

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1407

AN ACT

AMENDING SECTIONS 38-711 AND 38-714, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-722; AMENDING SECTION 38-742, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-750; AMENDING SECTIONS 38-765 AND 38-797.02, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; 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 38-711, Arizona Revised Statutes, is amended to
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Active member" means a member as defined in paragraph 23,
7 subdivision (b) of this section who satisfies the eligibility criteria
8 prescribed in section 38-727 and who is currently making member contributions
9 as prescribed in section 38-736.

10 2. "Actuarial equivalent" means equality in value of the aggregate
11 amounts expected to be received under two different forms of payment, based
12 on mortality and interest rate assumptions approved from time to time by the
13 board.

14 3. "ASRS" means the Arizona state retirement system established by
15 this article.

16 4. "Assets" means the resources of ASRS including all cash,
17 investments or securities.

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the monthly average of
23 compensation on which contributions were remitted during a period of sixty
24 consecutive months during which the member receives the highest compensation
25 within the last one hundred twenty months of credited service. Any month for
26 which no contributions are reported to ASRS or that falls within a period of
27 nonpaid or partially paid leave of absence or sabbatical leave shall be
28 excluded from the computation. The sixty consecutive months may entirely
29 precede, may be both before and after or may be completely after any excluded
30 months. If the member was employed for less than sixty consecutive months,
31 the average monthly compensation is based on the total consecutive months
32 worked. Payments for accumulated vacation or annual leave, sick leave,
33 compensatory time or other forms of termination pay which, ~~prior to the~~
34 ~~effective date of the amendment to this section~~ BEFORE AUGUST 12, 2005,
35 constitute compensation for members whose membership in ASRS commenced before
36 January 1, 1984, do not cease to be included as compensation if paid in the
37 form of nonelective employer contributions under a 26 United States Code
38 section 403(b) plan ~~so long as~~ IF all payments of employer and employee
39 contributions are made at the time of termination. Contributions shall be
40 made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

41 (b) Effective July 1, 1985, the monthly average of compensation on
42 which contributions were remitted during a period of thirty-six consecutive
43 months during which a member receives the highest compensation within the
44 last one hundred twenty months of credited service. Any month for which no
45 contributions are reported to ASRS or that falls within a period of nonpaid

1 or partially paid leave of absence or sabbatical leave shall be excluded from
2 the computation. The thirty-six consecutive months may entirely precede, may
3 be both before and after or may be completely after any excluded months. If
4 the member was employed for less than thirty-six consecutive months, the
5 average monthly compensation shall be based on the total consecutive months
6 worked. This subdivision applies only to members whose membership in ASRS
7 was effective after December 31, 1983 or who agree in writing as a binding
8 condition of eligibility for being granted the benefit advantages available
9 under this subdivision to have their benefit computed on the basis of the
10 definition of compensation.

11 6. "Board" means the ASRS board established in section 38-713.

12 7. "Compensation" means the gross amount paid to a member by an
13 employer as salary or wages, including amounts that are subject to deferred
14 compensation or tax shelter agreements, for services rendered to or for an
15 employer, or that would have been paid to the member except for the member's
16 election or a legal requirement that all or part of the gross amount be used
17 for other purposes, but does not include amounts paid in excess of
18 compensation limits established in section 38-746. Compensation includes
19 amounts paid as salary or wages to a member by a second employer.
20 Compensation, as provided in paragraph 5, subdivision (b) of this section,
21 does not include:

22 (a) Lump sum payments, on termination of employment, for accumulated
23 vacation or annual leave, sick leave, compensatory time or any other form of
24 termination pay whether the payments are made in one payment or by
25 installments over a period of time.

26 (b) Damages, costs, attorney fees, interest or other penalties paid
27 pursuant to a court order or a compromise settlement or agreement to satisfy
28 a grievance or claim even though the amount of the payment is based in whole
29 or in part on previous salary or wage levels, except that, if the court order
30 or compromise settlement or agreement directs salary or wages to be paid for
31 a specific period of time, the payment is compensation for that specific
32 period of time. If the amount directed to be paid is less than the actual
33 salary or wages that would have been paid for the period if service had been
34 performed, the contributions for the period shall be based on the amount of
35 compensation that would have been paid if the service had been performed.

36 (c) Payment, at the member's option, in lieu of fringe benefits that
37 are normally paid for or provided by the employer.

