

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and the agency decides to make substantial changes to the rule after it is proposed, the agency must prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, and the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 2. ADMINISTRATION

#### CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

*Editor's Note: The following Notice of Supplemental Proposed Rulemaking is exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 2127.)*

[R14-115]

#### PREAMBLE

**1. Citations to the agency's Notice of Rulemaking Docket Opening, Notice of Proposed Rulemaking, and any other Notices of Supplemental Proposed Rulemaking (if applicable) as published in the Register as specified in R1-1-409(A). A list of any other related notices published in the Register to include the as specified in R1-1-409(A):**

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

**2. Articles, Parts, or Sections Affected (as applicable)                      Rulemaking Action**

R2-8-123

New Section

**3. Citations to the agency's statutory authority to include 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(F) and (G)(3)

**4. 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

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 An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

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.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to 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 proposes to review and rely 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

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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 4.

**7. An explanation of the substantial change that resulted in this supplemental notice:**

In the previously published Notice of Proposed Rulemaking, the Board indicated the interest and investment yield rate was assumed to be eight percent. After review by the Board's actuary, the Board decided, under the authority provided by A.R.S. § 38-711(2) and to fulfill the fiduciary responsibilities specified in A.R.S. § 38-714, to have the rule indicate only that the Board will determine the interest and investment return rate.

**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:**

Not applicable

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

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@zasrs.gov  
Web site: www.zasrs.gov

**11. The time, place, and nature of the proceedings to make, amend, renumber, or repeal the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the supplemental proposed rule:**

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

Date: Monday, September 15, 2014  
Time: 9:00 a.m.  
Location: 3300 N. Central Ave.  
10th Floor Boardroom  
Phoenix, AZ 85012

**12. 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:**

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 rules:**

None

**14. 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, for years in which actual investment return exceeds expected investment return, a 10-year (five-year for fiscal years before fiscal year 2002) phase-in of the excess; and
    - b. Plus, for years in which actual investment return falls short of expected investment return, a 10-year (five-year for fiscal years before fiscal year 2002) phase-in of the shortfall.