

REFERENCE TITLE: ASRS; comprehensive amendments

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1167

Introduced by
Senators Yarbrough, McComish

AN ACT

AMENDING SECTIONS 38-711, 38-714, 38-730, 38-735, 38-744, 38-745, 38-756, 38-762, 38-764, 38-766 AND 38-766.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-766.02; AMENDING SECTIONS 38-770, 38-773, 38-797.07 AND 38-922, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-711, Arizona Revised Statutes, is amended to
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

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

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

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

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

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the higher of either:

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

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

43 (b) For a member whose membership in ASRS commenced on or after
44 January 1, 1984 but before July 1, 2011, the monthly average of compensation
45 on which contributions were remitted during a period of thirty-six

1 consecutive months during which a member receives the highest compensation
2 within the last one hundred twenty months of credited service. Any month for
3 which no contributions are reported to ASRS or that falls within a period of
4 nonpaid or partially paid leave of absence or sabbatical leave shall be
5 excluded from the computation. The thirty-six consecutive months may
6 entirely precede, may be both before and after or may be completely after any
7 excluded months. If the member was employed for less than thirty-six
8 consecutive months, the average monthly compensation shall be based on the
9 total consecutive months worked.

10 (c) For a member whose membership in ASRS commenced on or after July
11 1, 2011, the monthly average of compensation on which contributions were
12 remitted during a period of sixty consecutive months during which a member
13 receives the highest compensation within the last one hundred twenty months
14 of credited service. Any month for which no contributions are reported to
15 ASRS or that falls within a period of nonpaid or partially paid leave of
16 absence or sabbatical leave shall be excluded from the computation. The
17 sixty consecutive months may entirely precede, may be both before and after
18 or may be completely after any excluded months. If the member was employed
19 for less than sixty consecutive months, the average monthly compensation
20 shall be based on the total consecutive months worked.

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

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

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

37 (b) Damages, costs, attorney fees, interest or other penalties paid
38 pursuant to a court order or a compromise settlement or agreement to satisfy
39 a grievance or claim even though the amount of the payment is based in whole
40 or in part on previous salary or wage levels, except that, if the court order
41 or compromise settlement or agreement directs salary or wages to be paid for
42 a specific period of time, the payment is compensation for that specific
43 period of time. If the amount directed to be paid is less than the actual
44 salary or wages that would have been paid for the period if service had been

1 performed, the contributions for the period shall be based on the amount of
2 compensation that would have been paid if the service had been performed.

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

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

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

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

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

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

16 (a) Annualized compensation of the typical pay period amount
17 immediately before the date of a request to ASRS to purchase credited service
18 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
19 shall be determined by taking the five pay periods immediately before the
20 date of a request, disregarding the highest and lowest compensation amount
21 pay periods and averaging the three remaining pay periods.

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

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

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

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

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

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

42 13. "Employer" means:

43 (a) This state.

44 (b) Participating political subdivisions.

45 (c) Participating political subdivision entities.

- 1 14. "Employer contributions" means all amounts paid into ASRS by an
2 employer on behalf of a member.
- 3 15. "Fiscal year" means the period from July 1 of any year to June 30
4 of the following year.
- 5 16. "Inactive member" means a member who previously made contributions
6 to ASRS and who satisfies each of the following:
- 7 (a) Has not retired.
- 8 (b) Is not eligible for active membership in ASRS.
- 9 (c) Is not currently making contributions to ASRS.
- 10 (d) Has not withdrawn contributions from ASRS.
- 11 17. "Interest" means the assumed actuarial investment earnings rate
12 approved by the board.
- 13 18. "Internal revenue code" means the United States internal revenue
14 code of 1986, as amended.
- 15 19. "Investment management" means the persons, companies, banks,
16 insurance company investment funds, mutual fund companies, management or any
17 combinations of those entities that are appointed by ASRS and that have
18 responsibility and authority for investment of the monies of ASRS.
- 19 20. "Late retirement" means retirement after normal retirement.
- 20 21. "Leave of absence" means any unpaid leave authorized by the
21 employer, including leaves authorized for sickness or disability or to pursue
22 education or training.
- 23 22. "Life annuity" means equal monthly installments payable during the
24 member's lifetime after retirement.
- 25 23. "Member":
- 26 (a) Means any employee of an employer on the effective date.
- 27 (b) Means all employees of an employer who are eligible for membership
28 pursuant to section 38-727 and who are engaged to work at least twenty weeks
29 in each fiscal year and at least twenty hours each week.
- 30 (c) Means any person receiving a benefit under ASRS.
- 31 (d) Means any person who is a former active member of ASRS and who has
32 not withdrawn contributions from ASRS pursuant to section 38-740.
- 33 (e) Does not include any employee of an employer who is otherwise
34 eligible pursuant to this article and who begins service in a limited
35 appointment for not more than eighteen months on or after July 1, 1979. If
36 the employment exceeds eighteen months, the employee shall be covered by ASRS
37 as of the beginning of the nineteenth month of employment. In order to be
38 excluded under this subdivision, classifications of employees designated by
39 employers as limited appointments must be approved by the director.
- 40 (f) Does not include any leased employee. For the purposes of section
41 414(n) of the internal revenue code, "leased employee" means an individual
42 who:
- 43 (i) Is not otherwise an employee of an employer.