38 (d) Merit awards pursuant to section 38-613 and performance bonuses
39 paid to assistant attorneys general pursuant to section 41-192.

40 8. "Contingent annuitant" means the person named by a member to
41 receive retirement income payable following a member's death after retirement
42 as provided in section 38-760.

43 9. "Credited service" means, subject to section 38-739, the number of
44 years standing to the member's credit on the books of ASRS during which the
45 member made the required contributions.

- 1 10. "Current annual compensation" means the greater of:
2 (a) Annualized compensation of the ~~full~~ TYPICAL pay period AMOUNT
3 immediately before the date of a request to ASRS to purchase credited service
4 pursuant to section 38-743, 38-744 or 38-745. THE TYPICAL PAY PERIOD AMOUNT
5 SHALL BE DETERMINED BY TAKING THE FIVE PAY PERIODS IMMEDIATELY BEFORE THE
6 DATE OF A REQUEST, DISREGARDING THE HIGHEST AND LOWEST COMPENSATION AMOUNT
7 PAY PERIODS AND AVERAGING THE THREE REMAINING PAY PERIODS.
8 (b) Annualized compensation of the partial year, DISREGARDING THE
9 FIRST COMPENSATION AMOUNT PAY PERIOD, if the member has less than twelve
10 months total credited service on the date of a request to purchase credited
11 service pursuant to section 38-743, 38-744 or 38-745.
12 (c) The sum of the twelve months of compensation immediately before
13 the date of a request to ASRS to purchase credited service pursuant to
14 section 38-743, 38-744 or 38-745.
15 (d) The sum of the thirty-six months of compensation immediately
16 before the date of a request to ASRS to purchase credited service pursuant to
17 section 38-743, 38-744 or 38-745 divided by three.
18 (e) If the member has retired one or more times from ASRS, the average
19 monthly compensation that was used for calculating the member's last pension
20 benefit times twelve.
21 11. "Early retirement" means retirement before a member's normal
22 retirement date after five years of total credited service and attainment of
23 age fifty.
24 12. "Effective date" means July 1, 1970, except with respect to
25 employers and members whose contributions to ASRS commence thereafter, the
26 effective date of their membership in ASRS is as specified in the applicable
27 joinder agreement.
28 13. "Employer" means:
29 (a) This state.
30 (b) Participating political subdivisions.
31 (c) Participating political subdivision entities.
32 14. "Employer contributions" means all amounts paid into ASRS by an
33 employer on behalf of a member.
34 15. "Fiscal year" means the period from July 1 of any year to June 30
35 of the following year.
36 16. "Inactive member" means a member who previously made contributions
37 to ASRS and who satisfies each of the following:
38 (a) Has not retired.
39 (b) Is not eligible for active membership in ASRS.
40 (c) Is not currently making contributions to ASRS.
41 (d) Has not withdrawn contributions from ASRS.
42 17. "Interest" means the assumed actuarial investment earnings rate
43 approved by the board.
44 18. "Internal revenue code" means the United States internal revenue
45 code of 1986, as amended.

1 19. "Investment management" means the persons, companies, banks,
2 insurance company investment funds, mutual fund companies, management or any
3 combinations of those entities that are appointed by ASRS and that have
4 responsibility and authority for investment of the monies of ASRS.

5 20. "Late retirement" means retirement after normal retirement.

6 21. "Leave of absence" means any unpaid leave authorized by the
7 employer, including leaves authorized for sickness or disability or to pursue
8 education or training.

9 22. "Life annuity" means equal monthly installments payable during the
10 member's lifetime after retirement.

11 23. "Member":

12 (a) Means any employee of an employer on the effective date.

13 (b) Means all employees of an employer who are eligible for membership
14 pursuant to section 38-727 and who are engaged to work at least twenty weeks
15 in each fiscal year and at least twenty hours each week.

16 (c) Means any person receiving a benefit under ASRS.

17 (d) Means any person who is a former active member of ASRS and who has
18 not withdrawn contributions from ASRS pursuant to section 38-740.

19 (e) Does not include any employee of an employer who is otherwise
20 eligible pursuant to this article and who begins service in a limited
21 appointment for not more than eighteen months on or after July 1, 1979. If
22 the employment exceeds eighteen months, the employee shall be covered by ASRS
23 as of the beginning of the nineteenth month of employment. In order to be
24 excluded under this subdivision, classifications of employees designated by
25 employers as limited appointments must be approved by the director.

