

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

HOUSE BILL 2024

AN ACT

REPEALING LAWS 2011, CHAPTER 26, SECTION 1; AMENDING TITLE 38, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 38-711, 38-730, 38-735, 38-744, 38-745, 38-756, 38-762, 38-764, 38-770, 38-773, 38-797.07 AND 38-922, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Laws 2011, chapter 26, section 1 is repealed.

4 Sec. 2. Title 38, chapter 4, Arizona Revised Statutes, is amended by
5 adding article 5, to read:

6 ARTICLE 5. EMPLOYEE BENEFITS

7 38-671. Employee benefits; exclusions; definitions

8 A. ANY EMPLOYEE HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION
9 IS NOT ELIGIBLE FOR STATE EMPLOYEE BENEFITS UNTIL THE EMPLOYEE HAS WORKED
10 REGULARLY FOR AT LEAST NINETY DAYS.

11 B. NOTWITHSTANDING ANY OTHER LAW, ANY STATE EMPLOYEE INITIALLY HIRED
12 ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION IS NOT ELIGIBLE TO BECOME A
13 MEMBER OF ANY STATE RETIREMENT SYSTEM BEFORE THE TWENTY-SEVENTH WEEK OF
14 EMPLOYMENT. THE STATE EMPLOYEE SHALL BECOME A MEMBER OF THE STATE RETIREMENT
15 SYSTEM ON THE TWENTY-SEVENTH WEEK OF EMPLOYMENT IF MEMBERSHIP CRITERIA IS MET
16 UNDER THE STATE RETIREMENT SYSTEM STATUTES.

17 C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO A PERSON WHO IS
18 ALREADY A MEMBER OF THE STATE RETIREMENT SYSTEM.

19 D. FOR THE PURPOSES OF THIS SECTION:

20 1. "STATE EMPLOYEE" MEANS A PERSON WHO IS EMPLOYED BY AN AGENCY,
21 DEPARTMENT, BOARD OR COMMISSION OF THIS STATE, A UNIVERSITY UNDER THE
22 JURISDICTION OF THE ARIZONA BOARD OF REGENTS, THE JUDICIAL BRANCH, THE
23 ARIZONA CORPORATION COMMISSION OR THE LEGISLATURE.

24 2. "STATE EMPLOYEE BENEFITS" MEANS ANY COVERAGE PROVIDED PURSUANT TO
25 ARTICLE 4 OF THIS CHAPTER.

26 3. "STATE RETIREMENT SYSTEM" MEANS THE ARIZONA STATE RETIREMENT SYSTEM
27 ESTABLISHED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THE LONG-TERM
28 DISABILITY PROGRAM ESTABLISHED BY CHAPTER 5, ARTICLE 2.1 OF THIS TITLE.

29 Sec. 3. Section 38-711, Arizona Revised Statutes, is amended to read:

30 38-711. Definitions

31 In this article, unless the context otherwise requires:

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

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

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

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

1 5. "Average monthly compensation" means:

2 (a) For a member whose membership in ASRS commenced before January 1,
3 1984 and who left the member's contributions on deposit or reinstated
4 forfeited credited service pursuant to section 38-742 for a period of
5 employment that commenced before January 1, 1984, the higher of either:

6 (i) The monthly average of compensation that is calculated pursuant to
7 subdivision (b) of this paragraph.

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

26 (b) For a member whose membership in ASRS commenced on or after
27 January 1, 1984 but before July 1, 2011, the monthly average of compensation
28 on which contributions were remitted during a period of thirty-six
29 consecutive months during which a member receives the highest compensation
30 within the last one hundred twenty months of credited service. Any month for
31 which no contributions are reported to ASRS or that falls within a period of
32 nonpaid or partially paid leave of absence or sabbatical leave shall be
33 excluded from the computation. The thirty-six consecutive months may
34 entirely precede, may be both before and after or may be completely after any
35 excluded months. If the member was employed for less than thirty-six
36 consecutive months, the average monthly compensation shall be based on the
37 total consecutive months worked.

38 (c) For a member whose membership in ASRS commenced on or after July
39 1, 2011, the monthly average of compensation on which contributions were
40 remitted during a period of sixty consecutive months during which a member
41 receives the highest compensation within the last one hundred twenty months
42 of credited service. Any month for which no contributions are reported to
43 ASRS or that falls within a period of nonpaid or partially paid leave of
44 absence or sabbatical leave shall be excluded from the computation. The
45 sixty consecutive months may entirely precede, may be both before and after

1 or may be completely after any excluded months. If the member was employed
2 for less than sixty consecutive months, the average monthly compensation
3 shall be based on the total consecutive months worked.

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

5 7. "Compensation" means the gross amount paid to a member by an
6 employer as salary or wages, including amounts that are subject to deferred
7 compensation or tax shelter agreements, for services rendered to or for an
8 employer, or that would have been paid to the member except for the member's
9 election or a legal requirement that all or part of the gross amount be used
10 for other purposes, but does not include amounts paid in excess of
11 compensation limits established in section 38-746. Compensation includes
12 amounts paid as salary or wages to a member by a second employer if the
13 member meets the requirements prescribed in paragraph 23, subdivision (b) of
14 this section with that second employer. Compensation, as provided in
15 paragraph 5, subdivision (b) or (c) of this section, does not include:

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

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

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

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

34 (e) Amounts that are paid as salary or wages to a member for which
35 employer contributions have not been paid.

