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## NOTICES OF RULEMAKING DOCKET OPENING

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This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an "announcement" that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

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### NOTICE OF RULEMAKING DOCKET OPENING

#### STATE RETIREMENT SYSTEM BOARD

[R15-156]

- 1. Title and its heading:** 2, Administration  
**Chapter and its heading:** 8, State Retirement System Board  
**Article and its heading:** 1, Retirement System; Defined Benefit Plan  
**Section number:** R2-8-116

**2. The subject matter of the proposed rule:**

Currently, R2-8-116 is expired. The ASRS will establish R2-8-116 to clarify that pursuant to A.R.S. § 38-766.02, an ASRS employer that employs a retiree must remit contribution to the ASRS at an alternate contribution rate (ACR) for the retiree regardless of whether the retiree is directly employed by the employer, either as a direct employee or a contractor, or leased to the employer by a third party.

The rule will reflect that employers cannot avoid paying an ACR to the ASRS merely by claiming that a worker is leased; rather, the employer must show that the entire class of positions performing substantially similar functions, to which the retiree belongs, has been properly leased as well. If the employer is unable to show that the *entire* class of positions performing substantially similar functions has been properly leased, then the employer must pay an ACR to the ASRS for all retirees employed in those positions performing substantially similar functions, regardless of whether the individual retiree is leased or not. For example, an ASRS employer that hires direct employees to teach students must pay an ACR to the ASRS for any retiree it also hires to teach students, regardless of whether the retiree is leased and regardless of whether the retiree is teaching students under an arbitrary status such as "part-time" or "substitute."

Clarifying that an employer must pay the ACR for all retired members, without substantively changing the requirements for paying the ACR, will increase understandability of the statutory requirements in A.R.S. § 38-766.02, thereby reducing the regulatory burden imposed on the public. This clarification will ensure ASRS employers have notice about which personnel require the employer to remit an ACR to the ASRS.

**3. A citation to all published notices relating to the proceeding:**

None

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Jessica A. Ross, Rule 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

**5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.

**6. A timetable for agency decisions or other action on the proceeding, if known:**

To be determined.



## NOTICE OF RULEMAKING DOCKET OPENING

## INDUSTRIAL COMMISSION OF ARIZONA

[R15-158]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance  
**Chapter and its heading:** 5, Industrial Commission of Arizona  
**Article and its heading:** 6, Occupational Safety and Health  
**Section numbers:** R20-5-629
2. **The subject matter of the proposed rule:**

The Arizona Division of Occupational Safety and Health (ADOSH), part of the Industrial Commission of Arizona, is amending A.A.C. R20-5-629 to incorporate by reference amendments from 29 CFR 1904, as published in the *Federal Register*.

The amendments apply to injury and illness recording and reporting regulations as published in the *Federal Register* 79 FR56129-56188, September 18, 2014.

Exemptions from Executive Order 2015-01 were provided for this rulemaking by Ted Vogt, Chief of Operations in the Office of the Arizona Governor, in emails dated June 1, 2015.
3. **A citation to all published notices relating to the proceeding:**

Notice of Proposed Rulemaking: 21 A.A.R. 2512, October 30, 2015 (*in this issue*).
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Larry Gast, Assistant Director  
Address: Division of Occupational Safety and Health  
Industrial Commission of Arizona  
800 W. Washington St., Suite 203  
Phoenix, AZ 85007  
Phone: (602) 542-1695  
Fax: (602) 542-1614  
E-mail: Larry.Gast@azdosh.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**

The Industrial Commission will accept written comments during the public comment period (see item #10 of the Notice of Proposed Rulemaking in this issue). Information regarding an oral proceeding is included in the Notice of Proposed Rulemaking.
6. **A timetable for agency decisions or other action on the proceeding, if known:**

See the Notice of Proposed Rulemaking on page 2512 of this issue.