26 (f) Does not include any leased employee. For the purposes of section
27 414(n) of the internal revenue code, "leased employee" means an individual
28 who:

29 (i) Is not otherwise an employee of an employer.

30 (ii) Pursuant to a leasing agreement between the employer and another
31 person, performs services for the employer on a substantially full-time basis
32 for at least one year.

33 (iii) Performs services under the primary direction or control of the
34 employer.

35 24. "Member contributions" means all amounts paid to ASRS by a member.

36 25. "Normal costs" means the sum of the individual normal costs for all
37 active members for each fiscal year. The normal cost for an individual
38 active member is the cost that is assigned to the fiscal year using the
39 projected unit credit method.

40 26. "Normal retirement age" means the age at which a member reaches the
41 member's normal retirement date.

42 27. "Normal retirement date" means the earliest of the following:

43 (a) A member's sixty-fifth birthday.

44 (b) A member's sixty-second birthday and completion of at least ten
45 years of credited service.

1 (c) The first day that the sum of a member's age and years of total
2 credited service equals eighty.

3 28. "Political subdivision" means any political subdivision of this
4 state and includes a political subdivision entity.

5 29. "Political subdivision entity" means an entity:

6 (a) That is located in this state.

7 (b) That is created in whole or in part by political subdivisions,
8 including instrumentalities of political subdivisions.

9 (c) Where a majority of the membership of the entity is composed of
10 political subdivisions.

11 (d) Whose primary purpose is the performance of a government related
12 service.

13 30. "Retired member" means a member who is receiving retirement
14 benefits pursuant to this article.

15 31. "Service year" means fiscal year, except that:

16 (a) If the normal work year required of a member is less than the full
17 fiscal year but is for a period of at least nine months, the service year is
18 the normal work year.

19 (b) For a salaried member employed on a contract basis under one
20 contract, or two or more consecutive contracts, for a total period of at
21 least nine months, the service year is the total period of the contract or
22 consecutive contracts.

23 (c) In determining average monthly compensation pursuant to paragraph
24 5 of this section, the service year is considered to be twelve months of
25 compensation.

26 32. "State" means this state, including any department, office, board,
27 commission, agency, institution or other instrumentality of this state.

28 33. "Vested" means that a member is eligible to receive a future
29 retirement benefit.

30 Sec. 2. Section 38-714, Arizona Revised Statutes, is amended to read:

31 38-714. Powers and duties of ASRS and board

32 A. ASRS shall have the powers and privileges of a corporation, shall
33 have an official seal and shall transact all business in the name "Arizona
34 state retirement system", and in that name may sue and be sued.

35 B. The board is responsible for supervising the administration of this
36 article by the director of ASRS, except the investment powers and duties of
37 investment management.

38 C. The board is responsible for the performance of fiduciary duties
39 and other responsibilities required to preserve and protect the retirement
40 trust fund established by section 38-712.

41 D. The board shall:

42 1. Prescribe investment goals, objectives and policies that are
43 consistent with the purposes of this article and the limitations and standard
44 of care prescribed in section 38-719, subsection B.

1 2. Allocate assets to meet the investment goals, objectives and
2 policies it prescribes.

3 3. Adopt specific policy directives for the guidance of investment
4 management.

5 4. Meet with each investment manager at least annually or at the
6 request of a board member to review the investment manager's performance and
7 the investment manager's attainment of and adherence to the board's
8 investment goals, objectives and policies.

9 E. The board shall not advocate for or against legislation providing
10 for benefit modifications, except that the board shall provide technical and
11 administrative information regarding the impact of benefit modification
12 legislation.

13 F. The board may:

14 1. Determine the rights, benefits or obligations of any person under
15 this article and afford any person dissatisfied with a determination a
16 hearing on the determination.

17 2. Determine the amount, manner and time of payment of any benefits
18 under this article.

19 3. Assign, transfer and deliver all stocks, bonds and other
20 investments owned by ASRS if it is not inconsistent with or does not in any
21 way contravene the authority of investment management for investing,
22 reinvesting, purchasing and selling stocks, bonds and other investments.

23 4. Recommend amendments to this article and articles 2.1 and 7 of this
24 chapter that are required for efficient and effective administration.