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

4 (iii) Performs services under the primary direction or control of the
5 employer.

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

7 25. "Normal costs" means the sum of the individual normal costs for all
8 active members for each fiscal year. The normal cost for an individual
9 active member is the cost that is assigned to the fiscal year using the
10 projected unit credit method.

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

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

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

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

17 (c) For a member whose membership commenced before July 1, 2011, the
18 first day that the sum of a member's age and years of total credited service
19 equals eighty. For a member whose membership commenced on or after July 1,
20 2011, the first day that the sum of a member's age and years of total
21 credited service equals eighty-five.

22 28. "Political subdivision" means any political subdivision of this
23 state and includes a political subdivision entity.

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

25 (a) That is located in this state.

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

28 (c) Where a majority of the membership of the entity is composed of
29 political subdivisions.

30 (d) Whose primary purpose is the performance of a government related
31 service.

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

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

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

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

42 (c) In determining average monthly compensation pursuant to paragraph
43 5 of this section, the service year is considered to be twelve months of
44 compensation.

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

3 33. "Vested" means that a member is eligible to receive a future
4 retirement benefit.

5 Sec. 2. Section 38-714, Arizona Revised Statutes, is amended to read:
6 38-714. Powers and duties of ASRS and board

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

10 B. The board is responsible for supervising the administration of this
11 article by the director of ASRS, except the investment powers and duties of
12 investment management.

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

16 D. The board shall:

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

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

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

24 4. Meet with each investment manager at least annually or at the
25 request of a board member to review the investment manager's performance and
26 the investment manager's attainment of and adherence to the board's
27 investment goals, objectives and policies.

28 5. ESTABLISH A PROCEDURE FOR THE ADOPTION, AMENDMENT OR REPEAL OF
29 RULES FOR THE ADMINISTRATION OF THE PLAN, THIS ARTICLE AND ARTICLES 2.1 AND 7
30 OF THIS CHAPTER.

31 E. The board shall not advocate for or against legislation providing
32 for benefit modifications, except that the board shall provide technical and
33 administrative information regarding the impact of benefit modification
34 legislation.

35 F. The board may:

36 1. Determine the rights, benefits or obligations of any person under
37 this article and afford any person dissatisfied with a determination a
38 hearing on the determination.

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

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

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

3 5. Adopt, amend or repeal rules for the administration of the plan,
4 this article and articles 2.1 and 7 of this chapter.

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

8 G. The board shall submit to the governor and legislature for each
9 fiscal year no later than eight months after the close of the fiscal year a
10 report of its operations and the operations of ASRS. The report shall follow
11 generally accepted accounting principles and generally accepted financial
12 reporting standards and shall include:

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

14 2. Any other statistical and financial data that may be necessary for
15 the proper understanding of the financial condition of ASRS and the results
16 of board operations.

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

19 H. The board shall:

20 1. Prepare and publish a synopsis of the annual report for the
21 information of ASRS members.

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

28 3. Conduct an annual actuarial valuation of ASRS assets and
29 liabilities.

30 I. ASRS IS EXEMPT FROM TITLE 41, CHAPTER 6.

31 ~~J.~~ J. The auditor general may make an annual audit of ASRS and
32 transmit the results to the governor and the legislature.

33 Sec. 3. Section 38-730, Arizona Revised Statutes, is amended to read:

34 38-730. Charter city or ASRS retirement service credits;
35 transfers

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

41 B. An employee of a charter city that is not an employer under ASRS or
42 an employee of an employer that is an employer under ASRS who becomes
43 employed by the other employer jurisdiction may apply to have the employee's
44 retirement service credits transferred to the retirement system of the new
45 employer. The retirement service credits of an employee of a charter city

1 that is not an employer under ASRS shall not be transferred unless the
2 governing body of that city approves the transfer. The retirement service
3 credits of an employee of an employer that is an employer under ASRS shall
4 not be transferred unless the board approves the transfer.

