

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1167

AN ACT

AMENDING SECTIONS 38-711, 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.

1 (b) For a member whose membership in ASRS commenced on or after
2 January 1, 1984 but before July 1, 2011, the monthly average of compensation
3 on which contributions were remitted during a period of thirty-six
4 consecutive months during which a member receives the highest compensation
5 within the last one hundred twenty months of credited service. Any month for
6 which no contributions are reported to ASRS or that falls within a period of
7 nonpaid or partially paid leave of absence or sabbatical leave shall be
8 excluded from the computation. The thirty-six consecutive months may
9 entirely precede, may be both before and after or may be completely after any
10 excluded months. If the member was employed for less than thirty-six
11 consecutive months, the average monthly compensation shall be based on the
12 total consecutive months worked.

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

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

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

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

40 (b) Damages, costs, attorney fees, interest or other penalties paid
41 pursuant to a court order or a compromise settlement or agreement to satisfy
42 a grievance or claim even though the amount of the payment is based in whole
43 or in part on previous salary or wage levels, except that, if the court order
44 or compromise settlement or agreement directs salary or wages to be paid for
45 a specific period of time, the payment is compensation for that specific

1 period of time. If the amount directed to be paid is less than the actual
2 salary or wages that would have been paid for the period if service had been
3 performed, the contributions for the period shall be based on the amount of
4 compensation that would have been paid if the service had been performed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (f) Does not include any leased employee. For the purposes of section
2 414(n) of the internal revenue code, "leased employee" means an individual
3 who:

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

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

8 (iii) Performs services under the primary direction or control of the
9 employer.

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

11 25. "Normal costs" means the sum of the individual normal costs for all
12 active members for each fiscal year. The normal cost for an individual
13 active member is the cost that is assigned to the fiscal year using the
14 projected unit credit method.

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

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

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

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

21 (c) For a member whose membership commenced before July 1, 2011, the
22 first day that the sum of a member's age and years of total credited service
23 equals eighty. For a member whose membership commenced on or after July 1,
24 2011, the first day that the sum of a member's age and years of total
25 credited service equals eighty-five.

26 28. "Political subdivision" means any political subdivision of this
27 state and includes a political subdivision entity.

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

29 (a) That is located in this state.

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

32 (c) Where a majority of the membership of the entity is composed of
33 political subdivisions.

34 (d) Whose primary purpose is the performance of a government related
35 service.

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

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

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

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

1 (c) In determining average monthly compensation pursuant to paragraph
2 5 of this section, the service year is considered to be twelve months of
3 compensation.

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

6 33. "Vested" means that a member is eligible to receive a future
7 retirement benefit.

8 Sec. 2. Section 38-730, Arizona Revised Statutes, is amended to read:

9 38-730. Charter city or ASRS retirement service credits;
10 transfers

11 A. On application the retirement service credits of an employee of a
12 charter city that is not an employer under ASRS or an employee of an employer
13 that is an employer under ASRS whose job functions are shifted by law from
14 one employer jurisdiction to another shall be transferred to the retirement
15 system of the new employer.

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

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

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

34 D. The accumulated retirement contributions of an employee whose
35 retirement service credits are transferred that are paid to the retirement
36 system of the new employer shall not be withdrawn by the employee unless the
37 employee's employment terminates.

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

1 Sec. 3. Section 38-735, Arizona Revised Statutes, is amended to read:
2 38-735. Payment of contributions; recovery of delinquent
3 payments

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

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

9 C. Payments made BY EMPLOYERS pursuant to this article ~~by employers~~ OR
10 ARTICLE 2.1, 7 OR 8 OF THIS CHAPTER become delinquent after the due date
11 prescribed in the board's rules and thereafter shall be increased by interest
12 from and after that date until payment is received by ASRS. ASRS shall
13 charge interest on the delinquent payments at an annual rate equal to the
14 interest rate assumption approved by the board from time to time for
15 actuarial equivalency. Delinquent payments due under this ~~subsection~~ ARTICLE
16 OR ARTICLE 2.1, 7 OR 8 OF THIS CHAPTER, together with interest charges as
17 provided in this subsection, may be recovered by action in a court of
18 competent jurisdiction against ~~a political subdivision~~ AN EMPLOYER THAT IS
19 liable for payments or, at the request of the director, may be deducted from
20 any other monies, including excise revenue taxes, payable to the ~~political~~
21 ~~subdivision~~ EMPLOYER by any department or agency of this state. THE EMPLOYER
22 SHALL RECORD DELINQUENT PAYMENTS THAT ARE RECOVERED OR DEDUCTED FROM OTHER
23 MONIES PURSUANT TO THIS SUBSECTION PURSUANT TO APPLICABLE ACCOUNTING AND
24 FINANCIAL REPORTING STANDARDS.

