

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

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

TABLE OF CONTENTS

1. FIVE-YEAR-REVIEW SUMMARY1

2. INFORMATION THAT IS IDENTICAL FOR ALL THE RULES 4

3. INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES 5

4. ANALYSIS OF INDIVIDUAL RULES8

5. ECONOMIC IMPACT STATEMENT (EIS) Exhibit 1

6. CURRENT RULESExhibit 2

7. ENABLING AND RELATED STATUTESExhibit 3

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 2013-2014 there were approximately 548,987 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, 4, and 5 of the rules.

Article 1

R2-8-104 was last amended in 1984 and R2-8-115 was last amended in 2006.

R2-8-118 and R2-8-126 were last amended in 2013. R2-8-120 and R2-8-123 were last amended in 2014. R2-8-122 was last amended in 1982. In April 2015, the ASRS filed a Notice of Docket Opening with the Secretary of State to initiate the rulemaking process for a rulemaking that will amend definitions in Articles 1, 4, and 5.

Article 4

None of the rules in Article 4 have been amended since their creation in 2005.

Article 5

R2-8-501 was last amended in 2013. R2-8-502, R2-8-503, and R2-8-513 were last amended in 2012. R2-8-504, R2-8-505, R2-8-506, and R2-8-521 have not been amended since their creation in 2005. R2-8-507, R2-8-508, R2-8-509, R2-8-510, R2-8-511, R2-8-512, R2-8-513.01, R2-8-513.02, R2-8-514, R2-8-515, R2-8-516, R2-8-517, R2-8-519, and R2-8-520 were last amended in 2006.

FIVE-YEAR-REVIEW REPORT
TITLE 2. ADMINISTRATION
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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
- R2-8-118. 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
- R2-8-126. Calculating Benefits

ARTICLE 4. PRACTICE AND PROCEDURE BEFORE THE BOARD

- R2-8-401. Definitions
- R2-8-402. General Procedures
- R2-8-403. Request for a Hearing of an Appealable Agency Action
- R2-8-404. Board Decisions on Hearings Before the Office of Administrative Hearings
- R2-8-405. Rehearing; Review of a Final Decision

ARTICLE 5. PURCHASING SERVICE CREDIT

- R2-8-501. Definitions
- R2-8-502. Request to Purchase Service Credit and Notification of Cost
- R2-8-503. Requirements Applicable to All Service Credit Purchases
- R2-8-504. Service Credit Calculation for Purchasing Service Credit
- R2-8-505. Restrictions on Purchasing Overlapping Service Credit; Transfers
- R2-8-506. Cost Calculation for Purchasing Service Credit
- R2-8-507. Required Documentation and Calculations for Forfeited Service Credit
- R2-8-508. Required Documentation and Calculations for Leave of Absence Service Credit

- R2-8-509. Required Documentation and Calculations for Military Service Credit
- R2-8-510. Required Documentation and Calculations for Presidential Call-up Service Credit
- R2-8-511. Required Documentation and Calculations for Other Public Service Credit
- R2-8-512. Purchasing Service Credit by Check, Cashier's Check, or Money Order
- R2-8-513. Purchasing Service Credit by Irrevocable Payroll Deduction Authorization
- R2-8-513.01. Irrevocable Payroll Deduction Authorization and Transfer of Employment to a Different ASRS Employer
- R2-8-513.02. Termination Date
- R2-8-514. Purchasing Service Credit by Direct Rollover
- R2-8-515. Purchasing Service Credit by Trustee-to-Trustee Transfer
- R2-8-516. Purchasing Service Credit by Indirect IRA Rollover
- R2-8-517. Purchasing Service Credit by Distributed Rollover Contribution
- R2-8-519. Purchasing Service Credit by 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 Payroll Deduction Authorization
- 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).
Any specific authority is stated in the applicable rule.
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.
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 2016 to address the issues identified in this report. The ASRS has obtained approval from the Governor's Office to amend its definitions and the beneficiary designation provisions contained in R2-8-115(I). The Notice of Proposed Rulemaking for those amendments was published by the Secretary of State on July 3, 2015. The ASRS anticipates requesting approval from the Governor's Office as necessary within the next year and half to address the remaining issues discussed in this report.

INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES

3. Analysis of effectiveness in achieving the objective

The following rules are effective in achieving their objectives:

R2-8-118, R2-8-120, R2-8-122, R2-8-123, R2-8-126, R2-8-401, R2-8-402, R2-8-404, R2-8-405, R2-8-502 through R2-8-511, R2-8-513.01, R2-8-513.02, and R2-8-519 through R2-8-521.