25 5. Adopt, amend or repeal rules for the administration of **THE PLAN,**
26 this article **AND ARTICLES 2.1 AND 7 OF THIS CHAPTER.**

27 6. Prescribe investment diversification programs and assign investment
28 management responsibilities regarding those programs as it deems appropriate
29 to achieve its investment goals, objectives and policies.

30 G. The board shall submit to the governor and legislature for each
31 fiscal year no later than eight months after the close of the fiscal year a
32 report of its operations and the operations of ASRS. The report shall follow
33 generally accepted accounting principles and generally accepted financial
34 reporting standards and shall include:

35 1. A report on an actuarial valuation of ASRS assets and liabilities.

36 2. Any other statistical and financial data that may be necessary for
37 the proper understanding of the financial condition of ASRS and the results
38 of board operations.

39 3. On request of the governor or the legislature, a list of
40 investments owned. This list shall be provided in electronic format.

41 H. The board shall:

42 1. Prepare and publish a synopsis of the annual report for the
43 information of ASRS members.

1 2. Contract for a study of the mortality, disability, service and
2 other experiences of the members and employers participating in ASRS. The
3 study shall be conducted for fiscal year 1990-1991 and for at least every
4 fifth fiscal year thereafter. A report of the study shall be completed
5 within eight months of the close of the applicable fiscal year and shall be
6 submitted to the governor and the legislature.

7 3. Conduct an annual actuarial valuation of ASRS assets and
8 liabilities.

9 I. The auditor general may make an annual audit of ASRS and transmit
10 the results to the governor and the legislature.

11 Sec. 3. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
12 amended by adding section 38-722 effective from and after June 30, 2009, to
13 read:

14 38-722. Abandoned monies; disposition

15 A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE TRUST FUND
16 ESTABLISHED BY SECTION 38-712 IS EXEMPT FROM TITLE 44, CHAPTER 3.

17 B. MONIES IN THE ASRS TRUST FUND AND THE LTD TRUST FUND ESTABLISHED BY
18 SECTION 38-797.02 ARE PRESUMED ABANDONED IF THE APPARENT OWNER, AS DEFINED IN
19 SECTION 44-301, HAS NOT COMMUNICATED IN WRITING WITH ASRS AND HAS NOT
20 OTHERWISE INDICATED AN INTEREST IN THE MONIES FOR THE THREE YEAR PERIOD
21 FOLLOWING THE REQUIRED BEGINNING DATE OF DISTRIBUTIONS PURSUANT TO SECTION
22 38-775.

23 C. AT THE TIME MONIES ARE PRESUMED ABANDONED PURSUANT TO SUBSECTION B
24 OF THIS SECTION, ANY OTHER PROPERTY RIGHT ACCRUED OR ACCRUING TO THE OWNER AS
25 A RESULT OF THE INTEREST IN THOSE MONIES, AND NOT PREVIOUSLY PRESUMED
26 ABANDONED, IS ALSO PRESUMED ABANDONED.

27 D. INTEREST CEASES TO ACCRUE ON THE MONIES ON THE DATE THE MONIES ARE
28 PRESUMED ABANDONED.

29 E. BEFORE MONIES ARE PRESUMED ABANDONED, ASRS SHALL ATTEMPT TO CONTACT
30 THE APPARENT OWNER IN WRITING. IF THE APPARENT OWNER IS A MEMBER, BEGINNING
31 FIVE YEARS BEFORE THE APPARENT OWNER'S REQUIRED BEGINNING DATE OF
32 DISTRIBUTIONS PURSUANT TO SECTION 38-775 AND FOR THREE YEARS AFTER THAT DATE,
33 ASRS SHALL ANNUALLY SEND A NOTICE TO THE APPARENT OWNER NOTIFYING THE
34 APPARENT OWNER OF THE OWNER'S ELIGIBILITY FOR A RETIREMENT BENEFIT. IF THE
35 APPARENT OWNER IS A BENEFICIARY, BEGINNING IN THE CALENDAR YEAR CONTAINING
36 THE FIFTH ANNIVERSARY OF THE MEMBER'S DEATH AND FOR THREE YEARS, ASRS SHALL
37 ANNUALLY SEND A NOTICE TO THE APPARENT OWNER NOTIFYING THE APPARENT OWNER OF
38 THE OWNER'S ELIGIBILITY FOR A SURVIVOR BENEFIT. IF THIS NOTICE IS RETURNED
39 BY THE POSTAL AUTHORITY AS UNDELIVERABLE, ASRS SHALL MAKE A GOOD FAITH
40 ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN
41 BENEFICIARY ON RECORD WITH ASRS, SEARCHING PUBLIC DATABASES TO IDENTIFY THE
42 ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY ADDRESS
43 VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE APPARENT OWNER
44 FAILS AND THE BASE AMOUNT OF THE UNCLAIMED MONIES IS THREE HUNDRED DOLLARS OR
45 MORE, ASRS MAY USE THE SERVICES OF A PEOPLE SEARCH SERVICE. A FEE IMPOSED BY