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

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

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

43 (a) Annualized compensation of the typical pay period amount
44 immediately before the date of a request to ASRS to purchase credited service
45 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount

1 shall be determined by taking the five pay periods immediately before the
2 date of a request, disregarding the highest and lowest compensation amount
3 pay periods and averaging the three remaining pay periods.

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

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

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

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

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

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

24 13. "Employer" means:

25 (a) This state.

26 (b) Participating political subdivisions.

27 (c) Participating political subdivision entities.

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

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

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

34 (a) Has not retired.

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

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

37 (d) Has not withdrawn contributions from ASRS.

38 17. "Interest" means the assumed actuarial investment earnings rate
39 approved by the board.

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

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

- 1 20. "Late retirement" means retirement after normal retirement.
2 21. "Leave of absence" means any unpaid leave authorized by the
3 employer, including leaves authorized for sickness or disability or to pursue
4 education or training.
5 22. "Life annuity" means equal monthly installments payable during the
6 member's lifetime after retirement.
7 23. "Member":
8 (a) Means any employee of an employer on the effective date.
9 (b) Means all employees of an employer who are eligible for membership
10 pursuant to section 38-727 and who are engaged to work at least twenty weeks
11 in each fiscal year and at least twenty hours each week.
12 (c) Means any person receiving a benefit under ASRS.
13 (d) Means any person who is a former active member of ASRS and who has
14 not withdrawn contributions from ASRS pursuant to section 38-740.
15 (e) Does not include any employee of an employer who is otherwise
16 eligible pursuant to this article and who begins service in a limited
17 appointment for not more than eighteen months on or after July 1, 1979. If
18 the employment exceeds eighteen months, the employee shall be covered by ASRS
19 as of the beginning of the nineteenth month of employment. In order to be
20 excluded under this subdivision, classifications of employees designated by
21 employers as limited appointments must be approved by the director.
22 (f) Does not include any leased employee. For the purposes of section
23 414(n) of the internal revenue code, "leased employee" means an individual
24 who:
25 (i) Is not otherwise an employee of an employer.
26 (ii) Pursuant to a leasing agreement between the employer and another
27 person, performs services for the employer on a substantially full-time basis
28 for at least one year.
29 (iii) Performs services under the primary direction or control of the
30 employer.
31 24. "Member contributions" means all amounts paid to ASRS by a member.
32 25. "Normal costs" means the sum of the individual normal costs for all
33 active members for each fiscal year. The normal cost for an individual
34 active member is the cost that is assigned to the fiscal year using the
35 projected unit credit method.
36 26. "Normal retirement age" means the age at which a member reaches the
37 member's normal retirement date.
38 27. "Normal retirement date" means the earliest of the following:
39 (a) A member's sixty-fifth birthday.
40 (b) A member's sixty-second birthday and completion of at least ten
41 years of credited service.
42 (c) For a member whose membership commenced before July 1, 2011, the
43 first day that the sum of a member's age and years of total credited service
44 equals eighty. For a member whose membership commenced on or after July 1,

1 2011, the first day that the sum of a member's age and years of total
2 credited service equals eighty-five.

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. 4. Section 38-730, Arizona Revised Statutes, is amended to read:

31 38-730. Charter city or ASRS retirement service credits:
32 transfers

33 A. On application the retirement service credits of an employee of a
34 charter city that is not an employer under ASRS or an employee of an employer
35 that is an employer under ASRS whose job functions are shifted by law from
36 one employer jurisdiction to another shall be transferred to the retirement
37 system of the new employer.

38 B. An employee of a charter city that is not an employer under ASRS or
39 an employee of an employer that is an employer under ASRS who becomes
40 employed by the other employer jurisdiction may apply to have the employee's
41 retirement service credits transferred to the retirement system of the new
42 employer. The retirement service credits of an employee of a charter city
43 that is not an employer under ASRS shall not be transferred unless the
44 governing body of that city approves the transfer. The retirement service

1 credits of an employee of an employer that is an employer under ASRS shall
2 not be transferred unless the board approves the transfer.

3 ~~C. The retirement system that transfers the retirement service credits
4 shall pay to the retirement system of the new employer an amount equal to the
5 present value, as of the date of the transfer, of all benefits generated by
6 the transferred service credits in the retirement system of the new employer
7 as determined by the governing board of the retirement system of the new
8 employer. The amount of any payment under this subsection shall include the
9 accumulated retirement contributions of the employee whose retirement service
10 credits are transferred.~~

11 C. THE TRANSFER SHALL BE MADE PURSUANT TO SECTION 38-922.

12 D. The accumulated retirement contributions of an employee whose
13 retirement service credits are transferred that are paid to the retirement
14 system of the new employer shall not be withdrawn by the employee unless the
15 employee's employment terminates.

16 E. The retirement system to which the employee is transferring shall
17 not apply service credits to the employee's account until such time as
18 complete payment is made to the retirement system to which the employee is
19 transferring. On completion of the transfer provided for in this section,
20 the employee's rights in the retirement system from which the employee is
21 transferring are extinguished.

22 Sec. 5. Section 38-735, Arizona Revised Statutes, is amended to read:

23 38-735. Payment of contributions; recovery of delinquent
24 payments

25 A. All amounts deducted from a member's compensation as provided in
26 section 38-736 and employer contributions required pursuant to section 38-737
27 shall be paid to ASRS for deposit in the ASRS depository.

