

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2118

AN ACT

AMENDING SECTIONS 38-615, 38-711, 38-715, 38-730, 38-743 AND 38-744, ARIZONA REVISED STATUTES; AMENDING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 1; REPEALING SECTION 38-745, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 244, SECTION 2; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-748; AMENDING SECTIONS 38-749, 38-757, 38-762, 38-766, 38-766.01, 38-783 AND 38-797, ARIZONA REVISED STATUTES; REPEALING SECTION 38-797.06, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2.1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-797.06; AMENDING SECTION 38-797.07, ARIZONA REVISED STATUTES; REPEALING LAWS 2007, CHAPTER 244, SECTION 4; 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 38-615, Arizona Revised Statutes, is amended to
3 read:

4 38-615. Payment for accumulated sick leave: requirements:
5 limit: definition

6 A. An officer or employee of ~~the~~ THIS state, subject to legislative
7 appropriation, or an officer or employee of a county, subject to
8 authorization by the board of supervisors, is eligible, on retirement, to
9 receive benefits as follows:

10 1. An officer or employee who has at least five hundred but less than
11 seven hundred fifty hours of sick leave ~~shall~~ IS ENTITLED TO receive payments
12 equal to twenty-five per cent of the officer's or employee's salary at the
13 officer's or employee's current hourly rate for each hour of accumulated sick
14 leave.

15 2. An officer or employee who has at least seven hundred fifty but
16 less than one thousand hours of sick leave ~~shall~~ IS ENTITLED TO receive
17 payments equal to thirty-three per cent of the officer's or employee's salary
18 at the officer's or employee's current hourly rate for each hour of
19 accumulated sick leave.

20 3. An officer or employee who has at least one thousand hours of sick
21 leave ~~shall~~ IS ENTITLED TO receive payments equal to fifty per cent of the
22 officer's or employee's salary at the officer's or employee's current hourly
23 rate for each hour of accumulated sick leave not to exceed one thousand five
24 hundred hours of accumulated sick leave.

25 ~~B. An officer or employee who receives payments as provided in~~
26 ~~subsection A of this section shall not receive more than thirty thousand~~
27 ~~dollars. If an officer or employee receives payments pursuant to subsection~~
28 ~~A of this section, the officer or employee shall be paid the amount due the~~
29 ~~officer or employee in installments over a three year period.~~

30 B. IN ORDER TO BE ELIGIBLE TO RECEIVE PAYMENTS PURSUANT TO
31 SUBSECTION A OF THIS SECTION:

32 1. AN OFFICER OR EMPLOYEE MUST ESTABLISH A RETIREMENT DATE NOT LATER
33 THAN THIRTY-ONE DAYS AFTER TERMINATION OF EMPLOYMENT BY QUALIFYING WITH AN
34 AUTHORIZED RETIREMENT SYSTEM OR PLAN OF THIS STATE.

35 2. THE RETIREMENT DATE MUST BE EFFECTIVE NOT LATER THAN THIRTY-ONE
36 DAYS AFTER TERMINATION OF EMPLOYMENT.

37 3. AN OFFICER OR EMPLOYEE SHALL ELECT RETIREMENT BENEFITS THAT ARE
38 DEFINED NOT LATER THAN THIRTY-ONE DAYS AFTER TERMINATION OF EMPLOYMENT.

39 C. AN OFFICER OR EMPLOYEE WHO RECEIVES PAYMENTS AS PROVIDED IN
40 SUBSECTION A OF THIS SECTION SHALL NOT RECEIVE MORE THAN THIRTY THOUSAND
41 DOLLARS.

42 D. IF AN OFFICER OR EMPLOYEE RECEIVES PAYMENTS PURSUANT TO
43 SUBSECTION A OF THIS SECTION, THE OFFICER OR EMPLOYEE SHALL BE PAID THE
44 AMOUNT DUE THE OFFICER OR EMPLOYEE EITHER IN A LUMP SUM OR IN INSTALLMENTS
45 OVER A THREE YEAR PERIOD.

1 ~~E.~~ E. If an officer or employee dies before the officer or employee
2 receives the total payment due to the officer or employee or if an officer or
3 employee is eligible for normal retirement but has not retired at the time of
4 the officer's or employee's death, the officer's or employee's beneficiary
5 ~~shall~~ IS ENTITLED TO receive the balance due to the officer or employee in a
6 lump sum.

7 ~~F.~~ F. Notwithstanding any other law:

8 1. The cash value of the sick leave credit pursuant to subsection A of
9 this section shall not be used to compute the average salary.

10 2. The payment authorized by this section for accumulated sick leave
11 is not salary or compensation for the purposes of making retirement
12 contributions or computing any pension benefit.

13 3. THE SICK LEAVE MUST BE AVAILABLE FOR USE BY THE OFFICER OR EMPLOYEE
14 AT THE TIME OF TERMINATION OF EMPLOYMENT. THIS SECTION DOES NOT APPLY TO
15 PREVIOUSLY FORFEITED SICK LEAVE.

16 ~~E.~~ G. ~~The provisions of~~ This section ~~apply~~ APPLIES to an officer or
17 employee of ~~the~~ THIS state or a county who is eligible to participate in the
18 Arizona state retirement system as provided in chapter 5, article 2 of this
19 title, in the public safety personnel retirement system as provided in
20 chapter 5, article 4 of this title, in the corrections officer retirement
21 plan as provided in chapter 5, article 6 of this title or in an optional
22 retirement program established by the Arizona board of regents pursuant to
23 section 15-1628.

24 ~~F.~~ H. This section applies retroactively to July 1, 1998 to an
25 officer or employee of a university under the jurisdiction of the Arizona
26 board of regents who participates in a federal retirement system, except that
27 this section does not apply to a participant in a federal retirement system
28 if the participant receives any sick leave payment from the federal
29 government.

30 ~~G.~~ I. ~~The provisions of~~ This section ~~shall apply~~ APPLIES only to
31 officers or employees of ~~the~~ THIS state or a county whose compensation
32 regulations provide for a forfeiture of sick leave on retirement.

33 ~~H.~~ J. For the purposes of this section, "hourly rate" means an
34 officer's or employee's hourly salary on retirement, excluding overtime pay
35 and pay for unused annual leave.

36 Sec. 2. Section 38-711, Arizona Revised Statutes, is amended to read:

37 38-711. Definitions

38 In this article, unless the context otherwise requires:

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

43 2. "Actuarial equivalent" means equality in value of the aggregate
44 amounts expected to be received under two different forms of payment, based

1 on mortality and interest rate assumptions approved from time to time by the
2 board.

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

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

7 5. "Average monthly compensation" means:

8 (a) For a member whose membership in ASRS commenced before January 1,
9 1984 and who left the member's contributions on deposit or reinstated
10 forfeited credited service pursuant to section 38-742 for a period of
11 employment that commenced before January 1, 1984, the monthly average of
12 compensation on which contributions were remitted during a period of sixty
13 consecutive months during which the member receives the highest compensation
14 within the last one hundred twenty months of credited service. Any month for
15 which no contributions are reported to ASRS or that falls within a period of
16 nonpaid or partially paid leave of absence or sabbatical leave shall be
17 excluded from the computation. The sixty consecutive months may entirely
18 precede, may be both before and after or may be completely after any excluded
19 months. If the member was employed for less than sixty consecutive months,
20 the average monthly compensation is based on the total consecutive months
21 worked. Payments for accumulated vacation or annual leave, sick leave,
22 compensatory time or other forms of termination pay which, before August 12,
23 2005, constitute compensation for members whose membership in ASRS commenced
24 before January 1, 1984, do not cease to be included as compensation if paid
25 in the form of nonelective employer contributions under a 26 United States
26 Code section 403(b) plan if all payments of employer and employee
27 contributions are made at the time of termination. Contributions shall be
28 made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

29 (b) Effective July 1, 1985, the monthly average of compensation on
30 which contributions were remitted during a period of thirty-six consecutive
31 months during which a member receives the highest compensation within the
32 last one hundred twenty months of credited service. Any month for which no
33 contributions are reported to ASRS or that falls within a period of nonpaid
34 or partially paid leave of absence or sabbatical leave shall be excluded from
35 the computation. The thirty-six consecutive months may entirely precede, may
36 be both before and after or may be completely after any excluded months. If
37 the member was employed for less than thirty-six consecutive months, the
38 average monthly compensation shall be based on the total consecutive months
39 worked. This subdivision applies only to members whose membership in ASRS
40 was effective after December 31, 1983 or who agree in writing as a binding
41 condition of eligibility for being granted the benefit advantages available
42 under this subdivision to have their benefit computed on the basis of the
43 definition of compensation.

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

1 7. "Compensation" means the gross amount paid to a member by an
2 employer as salary or wages, including amounts that are subject to deferred
3 compensation or tax shelter agreements, for services rendered to or for an
4 employer, or that would have been paid to the member except for the member's
5 election or a legal requirement that all or part of the gross amount be used
6 for other purposes, but does not include amounts paid in excess of
7 compensation limits established in section 38-746. Compensation includes
8 amounts paid as salary or wages to a member by a second employer **IF THE**
9 **MEMBER MEETS THE REQUIREMENTS PRESCRIBED IN PARAGRAPH 23, SUBDIVISION (b) OF**
10 **THIS SECTION WITH THAT SECOND EMPLOYER.** Compensation, as provided in
11 paragraph 5, subdivision (b) of this section, does not include:

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

16 (b) Damages, costs, attorney fees, interest or other penalties paid
17 pursuant to a court order or a compromise settlement or agreement to satisfy
18 a grievance or claim even though the amount of the payment is based in whole
19 or in part on previous salary or wage levels, except that, if the court order
20 or compromise settlement or agreement directs salary or wages to be paid for
21 a specific period of time, the payment is compensation for that specific
22 period of time. If the amount directed to be paid is less than the actual
23 salary or wages that would have been paid for the period if service had been
24 performed, the contributions for the period shall be based on the amount of
25 compensation that would have been paid if the service had been performed.