1 THE PEOPLE SEARCH SERVICE SHALL NOT BE DEDUCTED FROM THE MEMBER'S BENEFIT AND
2 THESE EXPENDITURES ARE CONTINUOUSLY APPROPRIATED AND SHALL BE PAID FROM THE
3 ADMINISTRATION ACCOUNT ESTABLISHED PURSUANT TO SECTION 38-721 IN THE AMOUNT
4 DEEMED NECESSARY BY THE BOARD.

5 F. IF AT ANY TIME AN OWNER, AS DEFINED IN SECTION 44-301, ESTABLISHES
6 AN ENTITLEMENT IN THE MONIES, ASRS SHALL WITHDRAW THE MONIES FROM EITHER THE
7 ASRS TRUST FUND OR THE LTD TRUST FUND, WHICHEVER IS APPLICABLE, AND PAY THE
8 OWNER THE MONIES OR BENEFIT TO WHICH THE OWNER IS ENTITLED PURSUANT TO THIS
9 ARTICLE OR ARTICLE 2.1 OF THIS CHAPTER, INCLUDING INTEREST AT A RATE
10 DETERMINED BY ASRS, IF APPLICABLE.

11 Sec. 4. Section 38-742, Arizona Revised Statutes, is amended to read:
12 38-742. Reinstatement

13 A. If an active member who received a return of contributions on
14 termination of employment and by receipt of those contributions forfeited
15 credited service earned on that employment, as provided in section 38-740,
16 subsection A, is subsequently reemployed by an employer, the member's service
17 shall be credited only from the date the member's most recent reemployment
18 period commenced.

19 B. Notwithstanding subsection A of this section, the member may
20 redeposit the amount of the contributions the member received at the time of
21 the member's separation from service, with interest on that amount to the
22 date of redeposit at the interest rate assumption approved by the board for
23 actuarial equivalency. On satisfaction of this obligation, the member's
24 service credits acquired by the previous employment shall be reinstated. **THE**
25 **MEMBER IS SUBJECT TO THE BENEFITS AND DUTIES IN EFFECT AT THE TIME OF THE**
26 **MEMBER'S MOST RECENT REEMPLOYMENT EXCEPT AS PROVIDED IN SECTION 38-711,**
27 **PARAGRAPH 5, SUBDIVISION (a).** If a member redeposits less than the amount
28 required under this subsection, ASRS shall proportionately reduce the
29 member's reinstated service credits.

30 C. A member who is receiving benefits pursuant to section 38-797.07
31 and who received a return of contributions on termination of employment and
32 by receipt of those contributions forfeited credited service earned on that
33 employment, as provided in section 38-740, subsection A, may redeposit the
34 amount of the contributions the member received at the time of the member's
35 previous separation from service, with interest on that amount to the date of
36 redeposit at the interest rate assumption approved by the board for actuarial
37 equivalency. On redeposit of the contributions and interest, the member's
38 service ~~credit~~ CREDITS acquired by the previous employment shall be
39 reinstated. **THE MEMBER IS SUBJECT TO THE BENEFITS AND DUTIES IN EFFECT AT**
40 **THE TIME OF THE MEMBER'S MOST RECENT REEMPLOYMENT EXCEPT AS PROVIDED IN**
41 **SECTION 38-711, PARAGRAPH 5, SUBDIVISION (a).** If a member redeposits less
42 than the amount required under this subsection, ASRS shall proportionately
43 reduce the member's reinstated service credits.