28 B. Each employer shall certify on each payroll the amount to be
29 contributed and shall remit that amount to ASRS.

30 C. Payments made BY EMPLOYERS pursuant to this article ~~by employers OR~~
31 ARTICLE 2.1, 7 OR 8 OF THIS CHAPTER become delinquent after the due date
32 prescribed in the board's rules and thereafter shall be increased by interest
33 from and after that date until payment is received by ASRS. ASRS shall
34 charge interest on the delinquent payments at an annual rate equal to the
35 interest rate assumption approved by the board from time to time for
36 actuarial equivalency. Delinquent payments due under this ~~subsection~~ ARTICLE
37 OR ARTICLE 2.1, 7 OR 8 OF THIS CHAPTER, together with interest charges as
38 provided in this subsection, may be recovered by action in a court of
39 competent jurisdiction against ~~a political subdivision~~ AN EMPLOYER THAT IS
40 liable for payments or, at the request of the director, may be deducted from
41 any other monies, including excise revenue taxes, payable to the ~~political~~
42 ~~subdivision~~ EMPLOYER by any department or agency of this state. THE EMPLOYER
43 SHALL RECORD DELINQUENT PAYMENTS THAT ARE RECOVERED OR DEDUCTED FROM OTHER
44 MONIES PURSUANT TO THIS SUBSECTION PURSUANT TO APPLICABLE ACCOUNTING AND
45 FINANCIAL REPORTING STANDARDS.

1 Sec. 6. Section 38-744, Arizona Revised Statutes, is amended to read:
2 38-744. Leave of absence; credit for leave without pay

3 A. If an active member of ASRS or a member who is receiving benefits
4 pursuant to section 38-797.07 is officially granted a leave of absence from
5 employment without pay and returns to employment with the same employer,
6 unless employment could not be resumed because of disability or
7 nonavailability of a position, the member may elect to be credited with
8 service for retirement purposes for not more than one year of the leave by
9 paying to ASRS the amounts as provided in subsection B of this section, if
10 the member has not withdrawn contributions from ASRS and the member's
11 employer has certified that the leave of absence benefits or is in the best
12 interests of the employer.

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

18 C. A MEMBER WHO PREVIOUSLY WAS A MEMBER OF ANOTHER PUBLIC EMPLOYEE
19 RETIREMENT SYSTEM AND WHO RECEIVES OR IS ELIGIBLE TO RECEIVE A RETIREMENT
20 BENEFIT FROM THAT SYSTEM FOR ANY PERIOD OF EMPLOYMENT IS INELIGIBLE TO
21 RECEIVE RETIREMENT BENEFITS FROM ASRS FOR THE SAME PERIOD.

22 ~~C.~~ D. Beginning July 1, 2010, a member shall have at least five years
23 of credited service in ASRS before electing to receive credit for service
24 pursuant to this section.

25 ~~D.~~ E. For the purposes of subsection A of this section, each employer
26 shall adopt rules establishing guidelines for a leave of absence that
27 benefits or is in the best interests of the employer.

28 Sec. 7. Section 38-745, Arizona Revised Statutes, is amended to read:
29 38-745. Credit for military service

30 A. An active member of ASRS or a member who is receiving benefits
31 pursuant to section 38-797.07 may purchase credited service in ASRS for
32 active military service if all of the following apply:

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

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

37 3. Beginning July 1, 2010, a member has at least five years of
38 credited service in ASRS.

39 B. The cost to purchase military service credit is an amount equal to
40 the present value of the additional benefit that is derived from the
41 purchased credited service using the actuarial assumptions that are approved
42 by the board.

43 C. An active member of ASRS who is called to active military service
44 may receive credited service for not more than sixty months of active
45 military service, except as provided by the uniformed services employment and

1 reemployment rights act (38 United States Code section 4312(c)). The
2 member's employer shall make employer contributions and member contributions
3 for the member if the member meets the following requirements:

4 1. Was an active member of ASRS on the day before the member began
5 active military service.

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

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

10 4. One of the following occurs:

11 (a) Is honorably separated from active military service and returns to
12 employment for the same employer from which the member left for active
13 military service within ninety days after the date active military service is
14 terminated.

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

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

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

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

25 1. The date the member ~~is separated from active military service~~
26 RETURNS TO EMPLOYMENT OR THE DATE THE MEMBER SHOULD HAVE RETURNED TO
27 EMPLOYMENT PURSUANT TO 20 CODE OF FEDERAL REGULATIONS SECTION 1002.115,
28 WHICHEVER DATE IS EARLIER.

29 2. The date the member is released from service related
30 hospitalization or ~~one-year~~ TWO YEARS after initiation of service related
31 hospitalization, whichever date is earlier.

32 3. One year after the date of disability.

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

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

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

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

44 2. If the employer cannot reasonably determine a member's rate of
45 compensation for the period that the member was ordered into active military

1 service, the employer shall make contributions based on the member's average
2 rate of compensation during the twelve-month period immediately preceding the
3 period of active military service.

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

8 4. Employer contributions shall be made in a lump sum and without
9 penalty when the member returns to employment, when it is determined that the
10 member is unable to return to employment because of a disability as a result
11 of or that occurred during military service or on receipt of the member's
12 death certificate. If a member suffers a service related death, the employer
13 shall make the employer and member contributions up to and including the date
14 of the member's death. Death benefits shall be calculated as prescribed by
15 law.