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

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

30 (e) **AMOUNTS THAT ARE PAID AS SALARY OR WAGES TO A MEMBER FOR WHICH**
31 **EMPLOYER CONTRIBUTIONS HAVE NOT BEEN PAID.**

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

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

38 10. "Current annual compensation" means the greater of:

39 (a) Annualized compensation of the typical pay period amount
40 immediately before the date of a request to ASRS to purchase credited service
41 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
42 shall be determined by taking the five pay periods immediately before the
43 date of a request, disregarding the highest and lowest compensation amount
44 pay periods and averaging the three remaining pay periods.

1 (b) Annualized compensation of the partial year, disregarding the
2 first compensation amount pay period, if the member has less than twelve
3 months total credited service on the date of a request to purchase credited
4 service pursuant to section 38-743, 38-744 or 38-745.

5 (c) The sum of the twelve months of compensation immediately before
6 the date of a request to ASRS to purchase credited service pursuant to
7 section 38-743, 38-744 or 38-745.

8 (d) The sum of the thirty-six months of compensation immediately
9 before the date of a request to ASRS to purchase credited service pursuant to
10 section 38-743, 38-744 or 38-745 divided by three.

11 (e) If the member has retired one or more times from ASRS, the average
12 monthly compensation that was used for calculating the member's last pension
13 benefit times twelve.

14 11. "Early retirement" means retirement before a member's normal
15 retirement date after five years of total credited service and attainment of
16 age fifty.

17 12. "Effective date" means July 1, 1970, except with respect to
18 employers and members whose contributions to ASRS commence thereafter, the
19 effective date of their membership in ASRS is as specified in the applicable
20 joinder agreement.

21 13. "Employer" means:

22 (a) This state.

23 (b) Participating political subdivisions.

24 (c) Participating political subdivision entities.

25 14. "Employer contributions" means all amounts paid into ASRS by an
26 employer on behalf of a member.

27 15. "Fiscal year" means the period from July 1 of any year to June 30
28 of the following year.

29 16. "Inactive member" means a member who previously made contributions
30 to ASRS and who satisfies each of the following:

31 (a) Has not retired.

32 (b) Is not eligible for active membership in ASRS.

33 (c) Is not currently making contributions to ASRS.

34 (d) Has not withdrawn contributions from ASRS.

35 17. "Interest" means the assumed actuarial investment earnings rate
36 approved by the board.

37 18. "Internal revenue code" means the United States internal revenue
38 code of 1986, as amended.

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

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

- 1 21. "Leave of absence" means any unpaid leave authorized by the
2 employer, including leaves authorized for sickness or disability or to pursue
3 education or training.
- 4 22. "Life annuity" means equal monthly installments payable during the
5 member's lifetime after retirement.
- 6 23. "Member":
- 7 (a) Means any employee of an employer on the effective date.
- 8 (b) Means all employees of an employer who are eligible for membership
9 pursuant to section 38-727 and who are engaged to work at least twenty weeks
10 in each fiscal year and at least twenty hours each week.
- 11 (c) Means any person receiving a benefit under ASRS.
- 12 (d) Means any person who is a former active member of ASRS and who has
13 not withdrawn contributions from ASRS pursuant to section 38-740.
- 14 (e) Does not include any employee of an employer who is otherwise
15 eligible pursuant to this article and who begins service in a limited
16 appointment for not more than eighteen months on or after July 1, 1979. If
17 the employment exceeds eighteen months, the employee shall be covered by ASRS
18 as of the beginning of the nineteenth month of employment. In order to be
19 excluded under this subdivision, classifications of employees designated by
20 employers as limited appointments must be approved by the director.
- 21 (f) Does not include any leased employee. For the purposes of section
22 414(n) of the internal revenue code, "leased employee" means an individual
23 who:
- 24 (i) Is not otherwise an employee of an employer.
- 25 (ii) Pursuant to a leasing agreement between the employer and another
26 person, performs services for the employer on a substantially full-time basis
27 for at least one year.
- 28 (iii) Performs services under the primary direction or control of the
29 employer.
- 30 24. "Member contributions" means all amounts paid to ASRS by a member.
- 31 25. "Normal costs" means the sum of the individual normal costs for all
32 active members for each fiscal year. The normal cost for an individual
33 active member is the cost that is assigned to the fiscal year using the
34 projected unit credit method.
- 35 26. "Normal retirement age" means the age at which a member reaches the
36 member's normal retirement date.
- 37 27. "Normal retirement date" means the earliest of the following:
- 38 (a) A member's sixty-fifth birthday.
- 39 (b) A member's sixty-second birthday and completion of at least ten
40 years of credited service.
- 41 (c) The first day that the sum of a member's age and years of total
42 credited service equals eighty.
- 43 28. "Political subdivision" means any political subdivision of this
44 state and includes a political subdivision entity.

- 1 29. "Political subdivision entity" means an entity:
2 (a) That is located in this state.
3 (b) That is created in whole or in part by political subdivisions,
4 including instrumentalities of political subdivisions.
5 (c) Where a majority of the membership of the entity is composed of
6 political subdivisions.
7 (d) Whose primary purpose is the performance of a government related
8 service.
- 9 30. "Retired member" means a member who is receiving retirement
10 benefits pursuant to this article.
- 11 31. "Service year" means fiscal year, except that:
12 (a) If the normal work year required of a member is less than the full
13 fiscal year but is for a period of at least nine months, the service year is
14 the normal work year.
15 (b) For a salaried member employed on a contract basis under one
16 contract, or two or more consecutive contracts, for a total period of at
17 least nine months, the service year is the total period of the contract or
18 consecutive contracts.
19 (c) In determining average monthly compensation pursuant to paragraph
20 5 of this section, the service year is considered to be twelve months of
21 compensation.
- 22 32. "State" means this state, including any department, office, board,
23 commission, agency, institution or other instrumentality of this state.
- 24 33. "Vested" means that a member is eligible to receive a future
25 retirement benefit.
- 26 Sec. 3. Section 38-715, Arizona Revised Statutes, is amended to read:
27 38-715. Director: powers and duties
- 28 A. The board shall appoint a director. The term of the director is
29 one year and expires on June 30. On expiration of a director's term, the
30 board may reappoint the director for another term. The board may remove the
31 director at any time for cause.
- 32 B. The director shall appoint a deputy director and assistant
33 directors with the approval of the board.
- 34 C. The director, under the supervision of the board, shall:
35 1. Administer this article, except the investment powers and duties of
36 investment management.
37 2. Hire employees and services the director deems necessary and
38 prescribe their duties.
39 3. Prescribe procedures to be followed by members and their
40 beneficiaries in filing applications for benefits.
41 4. Be responsible for:
42 (a) Income and the collection of income and the accuracy of all
43 expenditures.
44 (b) Maintaining books and maintaining and processing records of ASRS.

1 (c) The investment of temporary surplus monies only in obligations of
2 the United States government or agencies whose obligations are guaranteed by
3 the United States government, commercial paper or banker's acceptances for a
4 term of not more than fifteen days.

5 (d) Providing continuing education programs for the board to keep the
6 board members informed of current issues and information needed to carry out
7 their duties.

8 5. Perform additional powers and duties as may be prescribed by the
9 board and delegated to the director.

10 D. The director, under the supervision and approval of the board, may:

11 1. Delegate duties and responsibilities to such state departments as
12 the director deems feasible and desirable to administer this article.

13 2. Appoint a custodian for the safekeeping of all investments owned by
14 ASRS and register stocks, bonds and other investments in the name of a
15 nominee.

16 3. Invest marketable securities owned by ASRS by entering into
17 security loan agreements with one or more security lending entities. For the
18 purpose of this paragraph:

19 (a) "Marketable securities" means securities that are freely and
20 regularly traded on recognized exchanges or marketplaces.

21 (b) "Security loan agreement" means a written contract under which
22 ASRS, as lender, agrees to lend specific marketable securities for a period
23 of not more than one year. ASRS, under a security loan agreement, shall
24 retain the right to collect from the borrower all dividends, interest,
25 premiums and rights and any other distributions to which ASRS otherwise would
26 have been entitled. During the term of a security loan agreement ASRS shall
27 waive the right to vote the securities that are the subject of the agreement.
28 A security loan agreement shall provide for termination by either party on
29 terms mutually acceptable to the parties. The borrower shall deliver
30 collateral to ASRS or its designated representative. At all times during the
31 term of any security loan agreement the collateral shall be in an amount
32 equal to at least one hundred per cent of the market value of the loaned
33 securities. A security loan agreement shall provide for payment of
34 additional collateral on a daily basis, or at such other less frequent
35 intervals as the value of the loaned securities increases. A security loan
36 agreement with a security lending entity shall contain the terms and
37 conditions of the fees to be paid to a security lending entity for servicing
38 the security loan agreement. ASRS shall pay the fees approved by the board
39 to the security lending entity for servicing a security loan agreement from
40 the revenues of the security lending program.

41 4. Establish one or more reserve holding accounts, into which the
42 board shall close periodically the account balances of inactive accounts. If
43 any person files a claim and furnishes proof of ownership of any amounts in
44 any inactive account the claim shall be paid from the reserve holding account
45 on the same basis as if no action had been taken under this paragraph.

1 Interest and supplemental credits shall be allocated to each reserve holding
2 account on June 30 of each year, as determined by the board. For the
3 purposes of this paragraph, "inactive account" means an account to which
4 contributions have not been paid for six months or more.

5 5. Make retirement under this article effective retroactively to on or
6 after the day following the date employment is terminated if the member was
7 unable to apply before the retroactive effective date through no fault of the
8 member.

9 E. The director, under supervision of the governing committee for tax
10 deferred annuity and deferred compensation plans, may hire and supervise
11 employees and obtain services the director deems necessary to administer
12 article 5 of this chapter. The tax deferred annuity and deferred
13 compensation programs established pursuant to article 5 of this chapter shall
14 bear the costs for these employees and services.

15 F. The director and all persons employed by the director ~~shall be~~
16 ~~compensated as determined pursuant~~ ARE NOT SUBJECT to section 38-611 OR TITLE
17 41, CHAPTER 4, ARTICLE 5 OR 6.

