

REFERENCE TITLE: ASRS; federal conforming changes

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

SB 1060

Introduced by
Senator Gorman

AN ACT

AMENDING SECTIONS 38-727 AND 38-775, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-727, Arizona Revised Statutes, is amended to
3 read:

4 38-727. Eligibility; options

5 The following provisions apply to all employees hired on or after the
6 effective date:

7 1. All employees and officers of this state and all officers and
8 employees of political subdivisions establishing a retirement plan
9 administered by the board pursuant to this article who as a result of state
10 service or service for the political subdivision are ~~included in agreements~~
11 ~~providing for their coverage~~ COVERED under the federal old age and survivors
12 insurance system are subject to this article, except that membership is not
13 mandatory:

14 (a) On the part of any employee who is eligible and who elects to
15 participate in the optional retirement programs established by the Arizona
16 board of regents pursuant to the authority conferred by section 15-1628 or by
17 a community college district board pursuant to authority conferred by section
18 15-1451.

19 (b) For a state elected official who is subject to term limits, who is
20 eligible for participation in ASRS because the state elected official elected
21 not to participate in the elected officials' retirement plan as provided in
22 section 38-804, subsection A and who elects not to participate in ASRS as
23 provided in paragraph 7 of this section.

24 (c) On the part of any employee or officer who is eligible to
25 participate and who participates in the elected officials' retirement plan
26 pursuant to article 3 of this chapter, the public safety personnel retirement
27 system pursuant to article 4 of this chapter or the corrections officer
28 retirement plan pursuant to article 6 of this chapter.

29 2. All employees and officers of political subdivisions whose
30 compensation is provided wholly or in part from state monies and who are
31 declared to be state employees and officers by the legislature for retirement
32 purposes are subject, on legislative enactment, to this article and are
33 members of ASRS.

34 3. Any member whose service terminates other than by death or
35 withdrawal from membership is deemed to be a member of ASRS until the
36 member's death benefit is paid.

37 4. Employees and officers shall not become members of ASRS and, if
38 they are members immediately before becoming employed as provided by this
39 section, shall have their membership status suspended while they are employed
40 by state departments paying the salaries of their officers and employees
41 wholly or in part from monies received from sources other than appropriations
42 from the state general fund for the period or periods payment of the employer
43 contributions is not made by or on behalf of the departments.

44 5. Notwithstanding other provisions of this section, a temporary
45 employee of the legislature whose projected term of employment is for not

1 more than six months is ineligible for membership in ASRS. If the employment
2 continues beyond six successive months, the employee may elect to either:

3 (a) Receive credit for service for the first six months of employment
4 and establish membership in ASRS as of the beginning of the current term of
5 employment if, within forty-five days after the first six months of
6 employment, both the employer and the employee contribute to ASRS the amount
7 that would have been required to be contributed to ASRS during the first six
8 months of employment as if the employee had been a member of ASRS during
9 those six months.

10 (b) Establish membership in ASRS as of the day following the
11 completion of six months of employment.

12 6. A person who is employed in postgraduate training in an approved
13 medical residency training program of an employer is ineligible for
14 membership in ASRS.

15 7. A state elected official who is subject to term limits and who is
16 eligible for participation in ASRS because the state elected official elected
17 not to participate in the elected officials' retirement plan as provided in
18 section 38-804, subsection A may elect not to participate in ASRS. The
19 election not to participate is specific for that term of office. The state
20 elected official who is subject to term limits shall make the election in
21 writing and file the election with ASRS within thirty days after the elected
22 official's retirement plan mails the notice to the state elected official of
23 the state elected official's eligibility to participate in ASRS. The
24 election is effective on the first day of the state elected official's
25 eligibility. If a state elected official who is subject to term limits fails
26 to make an election as provided in this paragraph, the state elected official
27 is deemed to have elected to participate in ASRS. The election not to
28 participate in ASRS is irrevocable and constitutes a waiver of all benefits
29 provided by ASRS for the state elected official's entire term, except for any
30 benefits accrued by the state elected official in ASRS for periods of
31 participation prior to being elected to an office subject to term limits or
32 any benefits expressly provided by law.

