium benefit payment shall be the actuarial equivalent of the premium benefit payment to which the retired member would otherwise be entitled. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board as follows:

(a) If the retired member names a different contingent annuitant, the optional premium benefit payment shall be adjusted to the actuarial equivalent of the original premium benefit payment based on the age of the new contingent annuitant. The adjustment shall include all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the retired member's date of retirement. Payment of this adjusted premium benefit payment shall continue under the provisions of the optional premium benefit payment previously elected by the retired member. A retired member cannot name a different contingent annuitant if the retired member has at any time rescinded the optional form of health and accident insurance premium benefit payment.

(b) If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the

reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the reduction factor applied to the retired member's premium benefit payment times the joint and survivor option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 1.

I. A member who elects to receive a retirement benefit pursuant to section 38-760, subsection B, paragraph 2 may elect at the time of retirement an optional form of health and accident insurance premium benefit payment pursuant to this subsection as follows:

1. The optional premium benefit payment shall be an amount prescribed by subsection A, B or C of this section that is actuarially reduced with payments for five, ten or fifteen years that are not dependent on the continued lifetime of the retired member but whose payments continue for the retired member's lifetime beyond the five, ten or fifteen year period. The election in a manner prescribed by the board shall name the contingent annuitant and may be revoked at any time before the retiring member's effective date of retirement. At any time after benefits have commenced, the member may name a different contingent annuitant or rescind the election by written notice to the board. If the retired member rescinds the election, the retired member shall thereafter receive the premium benefit payment that the retired member would otherwise be entitled to receive if the retired member had not elected the optional premium benefit payment, including all postretirement increases or decreases in amounts prescribed by subsection A, B or C of this section that are authorized by law after the member's date of retirement. The increased benefit payment shall continue during the remainder of the retired member's lifetime. The decision to rescind shall be irrevocable.

2. If, at the time of the retired member's death:

(a) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection B or C of this section times the

period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(b) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection A or C of this section and the contingent annuitant is eligible for single health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

(c) The retired member was receiving a reduced premium benefit payment based on an amount prescribed in subsection B or C of this section and the contingent annuitant is not eligible for family health and accident insurance coverage, the contingent annuitant is entitled to receive a premium benefit payment based on an amount prescribed in subsection A or C of this section times the period certain and life option reduction factor elected by the retired member at the time of retirement pursuant to section 38-760, subsection B, paragraph 2.

J. If, at the time of retirement, a retiring member does not elect to receive a reduced premium benefit payment pursuant to subsection H or I of this section, the retired member's contingent annuitant is not eligible at any time for the optional premium benefit payment.

K. If a member who is eligible for benefits pursuant to this section forfeits the member's interest in the account before the termination of ASRS, an amount equal to the amount of the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the benefits provided by this section.

L. A contingent annuitant is not eligible for any premium benefit payment if the contingent annuitant was not enrolled in an eligible health and accident insurance plan at the time of the retired member's death or if the contingent annuitant is not the dependent beneficiary or insured surviving dependent as provided in section 38-782.

M. For the purposes of this section:

1. "Account" means the separate account established pursuant to subsection F of this section.
2. "Credited service" includes prior service.
3. "Prior service" means service for this state or a political subdivision of this state before membership in the defined contribution program administered by ASRS.
4. "Subsidized" means a portion of the total premium is paid by the employer, but does not necessarily mean a plan in which the employer uses blended rates to determine the total premium.

41-1092. Definitions

In this article, unless the context otherwise requires:

