

ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT¹

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

1. Identification of the rulemaking:

R2-8-126 provides notice to members regarding what type of annuity the member may elect at retirement based on age and/or dollar amount. However, the ASRS will amend subsections (I) and (J) of this rule to better clarify those annuity options are applicable only to retirees with an original retirement date on or after the effective date of those provisions. The ASRS will also amend subsections (F) and (H) while adopting a new subsection (K) to better clarify how the ASRS determines the age(s) for members and beneficiaries depending on whether the age calculation is for purposes of receiving benefits or determining benefit eligibility.

Clarifying that subsections (I) and (J) only apply to members with retirement dates on or after the effective date of those provisions, will make the rule clearer and increase understandability of the retirement options available to members. Amending subsections (F) and (H) while establishing subsection (K), will ensure that members understand how the ASRS will determine benefit eligibility based on age, thereby reducing the regulatory burden imposed on the public. The amendments outlined above will clarify the rule language without substantively changing the rules' requirements. This rulemaking will help the ASRS control and mitigate possible delays associated with determining whether a member or beneficiary is eligible for a particular benefit option, resulting in the more efficient operation and administration of the ASRS.

a. The conduct and its frequency of occurrence that the rule is designed to change:

A.R.S. § 38-775 describes what distributions the ASRS is required to make under federal law. The statute incorporates 26 U.S.C. 401(a)(9), and corresponding Treasury Regulations: §§ 1.401(a)(9)-1 (Q&A-2(d)); 1.401(a)(9)-9 (Q&A-2); 1-401(a)(9)-6 (Q&A-2). These federal regulations indicate that a member may participate in certain types of annuity options at certain ages, regardless whether the contingent annuitant is a current or former spouse. However, certain provisions in the rule need to be amended as discussed above, in order to ensure that members are

¹ If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

aware of the eligibility restrictions on certain annuity options. With the changes completed in this rulemaking, R2-8-126 will be clearer and more consistent with federal law. Ultimately, this will reduce any administrative delay in determining whether a member is eligible for certain annuity options.

b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

If a member does not understand for which annuity options they are eligible, their election of a particular annuity for which they are not eligible will cause administrative delay. Moreover, misunderstanding may lead to incorrect benefit amounts being paid by the ASRS to incorrect beneficiaries and/or members. This potential inaccuracy may decrease the funded status of the ASRS, which could result in increased rates for retirement and health benefit supplement contributions. More importantly, such inaccuracies must be corrected when they are discovered which can lead to further administrative delay and expenses in order to ensure the correct person is receiving the correct benefit amount based on the annuity option the member elected at retirement. The conduct is likely to continue without this rulemaking because, as discussed in subsection (a) above, many members have difficulty in understanding for which annuity options they are eligible.

c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify for which annuity options a member is eligible, thereby increasing understandability of the annuity options and reducing incorrect benefits paid by the ASRS as a result of the member's misunderstanding. As discussed above and below, these amendments will increase the clarity and consistency of the rule, which should result in reducing the member's confusion, as well as any potential delay caused by the confusion.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

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 current annuity options without imposing any additional requirements on the public. Clarifying the applicability of R2-8-126(I) and (J) and amending subsections (F) and (H) while establishing a new subsection (K), will increase understandability of the annuity options available to a member at retirement and will ensure ASRS members and their beneficiaries have notice regarding those options; thus, reducing the regulatory burden and the economic impact.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

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4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS and their beneficiaries will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, members who wish to elect one of the joint-and-survivor annuity options will be affected and benefited by this rulemaking. This rule will clarify for which annuity options a member may be eligible upon retirement based on the age of the member and/or the member's beneficiary. Such clarification will benefit members by increasing the readability of the various annuity options.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

All ASRS members are directly affected by this rulemaking because it will clarify for which annuity options a member may be eligible upon retirement based on the age of the member and/or the member's beneficiary. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rule.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

- 6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment, except to the extent that members may adjust when they retire based on a better understanding of their eligibility for specific annuity options.

- 7. Impact on small businesses²:

- a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

- b. Administrative and other costs required for compliance with the rulemaking:

Not applicable.

- c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

- 8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

² Small business has the meaning specified in A.R.S. § 41-1001(20).

All ASRS members are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify the statutory requirements for remitting an ACR without imposing any additional requirements on the public.