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

The following rules are consistent with state and federal statutes and rules:

R2-8-115, R2-8-118, R2-8-120, R2-8-122, R2-8-123, R2-8-126, R2-8-401 through R2-8-405, R2-8-502, R2-8-504 through R2-8-508, R2-8-513.01, and R2-8-514 through R2-8-521.

5. Status of enforcement of the rule

The following rules are enforced as written:

R2-8-115, R2-8-118, R2-8-120, R2-8-122, R2-8-123, R2-8-126, R2-8-401 through R2-8-405, R2-8-501 through R2-8-509, R2-8-513 through R2-8-513.02, R2-8-520, and R2-8-521.

6. Analysis of clarity, conciseness, and understandability

The following rules are clear, concise, and understandable:

R2-8-402, R2-8-404, R2-8-504 through R2-8-506, R2-8-513.01, R2-8-514 through R2-8-516, R2-8-520, and R2-8-521.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

This analysis is not applicable to the following rules because the agency did not propose a course of action in the previous five-year-review report:

R2-8-120, R2-8-123, R2-8-126, R2-8-401 through R2-8-405, R2-8-504 through R2-8-507, R2-8-513.01, R2-8-520, and R2-8-521.

The agency did not complete the proposed course of action for the following rules due to the rulemaking moratorium and staff resources prioritized to other projects:

R2-8-115, R2-8-122, R2-8-502, R2-8-503, R2-8-510 through R2-8-513, R2-8-513.02 through R2-8-516, and R2-8-519.

11. Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs

The following rules impose the least burden and costs on the public:

R2-8-402, R2-8-404, R2-8-504 through R2-8-506, R2-8-513.01, R2-8-520, and R2-8-521.

The following rules will impose the least burden and costs on the public when the issues identified in this report are addressed:

R2-8-104, R2-8-115, R2-8-118, R2-8-120, R2-8-122, R2-8-123, R2-8-126, R2-8-401, R2-8-403, R2-8-405, R2-8-501 through R2-8-503, R2-8-507 through R2-8-513, and R2-8-513.02 through R2-8-519.

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.

3. Analysis of effectiveness in achieving the objective

The rule is not effective because many of the terms used in this section are outdated and not actually used in the ASRS rules.

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

The rule is not consistent with state rules and statutes. The definition of ‘wages’ contains a citation to A.R.S. § 38-701(8), which no longer exists, and the term “proprietary functions” is not used in any ASRS rules.

5. Status of enforcement of the rule

The rule is enforced as written with the exception of unnecessary and unused terms.

6. Analysis of clarity, conciseness, and understandability

The rule is not clear, concise, or understandable because it contains outdated and unnecessary terms, and thereby does not fulfill its objective.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

No. The agency did not complete the proposed course of action due to the rulemaking moratorium and staff resources prioritized to other projects. The ASRS filed a Notice of Docket Opening with the Arizona Secretary of State that was published at 21 A.A.R. 726. That rulemaking will resolve the issues identified in the previous course of action.

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.

3. Analysis of effectiveness in achieving the objective

The rule is mostly effective in achieving the objectives. It could be more effective by clarifying that a beneficiary designation will only be considered “on file” with the ASRS if it is a completed document that is received prior to the date of the member’s death.

The rule also needs to be amended to reflect that beneficiary information may be updated using the ASRS secure website.

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 removing superfluous definitions such as “ASRS” and “member” that are unnecessary because they are contained in other rules or statutes and do not need to be repeated in 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.

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 removing superfluous definitions such as “ASRS” and “member” that are unnecessary because they are contained in other rules or statutes and do not need to be repeated in this rule. Also, the rule could be clearer by changing the term “yield rate” to “return rate” in order to be consistent with other rules that refer to interest return rates.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

The agency did not complete the proposed course because the previous course of action is no longer necessary because the rule merely lists how the ASRS applies interest.

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 clear, concise, and understandable. It could be made more clear, concise, and understandable by removing superfluous definitions such as “beneficiary,” which is a dictionary definition, and “contingent annuitant,” which is contained statute.

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. It uses unnecessary language such as “without limitation” and “Arizona State Retirement System” (instead of “ASRS”).

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.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. It could be made more clear, concise, and understandable by removing superfluous definitions such as “board,” which is contained in statute, and “investment return rate” and “actuarial assumption,” which are used in other rules, and should be defined once, in the definitions section.