18 Sec. 4. Section 38-730, Arizona Revised Statutes, is amended to read:
19 38-730. Charter city or ASRS retirement service credits;
20 transfers

21 A. On application the retirement service credits of an employee of a
22 charter city that is not an employer under ASRS or an employee of an employer
23 that is an employer under ASRS whose job functions are shifted by law from
24 one employer jurisdiction to another shall be transferred to the retirement
25 system of the new employer.

26 B. An employee of a charter city that is not an employer under ASRS or
27 an employee of an employer that is an employer under ASRS who becomes
28 employed by the other employer jurisdiction may apply to have the employee's
29 retirement service credits transferred to the retirement system of the new
30 employer. The retirement service credits of an employee of a charter city
31 that is not an employer under ASRS shall not be transferred unless the
32 governing body of that city approves the transfer. The retirement service
33 credits of an employee of an employer that is an employer under ASRS shall
34 not be transferred unless the board approves the transfer.

35 C. The retirement system that transfers the retirement service credits
36 shall pay to the retirement system of the new employer an amount equal to the
37 present value, as of the date of the transfer, of all benefits generated by
38 the transferred service credits in the retirement system of the new employer
39 as determined by the governing board of the retirement system of the new
40 employer. The amount of any payment under this subsection shall include the
41 accumulated retirement contributions of the employee whose retirement service
42 credits are transferred.

43 D. The accumulated retirement contributions of an employee whose
44 retirement service credits are transferred that are paid to the retirement

1 system of the new employer shall not be withdrawn by the employee unless the
2 employee's employment terminates.

3 E. THE RETIREMENT SYSTEM TO WHICH THE EMPLOYEE IS TRANSFERRING SHALL
4 NOT APPLY SERVICE CREDITS TO THE EMPLOYEE'S ACCOUNT UNTIL SUCH TIME AS
5 COMPLETE PAYMENT IS MADE TO THE RETIREMENT SYSTEM TO WHICH THE EMPLOYEE IS
6 TRANSFERRING. ON COMPLETION OF THE TRANSFER PROVIDED FOR IN THIS SECTION,
7 THE EMPLOYEE'S RIGHTS IN THE RETIREMENT SYSTEM FROM WHICH THE EMPLOYEE IS
8 TRANSFERRING ARE EXTINGUISHED.

9 Sec. 5. Section 38-743, Arizona Revised Statutes, is amended to read:

10 38-743. Public service credit

11 A. If an active member of ASRS or a member who is receiving benefits
12 pursuant to section 38-797.07 was previously employed by the United States
13 government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR
14 AREA of the United States or a political subdivision of a state, TERRITORY,
15 COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United States,
16 excluding any time worked for a prison while the member was incarcerated, the
17 member may receive credited service for this prior employment if the member
18 pays into ASRS the amount prescribed in subsection B of this section.

19 B. A member who elects to receive credit for service with the United
20 States government, a state, TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR
21 INSULAR AREA of the United States or a political subdivision of a state,
22 TERRITORY, COMMONWEALTH, OVERSEAS POSSESSION OR INSULAR AREA of the United
23 States shall pay to ASRS an amount equal to the present value of the
24 additional benefit that is derived from the purchased credited service using
25 the actuarial assumptions that are approved by the board.

26 C. A member who previously was a member of another public employee
27 retirement system and who receives or is eligible to receive retirement
28 benefits from that system for any period of employment is ineligible to
29 receive retirement benefits from ASRS for the same period.

30 D. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
31 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
32 PURSUANT TO THIS SECTION.

33 Sec. 6. Section 38-744, Arizona Revised Statutes, is amended to read:

34 38-744. Leave of absence; credit for leave without pay

35 A. If an active member of ASRS or a member who is receiving benefits
36 pursuant to section 38-797.07 is officially granted a leave of absence from
37 employment without pay and returns to employment with the same employer,
38 unless employment could not be resumed because of disability or
39 nonavailability of a position, the member may elect to be credited with
40 service for retirement purposes for not more than one year of the leave by
41 paying to ASRS the amounts as provided in subsection B of this section, if
42 the member has not withdrawn contributions from ASRS and the member's
43 employer has certified that the leave of absence benefits or is in the best
44 interests of the employer.

1 B. A member who elects to be credited with a leave period as provided
2 in subsection A of this section shall pay to ASRS an amount equal to the
3 present value of the additional benefit that is derived from the purchased
4 credited service using the actuarial assumptions that are approved by the
5 board.

6 C. BEGINNING JULY 1, 2010, A MEMBER SHALL HAVE AT LEAST FIVE YEARS OF
7 CREDITED SERVICE IN ASRS BEFORE ELECTING TO RECEIVE CREDIT FOR SERVICE
8 PURSUANT TO THIS SECTION.

9 ~~C.~~ D. For the purposes of subsection A of this section, each employer
10 shall adopt rules establishing guidelines for a leave of absence that
11 benefits or is in the best interests of the employer.

12 Sec. 7. Section 38-745, Arizona Revised Statutes, as amended by Laws
13 2007, chapter 244, section 1, is amended to read:

14 38-745. Credit for military service

15 A. An active member of ASRS or a member who is receiving benefits
16 pursuant to section 38-797.07 may purchase credited service in ASRS for
17 active military service if ~~both~~ ALL of the following apply:

18 1. The member was honorably separated from the military service.

19 2. The member submits a copy of the member's military service record
20 (DD-214) or its equivalent with the member's application for military service
21 credit.

22 3. BEGINNING JULY 1, 2010, A MEMBER HAS AT LEAST FIVE YEARS OF
23 CREDITED SERVICE IN ASRS.

24 B. The cost to purchase military service credit is an amount equal to
25 the present value of the additional benefit that is derived from the
26 purchased credited service using the actuarial assumptions that are approved
27 by the board.

28 C. An active member of ASRS who is called to active military service
29 may receive credited service for not more than sixty months of active
30 military service, except as provided by the uniformed services employment and
31 reemployment rights act (38 United States Code section 4312(c)). The
32 member's employer shall make employer contributions and member contributions
33 for the member if the member meets the following requirements:

34 1. Was an active member of ASRS on the day before the member began
35 active military service.

36 2. Is a member of the Arizona national guard or is a member of the
37 reserves of any military establishment of the United States.

38 3. Volunteers or is ordered into active military service of the United
39 States as part of a military call-up.

40 4. One of the following occurs:

41 (a) Is honorably separated from active military service and returns to
42 employment for the same employer from which the member left for active
43 military service within ninety days after the date active military service is
44 terminated.

1 (b) Is hospitalized as a result of military service and returns to
2 employment for the same employer from which the member left for active
3 military service within ninety days after release from service related
4 hospitalization.

5 (c) Becomes disabled as a result of or during the military service and
6 is unable to return to the same employer.

7 (d) Dies as a result of or during the military service.

8 D. Contributions made pursuant to subsection C of this section shall
9 be for the period of time beginning on the date the member began active
10 military service and ending on the later of one of the following dates:

11 1. The date the member is separated from active military service.

12 2. The date the member is released from service related
13 hospitalization or one year after initiation of service related
14 hospitalization, whichever date is earlier.

15 3. One year after the date of disability.

16 4. The date the member dies as a result of or during active military
17 service.

18 E. Notwithstanding any other law, on payment of the contributions made
19 pursuant to subsection C of this section, the member shall be credited with
20 service for retirement purposes for the period of time of active military
21 service of not more than sixty months.

22 F. The employer shall make contributions pursuant to subsection C of
23 this section as follows:

24 1. Contributions shall be based on the compensation that a member
25 would have received but for the period that the member was ordered into
26 active military service.

27 2. If the employer cannot reasonably determine a member's rate of
28 compensation for the period that the member was ordered into active military
29 service, the employer shall make contributions based on the member's average
30 rate of compensation during the twelve-month period immediately preceding the
31 period of active military service.

32 3. If a member has been employed less than twelve months before being
33 ordered into active military service, the employer shall make contributions
34 based on the employment period immediately preceding the period of active
35 military service.

36 4. Employer contributions shall be made in a lump sum and without
37 penalty when the member returns to employment, when it is determined that the
38 member is unable to return to employment because of a disability as a result
39 of or that occurred during military service or on receipt of the member's
40 death certificate. If a member suffers a service related death, the employer
41 shall make the employer and member contributions up to and including the date
42 of the member's death. Death benefits shall be calculated as prescribed by
43 law.

1 G. In computing the length of total credited service of a member for
2 the purpose of determining retirement benefits or eligibility, the period of
3 military service, as prescribed by this section, shall be included.

4 H. Notwithstanding any other law, the member is not required to
5 reimburse the member's employer or ASRS for any contribution made pursuant to
6 subsection C of this section.

7 I. In addition to, but not in duplication of, the provisions of
8 subsection C of this section, contributions, benefits and credited service
9 provided pursuant to this section shall be provided in accordance with
10 section 414(u) of the internal revenue code.

11 Sec. 8. Repeal

12 Section 38-745, Arizona Revised Statutes, as amended by Laws 2007,
13 chapter 244, section 2, is repealed.

14 Sec. 9. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
15 amended by adding section 38-748, to read:

16 38-748. Employer payment for ineligible persons; definitions

17 A. IF AN EMPLOYER PAYS CONTRIBUTIONS ON BEHALF OF ANY PERSON WHO IS
18 NOT ELIGIBLE BY STATUTE FOR ASRS MEMBERSHIP AND EITHER ASRS OR A COURT
19 DETERMINES THAT ASRS IS LEGALLY OBLIGATED TO PROVIDE THAT PERSON WITH ANY
20 BENEFIT OR CREDIT UNDER THIS ARTICLE OR ARTICLE 2.1 OF THIS CHAPTER, THE
21 EMPLOYER SHALL PAY TO ASRS ANY UNFUNDED LIABILITY RESULTING FROM THE
22 PROVISION OF BENEFITS OR CREDIT TO THE PERSON.