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

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

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

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

24 Sec. 4. Section 38-735, Arizona Revised Statutes, is amended to read:

25 38-735. Payment of contributions; recovery of delinquent
26 payments

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

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

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

1 MONIES PURSUANT TO THIS SUBSECTION PURSUANT TO APPLICABLE ACCOUNTING AND
2 FINANCIAL REPORTING STANDARDS.

3 Sec. 5. Section 38-744, Arizona Revised Statutes, is amended to read:
4 38-744. Leave of absence; credit for leave without pay

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

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

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

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

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

30 Sec. 6. Section 38-745, Arizona Revised Statutes, is amended to read:
31 38-745. Credit for military service

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

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

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

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

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

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

7 1. Was an active member of ASRS on the day before the member began
8 active military service.

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

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

13 4. One of the following occurs:

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

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

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

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

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

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

32 2. The date the member is released from service related
33 hospitalization or ~~one year~~ TWO YEARS after initiation of service related
34 hospitalization, whichever date is earlier.

35 3. One year after the date of disability.

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

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

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

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

4 2. If the employer cannot reasonably determine a member's rate of
5 compensation for the period that the member was ordered into active military
6 service, the employer shall make contributions based on the member's average
7 rate of compensation during the twelve-month period immediately preceding the
8 period of active military service.

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

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

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

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

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

31 J. A MEMBER WHO DOES NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY
32 REASON OF QUALIFIED MILITARY SERVICE, AS THAT TERM IS DEFINED IN SECTION
33 414(u) OF THE INTERNAL REVENUE CODE, AND WHO IS RECEIVING DIFFERENTIAL WAGE
34 PAYMENTS, AS THAT TERM IS DEFINED IN SECTION 3401(h)(2) OF THE INTERNAL
35 REVENUE CODE, SHALL NOT BE CONSIDERED AS HAVING A SEVERANCE FROM EMPLOYMENT
36 FOR ALL PURPOSES UNDER ASRS DURING THE PERIOD THE DIFFERENTIAL WAGES ARE
37 BEING PAID BY THE EMPLOYER TO THE EMPLOYEE.

38 Sec. 7. Section 38-756, Arizona Revised Statutes, is amended to read:
39 38-756. Outreach education program

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

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

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

1 2. Information on the financial benefits available at retirement,
2 including a detailed explanation of the benefits and benefit options under
3 ASRS.

4 3. Information on how ASRS is organized.

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

6 5. Information on the social issues related to retirement.

7 6. The use of audiovisual, electronic and other educational aids that
8 are designed to provide information on retirement education and planning.

9 7. The development of a creative promotional program using available
10 media outlets.

11 C. ASRS shall present, **EITHER IN PERSON OR THROUGH ELECTRONIC MEANS**,
12 the outreach education program prescribed in subsection A at least once each
13 year in each county of this state. Attendance of active members at outreach
14 education program presentations is voluntary.

15 Sec. 8. Section 38-762, Arizona Revised Statutes, is amended to read:
16 **38-762. Survivor benefits before retirement; definitions**

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

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

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

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

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

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

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

39 D. On the death of an active or inactive member who has reached an
40 early retirement date applicable to the member or who has a minimum of
41 fifteen years of credited service and whose designated beneficiary is a
42 spouse, **A MEMBER'S NATURAL OR ADOPTED** child under the age of twenty-one or
43 ~~handicapped child age twenty-one or older, including a legally adopted child~~
44 ~~or a stepchild~~ **A MEMBER'S NATURAL OR ADOPTED CHILD OF ANY AGE WHO IS**
45 **DISABLED**, ASRS shall pay the designated beneficiary a survivor benefit equal

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

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

22 F. If a deceased member did not designate a beneficiary or the
 23 beneficiary named by a member predeceases the member, ASRS shall pay the
 24 member's survivor benefit to the following persons in the following order of
 25 priority:

- 26 1. The member's surviving spouse.
- 27 2. The member's surviving NATURAL OR ADOPTED children, ~~including~~
 28 ~~adopted children,~~ in equal shares.
- 29 3. The member's surviving parents in equal shares.
- 30 4. The member's estate.

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

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

- 36 1. "Designated beneficiary" means any individual designated by the
 37 member as the member's beneficiary.
- 38 2. "DISABLED" MEANS A PERSON IS INCAPABLE OF SELF-SUSTAINING
 39 EMPLOYMENT BY REASON OF MENTAL OR PHYSICAL HANDICAP AND IS CHIEFLY DEPENDENT
 40 ON THE MEMBER FOR SUPPORT.