1. "Administrative law judge" means an individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in a contested case or an appealable agency action and that makes decisions regarding the contested case or appealable agency action.
2. "Administrative law judge decision" means the findings of fact, conclusions of law and recommendations or decisions issued by an administrative law judge.
3. "Appealable agency action" means an action that determines the legal rights, duties or privileges of a party and that is not a contested case. Appealable agency actions do not include interim orders by self-supporting regulatory boards, rules, orders, standards or statements of policy of general application issued by an administrative agency to implement, interpret or make specific the legislation enforced or administered by it or clarifications of interpretation, nor does it mean or include rules concerning the internal management of the agency that do not affect private rights or interests. For the purposes of this paragraph, administrative hearing does not include a public hearing held for the purpose of receiving public comment on a proposed agency action.
4. "Director" means the director of the office of administrative hearings.
5. "Final administrative decision" means a decision by an agency that is subject to judicial review pursuant to title 12, chapter 7, article 6.
6. "Office" means the office of administrative hearings.
7. "Self-supporting regulatory board" means any one of the following:
 - (a) The Arizona state board of accountancy.
 - (b) The state board of appraisal.
 - (c) The board of barbers.
 - (d) The board of behavioral health examiners.
 - (e) The Arizona state boxing and mixed martial arts commission.
 - (f) The state board of chiropractic examiners.
 - (g) The board of cosmetology.
 - (h) The state board of dental examiners.
 - (i) The state board of funeral directors and embalmers.
 - (j) The Arizona game and fish commission.
 - (k) The board of homeopathic and integrated medicine examiners.
 - (l) The Arizona medical board.
 - (m) The naturopathic physicians medical board.
 - (n) The state board of nursing.
 - (o) The board of examiners of nursing care institution administrators and adult care home managers.
 - (p) The board of occupational therapy examiners.
 - (q) The state board of dispensing opticians.
 - (r) The state board of optometry.
 - (s) The Arizona board of osteopathic examiners in medicine and surgery.
 - (t) The Arizona peace officer standards and training board.
 - (u) The Arizona state board of pharmacy.
 - (v) The board of physical therapy.
 - (w) The state board of podiatry examiners.

- (x) The state board for private postsecondary education.
- (y) The state board of psychologist examiners.
- (z) The board of respiratory care examiners.
- (aa) The office of pest management.
- (bb) The state board of technical registration.
- (cc) The Arizona state veterinary medical examining board.
- (dd) The acupuncture board of examiners.
- (ee) The Arizona regulatory board of physician assistants.
- (ff) The board of athletic training.
- (gg) The board of massage therapy.