33 Sec. 2. Section 38-775, Arizona Revised Statutes, is amended to read:

34 38-775. Required distributions; definitions

35 A. This section applies for purposes of determining required minimum
36 distributions for calendar years beginning on and after January 1, 2006. In
37 applying the requirements of this section, the following operational
38 provisions govern:

39 1. Except as provided in the following sentence, the requirements of
40 this section take precedence over any inconsistent provisions of this
41 article. The rules of this section shall not restrict any form, calculation,
42 adjustment or payment of benefit provided under this article in effect on
43 April 17, 2002, if the form, calculation, adjustment or payment of benefit
44 satisfied section 401(a)(9) of the internal revenue code based on a
45 reasonable and good faith interpretation of that section.

1 2. All distributions required under this section shall be determined
2 and made pursuant to section 401(a)(9) of the internal revenue code and the
3 regulations that are issued under that section by the United States secretary
4 of the treasury.

5 3. Notwithstanding this section, other than paragraph 2 of this
6 subsection, distributions may be made under a designation made before
7 January 1, 1984, pursuant to section 242(b)(2) of the tax equity and fiscal
8 responsibility act of 1982 (P.L. 97-248) and the provisions of this article
9 that relate to that section.

10 B. The member's entire interest shall be distributed, or begin to be
11 distributed, to the member no later than the member's required beginning
12 date.

13 C. If the member dies before distributions begin, the member's entire
14 interest shall be distributed, or begin to be distributed, no later than as
15 follows:

16 1. If the member's surviving spouse is the member's sole designated
17 beneficiary, except as provided in paragraph 6 of this subsection,
18 distributions to the surviving spouse shall begin by December 31 of the
19 calendar year immediately following the calendar year in which the member
20 died, or by December 31 of the calendar year in which the member would have
21 attained seventy and one-half years of age, if later.

22 2. If the member's surviving spouse is not the member's sole
23 designated beneficiary, except as provided in paragraph 6 of this subsection,
24 distributions to the designated beneficiary shall begin by December 31 of the
25 calendar year immediately following the calendar year in which the member
26 died.

27 3. If there is no designated beneficiary as of September 30 of the
28 year following the year of the member's death, the member's entire interest
29 shall be distributed by December 31 of the calendar year containing the fifth
30 anniversary of the member's death.

31 4. If the member's surviving spouse is the member's sole designated
32 beneficiary and the surviving spouse dies after the member but before
33 distributions to the surviving spouse begin, this subsection, other than
34 paragraph 1 of this subsection, applies as if the surviving spouse were the
35 member.

36 5. For purposes of this subsection and subsection G, distributions are
37 considered to begin on the member's required beginning date or, if paragraph
38 4 of this subsection applies, the date distributions are required to begin to
39 the surviving spouse under paragraph 1 of this subsection. If annuity
40 payments irrevocably commence to the member before the member's required
41 beginning date, or to the member's surviving spouse before the date
42 distributions are required to begin to the surviving spouse under paragraph 1
43 of this subsection, the date distributions are considered to begin is the
44 date distributions actually commence.

1 6. If the member dies before distributions begin and there is a
2 designated beneficiary, distribution to the designated beneficiary is not
3 required to begin by the date prescribed in paragraph 1 or 2 of this
4 subsection as long as the member's entire interest will be distributed to the
5 designated beneficiary by December 31 of the calendar year containing the
6 fifth anniversary of the member's death. If the member's surviving spouse is
7 the member's sole designated beneficiary and the surviving spouse dies after
8 the member but before distributions to either the member or the surviving
9 spouse begin, this paragraph applies as if the surviving spouse were the
10 member.