41 Sec. 9. Section 38-764, Arizona Revised Statutes, is amended to read:

42 38-764. Commencement of retirement; payment of retirement
 43 benefits; lump sum payments

44 A. Retirement is deemed to commence on a date elected by the member.
 45 That date shall not be earlier than the day following the date of termination

1 of employment, the date ASRS receives the member's completed retirement
2 application or the date specified by the member pursuant to subsection I of
3 this section.

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

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

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

11 C. In the case of incapacity of a retired member or contingent
12 annuitant, or in the case of any other emergency, as determined by the board,
13 the board may make the payment to or on behalf of the retired member or
14 contingent annuitant or to another person or persons the board determines to
15 be lawfully entitled to receive payment. The payment is payment for the
16 account of the retired member or contingent annuitant and all persons
17 entitled to payment and, to the extent of the payment, is a full and complete
18 discharge of all liability of the board or ASRS, or both, under or in
19 connection with ASRS.

20 D. Except as provided in subsection E of this section, at the request
21 of a retired member, a retired member's guardian or a court appointed
22 conservator, the board may pay any increase in retirement benefits or the
23 entire retirement benefit in a lump sum payment based on the actuarial
24 present value of the benefit or the increase in the benefit if the payment of
25 the benefits would result in ineligibility, reduction or elimination of
26 social service programs provided to the member by this state, its political
27 subdivisions or the federal government.

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

32 F. If any benefit that is payable as a series of periodic payments
33 amounts to less than ~~twenty dollars per month~~ A THRESHOLD AMOUNT DETERMINED
34 BY THE BOARD, the board, in its sole discretion and based on uniform rules it
35 establishes, may order the amount to be paid ~~quarterly, semiannually,~~
36 ~~annually or~~ in a lump sum. A member who receives a lump sum payment pursuant
37 to this subsection remains a member of ASRS AND IS ELIGIBLE FOR THE COVERAGE
38 PROVIDED PURSUANT TO SECTION 38-782 AND THE PAYMENT PURSUANT TO SECTION
39 38-783, BUT IS NOT ELIGIBLE FOR A BENEFIT INCREASE PURSUANT TO SECTION
40 38-767.

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

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

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

8 Sec. 10. Section 38-766, Arizona Revised Statutes, is amended to read:
9 38-766. Retired members; return to work; suspension of
10 benefits; exceptions; maximum benefit

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

15 1. Terminates employment and files an application for reretirement on
16 a form that is approved by the director.

17 2. Attains a normal retirement date, no longer meets the requirements
18 for active membership pursuant to this subsection and files an application
19 for reretirement on a form that is approved by the director.

20 B. A RETIRED MEMBER WHOSE RETIREMENT BENEFITS HAVE BEEN SUSPENDED
21 PURSUANT TO SUBSECTION A OF THIS SECTION SHALL REPAY ASRS ANY RETIREMENT
22 BENEFITS RECEIVED BY THE MEMBER FROM THE DATE ASRS NOTIFIES THE MEMBER IN
23 WRITING THAT THE MEMBER'S EMPLOYMENT RESULTED IN ACTIVE MEMBERSHIP IN ASRS
24 PURSUANT TO SUBSECTION A OF THIS SECTION, FROM THE DATE ASRS DETERMINES THAT
25 THE MEMBER KNEW OR SHOULD HAVE KNOWN THAT THE MEMBER'S EMPLOYMENT RESULTED IN
26 MEMBERSHIP IN ASRS PURSUANT TO SUBSECTION A OF THIS SECTION OR FOR ANY OTHER
27 PERIOD AS DETERMINED BY ASRS.

28 ~~B.~~ C. A member who satisfies subsection A, paragraph 1 or 2 of this
29 section is entitled to receive an annuity recomputed to include the
30 additional compensation and credited service. However, the recomputed
31 annuity shall be in the original optional form chosen pursuant to section
32 38-760, with the same beneficiary, if applicable, as when the member first
33 retired, unless the member has resumed active membership for at least sixty
34 consecutive months. A member who retired under a provision of law allowing
35 increased benefits if the retirement occurred during a specific period of
36 time and who subsequently becomes an employee under ASRS shall not retain the
37 increased benefits under the prior law when benefits are computed for the
38 member's most recent retirement.

39 ~~C.~~ D. Notwithstanding subsection A of this section, ASRS shall not
40 suspend the payment of retirement benefits if a retired member begins or
41 returns to employment with an employer in a position that satisfies all of
42 the following:

43 1. Results in a true change in position, job duties and job title from
44 the position occupied by the member before ASRS retirement.

1 2. Either:

2 (a) Requires participation in another state retirement system, plan or
3 program and the retired member makes contributions or waives participation
4 pursuant to section 38-804, subsection A.