Agenda Item #6



Quarterly Audit Report

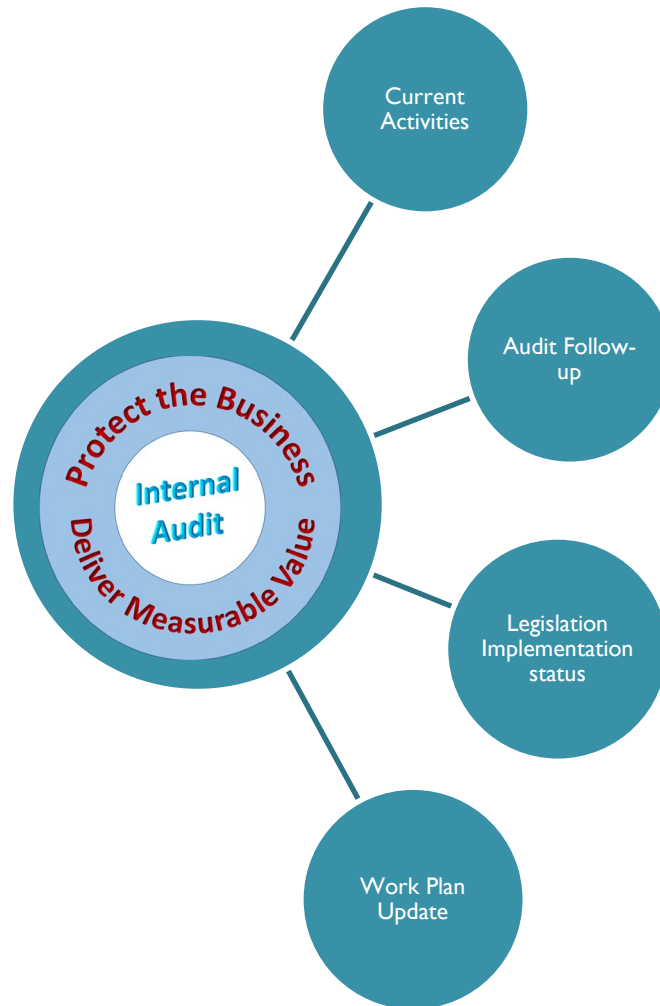
FY 2020/Q3

Internal Audit Division

March 2020



Internal Audit



Current Activities - Status

Title	Status
Update IA procedures to align with enhanced audit functions	Working
Completed ASRS IAD Strategy document	Completed
Completed ASRS IAD Biennial Plan FY 2020 & 2021	Completed
Training/Skills realignment for IA staff	On-going
Re-engage the Risk Management Committee	Completed
Report on follow-up audits	On-going
Report on implementation of newly enacted legislation	On-going
Report on potential fraudulent other investigatory activities	On-going
Complete existing audits per audit plan	Completed

Follow-up - Monitoring

Audit Project	Finding	Due Date	Status	Comment
Cash Controls CLA FU 1	Controls are not followed to ensure that system and application vulnerabilities are tracked and remediated on a timely basis.	12/31/2018	Resolved	
Cash Controls CLA FU 2 & 3	A limited number of employees in the Benefits Accounting Team have access to manually edit significant fields in PERIS. There are no system controls to prevent changes from being made by a benefits accounting supervisor without review.	FU after 10/11/2019	Partially Resolved	Short-term: compensating controls are in place. Long-term: A service request has been approved and prioritized. Projects are underway; scheduled for completion this summer (cy2020).
Cash Controls CLA FU 4 & 5	All members of the Disbursements Team have access to manually edit significant fields in POL. There are no system controls to prevent changes from being made without review.	FU after 10/11/2019	Partially Resolved	Short-term: compensating controls are in place. Long-term: A service request has been approved and prioritized. Projects are underway; scheduled for completion this summer (cy2020).
Cash Controls CLA FU 6 & 7	PERIS does not require multiple user approvals of alternate payee workflows	FU after 10/11/2019	Partially Resolved	Short-term: compensating controls are in place. Long-term: A service request has been approved and prioritized. Projects are underway; scheduled for completion this summer (cy2020).
Cash Controls CLA FU 8	The ASRS does not currently have a overall review process prior to approval of changes impacting member payments.	10/11/2019		Follow up after 10/11/2019
Cash Controls CLA FU 12	The Benefits Advisor who accepts the check enters the check information into the member's POL account as an "event log" item, but no separate log of the checks is maintained.	8/25/2017	Partially Resolved	The controls in this area have been strengthened, but additional enhancements are possible.
Cash Controls CLA FU 13	There is no way to reconcile the checks expected to the checks received, leaving potential for check theft.	8/25/2017	Partially Resolved	The controls in this area have been strengthened, but additional enhancements are possible.
Cash Controls CLA FU 14	No controls exist to monitor the activities of the Accounting System Administrator.	10/11/2019		Audit log is run monthly - a process and procedure for reviewing on a regular basis in being established.

Follow-up - Monitoring

Audit Project	Finding	Due Date	Status	Comment
Vendor Efficacy FU 1	A vendor, CDW-G, does not have the expertise to answer all of ASRS' needs, and does not always respond promptly to communications	5/2/2019	Resolved	Statement of dissatisfaction has been filed. 05/02/2019
Vendor Efficacy FU 2	The ASRS should establish additional policies regarding vendors.	7/1/2019	Resolved	
Vendor Efficacy FU 3	ASRS is under-utilizing its available training for Skillsoft classes.	11/1/2019		Being reviewed by HR and Training as part of the total training offered by ASRS.
GASB 68 Testing 2018 FU CLA	CLA requests to employers needed to be updated.	7/1/2018	Resolved	
GASB 68 Testing 2018 FU FSD	Several members with missing enrollments were identified. Several misidentified PIDs were also noted.	3/1/2019	Completed	
Espiritu Schools FU 1	Espiritu Schools reported 62 employees of non-ASRS employers as eligible members.	6/30/2021		Discussions are underway with legal counsels of the ASRS and Espiritu on a possible positive resolution.
Espiritu Schools FU 2	Espiritu Schools had not properly enrolled all its members	6/30/2019		On 08/09/2019, the employer was notified that the they have not enrolled any of the members that were identified.

