



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 2. ADMINISTRATION**

**CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

[R16-104]

**PREAMBLE**

- |  |                                 |
|--|---------------------------------|
| <b><u>1. Article, Part or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R2-8-602   | Amend                           |
| R2-8-603   | Amend                           |
| R2-8-604   | Amend                           |
| R2-8-605   | Amend                           |
| R2-8-606   | Amend                           |
| R2-8-607   | Amend                           |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 38-714(E)(4)  
 Implementing statutes: A.R.S. §§ 41-1021 et seq.; 41-1051 et seq.
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**  
 Notice of Rulemaking Docket Opening: 22 A.A.R. 1908, July 22, 2016 (*in this issue*).
- 4. The agency’s contact person who can answer questions about the rulemaking:**  
 Name: Jessica A. Ross, Rule Writer  
 Address: State Retirement System  
 3300 N. Central Ave., Suite 1400  
 Phoenix, AZ 85012-0250  
 Telephone: (602) 240-2039  
 E-mail: JessicaR@azasrs.gov
- 5. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**  
 The ASRS needs to amend approximately six rules in Article 6. The rules need to reflect statutory language and time frames. For example, the term “individual” should be changed to “person” to be more consistent with A.R.S. § 1001 et seq; R2-8-605 needs to reflect that a person may object to a rule if they believe it is not the least burdensome and costly method. These amendments will ensure the public has notice of how they may participate in the ASRS rulemaking process, including what a person’s options may be if the person disputes a rule. Ultimately, this will establish a more certain and robust rulemaking process for the ASRS, lending itself to the equitable promulgation of more effective rules, which, in turn, will result in the more effective administration of the ASRS.



6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.

None

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

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 rules will have minimal economic impact, if any, because the rulemaking simply clarifies statutory requirements that already exist. The Arizona Administrative Procedures Act allows people to petition the agency regarding the agency’s rules. The rules in Article 6, simply clarify how people may submit particular petitions and further participate in the agency’s rulemaking process. These amendments will clarify the rulemaking process for the public and such clarification will increase the understandability of the rules. Thus, the economic impact is minimized.

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

Name: Jessica A. Ross, Rules Writer  
Address: Arizona State Retirement System  
3300 N. Central Ave., Ste. 1400  
Phoenix, AZ 85012-0250  
Telephone: (602) 240-2039  
E-mail: JessicaR@azasrs.gov

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

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

Date: August 25, 2016  
Time: 9:00 a.m.  
Location: Arizona State Retirement System  
10th Floor Board Room  
3300 N. Central Ave.  
Phoenix, AZ 85012-0250

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

None of the rules requires a permit.

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

Federal law applies to retirement programs, but no federal law specifically applies to this rulemaking.

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

No analysis was submitted.

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

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

Section  
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

#### ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

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

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

##### **R2-8-603. Petition for Rulemaking**

- A. ~~An individual~~ A person submitting a petition to the ASRS to make or amend a rule under A.R.S. § 41-1033 shall include the following in the petition:
1. The name and current address of the ~~an individual~~ a person submitting the petition;
  2. An identification of the rule to be made or amended;
  3. The suggested language of the rule;
  4. The reason why a new rule should be made or a current rule should be amended with supporting information, including:
    - a. An identification of the persons who would be affected by the rule and how the persons would be affected; and
    - b. If applicable, statistical data with references to attached exhibits;
  5. The signature of the ~~individual~~ person submitting the petition; and
  6. The date the ~~individual~~ person signs the petition.
- B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the ~~individual~~ person within ~~30~~ 60 days of receipt of the petition.

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

- A. ~~An individual~~ A person submitting a petition to the ASRS under A.R.S. § 41-1033 requesting that the ASRS review an agency practice or substantive policy statement that the ~~individual~~ person alleges constitutes a rule shall include the following in the petition:
1. The name and current address of the ~~individual~~ person submitting the petition,
  2. The reason the ~~individual~~ person alleges that the agency practice or substantive policy statement constitutes a rule,
  3. The signature of the ~~individual~~ person submitting the petition, and
  4. The date the ~~individual~~ person signs the petition.
- B. The ~~individual~~ person who submits a petition under subsection (A) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- C. The ASRS shall send a written notice of the ASRS's decision regarding the petition to the ~~individual~~ person within ~~30~~ 60 days of receipt of the petition.

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

- A. ~~An individual~~ A person submitting an objection to a rule based upon the economic, small business and consumer impact under A.R.S. § 41-1056.01 shall include the following in the objection:
1. The name and current address of the ~~individual~~ person submitting the objection;
  2. Identification of the rule;
  3. Either evidence that the actual economic, small business and consumer impact:
    - a. Significantly exceeded the impact estimated in the economic, small business and consumer impact statement submitted during the making of the rule with supporting information attached as exhibits; or
    - b. Was not estimated in the economic, small business and consumer impact statement submitted during the making of the rule and that actual impact imposes a significant burden on persons subject to the rule with supporting information attached as exhibits; or
    - c. Reflects that the ASRS did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
  4. The signature of the ~~individual~~ person submitting the objection; and
  5. The date the ~~individual~~ person signs the objection.
- B. The ASRS shall respond to the objection as specified in A.R.S. § 41-1056.01(C).

##### **R2-8-606. Oral Proceedings**

- A. ~~An individual~~ A person requesting an oral proceeding under A.R.S. § 41-1023(C) shall submit a written request to the ASRS that includes:
1. The name and current address of the ~~individual~~ person making the request;
  2. If applicable, the name of the public or private organization, partnership, corporation or association, or the name of the governmental entity the ~~individual~~ person represents; and
  3. Reference to the proposed rule including, if known, the date and issue of the Arizona Administrative Register in which the Notice of Proposed Rulemaking was published.
- B. The ASRS shall record an oral proceeding by either electronic or stenographic means and any CDs, cassette tapes, tran-



scripts, lists, speaker slips, and written comments received shall become part of the official record.

- C. A presiding officer shall perform the following acts on behalf of the ASRS when conducting an oral proceeding as prescribed under A.R.S. § 41-1023:
  - 1. Provide a method for ~~individuals~~ a person who ~~attend~~ attends the oral proceeding to voluntarily note ~~their~~ the person's attendance;
  - 2. Provide a ~~speaker slip~~ Request to Present Oral Comment form that includes space for:
    - a. ~~An individual's~~ The name of the person submitting the Request to Present Oral Comment form,
    - b. ~~The person entity~~ the individual person represents, if applicable, and
    - c. ~~The rule on which~~ the individual person wishes to comment ~~on~~ or about which the person has a question ~~about,~~ and;
    - d. ~~The approximate length of time~~ the individual wishes to speak;
  - 3. Open the proceeding by identifying the rules to be considered, the location, date, time, purpose of the proceeding, and the agenda;
  - 4. Explain the background and general content of the proposed rulemaking;
  - 5. Provide for public comment as specified in A.R.S. § 41-1023(D); and
  - 6. Close the oral proceeding by announcing the location where written public comments are to be sent and specifying the close of record date and time.
- D. A presiding officer may limit comments to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.

**R2-8-607. Petition for Delayed Effective Date**

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