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

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

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

26 J. A MEMBER WHO DOES NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY
27 REASON OF QUALIFIED MILITARY SERVICE, AS THAT TERM IS DEFINED IN SECTION
28 414(u) OF THE INTERNAL REVENUE CODE, AND WHO IS RECEIVING DIFFERENTIAL WAGE
29 PAYMENTS, AS THAT TERM IS DEFINED IN SECTION 3401(h)(2) OF THE INTERNAL
30 REVENUE CODE, SHALL NOT BE CONSIDERED AS HAVING A SEVERANCE FROM EMPLOYMENT
31 FOR ALL PURPOSES UNDER ASRS DURING THE PERIOD THE DIFFERENTIAL WAGES ARE
32 BEING PAID BY THE EMPLOYER TO THE EMPLOYEE.

33 Sec. 8. Section 38-756, Arizona Revised Statutes, is amended to read:

34 38-756. Outreach education program

35 A. The director shall develop, implement and maintain an outreach
36 education program for members of ASRS that is designed to provide basic
37 information on retirement planning.

38 B. The outreach education program prescribed in subsection A shall
39 include at least the following:

40 1. Information on the benefits available to members before retirement.

41 2. Information on the financial benefits available at retirement
42 including a detailed explanation of the benefits and benefit options under
43 ASRS.

44 3. Information on how ASRS is organized.

45 4. Information on how the benefits of the members are funded.

1 5. Information on the social issues related to retirement.
2 6. The use of audiovisual, electronic and other educational aids that
3 are designed to provide information on retirement education and planning.
4 7. The development of a creative promotional program using available
5 media outlets.
6 C. ASRS shall present, **EITHER IN PERSON OR THROUGH THE USE OF**
7 **ELECTRONIC MEANS**, the outreach education program prescribed in subsection A
8 at least once each year in each county of this state. Attendance of active
9 members at outreach education program presentations is voluntary.
10 Sec. 9. Section 38-762, Arizona Revised Statutes, is amended to read:
11 **38-762. Survivor benefits before retirement; definitions**
12 A. On the death of any active or inactive member before retirement,
13 the designated beneficiary of the member shall be paid a survivor benefit
14 equal to the sum of both of the following:
15 1. ~~Two times~~ The member's contribution and interest **AND THE EMPLOYER'S**
16 **CONTRIBUTION AND INTEREST** to the defined benefit plan established by this
17 article for credited service that a member earned by working for an employer,
18 plus all contributions and interest made for the purchase of military
19 service, leave without pay or other public service credit.
20 2. The amount of the member's employee account and the member's
21 employer account together with supplemental credits, if any, transferred from
22 the defined contribution program administered by ASRS to the defined benefit
23 program established by this article.
24 B. Subsection A, paragraphs 1 and 2 of this section shall be
25 accumulated at compound interest at a rate determined by the board through
26 the day of the payment of the benefit.
27 C. In lieu of a single payment, a designated beneficiary who is
28 eligible for a survivor benefit pursuant to subsection A of this section of
29 more than five thousand dollars may elect to receive the actuarial equivalent
30 of the survivor benefit pursuant to one of the following options:
31 1. A monthly income for five, ten or fifteen years certain and for
32 life thereafter.
33 2. Another form of optional benefits approved by the board.
34 D. On the death of an active or inactive member who has reached an
35 early retirement date applicable to the member or who has a minimum of
36 fifteen years of credited service and whose designated beneficiary is a
37 spouse, **A MEMBER'S NATURAL OR ADOPTED** child under the age of twenty-one or
38 ~~handicapped child age twenty-one or older, including a legally adopted child~~
39 ~~or a stepchild~~ **A MEMBER'S NATURAL OR ADOPTED CHILD OF ANY AGE WHO IS**
40 **DISABLED**, ASRS shall pay the designated beneficiary a survivor benefit equal
41 to the present value, on the date following the date of the member's death,
42 of the life annuity that would have been payable to the designated
43 beneficiary if the member had retired on the date of the member's death and
44 elected to receive an annuity in the form of a joint and survivor annuity
45 providing the same amount of annuity to the surviving beneficiary as the

1 reduced amount that would have been payable during the lifetime of the
2 member. If there is more than one designated beneficiary under this
3 subsection, ASRS shall determine the amount of the annuity and its present
4 value as if the oldest of the beneficiaries was the sole beneficiary.
5 Payment under this subsection shall be in lieu of, but not less than, any
6 payment under subsection A of this section. Payment under this subsection,
7 at the election of the designated beneficiary, may be made in a single sum or
8 may be made in accordance with subsection C of this section. A beneficiary
9 may not elect this option unless a benefit of twenty-five dollars or more per
10 month is payable to the designated beneficiary or the designated
11 beneficiary's estate.

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

17 F. If a deceased member did not designate a beneficiary or the
18 beneficiary named by a member predeceases the member, ASRS shall pay the
19 member's survivor benefit to the following persons in the following order of
20 priority:

- 21 1. The member's surviving spouse.
- 22 2. The member's surviving NATURAL OR ADOPTED children, ~~including~~
23 ~~adopted children,~~ in equal shares.
- 24 3. The member's surviving parents in equal shares.
- 25 4. The member's estate.

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

30 H. For the purposes of this section: ~~—~~

31 1. "Designated beneficiary" means any individual designated by the
32 member as the member's beneficiary.