Follow-up - Monitoring

Audit Project	Finding	Due Date	Status	Comment
HIAG FU 1	No SOP for receiving surveys detailing the methods of submission and the procedures for processing the surveys prior to the Financial Services Division (FSD) entering into POL.		In-process	HI Carrier Plans SOP updated 5/29 to include additional instructions
HIAG FU 2	Thirteen of 269 surveys tested not received as of the benefits beginning date. One survey processed 3 months after the beginning date.		In-process	Division Memo distributed to Member Accounting specialist's 9/19. SOP updates in progress.
HIAG FU 3	Procedures for entering data were not followed or mistakes were made and not found in the review process.		In-process	HI Carrier Plans SOP updated 5/29 to include additional instructions
HIAG FU 4a	Coverage type created for new plans in POL create duplicate lines. Family rates also produce a line for single rates and vice versa. In addition, multiple steps are required to enter new rates rather than entering the new coverage plan and the rates at one time.		In-process	Service Request submitted 9/17/19. Not yet completed.
HIAG FU 4b	Rate changes may not be performed on the first page of the employer's account but require multiple steps to locate the rate line and enter. Multiple changes or additions require entering, leaving, and reentering pages in the employer's account.		In-process	Service Request submitted 9/17/19. Not yet completed.
HIAG FU 4c	Effective dates must be entered multiple times although there is no reason for any effective dates to differ.		In-process	Service Request submitted 9/17/19. Not yet completed.
HIAG FU 5	The SOP for HI Carrier Plans does not specify the means of communication with an employer if there is an issue with the survey information. It also does not require any notes being added to the employer account or message screen to notate communications nor required actions taken by the Accounting Specialist.		In-process	HI Carrier Plans SOP updated 9/19 to include additional instructions
HIAG FU 6	All surveys are printed and maintained in hard copy although they are sent electronically and an electronic copy is saved to a shared drive.		In-process	Service Request submitted 9/17/19. Not yet completed. Change to procedure still in progress.
HIAG FU 7	Evidence of reviews is performed with signatures on hard copies of the surveys. This method is not easily traceable through POL or by reporting methods. In addition, Samples 2 and 9 showed no evidence of approval on the hard copy surveys reviewed.		In-process	Service Request submitted 9/17/19. Not yet completed. Change to procedure still in progress.
HIAG FU 8	New plans entered may not be submitted for processing by the same employee entering the plan data; however, the employee entering the data may submit rate changes made to already existing plans for posting		In-process	Service Request submitted 9/17/19. Not yet completed. Change to procedure still in progress.

Legislation Implementation

Legislation	Description	Effective Date	Due Date	Status	Comment
Laws 2019, ch. 75	Ensures members and employers may use a current payroll adjustment to pay for contributions not withheld.	8/27/2019	8/27/2019	Completed	Fully Implemented
Laws 2019, ch. 75	Prohibits an employer from purchasing overlapping prior service credit for a member upon joining the ASRS.	8/27/2019	8/27/2019	Pending	Pending legal review, then a rules review.
Laws 2019, ch. 158	Requires an employer to pay an unfunded liability amount resulting from the employer remitting ineligible contributions.	8/27/2019	8/27/2019	Pending	SOP updated; scheduled for rules during FY 2020.
Laws 2019, ch. 37	Prohibits the ASRS from paying interest on any monies owed unless specifically authorized by Arizona Revised Statutes Title 38, Chapter 5, Articles 2 and 2.1.	8/27/2019	8/27/2019	Completed	Fully Implemented
Laws 2019, ch. 181	Creates a new definition of "compensation" for new members as of January 1, 2020.	8/27/2019	1/1/2020	Pending	Schedule for rules during FY 2020; tax consultant review completed.
Laws 2019, ch. 192	Removes redundant definitions, changes the definition of "disability", and limits the amount of available disability benefits to no more than 100% of the member's pre-disability compensation.	8/27/2019	7/2020	Pending	Scheduled for FY 2020 rules.
Laws 2019, ch. 302	An employer is not required to pay an Alternate Contribution Rate for a retired member if the employer is remitting contributions on behalf of an active member serving in that same position.	8/27/2019	7/2020	Pending	Pending rules review and scheduled for FY 2020 rules.

