

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1107

AN ACT

AMENDING SECTIONS 38-730, 38-762, 38-764, 38-770, 38-773 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. Section 38-730, Arizona Revised Statutes, is amended to
3 read:

4 38-730. Charter city or ASRS retirement service credits:
5 transfers

6 A. On application the retirement service credits of an employee of a
7 charter city that is not an employer under ASRS or an employee of an employer
8 that is an employer under ASRS whose job functions are shifted by law from
9 one employer jurisdiction to another shall be transferred to the retirement
10 system of the new employer.

11 B. An employee of a charter city that is not an employer under ASRS or
12 an employee of an employer that is an employer under ASRS who becomes
13 employed by the other employer jurisdiction may apply to have the employee's
14 retirement service credits transferred to the retirement system of the new
15 employer. The retirement service credits of an employee of a charter city
16 that is not an employer under ASRS shall not be transferred unless the
17 governing body of that city approves the transfer. The retirement service
18 credits of an employee of an employer that is an employer under ASRS shall
19 not be transferred unless the board approves the transfer.

20 ~~C. The retirement system that transfers the retirement service credits
21 shall pay to the retirement system of the new employer an amount equal to the
22 present value, as of the date of the transfer, of all benefits generated by
23 the transferred service credits in the retirement system of the new employer
24 as determined by the governing board of the retirement system of the new
25 employer. The amount of any payment under this subsection shall include the
26 accumulated retirement contributions of the employee whose retirement service
27 credits are transferred.~~

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

29 D. The accumulated retirement contributions of an employee whose
30 retirement service credits are transferred that are paid to the retirement
31 system of the new employer shall not be withdrawn by the employee unless the
32 employee's employment terminates.

33 E. The retirement system to which the employee is transferring shall
34 not apply service credits to the employee's account until such time as
35 complete payment is made to the retirement system to which the employee is
36 transferring. On completion of the transfer provided for in this section,
37 the employee's rights in the retirement system from which the employee is
38 transferring are extinguished.

39 Sec. 2. Section 38-762, Arizona Revised Statutes, is amended to read:

40 38-762. Survivor benefits before retirement; definitions

41 A. On the death of any active or inactive member before retirement,
42 the designated beneficiary of the member shall be paid a survivor benefit
43 equal to the sum of both of the following:

44 1. Two times the member's contribution and interest to the defined
45 benefit plan established by this article for credited service that a member

1 earned by working for an employer, plus all contributions and interest made
2 for the purchase of military service, leave without pay or other public
3 service credit.

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

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

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

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

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

18 D. On the death of an active or inactive member who has reached an
19 early retirement date applicable to the member or who has a minimum of
20 fifteen years of credited service and whose designated beneficiary is a
21 spouse, ~~handicapped child age twenty-one or older, including a legally adopted child~~
22 ~~or a stepchild~~ **A MEMBER'S NATURAL OR ADOPTED CHILD OF ANY AGE WHO IS**
23 **DISABLED**, ASRS shall pay the designated beneficiary a survivor benefit equal
24 to the present value, on the date following the date of the member's death,
25 of the life annuity that would have been payable to the designated
26 beneficiary if the member had retired on the date of the member's death and
27 elected to receive an annuity in the form of a joint and survivor annuity
28 providing the same amount of annuity to the surviving beneficiary as the
29 reduced amount that would have been payable during the lifetime of the
30 member. If there is more than one designated beneficiary under this
31 subsection, ASRS shall determine the amount of the annuity and its present
32 value as if the oldest of the beneficiaries was the sole beneficiary.
33 Payment under this subsection shall be in lieu of, but not less than, any
34 payment under subsection A of this section. Payment under this subsection,
35 at the election of the designated beneficiary, may be made in a single sum or
36 may be made in accordance with subsection C of this section. A beneficiary
37 may not elect this option unless a benefit of twenty-five dollars or more per
38 month is payable to the designated beneficiary or the designated
39 beneficiary's estate.
40

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

1 F. If a deceased member did not designate a beneficiary or the
2 beneficiary named by a member predeceases the member, ASRS shall pay the
3 member's survivor benefit to the following persons in the following order of
4 priority:

5 1. The member's surviving spouse.

6 2. The member's surviving NATURAL OR ADOPTED children, ~~including~~
7 ~~adopted children,~~ in equal shares.

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

9 4. The member's estate.

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

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

15 1. "Designated beneficiary" means any individual designated by the
16 member as the member's beneficiary.

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

20 Sec. 3. Section 38-764, Arizona Revised Statutes, is amended to read:

21 38-764. Commencement of retirement; payment of retirement
22 benefits; lump sum payments

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

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

30 1. Are normally payable in monthly installments beginning on the
31 commencement of retirement as prescribed in subsection A of this section.