33 2. "DISABLED" MEANS A PERSON IS INCAPABLE OF SELF-SUSTAINING
34 EMPLOYMENT BY REASON OF MENTAL OR PHYSICAL HANDICAP AND IS CHIEFLY DEPENDENT
35 ON THE MEMBER FOR SUPPORT.

36 Sec. 10. Section 38-764, Arizona Revised Statutes, is amended to read:
37 38-764. Commencement of retirement; payment of retirement
38 benefits; lump sum payments

39 A. Retirement is deemed to commence on a date elected by the member.
40 That date shall not be earlier than the day following the date of termination
41 of employment, the date ASRS receives the member's completed retirement
42 application or the date specified by the member pursuant to subsection I of
43 this section.

44 B. Except as provided in subsection C of this section, all retirement
45 benefits:

1 1. Are normally payable in monthly installments beginning on the
2 commencement of retirement as prescribed in subsection A of this section.
3 2. Continue to and include the first day of the month in which death
4 occurs or continue until the date of their cessation in accordance with any
5 optional method of payment that may have been elected.
6 C. In the case of incapacity of a retired member or contingent
7 annuitant, or in the case of any other emergency, as determined by the board,
8 the board may make the payment to or on behalf of the retired member or
9 contingent annuitant or to another person or persons the board determines to
10 be lawfully entitled to receive payment. The payment is payment for the
11 account of the retired member or contingent annuitant and all persons
12 entitled to payment and, to the extent of the payment, is a full and complete
13 discharge of all liability of the board or ASRS, or both, under or in
14 connection with ASRS.
15 D. Except as provided in subsection E of this section, at the request
16 of a retired member, a retired member's guardian or a court appointed
17 conservator, the board may pay any increase in retirement benefits or the
18 entire retirement benefit in a lump sum payment based on the actuarial
19 present value of the benefit or the increase in the benefit if the payment of
20 the benefits would result in ineligibility, reduction or elimination of
21 social service programs provided to the member by this state, its political
22 subdivisions or the federal government.
23 E. The board may pay the entire retirement benefit in a lump sum
24 pursuant to subsection D of this section only if continued membership in ASRS
25 will result in additional requests for lump sum payments based on cost of
26 living adjustments or the establishment of minimum benefit awards.
27 F. If any benefit that is payable as a series of periodic payments
28 amounts to less than ~~twenty dollars per month~~ A THRESHOLD AMOUNT DETERMINED
29 BY THE BOARD, the board, in its sole discretion and based on uniform rules it
30 establishes, may order the amount to be paid ~~quarterly, semiannually,~~
31 ~~annually or~~ in a lump sum. A member who receives a lump sum payment pursuant
32 to this subsection remains a member of ASRS AND IS ELIGIBLE FOR THE COVERAGE
33 PROVIDED PURSUANT TO SECTION 38-782 AND THE PAYMENT PURSUANT TO SECTION
34 38-783, BUT IS NOT ELIGIBLE FOR A BENEFIT INCREASE PURSUANT TO SECTION
35 38-767.
36 G. All distributions of retirement benefits to a member shall be
37 distributed within the required distribution provisions of section 401(a)(9)
38 of the internal revenue code and the regulations that are issued under that
39 section by the United States secretary of the treasury as prescribed in
40 section 38-775.
41 H. A member may elect to cancel the effective date of retirement
42 within thirty days of retirement or before the member's receipt of retirement
43 benefits, whichever is later.
44 I. A member who attains a normal retirement date may retire at any
45 time without terminating employment if the member is employed for less than

1 the hours required for active membership pursuant to section 38-711,
2 paragraph 23, subdivision (b).

3 Sec. 11. Section 38-770, Arizona Revised Statutes, is amended to read:
4 38-770. Eligible rollover distribution; definitions

5 A. Notwithstanding any other provision of this article that would
6 limit a distributee's election under this section, a distributee may elect,
7 at any time and in the manner prescribed by the board, to have any portion of
8 an eligible rollover distribution paid directly to an eligible retirement
9 plan specified by the distributee in a direct rollover.

10 B. An eligible rollover distribution may commence less than thirty
11 days after the notice required under section 402(f) of the internal revenue
12 code is given to the distributee, provided that both:

13 1. ASRS clearly informs the distributee that the distributee has a
14 right to a period of at least thirty days after receiving the notice to
15 consider the decision of whether or not to elect a direct rollover.

16 2. The distributee, after receiving the notice, affirmatively elects a
17 distribution.

18 C. In addition to the other elections permitted in this section,
19 effective for distributions made from and after December 31, 2006, a
20 designated beneficiary of a member who is not the member's surviving spouse
21 may elect, at any time and in the manner prescribed by ASRS, to have any
22 portion of an eligible rollover distribution paid directly to an eligible
23 retirement plan described in subsection D, paragraph 3, subdivisions (a) and
24 (b) of this section. For the purposes of this subsection, "designated
25 beneficiary" has the same meaning prescribed in section 38-775.

26 D. For the purposes of this section:

27 1. "Direct rollover" means a payment by ASRS to the eligible
28 retirement plan specified by the distributee.

29 2. "Distributee" means a member, a member's surviving spouse or a
30 member's spouse or former spouse who is the alternate payee under an
31 acceptable domestic relations order as defined in section 38-773.

32 3. "Eligible retirement plan" means any of the following that accepts
33 a distributee's eligible rollover distribution:

34 (a) An individual retirement account described in section 408(a) of
35 the internal revenue code.

36 (b) An individual retirement annuity described in section 408(b) of
37 the internal revenue code.

