

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

Editor's Note: The following Notices of Final Rulemaking were exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3073.)

[R14-186]

PREAMBLE

- 1. Articles, Parts, and Sections Affected (as applicable) Rulemaking Action**
R2-8-123 New Section
- 2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 38-714(E)(4)
Implementing statute: A.R.S. §§ 38-711(2), 38-714(C), (F), and (G)(3), and 38-718(D)(1)
- 3. The effective date for the rules:**
January 3, 2015
 - a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**
Not applicable
 - b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**
Not applicable
- 4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**
Notice of Rulemaking Docket Opening: 20 A.A.R. 1008, May 2, 2014
Notice of Proposed Rulemaking: 20 A.A.R. 995, May 2, 2014
Notice of Supplemental Proposed Rulemaking: 20 A.A.R. 2075, August 8, 2014
- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Patrick M. Klein, Assistant Director
Address: ASRS
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012-0250
Telephone: (602) 240-2044
Fax: (602) 240-5303
E-mail: PatK@azasrs.gov
Web site: www.azasrs.gov
- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

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In a five-year review report approved by the Council on July 13, 2010, the ASRS intentionally allowed R2-8-123, Actuarial Assumptions and Actuarial Value of Assets, to expire. ASRS has determined that some of the information in that rule is valuable so a new R2-8-123 is made in this rulemaking.

This rulemaking is exempt from the rulemaking moratorium contained in Executive Order 2012-03 under paragraph (4)(c) of the Order.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did 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:

The Board reviewed and relied on two reports regarding valuation of the Plan, contribution rates, and investment returns. The first report, Arizona State Retirement System Actuarial Report on the Valuation of the Plan as of June 30, 2013, was prepared by Buck Consultants, the Board's retained actuary. The second report, Arizona State Retirement System Report of an Actuarial Audit, June 13, 2014, was prepared by Gabriel Roeder Smith and Company. Additionally, at the Board's June 17, 2014, meeting, Buck Consultants made a presentation titled Arizona State Retirement System Sensitivity of Pension and Health Supplement Contribution Rates and Funded Status of Various Investment Returns. Annually the Board receives and accepts or modifies the Plan's valuation including the actuarial assumed rate of return, which is one of the factors used to determine the contribution rate of members and employers for the next fiscal year. Copies of these materials may be obtained using the information provided in item 5.

8. 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

9. A summary of the economic, small business, and consumer impact:

R2-8-123 will have minimal economic impact because it simply makes public the actuarial assumptions and method used by the ASRS. The rule indicates that when determining the actuarial value of assets, ASRS uses the market value of the assets plus or minus the amount that the actual investment return differs from the expected investment return. Any adjustment in the difference between actual and expected investment return is phased in over ten years. The 10-year phase-in is a technique commonly used by public retirement systems to smooth assets and avoid sharp changes in the required contributions.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

Changes between the notices of proposed rulemaking and supplemental proposed rulemaking were discussed in the Notice of Supplemental Proposed Rulemaking. ASRS reorganized R2-8-123(B)(2) to be more concise and understandable. ASRS substituted "return" for "yield" in subsection (A)(3) in order to be consistent with the terms used by the ASRS actuary and neither ASRS, nor its actuary distinguishes between the terms "investment yield rate" and "investment return rate." ASRS inserted "total" in subsection (A)(3) to include all sources of returns on investments in order to reflect that all fluctuations in the valuation of the assets are taken into consideration. ASRS added the language "and asset valuation method" to subsection (B) to clarify that the information contained in subsection (B)(2) is not an actuarial assumption, but a method for asset valuation. ASRS also removed the parenthetical language from R2-8-123(B)(2)(a) and (b) because the five-year phase-in is not applicable to current and future calculations. However, removing this language does not affect the interests of persons subject to this rule.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

ASRS received no written comments regarding the rulemaking. No one attended the oral proceeding on September 15, 2014.

12. All agencies shall list any 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:

The rule does not require a permit.

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

Federal law applies to retirement programs. However, there is no federal law specifically applicable to this rulemaking.

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

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

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No materials are incorporated by reference.

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was not previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

Section

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

ARTICLE 1. RETIREMENT SYSTEM; DEFINED BENEFIT PLAN

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

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

1. “Actuarial assumption” means an estimate of an uncertain future event that affects pension liabilities.
2. “Board” means the same as in A.R.S. § 38-711.
3. “Investment return rate” means a percentage of total return on an asset.
4. “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.

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.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

[R14-182]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R12-4-201	Amend
R12-4-202	Amend
R12-4-205	Amend
R12-4-208	Amend
R12-4-216	Amend
R12-4-217	Amend

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

Authorizing statute: A.R.S. § 17-231(A)(1)

Implementing statute: A.R.S. §§ 17-101, 17-102, 17-231, 17-235, 17-245, 17-301, 17-332, 17-333, 17-333.01, 17-334, 17-335, 17-335.01, 17-336, 17-340, 17-362, 41-1005, 41-1092, 41-1092.02, 41-1092.04, 41-1092.06, and 41-1092.11

3. The effective date of the rules:

January 3, 2015

a. If the agency selected a date earlier than the 60 days effective date as specified in A.R.S. § 41-1032(A), include