23 B. IF THE EMPLOYER DOES NOT REMIT FULL PAYMENT OF THE UNFUNDED
24 LIABILITY PURSUANT TO SUBSECTION A OF THIS SECTION WITHIN NINETY DAYS AFTER
25 BEING NOTIFIED BY ASRS OF THE AMOUNT DUE, THE UNPAID AMOUNT ACCRUES INTEREST
26 UNTIL THE AMOUNT IS PAID IN FULL.

27 C. CREDITED SERVICE CEASES TO ACCRUE AS OF THE DATE THAT ASRS OR A
28 COURT FIRST DETERMINES THAT ASRS IS LEGALLY OBLIGATED TO PROVIDE ANY BENEFIT
29 OR CREDIT TO THE PERSON.

30 D. IF THE AMOUNT IN THE PERSON'S ASRS ACCOUNT IS GREATER THAN THE
31 PRESENT VALUE OF THE BENEFIT OR CREDIT, ASRS SHALL RETAIN THE ENTIRE ACCOUNT
32 AND SHALL NOT BE REQUIRED TO REFUND, CREDIT OR OFFSET ANY EXCESS AGAINST
33 FUTURE CONTRIBUTIONS.

34 E. THIS SECTION APPLIES TO AN EMPLOYER THAT EMPLOYS, EITHER DIRECTLY
35 OR INDIRECTLY, A PERSON WHO PERFORMS SERVICES FOR A THIRD-PARTY ORGANIZATION
36 AND THAT DOES NOT HAVE A WRITTEN REPRESENTATION BY ASRS OF THE PERSON'S
37 ELIGIBILITY.

38 F. FOR THE PURPOSES OF THIS SECTION:

39 1. "AMOUNT IN THE PERSON'S ASRS ACCOUNT" MEANS TWO TIMES THE PERSON'S
40 RETIREMENT CONTRIBUTIONS MADE PURSUANT TO SECTION 38-736:

41 (a) PLUS:

42 (i) INTEREST ON THE PERSON'S RETIREMENT CONTRIBUTIONS MADE PURSUANT TO
43 SECTION 38-736.

44 (ii) ANY CONTRIBUTIONS MADE FOR THE PURCHASE OF SERVICE CREDITS
45 PURSUANT TO SECTION 38-742, 38-743, 38-744 OR 38-745.

1 (iii) INTEREST ON THE AMOUNT CONTRIBUTED FOR THE PURCHASE OF SERVICE
2 CREDITS PURSUANT TO SECTION 38-742, 38-743, 38-744 OR 38-745.

3 (b) MINUS ANY AMOUNTS PAID BY ASRS PURSUANT TO THIS ARTICLE OR ARTICLE
4 2.1 OF THIS CHAPTER.

5 2. "INTEREST" MEANS THE INTEREST RATE ASSUMPTION THAT IS APPROVED BY
6 ASRS FOR ACTUARIAL EQUIVALENCY.

7 3. "UNFUNDED LIABILITY" MEANS THE AMOUNT, IF ANY, THAT THE PRESENT
8 VALUE OF THE PERSON'S BENEFIT OR CREDIT, USING THE ACTUARIAL ASSUMPTIONS
9 APPROVED BY ASRS, EXCEEDS THE AMOUNT IN THE PERSON'S ASRS ACCOUNT CALCULATED
10 AS OF THE DATE THAT ASRS OR A COURT FIRST DETERMINES THAT ASRS IS LEGALLY
11 OBLIGATED TO PROVIDE ANY BENEFIT OR CREDIT TO THE PERSON.

12 Sec. 10. Section 38-749, Arizona Revised Statutes, is amended to read:
13 38-749. Employer termination incentive program; employer
14 payment of actuarial cost; definition

15 A. If a termination incentive program that is offered by an employer
16 results in an actuarial unfunded liability to ASRS, the employer shall pay to
17 ASRS the amount of the unfunded liability. ASRS shall determine the amount
18 of the unfunded liability in consultation with its actuary.

19 B. An employer shall notify ASRS if the employer plans to implement a
20 termination incentive program that may affect ASRS funding.

21 C. If ASRS determines that an employer has implemented a termination
22 incentive program that results in an actuarial unfunded liability to ASRS,
23 ASRS shall assess the cost of the unfunded liability to that employer. If
24 the employer does not remit full payment of all monies due within ninety days
25 after being notified by ASRS of the amount due, the unpaid amount accrues
26 interest until the amount is paid in full. The interest rate is the interest
27 rate assumption that is approved by the board for actuarial equivalency for
28 the period in question to the date payment is received.

29 D. For the purposes of this section, "termination incentive program":

30 1. Means a total increase in compensation of thirty per cent or more
31 that is given to a member in any one or more years ~~of the last three years~~
32 before termination **THAT ARE USED TO CALCULATE THE MEMBER'S AVERAGE MONTHLY**
33 **COMPENSATION** if that increase in compensation is used to calculate the
34 member's retirement benefit and that increase in compensation is not
35 attributed to a ~~+~~

36 ~~(a) promotion.~~

37 ~~(b) Reclassification of the position.~~

38 ~~(c) Merit or a cost of living increase.~~

39 2. Means **ANYTHING OF VALUE, INCLUDING** any monies, credited service or
40 points that the employer provides to **OR ON BEHALF OF** a member ~~in exchange for~~
41 ~~a~~ **THAT IS CONDITIONED ON THE** member's ~~written agreement to terminate on or~~
42 ~~before a date certain~~ **TERMINATION EXCEPT FOR.**

43 ~~3. Does not include~~ payments to an employee for ~~+~~

44 ~~(a) Compensation for~~ accrued vacation ~~.~~

45 ~~(b) Compensation for accrued,~~ sick leave ~~.~~

1 ~~(e)~~ OR compensatory time UNLESS THE PAYMENT IS ENHANCED BEYOND THE
2 EMPLOYER'S CUSTOMARY PAYMENT.

3 Sec. 11. Section 38-757, Arizona Revised Statutes, is amended to read:
4 38-757. Normal retirement

5 A. After application on a form prescribed by the director, a member
6 may retire on reaching the member's normal retirement date.

7 B. Except as provided in section 38-768 ~~and subsection C of this~~
8 ~~section~~, a member who meets the requirements for retirement benefits at
9 normal retirement shall receive a monthly life annuity that equals the result
10 of paragraph 1 multiplied by paragraph 2 when those paragraphs are defined as
11 follows:

12 1. The number of whole and fractional years of credited service times
13 the following:

14 (a) 2.10 per cent if the member does not have more than 19.99 years of
15 credited service.

16 (b) 2.15 per cent if the member has at least 20.00 years of credited
17 service but not more than 24.99 years of credited service.

18 (c) 2.20 per cent if the member has at least 25.00 years of credited
19 service but not more than 29.99 years of credited service.

20 (d) 2.30 per cent if the member has at least 30.00 years of credited
21 service.

22 2. The member's average monthly compensation.

23 ~~C. For a person who becomes a member on or after the effective date of~~
24 ~~this amendment to this section, the amount of a member's monthly life annuity~~
25 ~~computed pursuant to subsection B of this section shall not be more than~~
26 ~~eighty per cent of the member's average monthly compensation. This~~
27 ~~limitation does not preclude benefit increases pursuant to section 38-767.~~

28 ~~D.~~ C. Employers shall provide evidence of, and certify to, in a
29 manner provided by the board, the member's average monthly compensation if
30 that information is not already available from the records of ASRS.

31 Sec. 12. Section 38-762, Arizona Revised Statutes, is amended to read:
32 38-762. Survivor benefits before retirement; definition

33 A. On the ~~termination of employment by~~ death of any active or inactive
34 member before retirement, the designated beneficiary of the member shall be
35 paid a survivor benefit equal to the sum of both of the following:

36 1. Two times the member's contribution and interest to the defined
37 benefit plan established by this article for credited service that a member
38 earned by working for an employer, plus all contributions and interest made
39 for the purchase of military service, leave without pay or other public
40 service credit.

41 2. The amount of the member's employee account and the member's
42 employer account together with supplemental credits, if any, transferred from
43 the defined contribution program administered by ASRS to the defined benefit
44 program established by this article.

1 B. Subsection A, paragraphs 1 and 2 of this section shall be
2 accumulated at compound interest at a rate determined by the board through
3 the day of the payment of the benefit.

4 C. In lieu of a single payment, a designated beneficiary who is
5 eligible for a survivor benefit pursuant to subsection A of this section of
6 more than five thousand dollars may elect to receive the actuarial equivalent
7 of the survivor benefit pursuant to one of the following options:

8 1. A monthly income for five, ten or fifteen years certain and for
9 life thereafter.

10 2. Another form of optional benefits approved by the board.

11 D. On the death of an active or inactive member who has reached an
12 early retirement date applicable to the member or who has a minimum of
13 fifteen years of credited service and whose designated beneficiary is a
14 spouse, child under the age of twenty-one or handicapped child age twenty-one
15 or older, including a legally adopted child or a stepchild, ASRS shall pay
16 the designated beneficiary a survivor benefit equal to the present value, on
17 the date following the date of the member's death, of the life annuity that
18 would have been payable to the designated beneficiary if the member had
19 retired on the date of the member's death and elected to receive an annuity
20 in the form of a joint and survivor annuity providing the same amount of
21 annuity to the surviving beneficiary as the reduced amount that would have
22 been payable during the lifetime of the member. If there is more than one
23 designated beneficiary under this subsection, ASRS shall determine the amount
24 of the annuity and its present value as if the oldest of the beneficiaries
25 was the sole beneficiary. Payment under this subsection shall be in lieu of,
26 but not less than, any payment under subsection A of this section. Payment
27 under this subsection, at the election of the designated beneficiary, may be
28 made in a single sum or may be made in accordance with subsection C of this
29 section. A beneficiary may not elect this option unless a benefit of
30 twenty-five dollars or more per month is payable to the designated
31 beneficiary or the designated beneficiary's estate.

32 E. If a member dies before distribution of the member's benefits
33 commences, the member's entire benefits shall be distributed within the
34 required distribution provisions of section 401(a)(9) of the internal revenue
35 code and the regulations that are issued under that section by the United
36 States secretary of the treasury as prescribed in section 38-775.