38 (c) An annuity plan described in section 403(a) of the internal
39 revenue code.

40 (d) A qualified trust described in section 401(a) of the internal
41 revenue code.

42 (e) An annuity contract described in section 403(b) of the internal
43 revenue code.

44 (f) An eligible deferred compensation plan described in section 457(b)
45 of the internal revenue code that is maintained by a state, a political

1 subdivision of a state or any agency or instrumentality of a state or a
2 political subdivision of a state and that agrees to separately account for
3 amounts transferred into the eligible deferred compensation plan from ASRS.

4 (g) BEGINNING JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT
5 DESCRIBED IN SECTION 408A OF THE INTERNAL REVENUE CODE.

6 4. "Eligible rollover distribution" means distribution of all or any
7 portion of the balance to the credit of the distributee but does not include
8 any of the following:

9 (a) Any distribution that is one of a series of substantially equal
10 periodic payments made not less frequently than annually for the life or life
11 expectancy of the member or the joint lives or joint life expectancies of the
12 member and the member's designated beneficiary or for a specified period of
13 ten years or more.

14 (b) Any distribution to the extent the distribution is required under
15 section 401(a)(9) of the internal revenue code.

16 (c) Except as provided in this paragraph, the portion of any
17 distribution that is not includable in gross income. A distribution does not
18 fail to be an eligible rollover distribution merely because the portion
19 consists of after-tax employee contributions that are not includable in gross
20 income if the portion is paid only to an individual retirement account or
21 annuity described in section 408(a) or 408(b) of the internal revenue code,
22 to a qualified plan described in section 401(a) of the internal revenue code
23 or an annuity contract described in section 403(b) of the internal revenue
24 code that agrees to separately account for amounts so transferred, and
25 earnings on those amounts, including separately accounting for the portion of
26 the distribution that is includable in gross income and the portion of the
27 distribution that is not includable in gross income.

28 (d) Any distribution that is made due to hardship of the member.

29 Sec. 12. Section 38-773, Arizona Revised Statutes, is amended to read:

30 38-773. Benefit payments to alternate payee under acceptable
31 domestic relations order; termination of marriage;
32 revocation of beneficiary designation; definitions

33 A. The board shall review any domestic relations order to which a
34 member is a party and that is submitted to the board to determine if the
35 domestic relations order is acceptable under this section. After a
36 determination that a domestic relations order is acceptable under this
37 section, the board shall notify the member and the named alternate payee of
38 its acceptance of the domestic relations order and ASRS shall pay benefits in
39 accordance with the applicable requirements of the order.

40 B. An acceptable domestic relations order shall not require the board
41 to provide any type, form or time of payment of severance, survivor or
42 retirement benefits or any severance, survivor or retirement benefit option
43 that is not provided under this article.

44 C. An acceptable domestic relations order shall specify all of the
45 following:

- 1 1. The name and last known mailing address of the member.
- 2 2. The name and last known mailing address of each alternate payee
3 covered by the order.
- 4 3. The method of determining the amount of the member's severance,
5 survivor or retirement benefits to be paid by ASRS to each alternate payee
6 covered by the order.
- 7 4. The number of payments or period to which the order applies.
- 8 D. Except as provided by the express terms of a domestic relations
9 order, the divorce or annulment of a member's marriage revokes any revocable:
- 10 1. Disposition or appointment of benefits made by a divorced member to
11 that member's former spouse or to a relative of the divorced member's former
12 spouse in an instrument executed by the member before the divorce or
13 annulment of the member's marriage to the former spouse.
- 14 2. Provision in an instrument executed by the member before the
15 divorce or annulment of the member's marriage to the former spouse conferring
16 any power or right on the divorced member's former spouse or on a relative of
17 the divorced member's former spouse.
- 18 E. ASRS shall give effect to provisions of an instrument executed by a
19 member before the divorce or annulment of the member's marriage to a former
20 spouse as follows:
- 21 1. In the case of disposition or appointment of benefits, as if the
22 former spouse and relatives of the former spouse disclaimed all provisions
23 revoked by this section.
- 24 2. In the case of a revoked power or right, as if the former spouse
25 and relatives of the former spouse died immediately before the divorce or
26 annulment.
- 27 F. Provisions of an instrument revoked solely as provided by this
28 section are revived by the divorced member's remarriage to the former spouse
29 or by a nullification of the member's divorce or annulment.
- 30 G. IF AN ALTERNATE PAYEE PREDECEASES THE MEMBER, AMOUNTS PAYABLE TO
31 THE ALTERNATE PAYEE CEASE ON THE DEATH OF THE ALTERNATE PAYEE. ASRS SHALL
32 CAUSE THE AMOUNT FORMERLY PAYABLE TO THE ALTERNATE PAYEE TO REVERT TO THE
33 MEMBER.
- 34 ~~G.~~ H. For the purposes of this section:
- 35 1. "Domestic relations order" means any judgment, decree, order or
36 approval of a property settlement agreement entered in a court of competent
37 jurisdiction that:
- 38 (a) Relates to marital property rights of a spouse or former spouse.
- 39 (b) Creates or recognizes in the spouse or former spouse the existence
40 of an alternate payee's right to severance, survivor or retirement benefits.
- 41 (c) Assigns the spouse or former spouse as alternate payee the right
42 to receive all or part of the severance, survivor or retirement benefits
43 payable to the member.
- 44 2. "Relative of the divorced member's former spouse" means a person
45 who is related to the divorced member's former spouse by blood, adoption or

1 affinity and who, after the divorce or annulment, is not related to the
2 divorced member by blood, adoption or affinity.