5 (b) Permits a member to elect to participate in another state
6 retirement system, plan or program and the member makes such an election.

7 3. Does not require membership in the defined benefit plan established
8 by this article.

9 ~~D~~ E. A retired member who returns to work pursuant to subsection ~~E~~
10 D of this section does not accrue credited service, member service as
11 provided in section 15-1628, subsection B, paragraph 4, additional account
12 balances, retirement benefits or long-term disability program benefits
13 pursuant to article 2.1 of this chapter for the period the retired member
14 returns to work. The period the retired member returns to work is not
15 eligible for purchase under section 38-743 or 38-744.

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

19 G. AN EMPLOYER THAT ENGAGED THE RETIRED MEMBER TO WORK PURSUANT TO
20 THIS SECTION SHALL PAY TO ASRS AN AMOUNT EQUAL TO THE RATE ESTABLISHED BY THE
21 ACTUARY PURSUANT TO SECTION 38-766.02, SUBSECTION B FOR THE PERIOD STARTING
22 WITH THE FIRST DAY THE RETIRED MEMBER BEGAN WORKING AFTER RETIREMENT THROUGH
23 THE EARLIER OF:

24 1. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

25 2. THE DATE THE EMPLOYER BEGINS PAYMENT FOR THAT MEMBER PURSUANT TO
26 SECTION 38-766.02.

27 3. THE DATE THE MEMBER RESUMES ACTIVE MEMBERSHIP PURSUANT TO
28 SUBSECTION A OF THIS SECTION AND THE MEMBER AND EMPLOYER ARE REQUIRED TO MAKE
29 CONTRIBUTIONS PURSUANT TO SECTION 38-736, 38-737 OR 38-738.

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

32 38-766.01. Retired members; return to work

33 A. Notwithstanding section 38-766, at a retired member's election, a
34 retired member may return to work and still be eligible to receive retirement
35 benefits if all of the following requirements are satisfied:

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

37 2. The retired member terminated **DIRECT** employment **WITH AN EMPLOYER** at
38 least twelve **CONSECUTIVE** months before returning to work.

39 3. If the retired member returns to work as a teacher, the retired
40 member's employment is not subject to the requirements prescribed in sections
41 15-536, 15-538, 15-538.01 and 15-539 through 15-543.

42 B. A retired member's election to return to work under this section is
43 irrevocable for the remainder of the retired member's employment for which
44 the retiree made the election.

1 C. The retired member shall acknowledge this section in writing and
2 file the acknowledgement with the employer within thirty days of returning to
3 work.

4 D. An employer of a retired member who returns to work pursuant to
5 this section shall not pay contributions on behalf of the retired member
6 pursuant to section 38-736, 38-737 or 38-797.05.

7 E. A retired member who returns to work pursuant to this section does
8 not accrue credited service, member service as provided in section 15-1628,
9 subsection B, paragraph 4, additional account balances, retirement benefits
10 or long-term disability program benefits pursuant to article 2.1 of this
11 chapter for the period the retired member returns to work. The period the
12 retired member returns to work is not eligible for purchase under section
13 38-743 or 38-744.

14 Sec. 12. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
15 amended by adding section 38-766.02, to read:

16 38-766.02. Retired members; return to work; employer
17 contribution payments; definitions

18 A. NOTWITHSTANDING SECTION 38-766.01, SUBSECTION D, BEGINNING JULY 1,
19 2014, AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION RATE
20 ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A
21 POSITION ORDINARILY FILLED BY AN EMPLOYEE OF THE EMPLOYER WHO IS INCLUDED IN
22 AGREEMENTS PROVIDING FOR THEIR COVERAGE UNDER THE FEDERAL OLD AGE AND
23 SURVIVORS INSURANCE SYSTEM. THIS SUBSECTION APPLIES TO A RETIRED MEMBER WHO
24 HAS BEEN RETIRED FOR MORE THAN THREE HUNDRED SIXTY-FIVE DAYS IF THE RETIRED
25 MEMBER HAS REACHED A NORMAL RETIREMENT AGE OR IF THE RETIRED MEMBER RETIRED
26 UNDER SECTION 38-758 AND THE RETIRED MEMBER'S RETIREMENT BENEFIT HAS NOT BEEN
27 SUSPENDED PURSUANT TO SECTION 38-766.