Budget/Hours Allocation

Title of Activity	Budgeted Hours	Actual Hours Worked	ESTIMATED		Status	Est. End Date	Comments
			Hours Remaining	% Hours Utilized ¹			
Audit/Audit Related							
Cash Controls Audit: Process-level	280		280	0%	On-Hold	3Q2020	Pending sync w/ CLA
Cash Controls Audit: System-level	120	34	86	28%	On-Hold	4Q2020	Pending sync w/ CLA
In-House Disbursements – Check printing / Other	160		160	0%	On-Hold	4Q2020	Pending sync w/ CLA
Security: Data/Information [controls]	200		200	0%	Not-Started	4Q2020	
Accuracy of Data - Membership Accounting	200		200	0%	In-progress	4Q2020	
Access Management	120		120	0%	Not-Started	4Q2020	
Network Penetration Tests	40		40	0%	On-Hold	4Q2020	External: not till 2021
Security Risk Assessment Review	40	1	39	3%	In-progress	4Q2020	External: follow up
Complaints Handling	120	243	-123	203%	In-progress	3Q2020	Pending SMT review
Risk Management [program assessment]	200		200	0%	On-Hold	4Q2020	
ISM tool	200	180	20	90%	Completed	3Q2020	
Shift to cloud	240		240	0%	Not-Started	3Q2020	
GASB 68 Testing FY2020	320	102	218	32%	In-progress	1Q2021	
Employer Relations: Assessment	200		200	0%	Not-Started	4Q2020	
Foreign annuitants	200	50	150	25%	In-progress	4Q2020	
Shift to cloud	240		240		Not-Started	4Q2020	
Data Accuracy: survivor beneficiaries	120		120		Not-Started	4Q2020	
Data Accuracy: 100+ years old annuitants	120		120		Not-Started	4Q2020	
Cash Controls Follow-up	80	88	-8	110%	Completed	3Q2020	
GASB 68 Testing FY 2019	400	308	92	77%	Completed	2Q2020	
Management Fees (Investment)	320	200	120	63%	Completed	3Q2020	Pending IMD review
Health Insurance Accounting Group (HIAG)	300	350	-50	117%	Completed	2Q2020	Scope expanded
HIAG - Other Employers	160	160	0	100%	Completed	3Q2020	Scope expanded
Internal Quality Assurance Review (QAIP)	160		160	0%	Not-Started	4Q2020	Plan start 4Q2020
Total Hours	4540	1716	2824				
Notes:	Auditor	Projects	Hours Allocated	Status	Projects		
¹ Provide an explanation of actual hours that exceed budget by more than 10%	Andrew	10	1780	Not-Started	8		
	Rosie	7	1600	In-progress	5		
	Harold	6	1120	Completed	6		
	TBD	1	40	On-Hold	5		

Agenda Item #7
Recently Conducted
Audits

**Health Insurance
Premium Benefits-
Enrollee Updates for
Other Employers**

**A REPORT TO THE
ARIZONA STATE RETIREMENT SYSTEM
OPERATIONS, AUDIT AND LEGISLATIVE COMMITTEE**

INTERNAL AUDIT

AUDIT REPORT

**HEALTH INSURANCE PREMIUM BENEFITS
ENROLLEE UPDATES FOR OTHER EMPLOYERS**

FEBRUARY 24, 2020

**HEALTH INSURANCE PREMIUM BENEFITS
ENROLLEE UPDATES FOR OTHER EMPLOYERS**

FEBRUARY 2020

Purpose

We completed our audit of the Health Insurance (HI) Premium Benefits-Enrollee Updates for Other Employers at the Arizona State Retirement System (ASRS) on February 21, 2020.