R2-8-126. Calculating 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 clear, concise, and understandable. It could be made more clear, concise, and understandable by removing superfluous definitions such as “contingent annuitant,” “life annuity,” “member,” and “plan” which are contained in statute. Also, the rule could be clearer if subsections (B), (C), and (D) were amended to reflect for which annuity options each age group is eligible.

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.

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

The rule is clear, concise, and understandable. It could be made more clear, concise, and understandable by removing superfluous definitions such as “Board,” “Director,” and “party” which are contained in statute.

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. 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.

3. **Analysis of effectiveness in achieving the objective**

The rule is mostly effective in achieving the objective. The rule could be more effective if it distinguished between an appeal related to a long-term disability determination and an appeal related to a member benefits determination.

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

The rule is mostly clear, concise, and understandable. The rule would be clearer if it reflected that an appeal will be processed by an assistant director, or the 3rd party vendor for Long Term Disability appeals, and if the determination is unsatisfactory to the

appealing party, then the party may appeal to the Director or the Director’s designee. Additionally, the rule needs to state a time limit to appeal to the Director or the Director’s designee after receipt of an assistant director’s determination.

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.

R2-8-405. Rehearing; 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.

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 distinguishing between a motion for reconsideration of the Board’s decision on a recommended decision from the Office of Administrative Hearings (OAH) and a motion for rehearing at OAH.

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.

3. Analysis of effectiveness in achieving the objective

The rule is not effective because many of the terms used in this section are outdated and not actually used in the ASRS rules.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change.

6. Analysis of clarity, conciseness, and understandability

The rule is mostly clear, concise, and understandable with the exceptions of the issues identified in items 3 and 4 above. The rule could also be clearer by removing superfluous definitions that are contained in statute such as “active member,” “ASRS,” and “current annual compensation.”

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

Yes. The agency amended the rule by final rulemaking effective June 1, 2013 by removing the reference to R2-8-123 in the definition of “actuarial present value.” The agency did not complete the other proposed courses of action due to staff resources prioritized to other projects.

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.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. The rule could be clearer by reflecting that members on, or after July 1, 2010 must have five years of service with the ASRS in order to be eligible to purchase service credit.

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.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change. The language in subsection (D)(2)(f) also needs to be amended to more accurately reference the specific requirements in R2-8-503(B) without being repetitive.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable with the exception of the issue identified in item 4 above.

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 and more concise by removing subsections (A)(2) and (A)(3) because that information is not required for everyone.

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.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. It could be more concise by removing reference to cost calculations, which is unnecessary because it is addressed in R2-8-506. It could also be more concise by removing the reference to “guidelines” because that information is not required.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

The agency did not complete the proposed course because the previous course of action is no longer necessary because the agency does not need to define the term “guidelines,” but rather needs to remove the term.

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.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change. The rule also needs to be amended to account for whether the member is eligible for a military retirement benefit pursuant to A.R.S. § 38-745(A)(4).

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. The rule could be clearer by addressing the issue identified in item 4 above. It could be more concise by removing reference to cost calculations, which is unnecessary because it is addressed in R2-8-506. Also, the rule could be more concise by amending subsection (A)(3)(e) to remove the requirement that military history be documented by fiscal year.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

The agency did not complete the proposed course of action because the affidavit for a service purchase must still be notarized to ensure the member has read the “statements of understanding.”

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.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change.

5. **Status of enforcement of the rule**

The rule is mostly enforced as written. The ASRS does not require employers to submit a request to purchase military call-up service credits within 30 days of the active duty termination date. The member may take up to 90 days to return to employment and it is the member’s responsibility to provide the employer with evidence supporting the military call-up service. The member may receive service credits for the time it takes, up to 90 days, to return to work after being called-up to military service.

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

The rule is clear, concise, and understandable. The rule could be clearer by addressing the issue identified in items 4 and 5 above.

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

38 U.S.C. § 4312 corresponds to this rule, but this rule is not more stringent than federal law.

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.

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

The rule needs to be amended to reflect that ASRS requires different documentation if a member is purchasing service with an ASRS employer, in order to determine whether the service meets the requirements under A.R.S. § 38-738 for adjustment and refund.

5. **Status of enforcement of the rule**

The rule is enforced as written with the exception of the issue identified in item 4.