11 D. Unless the member's interest is distributed in the form of an
12 annuity purchased from an insurance company or in a single sum on or before
13 the required beginning date, as of the first distribution, calendar year
14 distributions shall be made pursuant to subsections E, F and G. If the
15 member's interest is distributed in the form of an annuity purchased from an
16 insurance company, distributions shall be made pursuant to the requirements
17 of section 401(a)(9) of the internal revenue code and the regulations that
18 are issued under that section by the United States secretary of the treasury.
19 Any part of the member's interest that is in the form of an individual
20 account described in section 414(k) of the internal revenue code shall be
21 distributed in a manner satisfying the requirements of section 401(a)(9) of
22 the internal revenue code and the regulations that are issued under that
23 section by the United States secretary of the treasury that apply to
24 individual accounts.

25 E. The following provisions govern the determination of the amount to
26 be distributed each calendar year:

27 1. If the member's interest is paid in the form of annuity
28 distributions, payments under the annuity shall satisfy the following
29 requirements:

30 (a) The annuity distributions shall be paid in periodic payments made
31 at intervals not longer than one year.

32 (b) The distribution period shall be over a life or lives or over a
33 period certain not longer than the period described in subsection F or G.

34 (c) Once payments have begun over a period certain, the period certain
35 shall not be changed even if the period certain is shorter than the maximum
36 permitted.

37 (d) Payments shall either be nonincreasing or increase only as
38 follows:

39 (i) By an annual percentage increase that does not exceed the annual
40 percentage increase in a cost-of-living index that is based on prices of all
41 items and issued by the bureau of labor statistics.

42 (ii) To the extent of the reduction in the amount of the member's
43 payments to provide for a survivor benefit on death, but only if the
44 beneficiary whose life was being used to determine the distribution period
45 described in subsection F dies or is no longer the member's beneficiary

1 pursuant to a qualified domestic relations order within the meaning of
2 section 414(p) of the internal revenue code.

3 (iii) To provide cash refunds of employee contributions on the
4 member's death.

5 (iv) To pay increased benefits that result from a plan amendment.

6 2. The amount that must be distributed on or before the member's
7 required beginning date or, if the member dies before distributions begin,
8 the date distributions are required to begin under subsection C, paragraph 1
9 or 2, is the payment that is required for one payment interval. The second
10 payment need not be made until the end of the next payment interval even if
11 that payment interval ends in the next calendar year. Payment intervals are
12 the periods for which payments are received, such as bimonthly, monthly,
13 semiannually or annually. All of the member's benefit accruals as of the
14 last day of the first distribution calendar year shall be included in the
15 calculation of the amount of the annuity payments for payment intervals
16 ending on or after the member's required beginning date.

17 3. Any additional benefits accruing to the member in a calendar year
18 after the first distribution calendar year shall be distributed beginning
19 with the first payment interval ending in the calendar year immediately
20 following the calendar year in which the amount accrues.

21 F. The following provisions govern annuity distributions that commence
22 during a member's lifetime:

23 1. If the member's interest is being distributed in the form of a
24 joint and survivor annuity for the joint lives of the member and a nonspouse
25 beneficiary, annuity payments to be made on or after the member's required
26 beginning date to the designated beneficiary after the member's death must
27 not at any time exceed the applicable percentage of the annuity payment for
28 the period that would have been payable to the member using the table set
29 forth in question and answer number 2 of section 1.401(a)(9)-6 of the
30 regulations issued by the United States secretary of the treasury. If the
31 form of distribution combines a joint and survivor annuity for the joint
32 lives of the member and a nonspouse beneficiary and a period certain annuity,
33 the requirement in the preceding sentence applies to annuity payments to be
34 made to the designated beneficiary after the expiration of the period
35 certain.