Objectives

The audit objectives were to determine whether the existing controls are adequate and the communications protocol with employers is effective for the retiree health benefits updates for the period of January 01, 2019 to January 31, 2020.

Background

Retirees of approved employers are eligible to receive health insurance benefits that are subsidized or partially subsidized by the ASRS. Changes to health or dental insurance benefits, including cancellations or added benefits, as well as additional beneficiaries, are adjusted in PERIS Online (POL) by means of authorization forms completed by the retiree and submitted by the employer before the beginning of a benefit period.

Scope

Retiree authorization forms received and processed for benefit periods beginning January 01, 2019 through January 31, 2020.

Changes made to retiree benefits processed in POL for retirees, including accuracy and timing of the changes.

Reconciliation performed by FSD prior to Pension cutoff each month to ensure agreement with total benefits subsidized to total payments scheduled for disbursement.

Review of internal controls within POL, including an effective and accessible audit trail.

Summary of Findings

Some observations were made as noted below, however there were no findings requiring a management response.

Conclusion

Overall, the process for entering updates is streamlined and effective. Additional automation may increase the effectiveness of the changes and improve the timing of the process.

Auditor Comments/Observations

It was noted that additional details concerning the proper forms and responsibilities could be added to the ASRS HI Enrollments and Member Maintenance Standard Operating Procedures

**HEALTH INSURANCE PREMIUM BENEFITS
ENROLLEE UPDATES FOR OTHER EMPLOYERS**

FEBRUARY 2020

(SOP) to avoid confusion with Procedures for the Arizona Department of Administration (ADOA) enrollments that are performed by Member Services Division, including the form names described. The Financial Services Division (FSD) Membership Accounting Manager, Kristiana Zeller, informed me at a closing meeting on February 19, 2020 that these changes were in process beginning with an internal memo to staff.

Also observed that further automation may be implemented to allow enrollees or employers to enter information into a website that would allow information to be pulled directly by ASRS FSD to process changes and updates in a more efficient and timely manner. Included in the member accounts could be birthdates for Medicare Eligibility, retirement dates, and all members covered under the plans to replace manual updates through a download process.

Internal Audit Opinion

Some updates to SOP's and a tightening of manual controls are required. Improved interaction with the Employers responsible for submitting plans and rates is recommended. Overall, the process is effective in mitigating significant risks and is compliant with ASRS policies and state regulations.

Description of Audit Work Performed

The audit work performed during this engagement was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*. The Internal Audit Division (IA) reviewed the internal control structure, interviewed personnel, obtained and reviewed documentation, and performed analytic reviews when appropriate. IA performed tests of the existing systems, spreadsheets, vendor invoice statements and other supplemental materials to provide sufficient evidence that controls were in place and being monitored, or were needed.

Some of the tests performed were:

Reviewed the ASRS HI Enrollments (3-22-18), Health Insurance Maintenance (9-22-17), Member Maintenance (1-30-19), HI Monthly Processes (1-17-19), HI Manual Adjustments (1-10-18), HBS Payments (3-07-19), and Medical and Dental Payment Reimbursements (1-10-18) SOP's.

A meeting occurred October 16, 2019, which included Membership Accounting Manager Kristiana Zeller; Accounting Specialist Manager, Ted Kistner; Employer Relations Manager, Michelle Briggs; and Internal Audit Officer, Andrew Burch. Discussion points included the procedures for updating benefits enrollees' information, including the timing and forms utilized. The various SOP's were discussed, as applicable to the audit.

Received a report to show all changes by month from Jan 2019 to Sep 2019. Selected 66 samples and compared to authorization forms received. Ten selections were PSPRS or ADOA

**HEALTH INSURANCE PREMIUM BENEFITS
ENROLLEE UPDATES FOR OTHER EMPLOYERS**

FEBRUARY 2020

and were not applicable to the audit. It was determined that, based on the sample formula, 56 was an effective sample so no additional samples were chosen. Reviewed all changes to ensure updates were made within the time period stated on the authorization forms.