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

The rule is clear, concise, and understandable. The rule could be clearer by addressing the issue identified in item 4 above. It could be more concise by removing reference to cost calculations, which is unnecessary because it is addressed in R2-8-506.

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.

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

The rule needs to be amended to reflect that only pre-tax dollars may be used for purchases of commonwealth, insular area, territory, and overseas possession service.

5. **Status of enforcement of the rule**

The rule is enforced as written with the exception of the issue identified in item 4.

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

The rule is clear, concise, and understandable. The rule could be clearer by addressing the issue identified in item 4 above.

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

26 U.S.C. § 415 corresponds to this rule, but this rule is not more stringent than federal law.

R2-8-513. Purchasing Service Credit by Irrevocable Payroll Deduction Authorization

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.

3. **Analysis of effectiveness in achieving the objective**

The rule is effective in achieving the objective. The rule could be more effective by reflecting a longer time period to submit a rollover to pay off a PDA if termination pay is also used because members are running out of time with the current time limit.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change.

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

The rule is clear, concise, and understandable with the exception of the issues identified in this report.

R2-8-513.01 Irrevocable Payroll Deduction Authorization and Transfer of Employment to a Different ASRS 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.

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

The term “presidential call-up” has been changed to “military call-up” in statute and the rule needs to be amended to reflect this statutory change.

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

The rule is clear, concise, and understandable with the exception of the issue identified in item 4 above.

R2-8-514. Purchasing Service Credit by Direct Rollover

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.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving the objective. The rule could be more effective by reflecting a longer time period to submit a rollover to payoff a Payroll Deduction Authorization if termination pay is also used because members are running out of time with the current time limit.

5. Status of enforcement of the rule

The rule is mostly enforced as written. The ASRS does not require an extension request under subsection (H) to be written. The ASRS does not require the authorized representative's address as indicated in subsection (E)(10), but the ASRS requires the Plan's address instead.

R2-8-515. Purchasing Service Credit by 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 by using a trustee-to-trustee transfer.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving the objective. The rule could be more effective by reflecting a longer time period to submit a rollover to payoff a PDA if termination pay is also used because members are running out of time with the current time limit.

5. Status of enforcement of the rule

The rule is mostly enforced as written. The ASRS does not require an extension request under subsection (G) to be written.

R2-8-516. Purchasing Service Credit by Indirect IRA Rollover

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 an indirect individual retirement account rollover.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving the objective. The rule could be more effective by reflecting a longer time period to submit a rollover to pay off a PDA if termination pay is also used because members are running out of time with the current time limit.

5. Status of enforcement of the rule

The rule is mostly enforced as written. The ASRS does not require an extension request under subsection (G) to be written.

R2-8-517. Purchasing Service Credit by Distributed Rollover Contribution

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 distributed rollover contribution.

3. Analysis of effectiveness in achieving the objective

The rule is effective in achieving the objective. The rule could be more effective by reflecting a longer time period to submit a rollover to pay off a PDA if termination pay is also used because members are running out of time with the current time limit.

5. Status of enforcement of the rule

The rule is mostly enforced as written. The ASRS uses the “Direct Rollover Transfer Certification” and the “Rollover Contribution from Eligible Plan” forms.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. It could be made more clear, concise, and understandable by addressing the issue identified in item 3 above.

10. Whether the agency completed the course of action proposed in the previous Five-year-review Report

The agency did not complete the proposed course of action due to staff resources prioritized to other projects. The ASRS has not combined the two forms referenced in this rule, so the previous course of action related to these forms is not necessary.

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

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.

5. Status of enforcement of the rule

The rule is enforced as written with the exception that ASRS requires the member to contact our offices for a Termination Pay Authorization form because the form is not sent automatically.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. It could be made clearer by addressing the issue identified in item 5 and by amending the rule to reflect that a member must be actively contributing in order to request a recalculation of the service purchase cost if the member missed the six month deadline to terminate.

R2-8-520. Separation from Employment or Death of Member While Purchasing Service Credit by an Irrevocable Payroll Deduction Authorization

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.

ECOMONIC IMPACT COMPARISON
Arizona State Retirement System

| | |
|--|---|
| <u>Title and its heading:</u> | Title 2, Administration |
| <u>Chapter and its heading:</u> | Chapter 8, State Retirement System Board |
| <u>Article and its heading:</u> | Article 1, Retirement System; Defined Benefit Plan |
| <u>Section Numbers:</u> | R2-8-104; R2-8-115; R2-8-118; R2-8-120; R2-8-122; R2-8-123; 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), special districts, and most cities, towns and counties. As of June 30, 2014 there were approximately 548,987 members.