32 2. Continue to and include the first day of the month in which death
33 occurs or continue until the date of their cessation in accordance with any
34 optional method of payment that may have been elected.

35 C. In the case of incapacity of a retired member or contingent
36 annuitant, or in the case of any other emergency, as determined by the board,
37 the board may make the payment to or on behalf of the retired member or
38 contingent annuitant or to another person or persons the board determines to
39 be lawfully entitled to receive payment. The payment is payment for the
40 account of the retired member or contingent annuitant and all persons
41 entitled to payment and, to the extent of the payment, is a full and complete
42 discharge of all liability of the board or ASRS, or both, under or in
43 connection with ASRS.

44 D. Except as provided in subsection E of this section, at the request
45 of a retired member, a retired member's guardian or a court appointed

1 conservator, the board may pay any increase in retirement benefits or the
2 entire retirement benefit in a lump sum payment based on the actuarial
3 present value of the benefit or the increase in the benefit if the payment of
4 the benefits would result in ineligibility, reduction or elimination of
5 social service programs provided to the member by this state, its political
6 subdivisions or the federal government.

7 E. The board may pay the entire retirement benefit in a lump sum
8 pursuant to subsection D of this section only if continued membership in ASRS
9 will result in additional requests for lump sum payments based on cost of
10 living adjustments or the establishment of minimum benefit awards.

11 F. If any benefit that is payable as a series of periodic payments
12 amounts to less than ~~twenty dollars per month~~ A THRESHOLD AMOUNT DETERMINED
13 BY THE BOARD, the board, in its sole discretion and based on uniform rules it
14 establishes, may order the amount to be paid ~~quarterly, semiannually,~~
15 ~~annually or~~ in a lump sum. A member who receives a lump sum payment pursuant
16 to this subsection remains a member of ASRS AND IS ELIGIBLE FOR THE COVERAGE
17 PROVIDED PURSUANT TO SECTION 38-782 AND THE PAYMENT PURSUANT TO SECTION
18 38-783, BUT IS NOT ELIGIBLE FOR A BENEFIT INCREASE PURSUANT TO SECTION
19 38-767.

20 G. All distributions of retirement benefits to a member shall be
21 distributed within the required distribution provisions of section 401(a)(9)
22 of the internal revenue code and the regulations that are issued under that
23 section by the United States secretary of the treasury as prescribed in
24 section 38-775.

25 H. A member may elect to cancel the effective date of retirement
26 within thirty days of retirement or before the member's receipt of retirement
27 benefits, whichever is later.

28 I. A member who attains a normal retirement date may retire at any
29 time without terminating employment if the member is employed for less than
30 the hours required for active membership pursuant to section 38-711,
31 paragraph 23, subdivision (b).

32 Sec. 4. Section 38-770, Arizona Revised Statutes, is amended to read:
33 38-770. Eligible rollover distribution; definitions

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

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

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

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

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

11 D. For the purposes of this section:

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

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

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

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

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

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

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

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

29 (f) An eligible deferred compensation plan described in section 457(b)
30 of the internal revenue code that is maintained by a state, a political
31 subdivision of a state or any agency or instrumentality of a state or a
32 political subdivision of a state and that agrees to separately account for
33 amounts transferred into the eligible deferred compensation plan from ASRS.

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

36 4. "Eligible rollover distribution" means distribution of all or any
37 portion of the balance to the credit of the distributee but does not include
38 any of the following:

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

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

1 (c) Except as provided in this paragraph, the portion of any
2 distribution that is not includable in gross income. A distribution does not
3 fail to be an eligible rollover distribution merely because the portion
4 consists of after-tax employee contributions that are not includable in gross
5 income if the portion is paid only to an individual retirement account or
6 annuity described in section 408(a) or 408(b) of the internal revenue code,
7 to a qualified plan described in section 401(a) of the internal revenue code
8 or an annuity contract described in section 403(b) of the internal revenue
9 code that agrees to separately account for amounts so transferred, and
10 earnings on those amounts, including separately accounting for the portion of
11 the distribution that is includable in gross income and the portion of the
12 distribution that is not includable in gross income.

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

14 Sec. 5. Section 38-773, Arizona Revised Statutes, is amended to read:

15 38-773. Benefit payments to alternate payee under acceptable
16 domestic relations order; termination of marriage;
17 revocation of beneficiary designation; definitions

18 A. The board shall review any domestic relations order to which a
19 member is a party and that is submitted to the board to determine if the
20 domestic relations order is acceptable under this section. After a
21 determination that a domestic relations order is acceptable under this
22 section, the board shall notify the member and the named alternate payee of
23 its acceptance of the domestic relations order and ASRS shall pay benefits in
24 accordance with the applicable requirements of the order.

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

29 C. An acceptable domestic relations order shall specify all of the
30 following:

31 1. The name and last known mailing address of the member.