28 B. THE ASRS ACTUARY SHALL DETERMINE THE ALTERNATE CONTRIBUTION RATE IN
29 AN ANNUAL VALUATION PERFORMED AS OF JUNE 30. FOR THE FISCAL YEAR BEGINNING
30 ON JULY 1 OF THE FOLLOWING CALENDAR YEAR, THE VALUATION SHALL DETERMINE THE
31 PERCENTAGE TO BE APPLIED TO THE COMPENSATION, GROSS SALARY OR CONTRACT FEE OF
32 A RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

33 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN TWO PER CENT
34 IN ANY FISCAL YEAR. THE ALTERNATE CONTRIBUTION RATE IS EQUAL TO THE LESSER
35 OF:

36 1. THE EMPLOYER CONTRIBUTION RATE ESTABLISHED BY THE ASRS ACTUARY
37 PURSUANT TO SECTION 38-737 PLUS THE EMPLOYER CONTRIBUTION RATE ESTABLISHED BY
38 THE ASRS ACTUARY PURSUANT TO SECTION 38-797.06.

39 2. TWO TIMES THE PAST SERVICE FUNDING REQUIREMENT RATE ESTABLISHED BY
40 THE ASRS ACTUARY PURSUANT TO SECTION 38-737 PLUS THE PAST SERVICE FUNDING
41 REQUIREMENT RATE ESTABLISHED BY THE ASRS ACTUARY PURSUANT TO SECTION
42 38-797.06.

43 D. ASRS SHALL DETERMINE THE SCHEDULE AND METHOD OF PAYMENT OF THE
44 ALTERNATE CONTRIBUTION RATE. SUBJECT TO SECTION 38-738, SUBSECTION A, ALL
45 CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND ESTABLISHED BY

1 SECTION 38-712 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS
2 ARTICLE OR TO PAY THE EXPENSES OF ASRS. PAYMENTS MADE PURSUANT TO THIS
3 SECTION BY EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE PRESCRIBED IN THE
4 BOARD'S RULES AND THEREAFTER SHALL BE INCREASED BY INTEREST FROM AND AFTER
5 THAT DATE UNTIL PAYMENT IS RECEIVED BY ASRS. ASRS SHALL CHARGE INTEREST ON
6 THE DELINQUENT PAYMENTS AS PRESCRIBED IN SECTION 38-711. ASRS MAY RECOVER
7 DELINQUENT PAYMENTS DUE UNDER THIS SECTION, TOGETHER WITH INTEREST CHARGES AS
8 PROVIDED IN THIS SECTION, BY ACTION IN A COURT OF COMPETENT JURISDICTION
9 AGAINST AN EMPLOYER LIABLE FOR PAYMENTS OR, AT THE REQUEST OF THE DIRECTOR,
10 ASRS MAY DEDUCT THE DELINQUENT PAYMENTS AND INTEREST CHARGES FROM ANY OTHER
11 MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY
12 DEPARTMENT OR AGENCY OF THIS STATE.

13 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,
14 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY ASRS AND THAT ARE NECESSARY TO
15 DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A
16 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, UTILIZATION,
17 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

18 F. FOR THE PURPOSES OF THIS SECTION:

19 1. "CONTRACT FEE" MEANS THE GROSS AMOUNT PAID TO A RETIRED MEMBER AS
20 AN INDEPENDENT CONTRACTOR MINUS AN AMOUNT, NOT TO EXCEED TEN PER CENT, FOR AN
21 ADMINISTRATIVE FEE.

22 2. "GROSS SALARY" MEANS THE GROSS AMOUNT PAID TO A RETIRED MEMBER BY A
23 LEASING COMPANY AS SALARY OR WAGES, INCLUDING AMOUNTS THAT ARE SUBJECT TO
24 DEFERRED COMPENSATION OR TAX SHELTER AGREEMENTS, FOR SERVICES RENDERED OR
25 THAT WOULD HAVE BEEN PAID TO THE RETIRED MEMBER EXCEPT FOR THE MEMBER'S
26 ELECTION OR A LEGAL REQUIREMENT THAT ALL OR PART OF THE GROSS AMOUNT BE USED
27 FOR OTHER PURPOSES.

28 Sec. 13. Section 38-770, Arizona Revised Statutes, is amended to read:
29 38-770. Eligible rollover distribution; definitions

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

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

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

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

43 C. In addition to the other elections permitted in this section,
44 effective for distributions made from and after December 31, 2006, a
45 designated beneficiary of a member who is not the member's surviving spouse

1 may elect, at any time and in the manner prescribed by ASRS, to have any
2 portion of an eligible rollover distribution paid directly to an eligible
3 retirement plan described in subsection D, paragraph 3, subdivisions (a) and
4 (b) of this section. For the purposes of this subsection, "designated
5 beneficiary" has the same meaning prescribed in section 38-775.