37 F. If a deceased member did not designate a beneficiary or the
38 beneficiary named by a member predeceases the member, ASRS shall pay the
39 member's survivor benefit to the following persons in the following order of
40 priority:

41 1. The member's surviving spouse.

42 2. The member's surviving children, including adopted children, in
43 equal shares.

44 3. The member's surviving parents in equal shares.

45 4. The member's estate.

1 G. Any payment pursuant to this section is payment for the account of
2 the member or the member's beneficiary and all persons entitled to payment
3 and, to the extent of the payment, is a full and complete discharge of all
4 liability of the board or ASRS, or both, under or in connection with ASRS.

5 H. For the purposes of this section, "designated beneficiary" means
6 any individual designated by the member as the member's beneficiary.

7 Sec. 13. Section 38-766, Arizona Revised Statutes, is amended to read:
8 38-766. Retired members; return to work; suspension of
9 benefits; exceptions; maximum benefit

10 A. A retired member who is engaged to work by an employer for at least
11 twenty weeks in each fiscal year and at least twenty hours per week resumes
12 active membership in ASRS. ASRS shall suspend payment of the member's
13 retirement benefits until the member either:

14 1. Terminates employment **AND FILES AN APPLICATION FOR RERETIREMENT ON**
15 **A FORM THAT IS APPROVED BY THE DIRECTOR.**

16 2. Attains a normal retirement date, ~~and~~ no longer meets the
17 requirements for active membership pursuant to this subsection **AND FILES AN**
18 **APPLICATION FOR RERETIREMENT ON A FORM THAT IS APPROVED BY THE DIRECTOR.**

19 B. A member who satisfies subsection A, paragraph 1 or 2 of this
20 section is entitled to receive an annuity recomputed to include the
21 additional compensation and credited service. However, the recomputed
22 annuity shall be in the original optional form chosen pursuant to section
23 38-760, with the same beneficiary, if applicable, as when the member first
24 retired, **UNLESS THE MEMBER HAS RESUMED ACTIVE MEMBERSHIP FOR AT LEAST SIXTY**
25 **CONSECUTIVE MONTHS.** A member who retired under a provision of law allowing
26 increased benefits if the retirement occurred during a specific period of
27 time and who subsequently becomes an employee under ASRS shall not retain the
28 increased benefits under the prior law when benefits are computed for the
29 member's most recent retirement.

30 C. **NOTWITHSTANDING SUBSECTION A OF THIS SECTION, ASRS SHALL NOT**
31 **SUSPEND THE PAYMENT OF RETIREMENT BENEFITS IF A RETIRED MEMBER BEGINS OR**
32 **RETURNS TO EMPLOYMENT WITH AN EMPLOYER IN A POSITION THAT SATISFIES ALL OF**
33 **THE FOLLOWING:**

34 1. **RESULTS IN A TRUE CHANGE IN POSITION, JOB DUTIES AND JOB TITLE FROM**
35 **THE POSITION OCCUPIED BY THE MEMBER BEFORE ASRS RETIREMENT.**

36 2. **EITHER:**

37 (a) **REQUIRES PARTICIPATION IN ANOTHER STATE RETIREMENT SYSTEM, PLAN OR**
38 **PROGRAM AND THE RETIRED MEMBER MAKES CONTRIBUTIONS OR WAIVES PARTICIPATION**
39 **PURSUANT TO SECTION 38-804, SUBSECTION A.**

40 (b) **PERMITS A MEMBER TO ELECT TO PARTICIPATE IN ANOTHER STATE**
41 **RETIREMENT SYSTEM, PLAN OR PROGRAM AND THE MEMBER MAKES SUCH AN ELECTION.**

42 3. **DOES NOT REQUIRE MEMBERSHIP IN THE DEFINED BENEFIT PLAN ESTABLISHED**
43 **BY THIS ARTICLE.**

1 D. A RETIRED MEMBER WHO RETURNS TO WORK PURSUANT TO SUBSECTION C OF
2 THIS SECTION DOES NOT ACCRUE CREDITED SERVICE, MEMBER SERVICE AS PROVIDED IN
3 SECTION 15-1628, SUBSECTION B, PARAGRAPH 4, ADDITIONAL ACCOUNT BALANCES,
4 RETIREMENT BENEFITS OR LONG-TERM DISABILITY PROGRAM BENEFITS PURSUANT TO
5 ARTICLE 2.1 OF THIS CHAPTER FOR THE PERIOD THE RETIRED MEMBER RETURNS TO
6 WORK. THE PERIOD THE RETIRED MEMBER RETURNS TO WORK IS NOT ELIGIBLE FOR
7 PURCHASE UNDER SECTION 38-743 OR 38-744.

8 ~~E.~~ E. Section 38-769, subsection L applies when determining the
9 maximum benefit that may be paid to a retired member who resumes active
10 membership and subsequently retires.

11 Sec. 14. Section 38-766.01, Arizona Revised Statutes, is amended to
12 read:

13 38-766.01. Retired members; return to work; employer
14 contribution payments; definitions

15 A. Notwithstanding section 38-766, AT A RETIRED MEMBER'S ELECTION, a
16 retired member may return to work and still be eligible to receive retirement
17 benefits if all of the following requirements are satisfied:

18 1. The retired member has attained the member's normal retirement age.

19 2. The retired member terminated employment at least twelve months
20 before returning to work.

21 ~~3. If the retired member returns to work as a teacher, the retired~~
22 ~~member is working as a certificated teacher.~~

23 ~~4.~~ 3. If the retired member returns to work as a teacher, the retired
24 member's employment is not subject to the requirements prescribed in sections
25 15-538, 15-538.01 and 15-539 through 15-543.

26 ~~5. The retired member acknowledges in writing the provisions of this~~
27 ~~section.~~

28 B. A RETIRED MEMBER'S ELECTION TO RETURN TO WORK UNDER THIS SECTION IS
29 IRREVOCABLE FOR THE REMAINDER OF THE RETIRED MEMBER'S EMPLOYMENT FOR WHICH
30 THE RETIREE MADE THE ELECTION.

31 C. THE RETIRED MEMBER SHALL ACKNOWLEDGE THIS SECTION IN WRITING AND
32 FILE THE ACKNOWLEDGEMENT WITH THE EMPLOYER WITHIN THIRTY DAYS OF RETURNING TO
33 WORK.

34 ~~B.~~ D. An employer of a retired member who returns to work pursuant to
35 this section shall not pay contributions on behalf of the retired member
36 pursuant to section 38-736, 38-737 or 38-797.05.

37 E. A retired member who returns to work pursuant to this section does
38 not accrue credited service, MEMBER SERVICE AS PROVIDED IN SECTION 15-1628,
39 SUBSECTION B, PARAGRAPH 4, ADDITIONAL ACCOUNT BALANCES, retirement benefits
40 or long-term disability program benefits pursuant to article 2.1 of this
41 chapter for the period the retired member returns to work. THE PERIOD THE
42 RETIRED MEMBER RETURNS TO WORK IS NOT ELIGIBLE FOR PURCHASE UNDER SECTION
43 38-743 OR 38-744.

1 Sec. 15. Section 38-783, Arizona Revised Statutes, is amended to read:
2 38-783. Retired members; dependents; health insurance; premium
3 payment; separate account; definitions

4 A. Subject to subsections ~~J, K and L~~ G, H AND I of this section, the
5 board shall pay from ASRS assets part of the single coverage premium of any
6 health and accident insurance for each retired, contingent annuitant or
7 disabled member of ASRS if the member elects to participate in the coverage
8 provided by ASRS or section 38-651.01 or elects to participate in a health
9 and accident insurance program provided or administered by an employer or
10 paid for, in whole or in part, by an employer to an insurer. A contingent
11 annuitant must be receiving a monthly retirement benefit from ASRS in order
12 to obtain any premium payment provided by this section. The board shall pay:

13 1. Up to one hundred fifty dollars per month for a member of ASRS who
14 is not eligible for medicare if the retired or disabled member has ten or
15 more years of credited service.

16 2. Up to one hundred dollars per month for each member of ASRS who is
17 eligible for medicare if the retired or disabled member has ten or more years
18 of credited service.

19 B. Subject to subsections ~~J, K and L~~ G, H AND I of this section, the
20 board shall pay from ASRS assets part of the family coverage premium of any
21 health and accident insurance for a retired, contingent annuitant or disabled
22 member of ASRS who elects family coverage and who otherwise qualifies for
23 payment pursuant to subsection A of this section. If a member of ASRS and
24 the member's spouse are both either retired or disabled under ASRS and apply
25 for family coverage, the member who elects family coverage is entitled to
26 receive the payments under this section as if they were both applying under a
27 single coverage premium unless the payment under this section for family
28 coverage is greater. Payment under this subsection is in the following
29 amounts:

30 1. Up to two hundred sixty dollars per month if the member of ASRS and
31 one or more dependents are not eligible for medicare.

32 2. Up to one hundred seventy dollars per month if the member of ASRS
33 and one or more dependents are eligible for medicare.

34 3. Up to two hundred fifteen dollars per month if either:

35 (a) The member of ASRS is not eligible for medicare and one or more
36 dependents are eligible for medicare.

37 (b) The member of ASRS is eligible for medicare and one or more
38 dependents are not eligible for medicare.

39 C. In addition each retired, contingent annuitant or disabled member
40 of ASRS with less than ten years of credited service and a dependent of such
41 a retired, contingent annuitant or disabled member who elects to participate
42 in the coverage provided by ASRS or section 38-651.01 or who elects to
43 participate in a health and accident insurance program provided or
44 administered by an employer or paid for, in whole or in part, by an employer
45 to an insurer is entitled to receive a proportion of the full benefit

1 prescribed by subsection A, ~~OR B, E, F, O or P~~ of this section according to
2 the following schedule:

- 3 1. 9.0 to 9.9 years of credited service, ninety per cent.
- 4 2. 8.0 to 8.9 years of credited service, eighty per cent.
- 5 3. 7.0 to 7.9 years of credited service, seventy per cent.
- 6 4. 6.0 to 6.9 years of credited service, sixty per cent.
- 7 5. 5.0 to 5.9 years of credited service, fifty per cent.
- 8 6. Those with less than five years of credited service do not qualify
9 for the benefit.