3 Sec. 13. Section 38-797.07, Arizona Revised Statutes, is amended to
4 read:

5 38-797.07. LTD program benefits; limitations; definitions

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

7 1. Except as provided in paragraph ~~7~~ 8 of this subsection, monthly
8 LTD program benefits shall not exceed two-thirds of a member's monthly
9 compensation at the time disability commences, reduced by:

10 (a) For a member whose disability commences before July 1, 2008,
11 sixty-four per cent of social security disability benefits that the member
12 and the member's dependents are eligible to receive.

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

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

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

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

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

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

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

31 (i) The veteran's disability payment is for the same condition or a
32 condition related to the condition currently causing the member's total
33 disability.

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

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

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

43 2. Monthly LTD program benefits are not payable until a member has
44 been totally disabled for a period of six consecutive months.

1 3. MONTHLY LTD PROGRAM BENEFITS ARE NOT PAYABLE TO A MEMBER WHO FILES
2 AN INITIAL CLAIM FOR DISABILITY MORE THAN TWELVE MONTHS AFTER THE DATE OF THE
3 MEMBER'S DATE OF DISABILITY UNLESS THE MEMBER DEMONSTRATES TO ASRS GOOD CAUSE
4 FOR NOT FILING THE INITIAL CLAIM WITHIN TWELVE MONTHS AFTER THE DATE OF
5 DISABILITY.

6 ~~3-~~ 4. Monthly LTD program benefits are not payable to a member who is
7 receiving retirement benefits from ASRS.

8 ~~4-~~ 5. Monthly LTD program benefits are not payable to a member whose
9 disability is due to, or a result of, any of the following:

10 (a) An intentionally self-inflicted injury.

11 (b) War, whether declared or not.

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

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

19 (i) Has been an active member of an employer for twelve continuous
20 months.

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

22 (e) For a member whose most recent membership in the LTD program
23 commences on or after July 1, 2008, an injury or sickness for which the
24 member received medical treatment within six months before the date of the
25 member's coverage under the LTD program. This subdivision does not apply to
26 a member who has been an active member of an employer for twelve continuous
27 months.

28 ~~5-~~ 6. Monthly LTD program benefits cease to be payable to a member at
29 the earliest of the following:

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

31 (b) The date the member:

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

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

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

40 (d) The later of the following:

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

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

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

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

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

10 ~~6-~~ 7. Monthly LTD program benefits are payable only for disabilities
11 that commence on or after July 1, 1988.

12 ~~7-~~ 8. The minimum benefit for a member who is entitled to receive
13 monthly LTD program benefits is fifty dollars per month.

14 ~~8-~~ 9. Members are eligible to receive the LTD program benefits and
15 payments described in paragraph 1 of this subsection, and the reductions
16 provided by paragraph 1 of this subsection apply even though the social
17 security benefits are not actually paid as follows:

18 (a) For primary and dependent social security benefits, the members
19 are eligible for the social security benefits until the social security
20 benefits are actually awarded, or if the social security benefits are denied,
21 until the member pursues the social security appeal process through a hearing
22 before a social security administrative law judge or until the insurance
23 company or claims administrator determines that the member is not eligible
24 for social security benefits.

25 (b) For benefits and payments from any other source provided in
26 paragraph 1 of this subsection, the members are eligible for the benefits if
27 it is reasonable to believe that those benefits will be paid on proper
28 completion of the claim or would have been paid except for the failure of the
29 member to pursue the claim in time.

30 ~~9-~~ 10. A member shall be considered totally disabled if:

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

34 (b) For a member who has received monthly LTD program benefits for
35 twenty-four months within a five-year period, the member is unable to perform
36 any work for compensation or gain for which the member is reasonably
37 qualified by education, training or experience in an amount at least equal to
38 the scheduled LTD program benefits prescribed in paragraph 1 of this
39 subsection.

40 B. A member who receives monthly LTD program benefits is entitled to
41 receive service credit pursuant to article 2 of this chapter from the time
42 disability commences until LTD program benefits cease to be payable, except
43 that for a member who receives monthly LTD program benefits on or after June
44 30, 1999 the number of years of service credited to the member's retirement
45 account during the period the member receives LTD program benefit payments

1 shall not cause the member's total credited service for retirement benefits
2 to exceed the greater of thirty years or the total years of service credited
3 to the member's retirement account on the commencement of disability.

4 C. This section does not prohibit a member whose disability has been
5 established to the satisfaction of the board from relying on treatment by
6 prayer through spiritual means in accordance with the tenets and practice of
7 a recognized church, religious denomination or Native American traditional
8 medicine by a duly accredited practitioner of the church, denomination or
9 Native American traditional medicine without suffering reduction or
10 suspension of the member's monthly LTD program benefits.

11 D. ASRS MAY SUSPEND OR TERMINATE BENEFITS UNDER THIS ARTICLE IF A
12 MEMBER FAILS TO PROVIDE INFORMATION, DATA, PAPERWORK OR OTHER MATERIALS THAT
13 ARE REQUESTED BY ASRS OR THE INSURANCE COMPANY OR CLAIMS ADMINISTRATOR THAT
14 IS SELECTED BY THE BOARD TO ADMINISTER THE LTD PROGRAM. IF THE MEMBER
15 PROVIDES THE INFORMATION REQUESTED, ASRS SHALL RETROACTIVELY REINSTATE THE
16 BENEFITS OR CLAIM FOR WHICH THE MEMBER QUALIFIES UNDER THIS ARTICLE.