6 D. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

31 4. "Eligible rollover distribution" means distribution of all or any
32 portion of the balance to the credit of the distributee but does not include
33 any of the following:

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

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

41 (c) Except as provided in this paragraph, the portion of any
42 distribution that is not includable in gross income. A distribution does not
43 fail to be an eligible rollover distribution merely because the portion
44 consists of after-tax employee contributions that are not includable in gross
45 income if the portion is paid only to an individual retirement account or

1 annuity described in section 408(a) or 408(b) of the internal revenue code,
2 to a qualified plan described in section 401(a) of the internal revenue code
3 or an annuity contract described in section 403(b) of the internal revenue
4 code that agrees to separately account for amounts so transferred, and
5 earnings on those amounts, including separately accounting for the portion of
6 the distribution that is includable in gross income and the portion of the
7 distribution that is not includable in gross income.

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

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

10 38-773. Benefit payments to alternate payee under acceptable
11 domestic relations order; termination of marriage;
12 revocation of beneficiary designation; definitions

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

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

24 C. An acceptable domestic relations order shall specify all of the
25 following:

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

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

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

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

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

35 1. Disposition or appointment of benefits made by a divorced member to
36 that member's former spouse or to a relative of the divorced member's former
37 spouse in an instrument executed by the member before the divorce or
38 annulment of the member's marriage to the former spouse.

39 2. Provision in an instrument executed by the member before the
40 divorce or annulment of the member's marriage to the former spouse conferring
41 any power or right on the divorced member's former spouse or on a relative of
42 the divorced member's former spouse.

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

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

4 2. In the case of a revoked power or right, as if the former spouse
5 and relatives of the former spouse died immediately before the divorce or
6 annulment.

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

10 G. IF AN ALTERNATE PAYEE PREDECEASES THE MEMBER, AMOUNTS PAYABLE TO
11 THE ALTERNATE PAYEE CEASE ON THE DEATH OF THE ALTERNATE PAYEE. ASRS SHALL
12 CAUSE THE AMOUNT FORMERLY PAYABLE TO THE ALTERNATE PAYEE TO REVERT TO THE
13 MEMBER.

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

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

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

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

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

24 2. "Relative of the divorced member's former spouse" means a person
25 who is related to the divorced member's former spouse by blood, adoption or
26 affinity and who, after the divorce or annulment, is not related to the
27 divorced member by blood, adoption or affinity.

28 Sec. 15. Section 38-797.07, Arizona Revised Statutes, is amended to
29 read:

30 38-797.07. LTD program benefits; limitations; definitions

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

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

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

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

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

44 (ii) Any cost-of-living adjustments that are granted after the member
45 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 FILES
26 AN INITIAL CLAIM FOR DISABILITY MORE THAN TWENTY-FOUR MONTHS AFTER THE DATE
27 OF THE MEMBER'S DATE OF DISABILITY.

28 ~~3.~~ 4. Monthly LTD program benefits are not payable to a member who is
29 receiving retirement benefits from ASRS.

30 ~~4.~~ 5. Monthly LTD program benefits are not payable to a member whose
31 disability is due to, or a result of, any of the following:

32 (a) An intentionally self-inflicted injury.

33 (b) War, whether declared or not.

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

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

41 (i) Has been an active member of an employer for twelve continuous
42 months.

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

44 (e) For a member whose most recent membership in the LTD program
45 commences on or after July 1, 2008, an injury or sickness for which the

1 member received medical treatment within six months before the date of the
2 member's coverage under the LTD program. This subdivision does not apply to
3 a member who has been an active member of an employer for twelve continuous
4 months.

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

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

8 (b) The date the member:

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

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

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

17 (d) The later of the following:

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

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

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

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

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

30 ~~6-~~ 7. Monthly LTD program benefits are payable only for disabilities
31 that commence on or after July 1, 1988.

32 ~~7-~~ 8. The minimum benefit for a member who is entitled to receive
33 monthly LTD program benefits is fifty dollars per month.

34 ~~8-~~ 9. Members are eligible to receive the LTD program benefits and
35 payments described in paragraph 1 of this subsection, and the reductions
36 provided by paragraph 1 of this subsection apply even though the social
37 security benefits are not actually paid as follows:

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

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

6 ~~9-~~ 10. A member shall be considered totally disabled if:

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

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

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

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

32 D. ASRS MAY SUSPEND OR TERMINATE BENEFITS UNDER THIS ARTICLE IF A
33 MEMBER FAILS TO PROVIDE INFORMATION, DATA, PAPERWORK OR OTHER MATERIALS THAT
34 ARE REQUESTED BY ASRS OR THE INSURANCE COMPANY OR CLAIMS ADMINISTRATOR THAT
35 IS SELECTED BY THE BOARD TO ADMINISTER THE LTD PROGRAM.