32 2. The name and last known mailing address of each alternate payee
33 covered by the order.

34 3. The method of determining the amount of the member's severance,
35 survivor or retirement benefits to be paid by ASRS to each alternate payee
36 covered by the order.

37 4. The number of payments or period to which the order applies.

38 D. Except as provided by the express terms of a domestic relations
39 order, the divorce or annulment of a member's marriage revokes any revocable:

40 1. Disposition or appointment of benefits made by a divorced member to
41 that member's former spouse or to a relative of the divorced member's former
42 spouse in an instrument executed by the member before the divorce or
43 annulment of the member's marriage to the former spouse.

44 2. Provision in an instrument executed by the member before the
45 divorce or annulment of the member's marriage to the former spouse conferring

1 any power or right on the divorced member's former spouse or on a relative of
2 the divorced member's former spouse.

3 E. ASRS shall give effect to provisions of an instrument executed by a
4 member before the divorce or annulment of the member's marriage to a former
5 spouse as follows:

6 1. In the case of disposition or appointment of benefits, as if the
7 former spouse and relatives of the former spouse disclaimed all provisions
8 revoked by this section.

9 2. In the case of a revoked power or right, as if the former spouse
10 and relatives of the former spouse died immediately before the divorce or
11 annulment.

12 F. Provisions of an instrument revoked solely as provided by this
13 section are revived by the divorced member's remarriage to the former spouse
14 or by a nullification of the member's divorce or annulment.

15 G. IF AN ALTERNATE PAYEE PREDECEASES THE MEMBER, AMOUNTS PAYABLE TO
16 THE ALTERNATE PAYEE CEASE ON THE DEATH OF THE ALTERNATE PAYEE. ASRS SHALL
17 CAUSE THE AMOUNT FORMERLY PAYABLE TO THE ALTERNATE PAYEE TO REVERT TO THE
18 MEMBER.

19 ~~G.~~ H. For the purposes of this section:

20 1. "Domestic relations order" means any judgment, decree, order or
21 approval of a property settlement agreement entered in a court of competent
22 jurisdiction that:

23 (a) Relates to marital property rights of a spouse or former spouse.

24 (b) Creates or recognizes in the spouse or former spouse the existence
25 of an alternate payee's right to severance, survivor or retirement benefits.

26 (c) Assigns the spouse or former spouse as alternate payee the right
27 to receive all or part of the severance, survivor or retirement benefits
28 payable to the member.

29 2. "Relative of the divorced member's former spouse" means a person
30 who is related to the divorced member's former spouse by blood, adoption or
31 affinity and who, after the divorce or annulment, is not related to the
32 divorced member by blood, adoption or affinity.

33 Sec. 6. Section 38-922, Arizona Revised Statutes, is amended to read:

34 38-922. Transfer or redemption of service credits

35 A. Service credits qualified in accordance with section 38-730 OR
36 38-921 may be transferred or redeemed in accordance with this section.

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

39 1. The prior system or plan shall calculate the amount equal to the
40 actuarial present value of a member's projected benefits to the extent funded
41 on a market value basis as of the most recent actuarial valuation under the
42 prior system or plan as calculated by that system's or plan's actuary using
43 the same actuarial method and assumptions used in calculating that system's
44 or plan's funding requirements based on the transferring member's service
45 credits at the time of transfer. IF A SYSTEM'S OR PLAN'S MARKET VALUE IS

1 GREATER THAN ONE HUNDRED PER CENT, THE SYSTEM OR PLAN SHALL USE A ONE HUNDRED
2 PER CENT MARKET VALUE.

3 2. The system or plan to which the member is transferring shall
4 calculate the increase in the actuarial present value of the projected
5 benefits provided as a result of the transfer of the member's service
6 credits. This calculation shall be performed by that system's or plan's
7 actuary using the same actuarial method and assumptions used in calculating
8 that system's or plan's funding requirements based on the transferring
9 member's service credits at the time of transfer.

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

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

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

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

26 2. If the amount calculated in subsection B, paragraph 2 is less than
27 or equal to the amount calculated in subsection B, paragraph 1, the prior
28 system or plan shall transfer to the present system or plan the greater of
29 the amount calculated in subsection B, paragraph 2 or the member's
30 accumulated contribution account balance.

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

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

1 F. A member electing to transfer to or redeem service with the public
2 safety personnel retirement system, the elected officials' retirement plan or
3 the corrections officer retirement plan pursuant to this section may pay for
4 the service being transferred or redeemed in the form of a lump sum payment
5 to the system or plan, a trustee-to-trustee transfer or a direct rollover of
6 an eligible distribution from a plan described in section 402(c)(8)(B)(iii),
7 (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible
8 distribution from an individual retirement account or annuity described in
9 section 408(a) or (b) of the internal revenue code.