1 Sec. 5. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
2 amended by adding section 38-750, to read:

3 38-750. Transfers out of the system

4 A. IF AN EMPLOYEE HAS MADE AN IRREVOCABLE ELECTION PURSUANT TO SECTION
5 38-747, SUBSECTION B OR D AND TRANSFERS PARTICIPATION TO ANOTHER DEFINED
6 BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE WITHOUT A TERMINATION OF
7 EMPLOYMENT, WITHIN NINETY DAYS AFTER THE DATE OF THE TRANSFER, ASRS SHALL
8 TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN THE
9 AMOUNT THE EMPLOYEE PAID FOR THE PURCHASE OF THE CREDITED SERVICE PLUS
10 INTEREST AS DETERMINED BY ASRS.

11 B. IF THE ASSETS TRANSFERRED FROM ASRS ARE LESS THAN THE COST OF THE
12 BENEFITS ACCRUED RELATIVE TO THE CREDITED SERVICE AS CALCULATED PURSUANT TO
13 SECTION 38-922, SUBSECTION B, PARAGRAPH 2, AND UNLESS A LAW OTHERWISE
14 PROVIDES, THE EMPLOYEE SHALL ELECT EITHER TO PAY THE DIFFERENCE TO THE
15 SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OR ACCEPT A REDUCED
16 AMOUNT OF SERVICE CREDITS. IF THE EMPLOYEE ELECTS TO PAY THE DIFFERENCE, THE
17 AMOUNT PAID SHALL BE ADDED TO THE EMPLOYEE'S ACCUMULATED CONTRIBUTION ACCOUNT
18 BALANCE. IF THE EMPLOYEE ELECTS TO ACCEPT A REDUCED AMOUNT OF SERVICE
19 CREDITS, THE AMOUNT OF SERVICE CREDITS GRANTED SHALL BE EQUAL TO THE AMOUNT
20 OF SERVICE CREDITS PURCHASED MULTIPLIED BY THE RATIO OF THE AMOUNT OF ASSETS
21 TRANSFERRED TO THE AMOUNT CALCULATED PURSUANT TO SECTION 38-922, SUBSECTION
22 B, PARAGRAPH 2.

23 C. THE TRANSFERRED EMPLOYEE AND THE EMPLOYER SHALL COMPLETE THE TERMS
24 OF THE IRREVOCABLE ELECTION BY MAKING PAYMENTS TO ASRS.

25 D. IF THE EMPLOYEE IS GIVEN AN ELECTION TO TRANSFER TO ANOTHER DEFINED
26 BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
27 EMPLOYEE'S CURRENT RETIREMENT SYSTEM, ON TERMINATION OF EMPLOYMENT THE
28 EMPLOYEE SHALL ELECT TO HAVE ASRS:

29 1. PROMPTLY TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT
30 SYSTEM OR PLAN THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED
31 SERVICE PLUS INTEREST AS DETERMINED BY ASRS. IF AN UNFUNDED LIABILITY IS
32 CREATED, SUBSECTION B OF THIS SECTION APPLIES. IF THE EMPLOYEE FAILS TO
33 ELECT TO HAVE THE ASSETS TRANSFERRED WITHIN THIRTY DAYS AFTER TERMINATION OF
34 EMPLOYMENT, THE EMPLOYEE IS DEEMED TO HAVE MADE AN ELECTION AS PRESCRIBED IN
35 PARAGRAPH 2.

36 2. ON WRITTEN REQUEST BY THE EMPLOYEE, PROMPTLY RETURN TO THE EMPLOYEE
37 THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED SERVICE PLUS
38 INTEREST AS DETERMINED BY ASRS. IF NO APPLICATION IS RECEIVED BY ASRS WITHIN
39 SIXTY DAYS AFTER TERMINATION OF EMPLOYMENT, ASRS SHALL ISSUE THE PAYMENT
40 DIRECTLY TO THE EMPLOYEE.

41 E. IF THE EMPLOYEE IS NOT GIVEN AN ELECTION TO TRANSFER TO ANOTHER
42 DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
43 EMPLOYEE'S CURRENT RETIREMENT SYSTEM, AFTER TERMINATION OF EMPLOYMENT THE
44 EMPLOYEE MAY ELECT, WITHIN THIRTY DAYS OF TERMINATION OF EMPLOYMENT TO HAVE
45 ASRS PROMPTLY TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR

1 PLAN THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED SERVICE
2 PLUS INTEREST AS DETERMINED BY ASRS. IF AN UNFUNDED LIABILITY IS CREATED,
3 SUBSECTION B OF THIS SECTION APPLIES. IF THE EMPLOYEE FAILS TO MAKE THE
4 ELECTION UNDER THIS SUBSECTION, ASRS SHALL DEEM THE EMPLOYEE AS AN INACTIVE
5 MEMBER OF ASRS.