A.R.S. Title 38, Chapter 5, Article 1, Arizona Revised Statutes, provides the authority for the promulgation of the rule under the federal-state agreement to provide Social Security coverage for the State under Section 418 of the Social Security Act and to bring political subdivisions of the State under Social Security coverage. However, this agreement is no longer necessary for ASRS membership going forward and the Arizona Legislature removed reference to this agreement from the ASRS statutes in 2014.

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.

R2-8-104

R2-8-104, Definitions, does not directly affect the cost of participation in the ASRS shared by the public employers and their employees who are members of the ASRS. Amendment of this rule will have no effect on the ASRS contribution rate and will also have no impact on small business, directly on private persons or consumers, or on state revenues.

R2-8-115

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, was amended on April 5, 2005 and then amended again on February 7, 2006. The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement provided to the Governor's Regulatory Review Council (GRRC) with the Notice of Final Rulemaking for this rule has not changed since it was provided to the GRRC.

R2-8-118

R2-8-118, Application of Interest Rates, was last amended April 19, 2013. The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement provided to the GRRC with the Notice of Final Rulemaking for this rule estimated that reducing the interest

rate a refunding member would receive on their post-July 1, 2013 balances from 4% to 2% would reduce the aggregate employee and employer contribution rate by approximately .39% and result in a present value cost savings of approximately \$470 million during the next 30 years. Due to how recently the rule was amended, the ASRS has not yet determined what the actual reduction and cost savings have been since the amendment of this rule.

A.R.S. § 38-740(A)(3) specifically grants the Board the power to establish interest on returned contributions. Attorney General Formal Opinion I09-009 that retirement benefits cannot be impaired or diminished does not apply since interest is not considered a retirement benefit.

R2-8-120

R2-8-120, Designating a Beneficiary; Spousal Consent to Designation, was created by final rulemaking on October 4, 2014. The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement provided to the GRRC with the Notice of Final Rulemaking for this rule has not changed since it was provided to the GRRC.

R2-8-122

R2-8-122, Remittance of Contributions, does not directly affect the cost of participation in the ASRS shared by the public employers and their employees who are members of the ASRS. The rule only provides the procedure for employers making payments to ASRS. This rule has no effect on the ASRS contribution rate nor does it have any economic impact on small business or directly affect private persons, consumers or state revenues.

R2-8-123

R2-8-123, Actuarial Assumptions and Actuarial Value of Assets, was created by final rulemaking on January 3, 2015. The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement provided to the GRRC with the Notice of Final Rulemaking for this rule has not changed since it was provided to the GRRC.

R2-8-126

R2-8-126, Calculating Benefits, was amended on April 6, 2013. The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement provided to the GRRC with the Notice of Final Rulemaking for this rule has not changed since it was provided to the GRRC.

| | |
|--|--|
| <u>Title and its heading:</u> | Title 2, Administration |
| <u>Chapter and its heading:</u> | Chapter 8, State Retirement System Board |
| <u>Article and its heading:</u> | Article 4, Practice and Procedure Before the Board |
| <u>Section Numbers:</u> | 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.

R2-8-401 through R2-8-405

The estimated economic impact in the Economic, Small Business, and Consumer Impact Statement that was provided to GRRC with the Notice of Final Rulemaking was \$500 per day. However, the actual cost has proven closer to an average of \$1,087 per hearing. The ASRS utilized the services of the Office of Administrative Hearings approximately 13 times in fiscal year 2005-2006, five times in fiscal year 2006-2007, nine times in fiscal year 2007-2008, six times in fiscal year 2008-2009, 12 times in fiscal year 2009-2010, 17 times in fiscal year 2010-2011, 14 times in fiscal year 2011-2012, 14 times in fiscal year 2012-2013, and 11 times in fiscal year 2013-2014.

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 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.

Various payment options exist.

R2-8-501 through R2-8-503, R2-8-513

R2-8-501 was last amended in 2013 and R2-8-502, R2-8-503, and R2-8-513 were last amended in 2012. Prior to the rule changes, members could use a partial lump sum distribution from ASRS to purchase service credits with the ASRS. The methodology used to calculate the partial lump sum required to pay for service credit purchased at the time of retirement erroneously credited the retiring individual with the purchased service credit before payment was made. As a result, the partial lump sum payment received was greater and the member had a lower partial

lump sum reduction factor applied against the member's annuity because fewer months of partial lump sum were required to make the service credit purchase.