Analyzed the review prepared by FSD of the HI Net Cost, HI 430, and HI 460 reports for January, April, and September 2019 to verify completeness, timeliness, and follow up as needed. Obtained AHIC workbook spreadsheet and BE230 summary for January, April, and September 2019 to ensure agreement to the totals of the disbursement reports. Ensured the reconciliation has identified overpayments and corrections are included in the monthly payment to the employer or invoiced back.

**Information Risk
Management (IRM)
Tool – Risk
Assessment**

**A REPORT TO THE
ARIZONA STATE RETIREMENT SYSTEM
OPERATIONS, AUDIT AND LEGISLATIVE COMMITTEE**

INTERNAL AUDIT

AUDIT REPORT

IRM TOOL – RISK ASSESSMENT

MARCH 10, 2020

ARIZONA STATE RETIREMENT SYSTEM
IRM TOOL RISK ASSESSMENT
MARCH 2020

Purpose

We completed our audit of the Information Risk Management (IRM) Tool at the Arizona State Retirement System (ASRS) on March 5, 2020.

Objectives

The audit objectives were to determine whether the existing controls are adequate and the IRM tool is utilized effectively as part of the ASRS' Information Security and Risk Management Process to meet the strategic objectives and goals as established and communicated by Information Security's risk philosophy and risk threshold.

Background

The Information Security and Risk Management team utilizes the Clearwater IRM/Pro application to identify existing risks within the Information Technology Environment at the ASRS on an annual basis. The existing risks are rated based on current industry standards and conditions specific to ASRS. The Information Security and Risk Management team implements mitigation procedures as necessary for identified risks. Currently a Clearwater representative completes a series of control questionnaires in the IRM Tool. The responses are used to calculate the risk. Clearwater provides a review with recommendations to the Information Security and Risk Management team. That responsibility is shifting in FY2020 to the ASRS Information Security and Risk Management team.

Scope

Risk Questionnaires completed and data entered into IRM/Pro between January 01, 2019 through January 01, 2020.

Risks identified and the rating assigned to each.

The method of calculating and rating the risks as it compares to industry standards and best practices.

Policies and procedures in place as of July 01, 2019, as well as any updates that occur during the audit.

Usage of the IR Assessment results to mitigate information security risks and to contribute to the overall Enterprise Risk Management assessment.

Conclusion

Overall, the process for assessing risk in the Information Technology environment is efficient and complies with AZ State requirements. The methodology utilized is compliant with current industry standards as established by the Committee of Sponsoring Organizations (COSO) of the Treadway Commission's Enterprise Risk Management – Integrated Framework: Executive

ARIZONA STATE RETIREMENT SYSTEM
IRM TOOL RISK ASSESSMENT
MARCH 2020

Summary Framework and Internal Control – Integrated Framework: Framework and Appendices. The process is heavily automated and access is carefully controlled.

Auditor Comments/Observations

The IRM/Pro application does not offer multiple factor verification options. The ASRS should communicate an interest to the vendor, Clearwater, and request updates on new versions that allow it.

The ASRS-SEC-202 - IRM Framework and Strategy, and the ASRS-SEC-203 - IRM Risk Assessment Procedure do not indicate effective dates. Both procedures appear to be in use. An update to the documents would be appropriate.

The assessment process is transitioning from Clearwater to the Information Security and Risk Management department at the ASRS. All steps for performing the transition should be documented.

The process for sharing results with the Sr. Strategic Planner to be included in the ERM assessment should be discussed and, once decided upon, formalized in an SOP. If possible, a download of the results and any significant data from the IRM tool to the ERM tool would increase efficiency and provide stronger controls for the procedure. Alternatively, the Sr. Strategic Planner may receive access to the IRM tool in order to obtain the information directly rather than requiring a transfer of the information in encrypted form.

Internal Audit Opinion

Some documents require an effective date. Overall, the process is effective in mitigating significant risks and is compliant with ASRS policies and state regulations.