6 F. IF AN EMPLOYEE IS GIVEN AN ELECTION TO TRANSFER TO ANOTHER DEFINED
7 BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
8 EMPLOYEE'S CURRENT RETIREMENT SYSTEM AND THE EMPLOYEE IS RECEIVING A BENEFIT
9 PURSUANT TO THIS ARTICLE BASED ON THE EMPLOYEE'S OWN SERVICE OR ARTICLE 2.1
10 OF THIS CHAPTER, THE EMPLOYEE IS ELIGIBLE TO TRANSFER TO THE RETIREMENT
11 SYSTEM OR PLAN, BUT THE ELECTION TO TRANSFER TERMINATES THE BENEFIT FROM ASRS
12 ON THE EFFECTIVE DATE OF THE TRANSFER.

13 G. IF AN EMPLOYEE IS NOT GIVEN AN ELECTION TO TRANSFER TO ANOTHER
14 DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
15 EMPLOYEE'S CURRENT RETIREMENT SYSTEM AND THE EMPLOYEE IS RECEIVING A BENEFIT
16 PURSUANT TO THIS ARTICLE BASED ON THE EMPLOYEE'S OWN SERVICE OR ARTICLE 2.1
17 OF THIS CHAPTER, THE EMPLOYEE IS NOT ELIGIBLE TO TRANSFER TO ANOTHER
18 RETIREMENT SYSTEM OR PLAN.

19 Sec. 6. Section 38-765, Arizona Revised Statutes, is amended to read:

20 38-765. Errors; benefit recomputation

21 If any change or error in the records results in any member or
22 beneficiary receiving from ASRS more or less than the member or beneficiary
23 would have been entitled to receive if the records had been correct, ~~the~~
24 ~~board~~ ASRS shall correct the error and as far as practicable shall adjust the
25 payments in a manner so that the actuarial equivalent of the benefit to which
26 the member or beneficiary was correctly entitled is paid. ~~The board~~ ASRS
27 shall correct any change or error and shall pay the appropriate monies to a
28 member or beneficiary or shall recover monies from the member or beneficiary
29 if the member or beneficiary is overpaid. ASRS SHALL RECOVER MONIES BY
30 REDUCING ANY BENEFIT OTHERWISE PAYABLE BY ASRS OR THE LTD PROGRAM ESTABLISHED
31 BY ARTICLE 2.1 OF THIS CHAPTER TO AN ACTIVE, INACTIVE, DISABLED OR RETIRED
32 MEMBER, SURVIVOR, CONTINGENT ANNUITANT, BENEFICIARY OR ALTERNATE PAYEE.

33 Sec. 7. Section 38-797.02, Arizona Revised Statutes, is amended
34 effective from and after June 30, 2009, to read:

35 38-797.02. LTD trust fund

36 A. ~~A~~ THE LTD trust fund is established for the purpose of paying
37 benefits under and costs of administering the LTD program.

38 B. The LTD TRUST fund consists of all monies paid into it in
39 accordance with this article, whether in the form of cash, securities or
40 other assets, and all monies received from any other source. THE LTD TRUST
41 FUND IS EXEMPT FROM TITLE 44, CHAPTER 3. ABANDONED MONIES SHALL BE DISPOSED
42 OF PURSUANT TO SECTION 38-722.

43 C. Custody, management and investment of the LTD TRUST fund are as
44 prescribed by this article and article 2 of this chapter.

1 Sec. 8. Appropriation: ASRS: exemption

2 A. The sum of \$137,607 is appropriated from the Arizona state
3 retirement system administration account in fiscal year 2008-2009 to the
4 Arizona state retirement system for the administrative implementation of this
5 act.

6 B. The appropriation made in subsection A of this section is exempt
7 from the provisions of section 35-190, Arizona Revised Statutes, relating to
8 lapsing of appropriations.

9 Sec. 9. Emergency

10 This act is an emergency measure that is necessary to preserve the
11 public peace, health or safety and is operative immediately as provided by
12 law.