36 2. Unless the member's spouse is the sole designated beneficiary and
37 the form of distribution is a period certain and no life annuity, the period
38 certain for an annuity distribution commencing during the member's lifetime
39 may not exceed the applicable distribution period for the member under the
40 uniform lifetime table prescribed in section 1.401(a)(9)-9 of the regulations
41 issued by the United States secretary of the treasury for the calendar year
42 that contains the annuity starting date. If the annuity starting date
43 precedes the year in which the member reaches seventy years of age, the
44 applicable distribution period for the member is the distribution period for
45 seventy years of age under the uniform lifetime table set forth in section

1 1.401(a)(9)-9 of the regulations issued by the United States secretary of the
2 treasury plus the excess of seventy over the age of the member as of the
3 member's birthday in the year that contains the annuity starting date. If
4 the member's spouse is the member's sole designated beneficiary and the form
5 of distribution is a period certain and no life annuity, the period certain
6 may not exceed the longer of the member's applicable distribution period, as
7 determined under this paragraph, or the joint life and last survivor
8 expectancy of the member and the member's spouse as determined under the
9 joint and last survivor table prescribed in section 1.401(a)(9)-9 of the
10 regulations issued by the United States secretary of the treasury, using the
11 member's and spouse's attained ages as of the member's and spouse's birthdays
12 in the calendar year that contains the annuity starting date.

13 G. The following provisions govern minimum distributions if a member
14 dies before the date distributions begin:

15 1. Except as provided in subsection C, paragraph 6, if the member dies
16 before the date distribution of the member's interest begins and there is a
17 designated beneficiary, the member's entire interest shall be distributed,
18 beginning no later than the time prescribed in subsection C, paragraph 1 or
19 2, over the life of the designated beneficiary or over a period certain not
20 exceeding either of the following:

21 (a) Unless the annuity starting date is before the first distribution
22 calendar year, the life expectancy of the designated beneficiary determined
23 using the beneficiary's age as of the beneficiary's birthday in the calendar
24 year immediately following the calendar year of the member's death.

25 (b) If the annuity starting date is before the first distribution
26 calendar year, the life expectancy of the designated beneficiary determined
27 using the beneficiary's age as of the beneficiary's birthday in the calendar
28 year that contains the annuity starting date.

29 2. If the member dies before the date distributions begin and there is
30 no designated beneficiary as of September 30 of the year following the year
31 of the member's death, distribution of the member's entire interest shall be
32 completed by December 31 of the calendar year containing the fifth
33 anniversary of the member's death.

34 3. If the member dies before the date distribution of the member's
35 interest begins, the member's surviving spouse is the member's sole
36 designated beneficiary and the surviving spouse dies before distributions to
37 the surviving spouse begin, this subsection applies as if the surviving
38 spouse were the member, except that the time by which distributions must
39 begin shall be determined without regard to subsection C, paragraph 1.

40 H. For the purposes of this section:

41 1. "Designated beneficiary" means the individual who is designated as
42 the member's beneficiary to receive benefits under this article and is the
43 designated beneficiary under section 401(a)(9) of the internal revenue code
44 and question and answer number ~~4-1~~ of section ~~1.401(a)(9)-1~~ 1.401(a)(9)-4 of
45 the regulations issued by the United States secretary of the treasury.

1 2. "Distribution calendar year" means a calendar year for which a
2 minimum distribution is required. For distributions beginning before the
3 member's death, the first distribution calendar year is the calendar year
4 immediately preceding the calendar year that contains the member's required
5 beginning date. For distributions beginning after the member's death, the
6 first distribution calendar year is the calendar year in which distributions
7 are required to begin pursuant to subsection C.

8 3. "Life expectancy" means life expectancy as computed by use of the
9 single life table in section 1.401(a)(9)-9 of the regulations issued by the
10 United States secretary of the treasury.

11 4. "Required beginning date" means the date payment of a member's
12 benefits shall commence, which shall not be later than the April 1 following
13 the calendar year in which the member attains seventy and one-half years of
14 age or the calendar year in which the member terminates employment, whichever
15 occurs later.