

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), 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)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

[R05-356]

PREAMBLE

1. Sections Affected

Article 6
R2-8-601
R2-8-602
R2-8-603
R2-8-604
R2-8-605
R2-8-606
R2-8-607

Rulemaking Action

New Article
New Section
New Section
New Section
New Section
New Section
New Section
New Section

2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §§ 38-714(F)(5), 41-1003

Implementing statute: A.R.S. §§ 41-1023, 41-1029, 41-1032, 41-1033, 41-1056.01

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 11 A.A.R. 3254, August 26, 2005

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

Name: Nancy Johnson, Rules Coordinator

Address: Arizona State Retirement System
Office of External Affairs
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012

Telephone: (602) 308-5172

Fax: (602) 240-5303

E-mail: NancyJ@asrs.state.az.us

Or:

Name: Susanne Dobel, Manager, External Operations

Address: Arizona State Retirement System
Office of External Affairs
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012

Telephone: (602) 240-2039

Fax: (602) 240-5303

E-mail: SusanneD@asrs.state.az.us

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5. An explanation of the rule, including the agency's reasons for initiating the rule:

Arizona Revised Statutes Title 41, Chapter 6, the Administrative Procedure Act, provides the authority and direction for establishing an agency record and providing public input of rules and substantive policy statements. This rule-making provides the process for:

1. Viewing the public record,
2. Petitioning for a new rule,
3. Petitioning for review of a rule, substantive policy statement or agency practice,
4. Objecting to a rule based on the economic impact,
5. Holding an oral proceeding on a proposed rulemaking, and
6. Petitioning for a delayed effective date for a rulemaking.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes 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 rule is necessary to promote a statewide interest if the rule 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:

This rulemaking provides the procedure for participating in the rulemaking process and viewing public records regarding rules and substantive policy statements, as provided for in A.R.S. § 41-1001.01. The ASRS will bear moderate costs for promulgating the rules, including costs for staff time to write, review, and direct the rules through the rulemaking process. The public benefits from having rules that provide a consistent process for viewing the public record, and otherwise participating in the rulemaking process. It also benefits the agency because clear and concise rules require less employee time answering questions from the public.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Nancy Johnson, Rules Coordinator

Address: Arizona State Retirement System
Office of External Affairs
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012

Telephone: (602) 308-5172

Fax: (602) 240-5303

E-mail: NancyJ@asrs.state.az.us

Or:

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E-mail: SusanneD@asrs.state.az.us

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

The ASRS has scheduled an oral proceeding on the proposed rulemaking:

Date: November 16, 2005

Location: 3300 N. Central, Board Room, 10th Floor
Phoenix, AZ 85012

Time: 2:00 p.m.

The close of record is 5 p.m., November 16, 2005.

A person may also submit written comments on the proposed rules no later than 5 p.m., November 16, 2005, to the individuals listed in item #4 and item #9.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 8. STATE RETIREMENT SYSTEM BOARD

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

Section

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

ARTICLE 6. PUBLIC PARTICIPATION IN RULEMAKING

R2-8-601. Definitions

The following definitions apply to this Article unless otherwise specified:

1. "ASRS" has the same meaning as in A.R.S. § 38-711.
2. "Day" means a calendar day, and excludes the:
 - a. Day of the act or event from which a designated period of time begins to run; and
 - b. Last day of the period if a Saturday, Sunday, or official state holiday.
3. "Rulemaking record" means a file the ASRS maintains as specified in A.R.S. § 41-1029.
4. "Oral proceeding" means a public gathering the ASRS holds for the purpose of receiving comment and answering questions about a proposed rule as specified in A.R.S. § 41-1023.
5. "Presiding officer" means an individual selected by the ASRS Director to oversee oral proceedings.
6. "Substantive policy statement" has the same meaning as in A.R.S. § 41-1001.

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

Except on a state holiday, an individual 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 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 individual 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 submitting the petition; and
6. The date the individual signs the petition.

B. The ASRS shall send a written notice of the ASRS's decision regarding the Petition for Rulemaking to the individual within 30 days of receipt of the petition.

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

A. An individual 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 alleges constitutes a rule shall include the following in the petition:

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1. The name and current address of the individual submitting the petition.
 2. The reason the individual alleges the agency practice or substantive policy statement constitutes a rule.
 3. The signature of the individual submitting the petition, and
 4. The date the individual signs the petition.
- B.** The individual 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 within 30 days of receipt of the petition.

R2-6-605. Objection to Rule Based Upon Economic, Small Business, and Consumer Impact

- A.** An individual 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 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;
 4. The signature of the individual submitting the objection; and
 5. The date the individual 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 requesting an oral proceeding under A.R.S. § 41-1023(C), shall submit a written request with the ASRS that includes:
1. The name and current address of the individual 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 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, transcripts, 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 for a voluntary list of individuals who attend the oral proceeding;
 2. Provide a speaker slip that includes space for:
 - a. An individual's name,
 - b. Who the individual represents, if applicable,
 - c. The rule the individual wishes to comment on or 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 public comment period by announcing the location where the 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 who wants 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 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;

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- 5. Signature of the individual submitting the petition, and
- 6. Date the individual signs the petition.
- B.** The ASRS shall send a written notice of the ASRS's decision to the individual within 30 days of receipt of the Petition for Delayed Effective Date.