10 D. The board shall not pay more than the amount prescribed in this
11 section for a member of ASRS.

12 ~~E. In addition to the payments provided by subsection A of this
13 section, through June 30, 2005, the board shall pay an insurance premium
14 benefit for medical coverage, not including limited benefit coverage as
15 defined in section 20-1137, for each retired, contingent annuitant or
16 disabled member of ASRS who is eligible for a premium benefit payment
17 pursuant to subsection A of this section and who lives in a nonservice area
18 as follows:~~

19 ~~1. Up to three hundred dollars per month for a member of ASRS who is
20 not eligible for medicare if the retired or disabled member has ten or more
21 years of credited service. To qualify for this additional benefit, a retired
22 or disabled member of ASRS shall pay out-of-pocket medical insurance premiums
23 of at least one hundred twenty-five dollars per month.~~

24 ~~2. Up to one hundred seventy dollars per month for a member of ASRS
25 who is eligible for medicare if the retired or disabled member has ten or
26 more years of credited service. To qualify for this additional benefit, a
27 retired or disabled member of ASRS shall pay out-of-pocket medical insurance
28 premiums of at least one hundred dollars per month.~~

29 ~~F. In addition to the payments provided by subsection B of this
30 section, through June 30, 2005, the board shall pay from ASRS assets part of
31 the family coverage premium for medical coverage, not including limited
32 benefit coverage as defined in section 20-1137, for a retired, contingent
33 annuitant or disabled member of ASRS who is eligible for a premium benefit
34 payment pursuant to subsection B of this section, who is enrolled in a family
35 medical plan and who lives in a nonservice area as follows:~~

36 ~~1. Up to six hundred dollars per month if the member of ASRS and one
37 or more dependents are not eligible for medicare and the retired or disabled
38 member of ASRS has ten or more years of credited service. To qualify for
39 this additional benefit, a retired or disabled member shall pay out-of-pocket
40 medical insurance premiums of at least four hundred twenty-five dollars per
41 month.~~

42 ~~2. Up to three hundred fifty dollars per month if the member of ASRS
43 and one or more dependents are eligible for medicare and the retired or
44 disabled member of ASRS has ten or more years of credited service. To
45 qualify for this additional benefit, a retired or disabled member shall pay~~

1 ~~out of pocket medical insurance premiums of at least two hundred dollars per~~
2 ~~month.~~

3 ~~3. If the retired or disabled member of ASRS has ten or more years of~~
4 ~~credited service, up to four hundred seventy dollars per month if either:~~

5 ~~(a) The member of ASRS is not eligible for medicare and one or more~~
6 ~~dependents are eligible for medicare.~~

7 ~~(b) The member of ASRS is eligible for medicare and one or more~~
8 ~~dependents are not eligible for medicare.~~

9 ~~To qualify for this additional benefit, a retired or disabled member shall~~
10 ~~pay out of pocket medical insurance premiums of at least four hundred dollars~~
11 ~~per month.~~

12 ~~G. A retired, contingent annuitant or disabled member of ASRS who is~~
13 ~~enrolled in a managed care program in a nonservice area is not eligible for~~
14 ~~the payment prescribed in subsection E, F, O or P of this section.~~

15 ~~H.~~ E. A retired, contingent annuitant or disabled member of ASRS may
16 elect to purchase individual health care coverage and receive a payment
17 pursuant to this section through the retired or disabled member's employer if
18 that employer assumes the administrative functions associated with the
19 payment, including verification that the payment is used to pay for health
20 insurance coverage if the payment is made to the retired or disabled member.

21 ~~I.~~ F. The board shall establish a separate account that consists of
22 the benefits provided by this section. The board shall not use or divert any
23 part of the corpus or income of the account for any purpose other than the
24 provision of benefits under this section unless the liabilities of ASRS to
25 provide the benefits are satisfied. If the liabilities of ASRS to provide
26 the benefits described in this section are satisfied, the board shall return
27 any amount remaining in the account to the employer.

28 ~~J.~~ G. Payment of the benefits provided by this section is subject to
29 the following conditions:

30 1. The payment of the benefits is subordinate to the payment of
31 retirement benefits payable by ASRS.

32 2. The total of contributions for the benefits and actual
33 contributions for life insurance protection, if any, shall not exceed
34 twenty-five per cent of the total actual employer and employee contributions
35 to ASRS, less contributions to fund past service credits, after the day the
36 account is established.

37 3. The board shall deposit the benefits provided by this section in
38 the account.

39 4. The contributions by the employer to the account shall be
40 reasonable and ascertainable.

41 ~~K.~~ H. A member who elects to receive a retirement benefit pursuant to
42 section 38-760, subsection B, paragraph 1 may elect at the time of retirement
43 an optional form of health and accident insurance premium benefit payment
44 pursuant to this subsection as follows:

1 1. The optional premium benefit payment shall be an amount prescribed
2 by subsection A, ~~B, OR C, E, F, O or P~~ of this section that is actuarially
3 reduced to the retiring member for life. The amount of the optional premium
4 benefit payment shall be the actuarial equivalent of the premium benefit
5 payment to which the retired member would otherwise be entitled. The
6 election in a manner prescribed by the board shall name the contingent
7 annuitant and may be revoked at any time before the retiring member's
8 effective date of retirement. At any time after benefits have commenced, the
9 member may name a different contingent annuitant or rescind the election by
10 written notice to the board as follows:

11 (a) If the retired member names a different contingent annuitant, the
12 optional premium benefit payment shall be adjusted to the actuarial
13 equivalent of the original premium benefit payment based on the age of the
14 new contingent annuitant. The adjustment shall include all postretirement
15 increases or decreases in amounts prescribed by subsection A, ~~B, OR C, E, F,~~
16 ~~O or P~~ of this section that are authorized by law after the retired member's
17 date of retirement. Payment of this adjusted premium benefit payment shall
18 continue under the provisions of the optional premium benefit payment
19 previously elected by the retired member. A retired member cannot name a
20 different contingent annuitant if the retired member has at any time
21 rescinded the optional form of health and accident insurance premium benefit
22 payment.

23 (b) If the retired member rescinds the election, the retired member
24 shall thereafter receive the premium benefit payment that the retired member
25 would otherwise be entitled to receive if the retired member had not elected
26 the optional premium benefit payment, including all postretirement increases
27 or decreases in amounts prescribed by subsection A, ~~B, OR C, E, F, O or P~~ of
28 this section that are authorized by law after the member's date of
29 retirement. The increased benefit payment shall continue during the
30 remainder of the retired member's lifetime. The decision to rescind shall be
31 irrevocable.

32 2. If, at the time of the retired member's death:

33 (a) The retired member was receiving a reduced premium benefit payment
34 based on an amount prescribed in subsection ~~B, OR C, F or P~~ of this section
35 and the contingent annuitant is eligible for family health and accident
36 insurance coverage, the contingent annuitant is entitled to receive a premium
37 benefit payment based on an amount prescribed in subsection ~~B, OR C, F or P~~
38 of this section times the reduction factor applied to the retired member's
39 premium benefit payment times the joint and survivor option reduction factor
40 elected by the retired member at the time of retirement pursuant to section
41 38-760, subsection B, paragraph 1.

42 (b) The retired member was receiving a reduced premium benefit payment
43 based on an amount prescribed in subsection ~~A, OR C, E or O~~ of this section
44 and the contingent annuitant is eligible for single health and accident
45 insurance coverage, the contingent annuitant is entitled to receive a premium

1 benefit payment based on an amount prescribed in subsection A, ~~OR C, E or O~~
2 of this section times the reduction factor applied to the retired member's
3 premium benefit payment times the joint and survivor option reduction factor
4 elected by the retired member at the time of retirement pursuant to section
5 38-760, subsection B, paragraph 1.

6 (c) The retired member was receiving a reduced premium benefit payment
7 based on an amount prescribed in subsection B, ~~OR C, F or P~~ of this section
8 and the contingent annuitant is not eligible for family health and accident
9 insurance coverage, the contingent annuitant is entitled to receive a premium
10 benefit payment based on an amount prescribed in subsection A, ~~OR C, E or O~~
11 of this section times the reduction factor applied to the retired member's
12 premium benefit payment times the joint and survivor option reduction factor
13 elected by the retired member at the time of retirement pursuant to section
14 38-760, subsection B, paragraph 1.

15 ~~I.~~ I. A member who elects to receive a retirement benefit pursuant to
16 section 38-760, subsection B, paragraph 2 may elect at the time of retirement
17 an optional form of health and accident insurance premium benefit payment
18 pursuant to this subsection as follows:

19 1. The optional premium benefit payment shall be an amount prescribed
20 by subsection A, B, ~~OR C, E, F, O or P~~ of this section that is actuarially
21 reduced with payments for five, ten or fifteen years that are not dependent
22 on the continued lifetime of the retired member but whose payments continue
23 for the retired member's lifetime beyond the five, ten or fifteen year
24 period. The election in a manner prescribed by the board shall name the
25 contingent annuitant and may be revoked at any time before the retiring
26 member's effective date of retirement. At any time after benefits have
27 commenced, the member may name a different contingent annuitant or rescind
28 the election by written notice to the board. If the retired member rescinds
29 the election, the retired member shall thereafter receive the premium benefit
30 payment that the retired member would otherwise be entitled to receive if the
31 retired member had not elected the optional premium benefit payment,
32 including all postretirement increases or decreases in amounts prescribed by
33 subsection A, B, ~~OR C, E, F, O or P~~ of this section that are authorized by
34 law after the member's date of retirement. The increased benefit payment
35 shall continue during the remainder of the retired member's lifetime. The
36 decision to rescind shall be irrevocable.

37 2. If, at the time of the retired member's death:

38 (a) The retired member was receiving a reduced premium benefit payment
39 based on an amount prescribed in subsection B, ~~OR C, F or P~~ of this section
40 and the contingent annuitant is eligible for family health and accident
41 insurance coverage, the contingent annuitant is entitled to receive a premium
42 benefit payment based on an amount prescribed in subsection B, ~~OR C, F or P~~
43 of this section times the period certain and life option reduction factor
44 elected by the retired member at the time of retirement pursuant to section
45 38-760, subsection B, paragraph 2.