17 ~~D.~~ E. For the purposes of this section:

18 1. "Received medical treatment" means that the member consulted with
19 or received the advice of a licensed medical or dental practitioner,
20 including advice given during a routine examination, and it includes
21 situations in which the member received medical or dental care, treatment or
22 services, including the taking of drugs, medication, insulin or similar
23 substances.

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

27 Sec. 14. Section 38-922, Arizona Revised Statutes, is amended to read:

28 38-922. Transfer or redemption of service credits

29 A. Service credits qualified in accordance with section 38-730 OR
30 38-921 may be transferred or redeemed in accordance with this section.

31 B. In the case of a member whose contributions remain on deposit with
32 the prior retirement system or plan, the following shall be calculated:

33 1. The prior system or plan shall calculate the amount equal to the
34 actuarial present value of a member's projected benefits to the extent funded
35 on a market value basis as of the most recent actuarial valuation under the
36 prior system or plan as calculated by that system's or plan's actuary using
37 the same actuarial method and assumptions used in calculating that system's
38 or plan's funding requirements based on the transferring member's service
39 credits at the time of transfer. IF A SYSTEM'S OR PLAN'S MARKET VALUE IS
40 GREATER THAN ONE HUNDRED PER CENT, THE SYSTEM OR PLAN SHALL USE A ONE HUNDRED
41 PER CENT MARKET VALUE.

42 2. The system or plan to which the member is transferring shall
43 calculate the increase in the actuarial present value of the projected
44 benefits provided as a result of the transfer of the member's service
45 credits. This calculation shall be performed by that system's or plan's

1 actuary using the same actuarial method and assumptions used in calculating
2 that system's or plan's funding requirements based on the transferring
3 member's service credits at the time of transfer.

4 C. In the event a member decides to transfer:

5 1. If the amount calculated in subsection B, paragraph 2 is greater
6 than the amount calculated in subsection B, paragraph 1:

7 (a) The prior system or plan shall transfer to the present system or
8 plan the greater of the amount calculated in subsection B, paragraph 1 or the
9 member's accumulated contribution account balance.

10 (b) If the amount transferred is less than the amount calculated under
11 subsection B, paragraph 2, the transferring member shall elect either to pay
12 the difference or to accept a reduced transfer of service credits. If the
13 member elects to pay the difference, the amount paid shall be added to the
14 member's accumulated contribution account balance. If the member elects to
15 accept a reduced transfer of service credits, the amount of service credits
16 transferred shall be equal to the amount of service credits used in making
17 the calculation under subsection B, paragraph 1 multiplied by the ratio of
18 the amount calculated under subsection B, paragraph 1 to the amount
19 calculated under subsection B, paragraph 2.

20 2. If the amount calculated in subsection B, paragraph 2 is less than
21 or equal to the amount calculated in subsection B, paragraph 1, the prior
22 system or plan shall transfer to the present system or plan the greater of
23 the amount calculated in subsection B, paragraph 2 or the member's
24 accumulated contribution account balance.

25 D. In the case of an applicant who has withdrawn ~~his~~ THE APPLICANT'S
26 member contributions from another prior system or plan of this state, the
27 applicant shall pay into the new system or plan to which ~~he~~ THE APPLICANT is
28 transferring an amount equal to the increase in the actuarial present value
29 of the projected benefits provided by the service credits being redeemed and
30 this amount shall be included in the member's current accumulated
31 contribution account balance. This calculation shall be performed by the
32 actuary of the system or plan to which the service credits are being
33 transferred using the same actuarial method and assumptions used in
34 calculating that system's or plan's funding requirements.

35 E. Service credits shall not be applied to the applicant's account
36 until such time as complete payment is made to the retirement system or plan
37 to which the applicant is transferring. On completion of the transfer
38 provided for in this article, the member's rights in the retirement system or
39 plan from which the member is transferring are extinguished.

40 F. A member electing to transfer to or redeem service with the public
41 safety personnel retirement system, the elected officials' retirement plan or
42 the corrections officer retirement plan pursuant to this section may pay for
43 the service being transferred or redeemed in the form of a lump sum payment
44 to the system or plan, a trustee-to-trustee transfer or a direct rollover of
45 an eligible distribution from a plan described in section 402(c)(8)(B)(iii),

1 (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible
2 distribution from an individual retirement account or annuity described in
3 section 408(a) or (b) of the internal revenue code.

4 Sec. 15. Rule making authority

5 Notwithstanding any other law, the Arizona state retirement system may
6 conduct rule making for the purpose of implementing this act.

7 Sec. 16. Arizona state retirement system; 2010-2011
8 appropriations; exemption from lapsing

9 Amounts appropriated to the Arizona state retirement system by Laws
10 2010, seventh special session, chapter 1, section 93 are exempt from the
11 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
12 of appropriations.

13 Sec. 17. Arizona state retirement system; 2011-2012
14 appropriations; exemption from lapsing

15 Amounts appropriated to the Arizona state retirement system by Laws
16 2011, chapter 24, section 89 for contribution rate administration are exempt
17 from the provisions of section 35-190, Arizona Revised Statutes, relating to
18 lapsing of appropriations.