Currently, the ASRS no longer allows members to purchase service credits using a partial lump sum distribution. ASRS members are still be able to purchase service credit upon retirement by using an after-tax check, pre-tax rollover, or transfer from certain qualified retirement plans, or qualified termination payments. They can also purchase the service credit before the time of retirement using a pre-tax payroll deduction authorization contract.

R2-8-504 through R2-8-506, R2-8-521

Changing from normal cost to actuarial present value was estimated to result in a 17 basis point decrease in the contribution rate for employees and a 17 basis point decrease for employers. The ASRS consulted our actuary and cannot confirm or deny the cost estimates cited in the EIS statement. The methodology change actually resulted in a change in member behavior; fewer members are purchasing service.

The ASRS received 17,678 new service purchase requests in fiscal year 2005; 11,202 in fiscal year 2006; 9,338 in fiscal year 2007; 8,962 in fiscal year 2008; 7,742 in fiscal year 2009; 7,215 in fiscal year 2010; 7,295 in fiscal year 2011; 4,872 in fiscal year 2012; 5,166 in fiscal year 2013; and 3,500 in fiscal year 2014.

The same is true of charging interest on Payroll Deduction Authorization (PDA) contracts. Fewer members are paying for service purchases using PDA contracts. Therefore the ASRS cannot confirm or deny the change resulted in an 11 basis point decrease to the contribution rate for both the employee and the employer.

The ASRS issued 7,102 PDA contracts in fiscal year 2005; 2,516 in fiscal year 2006; 1,430 in fiscal year 2007; 1,176 in fiscal year 2008; 775 in fiscal year 2009; 769 in fiscal year 2010; 520 in fiscal year 2011; 425 in fiscal year 2012; 418 in fiscal year 2013; and 268 in fiscal year 2014 .

R2-8-507 through R2-8-520

Employers pay the cost to purchase military call-up service when the member returns to employment or upon receipt of a death certificate. The employer must pay both the employee and employer contributions to the ASRS in a lump sum.

Prior to the rule change, an employer would provide the ASRS with the gross salary (or even hourly salary) the member was earning immediately prior to the call-up period. The ASRS used that salary information to calculate the employer cost. Once the employer paid, the member would receive the applicable salary and service credit. The salary the employer reported did not include salary increases the member would have received had the member not been on call-up service. For this reason the employer paid less but the member did not receive salary credit for the increases.

After the change to the rule, the employer now reports the gross salary the member would have earned during the call-up period including any increases the member would have received had

they not been on a call-up period. When reporting the salary to the ASRS, the employer does not list regular wages and increases separately; they give one combined figure.

The rule changes result in a higher cost to employers if their employees on a military call-up would have received a salary increase and the member receives credit for a higher salary history because the increases are now included in the calculation.

The ASRS issued 32 military call-up invoices in fiscal year 2005; 97 in fiscal year 2006; 25 in fiscal year 2007; 26 in fiscal year 2008; 57 in fiscal year 2009; 25 in fiscal year 2010; 31 in fiscal year 2011; 19 in fiscal year 2012; 22 in fiscal year 2013; and 21 in fiscal year 2014.

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

TABLE OF CONTENTS

| | |
|--|-----------|
| 1. FIVE-YEAR-REVIEW SUMMARY..... | 3 |
| 2. INFORMATION THAT IS IDENTICAL FOR ALL THE RULES..... | 5 |
| 3. INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES..... | 6 |
| 4. ANALYSIS OF INDIVIDUAL RULES..... | 7 |
| 5. ECONOMIC IMPACT STATEMENT (EIS)..... | Exhibit 1 |
| 6. CURRENT RULES..... | Exhibit 2 |
| 7. ENABLING AND RELATED STATUTES..... | Exhibit 3 |

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 elected to, and all new members, became part of the defined benefit plan. At the end of Fiscal Year 2014-2015 there were approximately 558,136 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 income plan, and health benefit supplement 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 all seven rules in 2 A.A.C. 8, Article 6 and all seven rules were made by final rulemaking effective March 7, 2006. R2-8-601 was last amended by final rulemaking effective December 5, 2015.