1 (b) The retired member was receiving a reduced premium benefit payment
2 based on an amount prescribed in subsection A, ~~OR C, E or F~~ of this section
3 and the contingent annuitant is eligible for single health and accident
4 insurance coverage, the contingent annuitant is entitled to receive a premium
5 benefit payment based on an amount prescribed in subsection A, ~~OR C, E or F~~
6 of this section times the period certain and life option reduction factor
7 elected by the retired member at the time of retirement pursuant to section
8 38-760, subsection B, paragraph 2.

9 (c) The retired member was receiving a reduced premium benefit payment
10 based on an amount prescribed in subsection B, ~~OR C, F or P~~ of this section
11 and the contingent annuitant is not eligible for family health and accident
12 insurance coverage, the contingent annuitant is entitled to receive a premium
13 benefit payment based on an amount prescribed in subsection A, ~~OR C, E or F~~
14 of this section times the period certain and life option reduction factor
15 elected by the retired member at the time of retirement pursuant to section
16 38-760, subsection B, paragraph 2.

17 ~~M.~~ J. If, at the time of retirement, a retiring member does not elect
18 to receive a reduced premium benefit payment pursuant to subsection ~~K or L~~ H
19 OR I of this section, the retired member's contingent annuitant is not
20 eligible at any time for the optional premium benefit payment.

21 ~~N.~~ K. A contingent annuitant is not eligible for any premium benefit
22 payment if the contingent annuitant was not enrolled in an eligible health
23 and accident insurance plan at the time of the retired member's death or if
24 the contingent annuitant is not the dependent beneficiary or insured
25 surviving dependent as provided in section 38-782.

26 ~~O. In addition to the payments provided by subsection A of this~~
27 ~~section, beginning July 1, 2005 through June 30, 2009, the board shall pay an~~
28 ~~insurance premium benefit for medical coverage, not including limited benefit~~
29 ~~coverage as defined in section 20-1137, for each medicare eligible retired,~~
30 ~~contingent annuitant or disabled member of ASRS who is eligible for a premium~~
31 ~~benefit payment pursuant to subsection A of this section and who lives in a~~
32 ~~nonservice area of up to one hundred seventy dollars per month for a member~~
33 ~~of ASRS who is eligible for medicare if the retired or disabled member has~~
34 ~~ten or more years of credited service. To qualify for this additional~~
35 ~~benefit, a retired or disabled member of ASRS shall pay out-of-pocket medical~~
36 ~~insurance premiums of at least one hundred dollars per month.~~

37 ~~P. In addition to the payments provided by subsection B of this~~
38 ~~section, beginning July 1, 2005 through June 30, 2009, the board shall pay~~
39 ~~from ASRS assets part of the family coverage premium for medical coverage,~~
40 ~~not including limited benefit coverage as defined in section 20-1137, for a~~
41 ~~medicare eligible retired, contingent annuitant or disabled member of ASRS~~
42 ~~who is eligible for a premium benefit payment pursuant to subsection B of~~
43 ~~this section, who is enrolled in a family medical plan and who lives in a~~
44 ~~nonservice area as follows:~~

1 ~~1. Up to three hundred fifty dollars per month if the member of ASRS~~
2 ~~and one or more dependents are eligible for medicare and the retired or~~
3 ~~disabled member of ASRS has ten or more years of credited service. To~~
4 ~~qualify for this additional benefit, a retired or disabled member shall pay~~
5 ~~out of pocket medical insurance premiums of at least two hundred dollars per~~
6 ~~month.~~

7 ~~2. If the retired or disabled member of ASRS has ten or more years of~~
8 ~~credited service, up to four hundred seventy dollars per month if the member~~
9 ~~of ASRS is eligible for medicare and one or more dependents are not eligible~~
10 ~~for medicare. To qualify for this additional benefit, a retired or disabled~~
11 ~~member shall pay out of pocket medical insurance premiums of at least four~~
12 ~~hundred dollars per month.~~

13 ~~Q.~~ L. For the purposes of this section:

14 1. "Account" means the separate account established pursuant to
15 subsection ~~I~~ F of this section.

16 2. "Credited service" includes prior service.

17 ~~3. "Nonservice area" means an area in this state in which ASRS~~
18 ~~pursuant to section 38-782, the department of administration pursuant to~~
19 ~~section 38-651.01 or any employer does not provide or administer a health~~
20 ~~care services organization program, excluding any preferred provider~~
21 ~~organization program or individual health indemnity policy, for which the~~
22 ~~retired, contingent annuitant or disabled member of ASRS is eligible.~~

23 ~~4.~~ 3. "Prior service" means service for this state or a political
24 subdivision of this state before membership in the defined contribution
25 program administered by ASRS.

26 Sec. 16. Section 38-797, Arizona Revised Statutes, is amended to read:
27 38-797. Definitions

28 In this article, unless the context otherwise requires:

29 1. "ASRS" means the Arizona state retirement system established by
30 article 2 of this chapter.

31 2. "Assets" means the accumulated resources of the LTD program.

32 3. "Board" means the ASRS board established pursuant to section
33 38-713.

34 4. "Compensation" ~~means the gross amount paid to a member by an~~
35 ~~employer as salary or wages, including amounts that are subject to deferred~~
36 ~~compensation or tax shelter agreements, for services rendered to or for an~~
37 ~~employer, or that would have been paid to the member except for the member's~~
38 ~~election or a legal requirement that all or part of the gross amount be used~~
39 ~~for other purposes. Compensation does not include:~~

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

1 ~~(b) Damages, costs, attorney fees, interest or other penalties paid~~
2 ~~pursuant to a court order or a compromise settlement or agreement to satisfy~~
3 ~~a grievance or claim even though the amount of the payment is based in whole~~
4 ~~or in part on previous salary or wage levels, except that, if the court order~~
5 ~~or compromise settlement or agreement directs salary or wages to be paid for~~
6 ~~a specific period of time, the payment is compensation for that specific~~
7 ~~period of time.~~

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

10 ~~(d) Merit awards pursuant to section 38-613 and performance bonuses~~
11 ~~paid to assistant attorneys general pursuant to section 41-192 HAS THE SAME~~
12 ~~MEANING PRESCRIBED IN SECTION 38-711.~~

13 5. "Depository" means a bank in which the monies of the LTD program
14 are deposited and collateralized as provided by law.

15 6. "Employer" ~~means:~~

16 ~~(a) This state.~~

17 ~~(b) Participating political subdivisions~~ HAS THE SAME MEANING
18 ~~PRESCRIBED IN SECTION 38-711.~~

19 7. "Employer contributions" means all amounts paid into the LTD
20 program by an employer.

21 8. "Fiscal year" ~~means the period from July 1 of any year to June 30~~
22 ~~of the following year~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 38-711.

23 9. "LTD program" means the long-term disability program established by
24 this article.

25 10. "Member" has the same meaning prescribed in section 38-711.

26 11. "Monthly compensation" means one-twelfth of a member's annual
27 compensation paid and payable in the fiscal year during which a member
28 becomes disabled.

29 12. "Normal retirement date" ~~means the earliest of the following:~~

30 ~~(a) A member's sixty fifth birthday.~~

31 ~~(b) A member's sixty second birthday and completion of at least ten~~
32 ~~years of credited service.~~

33 ~~(c) The first day that the sum of a member's age and years of total~~
34 ~~credited service equals eighty~~ HAS THE SAME MEANING PRESCRIBED IN SECTION
35 ~~38-711.~~

36 13. "Political subdivision" ~~means any political subdivision of this~~
37 ~~state~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 38-711.

38 14. "State" ~~means this state, including any department, office, board,~~
39 ~~commission, agency, institution or other instrumentality of this state~~ HAS
40 ~~THE SAME MEANING PRESCRIBED IN SECTION 38-711.~~

41 Sec. 17. Repeal

42 Section 38-797.06, Arizona Revised Statutes, is repealed.

1 Sec. 18. Title 38, chapter 5, article 2.1, Arizona Revised Statutes,
2 is amended by adding a new section 38-797.06, to read:

3 38-797.06. Contribution rate; annual report

4 A. THE BOARD SHALL SELECT AN ACTUARY TO DETERMINE REQUIRED EMPLOYER
5 CONTRIBUTIONS ON AN ANNUAL BASIS. THE ACTUARY SHALL BE A FELLOW OF THE
6 SOCIETY OF ACTUARIES.

7 B. EMPLOYER CONTRIBUTIONS SHALL BE A PERCENTAGE OF COMPENSATION OF ALL
8 EMPLOYEES OF THE EMPLOYERS, AS THE ASRS ACTUARY DETERMINES PURSUANT TO THIS
9 SECTION. THE ACTUARY SHALL MAKE THIS DETERMINATION IN AN ANNUAL VALUATION
10 PERFORMED AS OF JUNE 30. THE VALUATION AS OF JUNE 30 OF A CALENDAR YEAR
11 SHALL DETERMINE THE PERCENTAGE TO BE APPLIED TO COMPENSATION FOR THE FISCAL
12 YEAR BEGINNING JULY 1 OF THE FOLLOWING CALENDAR YEAR. THE ACTUARY SHALL
13 DETERMINE THE TOTAL EMPLOYER CONTRIBUTION USING AN ACTUARIAL COST METHOD
14 CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS. THE TOTAL EMPLOYER
15 CONTRIBUTIONS SHALL BE EQUAL TO THE EMPLOYER NORMAL COST PLUS THE AMOUNT
16 REQUIRED TO AMORTIZE THE PAST SERVICE FUNDING REQUIREMENT OVER A PERIOD
17 CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS.

18 C. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE LTD
19 TRUST FUND ESTABLISHED BY SECTION 38-797.02 ARE IRREVOCABLE AND SHALL BE USED
20 AS BENEFITS UNDER THIS ARTICLE OR TO PAY EXPENSES OF THE LTD PROGRAM.