36 ~~D-~~ E. For the purposes of this section:

37 1. "Received medical treatment" means that the member consulted with
38 or received the advice of a licensed medical or dental practitioner,
39 including advice given during a routine examination, and it includes
40 situations in which the member received medical or dental care, treatment or
41 services, including the taking of drugs, medication, insulin or similar
42 substances.

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

1 Sec. 16. Section 38-922, Arizona Revised Statutes, is amended to read:
2 38-922. Transfer or redemption of service credits

3 A. Service credits qualified in accordance with section 38-730 OR
4 38-921 may be transferred or redeemed in accordance with this section.

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

7 1. The prior system or plan shall calculate the amount equal to the
8 actuarial present value of a member's projected benefits to the extent funded
9 on a market value basis as of the most recent actuarial valuation under the
10 prior system or plan as calculated by that system's or plan's actuary using
11 the same actuarial method and assumptions used in calculating that system's
12 or plan's funding requirements based on the transferring member's service
13 credits at the time of transfer. **IF A SYSTEM'S OR PLAN'S MARKET VALUE IS
14 GREATER THAN ONE HUNDRED PER CENT, THE SYSTEM OR PLAN SHALL USE A ONE HUNDRED
15 PER CENT MARKET VALUE.**

16 2. The system or plan to which the member is transferring shall
17 calculate the increase in the actuarial present value of the projected
18 benefits provided as a result of the transfer of the member's service
19 credits. This calculation shall be performed by that system's or plan's
20 actuary using the same actuarial method and assumptions used in calculating
21 that system's or plan's funding requirements based on the transferring
22 member's service credits at the time of transfer.

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

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

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

29 (b) If the amount transferred is less than the amount calculated under
30 subsection B, paragraph 2, the transferring member shall elect either to pay
31 the difference or to accept a reduced transfer of service credits. If the
32 member elects to pay the difference, the amount paid shall be added to the
33 member's accumulated contribution account balance. If the member elects to
34 accept a reduced transfer of service credits, the amount of service credits
35 transferred shall be equal to the amount of service credits used in making
36 the calculation under subsection B, paragraph 1 multiplied by the ratio of
37 the amount calculated under subsection B, paragraph 1 to the amount
38 calculated under subsection B, paragraph 2.

39 2. If the amount calculated in subsection B, paragraph 2 is less than
40 or equal to the amount calculated in subsection B, paragraph 1, the prior
41 system or plan shall transfer to the present system or plan the greater of
42 the amount calculated in subsection B, paragraph 2 or the member's
43 accumulated contribution account balance.

44 D. In the case of an applicant who has withdrawn ~~his~~ **THE APPLICANT'S**
45 member contributions from another prior system or plan of this state, the

1 applicant shall pay into the new system or plan to which ~~he~~ THE APPLICANT is
2 transferring an amount equal to the increase in the actuarial present value
3 of the projected benefits provided by the service credits being redeemed and
4 this amount shall be included in the member's current accumulated
5 contribution account balance. This calculation shall be performed by the
6 actuary of the system or plan to which the service credits are being
7 transferred using the same actuarial method and assumptions used in
8 calculating that system's or plan's funding requirements.

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

14 F. A member electing to transfer to or redeem service with the public
15 safety personnel retirement system, the elected officials' retirement plan or
16 the corrections officer retirement plan pursuant to this section may pay for
17 the service being transferred or redeemed in the form of a lump sum payment
18 to the system or plan, a trustee-to-trustee transfer or a direct rollover of
19 an eligible distribution from a plan described in section 402(c)(8)(B)(iii),
20 (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible
21 distribution from an individual retirement account or annuity described in
22 section 408(a) or (b) of the internal revenue code.

23 Sec. 17. Rule making authority

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

26 Sec. 18. Legislative intent; alternate contribution rate; ASRS
27 employers

28 The legislature intends by this act to establish an alternate
29 contribution rate in order to mitigate the potential actuarial impact that a
30 retired member who returns to work for an employer may have on the Arizona
31 state retirement system. Through the establishment of the alternate
32 contribution rate the legislature intends to assure employers that the use of
33 leased, contracted or retired employees and services will have a minimal, if
34 any, actuarial impact on the Arizona state retirement system.

35 Sec. 19. Appropriation; Arizona state retirement system;
36 exemption

37 A. The sum of \$150,000 is appropriated from the Arizona state
38 retirement system administration account in fiscal year 2011-2012 to the
39 Arizona state retirement system for the administrative implementation of this
40 act.

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