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

- R2-8-601. Definitions
- R2-8-602. Reviewing Agency Rulemaking Record and Directory of Substantive Policy Statements
- R2-8-603. Petition for Rulemaking
- R2-8-604. Review of a Rule, Agency Practice, or Substantive Policy Statement
- R2-8-605. Objection to Rule Based Upon Economic, Small Business and Consumer Impact
- R2-8-606. Oral Proceedings
- R2-8-607. Petition for Delayed Effective Date

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:

3. **Analysis of effectiveness in achieving the objective**
With the exception of R2-8-605, the rules are effective in achieving their objectives.
5. **Status of enforcement of the rule**
With the exception of R2-8-605, the rules are enforced as written.
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**
With the exception of R2-8-605, this analysis is not applicable because the agency did not propose a course of action in the previous five-year-review report.
12. **Determination that the rule is not more stringent than a corresponding federal law**
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**
With the exception of R2-8-601, the ASRS plans to amend all the rules by December 2016 to address the issues identified in this report.

INFORMATION THAT IS IDENTICAL WITHIN GROUPS OF RULES

R2-8-601 and R2-8-602

11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The rule imposes least burden and costs on the public.

R2-8-603 through R2-8-607

11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**

The rule will impose the least burden and costs on the public when the issues identified in this report are addressed.

R2-8-601, R2-8-602, R2-8-606, and R2-8-607

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

The rule is consistent with state and federal statutes and rules.

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

R2-8-601. Definitions

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

A.R.S. § 41-1001

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.

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

The rule is clear, concise, and understandable.

14. **Proposed course of action**

The ASRS does not intend to amend this rule at this time.

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

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

A.R.S. §§ 41-1029, 41-1091(C)

2. **Objective**

The objective of the rule is to provide notice to the public of how the ASRS rulemaking records may be viewed at the ASRS offices.

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

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.

R2-8-603. Petition for Rulemaking

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

A.R.S. § 41-1033

2. **Objective**

The objective of the rule is to provide notice to the public of how to petition the ASRS to make or amend a rule.

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

The rule is mostly consistent with state and federal statutes and rules. The rule could be more consistent if subsection (B) reflected that the ASRS must take action on the petition within 60 days pursuant to A.R.S. § 41-1033(A), instead of 30 days.

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

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language in A.R.S. § 41-1033.

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

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

A.R.S. § 41-1033

2. **Objective**

The objective of the rule is to provide notice to the public of how to request a review of an ASRS rule or an ASRS substantive policy statement.

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

The rule is mostly consistent with state and federal statutes and rules. The rule could be more consistent if subsection (B) reflected that the ASRS must take action on the petition within 60 days pursuant to A.R.S. § 41-1033(A), instead of 30 days.

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

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language in A.R.S. § 41-1033.

7. **Estimated economic, small business, and consumer impact statement comparison**

Analysis of the economic impact statement for the rules is included as Exhibit 1.

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

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

A.R.S. § 41-1056.01

2. **Objective**

The objective of the rule is to provide notice to the public of how to submit a petition to the ASRS objecting to an ASRS rule based on actual economic impact.

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

The rule is mostly consistent with state and federal statutes and rules. It could be more consistent by changing “objection” to “petition” to better reflect statutory language.

Also, subsection (A)(3) needs to reflect that pursuant to A.R.S. § 41-1056.01(A)(3), a person may object to a rule if the person believes that the agency did not select the least burdensome and costly alternative.

5. **Status of enforcement of the rule**

The rule is enforced to the extent it is consistent with statute.

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

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.

10. **Whether the agency completed the course of action proposed in the previous Five-year-review Report**

No. The agency did not complete the proposed course of action due to the rulemaking moratorium and staff resources prioritized to other projects.

R2-8-606. Oral Proceedings

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

A.R.S. § 41-1023(C)

2. **Objective**

The objective of the rule is to provide notice to the public of to request an oral proceeding.

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

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language. The rule could also be clearer by reflecting that a “person” may represent any “entity,” including another individual at an oral proceeding.

R2-8-607. Petition for Delayed Effective Date

1. Authorization of the rule by existing statute

A.R.S. § 41-1032

2. Objective

The objective of the rule is to provide notice to the public of how to request a delayed effective date for an ASRS rule.

6. Analysis of clarity, conciseness, and understandability

The rule is clear, concise, and understandable. It could be clearer by changing “individual” to “person” to better reflect statutory language.