21 D. ASRS SHALL PROVIDE A PRELIMINARY REPORT ON OR BEFORE NOVEMBER 30 OF
22 THE VALUATION YEAR AND A FINAL REPORT ON OR BEFORE JANUARY 15 OF THE
23 FOLLOWING YEAR TO THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES
24 AND THE PRESIDENT OF THE SENATE ON THE CONTRIBUTION RATE FOR THE ENSUING
25 FISCAL YEAR.

26 Sec. 19. Section 38-797.07, Arizona Revised Statutes, is amended to
27 read:

28 38-797.07. LTD program benefits; limitations; definitions

29 A. The LTD program is subject to the following limitations:

30 1. Except as provided in paragraph 7 of this subsection, monthly LTD
31 PROGRAM benefits shall not exceed two-thirds of a member's monthly
32 compensation at the time disability commences, reduced by:

33 (a) For a member whose disability commences before July 1, 2008,
34 sixty-four per cent of social security disability benefits that the member ~~or~~
35 AND the member's dependents are eligible to receive.

36 (b) For a member whose disability commences on or after July 1, 2008,
37 eighty-five per cent of social security disability benefits that the member
38 ~~or~~ AND the member's dependents are eligible to receive, but not including:

39 (i) The amount of attorney fees approved pursuant to social security
40 administration rules and reasonable documented costs paid to an attorney to
41 secure that disability benefit.

42 (ii) Any cost-of-living adjustments that are granted after the member
43 commences benefits under this section.

1 (c) For a member whose disability commences before July 1, 2008,
2 eighty-three per cent of social security retirement benefits that the member
3 is eligible to receive.

4 (d) For a member whose disability commences on or after July 1, 2008,
5 eighty-five per cent of social security retirement benefits that the member
6 is eligible to receive, but not including any cost-of-living adjustments that
7 are granted after the member commences benefits under this section.

8 (e) All of any workers' compensation benefits.

9 (f) All of any payments for a veteran's disability if both of the
10 following apply:

11 (i) The veteran's disability payment is for the same condition or a
12 condition related to the condition currently causing the member's total
13 disability.

14 (ii) The veteran's disability is due to, or a result of, service in
15 the armed forces of the United States.

16 (g) All of any other benefits by reason of employment that are
17 financed partly or wholly by an employer, including payments for sick leave.
18 This subdivision does not include any retirement benefit that is received by
19 the member pursuant to a state retirement system or plan other than ASRS.

20 (h) Fifty per cent of any salary, wages, commissions or other
21 employment related pay that the member receives or is entitled to receive
22 from any gainful employment in which the member actually engages.

23 2. Monthly LTD PROGRAM benefits are not payable until a member has
24 been totally disabled for a period of six consecutive months.

25 3. Monthly LTD PROGRAM benefits are not payable to a member who is
26 receiving retirement benefits from ASRS.

27 4. Monthly LTD PROGRAM benefits are not payable to a member whose
28 disability is due to, or a result of, any of the following:

29 (a) An intentionally self-inflicted injury.

30 (b) War, whether declared or not.

31 (c) An injury incurred while engaged in a felonious criminal act or
32 enterprise.

33 (d) For a member whose most recent membership in the LTD program
34 commences before July 1, 2008, an injury or sickness for which the member
35 received medical treatment within three months before the date of the
36 member's coverage under the LTD program. This subdivision does not apply to
37 a member who either:

38 (i) Has been an active member of an employer for twelve continuous
39 months.

40 (ii) Is employed by an employer before July 1, 1988.

41 (e) For a member whose most recent membership in the LTD program
42 commences on or after July 1, 2008, an injury or sickness for which the
43 member received medical treatment within six months before the date of the
44 member's coverage under the LTD program. This subdivision does not apply to

1 a member who has been an active member of an employer for twelve continuous
2 months.

3 5. Monthly LTD PROGRAM benefits cease to be payable to a member at the
4 earliest of the following:

5 (a) The date the member ceases to be totally disabled.

6 (b) The date the member:

7 (i) Ceases to be under the direct care of a doctor.

8 (ii) Refuses to undergo any medical examination or refuses to
9 participate in any work rehabilitation program for which the member is
10 reasonably qualified by education, training or experience and that is
11 requested by the insurance company or claims administrator that is selected
12 by the board to administer the LTD program.

13 (c) The date the member withdraws employee contributions with interest
14 and ceases to be a member.

15 (d) The later of the following:

16 (i) The member's normal retirement date.

17 (ii) The month following sixty months of payments if disability occurs
18 before sixty-five years of age.

19 (iii) The month following attainment of seventy years of age if
20 disability occurs at sixty-five years of age or after but before sixty-nine
21 years of age.

22 (iv) The month following twelve months of payments if disability
23 occurs at or after sixty-nine years of age.

24 (e) If the member is convicted of a criminal offense and sentenced to
25 more than six months in a jail, prison or other penal institution, the first
26 day of the month following the first thirty continuous days of the member's
27 confinement for the remainder of the confinement.

28 6. Monthly LTD PROGRAM benefits are payable ~~under the LTD program~~ only
29 for disabilities that commence on or after July 1, 1988.

30 7. The minimum benefit for a member who is entitled to receive MONTHLY
31 LTD PROGRAM benefits ~~under the LTD program~~ is fifty dollars per month.

32 8. Members are eligible to receive the LTD PROGRAM benefits and
33 payments described in paragraph 1 of this subsection, and the reductions
34 provided by paragraph 1 of this subsection apply even though the SOCIAL
35 SECURITY benefits are not actually paid as follows:

36 (a) For primary and dependent social security benefits, the members
37 are eligible for the SOCIAL SECURITY benefits until the SOCIAL SECURITY
38 benefits are actually awarded, or if the SOCIAL SECURITY benefits are denied,
39 until the member pursues the social security appeal process through a hearing
40 before a social security administrative law judge or until the insurance
41 company or claims administrator determines that the member is not eligible
42 for social security ~~disability~~ benefits.

43 (b) For benefits and payments from any other source provided in
44 paragraph 1 of this subsection, the members are eligible for the benefits if
45 it is reasonable to believe that ~~the~~ THOSE benefits will be paid on proper

1 completion of the claim or would have been paid except for the failure of the
2 member to pursue the claim in time.

3 9. A member shall be considered totally disabled if:

4 (a) During the first thirty months of a period of disability, the
5 member is unable to perform all duties of the position held by the member
6 when the member became totally disabled.

7 (b) For a member who has received monthly LTD PROGRAM benefits for
8 twenty-four months within a five-year period, the member is unable to perform
9 any work for compensation or gain for which the member is reasonably
10 qualified by education, training or experience in an amount at least equal to
11 the scheduled LTD PROGRAM benefits prescribed in paragraph 1 of this
12 subsection.

13 B. A member who receives monthly LTD PROGRAM benefits ~~from the LTD~~
14 ~~program~~ is entitled to receive service credit pursuant to article 2 of this
15 chapter from the time disability commences until LTD PROGRAM benefits cease
16 to be payable, except that for a member who receives monthly LTD PROGRAM
17 benefits ~~from the LTD program~~ on or after June 30, 1999 the number of years
18 of service credited to the member's retirement account during the period the
19 member receives LTD PROGRAM benefit payments shall not cause the member's
20 total credited service for retirement benefits to exceed the greater of
21 thirty years or the total years of service credited to the member's
22 retirement account on the commencement of disability.

23 C. This section does not prohibit a member whose disability has been
24 established to the satisfaction of the board from relying on treatment by
25 prayer through spiritual means in accordance with the tenets and practice of
26 a recognized church, religious denomination or Native American traditional
27 medicine by a duly accredited practitioner of the church, denomination or
28 Native American traditional medicine without suffering reduction or
29 suspension of the member's monthly LTD PROGRAM benefits.

30 D. For the purposes of this section:

31 1. "Received medical treatment" means that the member consulted with
32 or received the advice of a licensed medical or dental practitioner,
33 including advice given during a routine examination, and it includes
34 situations in which the member received medical or dental care, treatment or
35 services, including the taking of drugs, medication, insulin or similar
36 substances.

37 2. "Social security" and "social security disability" includes the
38 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
39 Code sections 231 through 231u).

40 Sec. 20. Repeal

41 Laws 2007, chapter 244, section 4 is repealed.

42 Sec. 21. Dual employment; prior and current second employment;
43 exemption from compensation definition

44 A. Notwithstanding section 38-711, paragraph 7, Arizona Revised
45 Statutes, as amended by this act, "compensation" includes amounts paid as

1 salary or wages to a member by a second employer and the second employer
2 shall remit contributions required by title 38, chapter 5, articles 2 and
3 2.1, Arizona Revised Statutes, regardless of whether the employee meets the
4 requirements prescribed in section 38-711, paragraph 23, subdivision (b),
5 Arizona Revised Statutes, as amended by this act, if both of the following
6 apply:

7 1. The employee performed services for the same second employer
8 between January 1, 2005 and December 31, 2009 and was not engaged to work at
9 least twenty weeks in each fiscal year and at least twenty hours each week by
10 that second employer.

11 2. The employee resumes or continues employment with the same second
12 employer before January 1, 2012 and is not engaged to work at least twenty
13 weeks in each fiscal year and at least twenty hours each week by that second
14 employer.

15 B. If the employee is contributing pursuant to subsection A of this
16 section and the employee leaves employment for more than thirty consecutive
17 days during the employee's service year, as defined in section 38-711,
18 paragraph 31, Arizona Revised Statutes, as amended by this act, this section
19 no longer applies and the employee is subject to section 38-711, paragraph 7,
20 Arizona Revised Statutes, as amended by this act.

21 Sec. 22. Effective date

22 Section 38-711, Arizona Revised Statutes, as amended by this act, is
23 effective from and after December 31, 2009.

24 Sec. 23. Retroactivity

25 A. Section 38-745, Arizona Revised Statutes, as amended by Laws 2007,
26 chapter 244, section 1 and this act, applies retroactively to from and after
27 June 30, 2009.

28 B. Sections 8 and 20 of this act are effective retroactively to from
29 and after June 30, 2009.