Description of Audit Work Performed

The audit work performed during this engagement was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*. The Internal Audit Division (IA) reviewed the internal control structure, interviewed personnel, obtained and reviewed documentation, and performed analytic reviews when appropriate. IA performed tests of the existing systems, spreadsheets, vendor invoice statements and other supplemental materials to provide sufficient evidence that controls were in place and being monitored, or were needed.

Some of the tests performed were:

- Reviewed the ASRS risk Assessment Methodology -IRM Tool document, dated 8/9/16, the ASRS-SEC-201 - IRM Charter, dated 12/31/18, the ASRS-SEC-202 - IRM Framework and Strategy, and the ASRS-SEC-203 - IRM Risk Assessment Procedure.
- Met with the Information Security Officer Jeff Hickman on November 21, 2019. Discussed the use of the IRM tool.

ARIZONA STATE RETIREMENT SYSTEM
IRM TOOL RISK ASSESSMENT
MARCH 2020

- Received a demonstration of how the tool is used and where the reports are located.
- The auditor was granted an access account to the IRM tool in order to perform testing and reviews. The system indicated that only the ISO could create an access account. The password complexity requirements were set to high and only single factor identity verifications were available in the application.
- Accessed trending, risk assessment results, and risk ratings on the IRM tool. Located reports for all risks and filtered for risks that exceeded the established thresholds, which were based on the industry standards previously noted.
- Met with the Information Security Officer Jeff Hickman on March 02, 2020. He provided a demonstration of how the Risk Sense tool continually monitors the network for potential security risks to the data existing on the network and all applications utilized by the ASRS.
- Met with the Sr. Strategic Planner, Jenalee Hopkins on March 04, 2020 to review the implementation of the IRM Assessment results into the ERM assessment to be performed on the ASRS.

**Note: There are no
materials for Agenda
Items #8 - 10**

Agenda Item #11



ARIZONA STATE RETIREMENT SYSTEM

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Paul Matson
Director

MEMORANDUM

TO: Mr. Clark Partridge, Chair, Arizona State Retirement System (ASRS), Operations, Audit, and Legislative Committee

FROM: Mr. Paul Matson, Director
Mr. Anthony Guarino, Deputy Director, Chief Operations Officer
Mr. Jeremiah Scott, Assistant Director
Mr. Russ Levine, Health and Disability Plan Administrator
Ms. Martha N. Rozen, Chief of Administrative Services
Ms. Maurah Harrison, Budget Manager

DATE: March 25, 2020

RE: **Agenda Item #11:** Presentation, Discussion, and Appropriate Action Regarding the ASRS Group Dental Services Solicitation and Request for Proposal (RFP)

Purpose

To review and accept the recommendation of the Evaluation Committee for the ASRS Group Dental Services Contract Award.

Recommendation

Accept the Evaluation Committee's recommendation.

Background

The ASRS will conclude a five-year contract for ASRS Group Dental Services with Sun Life Financial on December 31, 2020. As required by Arizona statutes, a solicitation (RFP) was issued on November 26, 2019 through the State of Arizona's online procurement system (APP).

Six companies submitted Offers by the due date of January 15, 2020:

- Arizona Dental Insurance Service Inc. (Delta Dental of Arizona)
- Chu-Chi Wang DDSP LLC
- Cigna Health Care
- Metropolitan Life Insurance Company
- Union Security Insurance Company (Sun Life Financial)
- United Concordia Companies

Five of the companies were determined to be responsible, responsive, and susceptible for award.

The Evaluation Committee, comprised of four staff members and advised by an external benefits consultant and other internal staff and members of the ASRS Health Insurance Advisory Committee (HIAC), met throughout January, February and March to evaluate the Offers based on the evaluation criteria, as set forth in the solicitation documents, which included method of approach and quality of plan, cost and value, and experience, expertise and resources of the company.

A detailed summary of the Evaluation Committee's evaluation process and recommendation is included on the attached confidential exhibit.

Note: Confidential materials have been provided to the Committee and not included in this book.

Agenda Item #12

Note: Confidential materials were provided to the Committee and not included in this book.