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

TABLE OF CONTENTS

| | |
|---|-----------|
| 1. FIVE-YEAR-REVIEW SUMMARY..... | 3 |
| 2. INFORMATION THAT IS IDENTICAL FOR ALL THE RULES..... | 5 |
| 3. ANALYSIS OF INDIVIDUAL RULES..... | 7 |
| 4. ECONOMIC IMPACT STATEMENT (EIS)..... | Exhibit 1 |
| 5. CURRENT RULES..... | Exhibit 2 |
| 6. ENABLING AND RELATED STATUTES..... | Exhibit 3 |

FIVE-YEAR-REVIEW SUMMARY

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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 income plan, and health benefit supplement 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.

Enabling statutes for the Board are set forth in A.R.S. §§ Title 38, Chapter 5, Articles 1 and 2. The Board implements its statutes with rules located in A.A.C. Title 2, Chapter 8 as necessary

This report covers all eight rules in 2 A.A.C. 8, Article 7 and with the exception of R2-8-701, all the rules were made by final rulemaking effective December 5, 2006. R2-8-701 was last amended by final rulemaking effective December 5, 2015. The ASRS requested the Governor's Regulatory Review Council (GRRC) to expire R2-8-708 because it was redundant of the appeals process described in 2 A.A.C. 8, Article 4. GRRC expired R2-8-708 on October 4, 2016. The ASRS is completed the rulemaking process in order to amend R2-8-704 and R2-8-706 in October 2016.

FIVE-YEAR-REVIEW REPORT

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

- R2-8-701. Definitions
- R2-8-702. General Information
- R2-8-703. ASRS Employer's Discovery of Error
- R2-8-704. Member's Discovery of Error
- R2-8-705. ASRS' Discovery of Error
- R2-8-706. Determination of Contributions Not Withheld
- R2-8-707. Submission of Payment
- R2-8-709. Nonpayment of Contributions

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:

3. **Analysis of effectiveness in achieving the objective**
The rules are effective in achieving their objectives.
4. **Analysis of consistency with state and federal statutes and rules**
The rules are consistent with state and federal statutes and rules.
5. **Status of enforcement of the rule**
The rules are enforced as written.
6. **Analysis of clarity, conciseness, and understandability**
The rule is 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**
Yes. Consistent with issues identified in the previous Five-year-review Report, the ASRS completed a rulemaking for R2-8-704 and R2-8-706 in October 2016.
11. **Determination that the probable benefits of the rule outweigh the probable costs and the rule imposes the least burden and costs**
The rules impose least burden and costs on the public.
12. **Determination that the rule is not more stringent than a corresponding federal law**
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

The ASRS does not plan to further amend the rules in Article 7 at this time.

ARTICLE 7. CONTRIBUTIONS NOT WITHHELD

R2-8-701. Definitions

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

A.R.S. §§ 38-711, 38-715, and 38-738

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.

R2-8-702. General Information

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

A.R.S. §§ 38-738, 38-743

2. **Objective**

The objective of the rule is to provide notice to the public of requirements and/or limitations that apply to contributions not withheld.

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

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

A.R.S. § 38-738

2. **Objective**

The objective of the rule is to provide notice to the public of how the Employer must notify the ASRS of any Contributions Not Withheld error the Employer discovers.

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

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

A.R.S. § 38-738

2. **Objective**

The objective of the rule is to provide notice to the public of the information that should be provided to the ASRS when a member discovers a Contributions Not Withheld error.

R2-8-705. ASRS' Discovery of Error

1. Authorization of the rule by existing statute

A.R.S. § 38-738

2. Objective

The objective of the rule is to provide notice to the public of how the member and Employer will be notified when the ASRS discovers a Contributions Not Withheld error and identifies the information the ASRS will request.

R2-8-706. Determination of Contributions Not Withheld

1. Authorization of the rule by existing statute

A.R.S. §§ 38-736, 38-737, 38-738, 38-766.01

2. Objective

The objective of the rule is to provide notice to the public of how the ASRS will make a Contributions Not Withheld determination and how the Employer and member will be notified.

R2-8-707. Submission of Payment

1. Authorization of the rule by existing statute

A.R.S. §§ 38-738 and 38-747

2. Objective

The objective of the rule is to provide notice to the public of the deadlines and methods for the Employer and member to submit payment and the penalties if payment is not submitted timely.

R2-8-709. Nonpayment of Contributions

1. Authorization of the rule by existing statute

A.R.S. § 38-738

2. Objective

The objective of the rule is to provide notice to the public of when the member will be granted service credit for a Contributions Not Withheld correction and the steps the ASRS will take to obtain payment.