25 Sec. 4. Section 38-744, Arizona Revised Statutes, is amended to read:
26 38-744. Leave of absence; credit for leave without pay

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

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

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

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

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

7 Sec. 5. Section 38-745, Arizona Revised Statutes, is amended to read:

8 38-745. Credit for military service

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

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

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

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

18 B. The cost to purchase military service credit is an amount equal to
19 the present value of the additional benefit that is derived from the
20 purchased credited service using the actuarial assumptions that are approved
21 by the board.

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

28 1. Was an active member of ASRS on the day before the member began
29 active military service.

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

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

34 4. One of the following occurs:

35 (a) Is honorably separated from active military service and returns to
36 employment for the same employer from which the member left for active
37 military service within ninety days after the date active military service is
38 terminated.

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

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

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

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

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

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

11 3. One year after the date of disability.

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

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

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

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

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

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

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

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

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

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

5 J. A MEMBER WHO DOES NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY
6 REASON OF QUALIFIED MILITARY SERVICE, AS THAT TERM IS DEFINED IN SECTION
7 414(u) OF THE INTERNAL REVENUE CODE, AND WHO IS RECEIVING DIFFERENTIAL WAGE
8 PAYMENTS, AS THAT TERM IS DEFINED IN SECTION 3401(h)(2) OF THE INTERNAL
9 REVENUE CODE, SHALL NOT BE CONSIDERED AS HAVING A SEVERANCE FROM EMPLOYMENT
10 FOR ALL PURPOSES UNDER ASRS DURING THE PERIOD THE DIFFERENTIAL WAGES ARE
11 BEING PAID BY THE EMPLOYER TO THE EMPLOYEE.

12 Sec. 6. Section 38-756, Arizona Revised Statutes, is amended to read:

13 38-756. Outreach education program

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

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

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

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

23 3. Information on how ASRS is organized.

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

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

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

28 7. The development of a creative promotional program using available
29 media outlets.

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

34 Sec. 7. Section 38-762, Arizona Revised Statutes, is amended to read:

35 38-762. Survivor benefits before retirement; definitions

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

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

44 2. The amount of the member's employee account and the member's
45 employer account together with supplemental credits, if any, transferred from

1 the defined contribution program administered by ASRS to the defined benefit
2 program established by this article.

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

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

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

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

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

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

41 F. If a deceased member did not designate a beneficiary or the
42 beneficiary named by a member predeceases the member, ASRS shall pay the
43 member's survivor benefit to the following persons in the following order of
44 priority:

- 1 1. The member's surviving spouse.
- 2 2. The member's surviving NATURAL OR ADOPTED children, ~~including~~
- 3 ~~adopted children,~~ in equal shares.
- 4 3. The member's surviving parents in equal shares.
- 5 4. The member's estate.
- 6 G. Any payment pursuant to this section is payment for the account of
- 7 the member or the member's beneficiary and all persons entitled to payment
- 8 and, to the extent of the payment, is a full and complete discharge of all
- 9 liability of the board or ASRS, or both, under or in connection with ASRS.
- 10 H. For the purposes of this section: ~~—~~
- 11 1. "Designated beneficiary" means any individual designated by the
- 12 member as the member's beneficiary.
- 13 2. "DISABLED" MEANS A PERSON IS INCAPABLE OF SELF-SUSTAINING
- 14 EMPLOYMENT BY REASON OF MENTAL OR PHYSICAL HANDICAP AND IS CHIEFLY DEPENDENT
- 15 ON THE MEMBER FOR SUPPORT.
- 16 Sec. 8. Section 38-764, Arizona Revised Statutes, is amended to read:
- 17 38-764. Commencement of retirement; payment of retirement
- 18 benefits; lump sum payments
- 19 A. Retirement is deemed to commence on a date elected by the member.
- 20 That date shall not be earlier than the day following the date of termination
- 21 of employment, the date ASRS receives the member's completed retirement
- 22 application or the date specified by the member pursuant to subsection I of
- 23 this section.
- 24 B. Except as provided in subsection C of this section, all retirement
- 25 benefits:
- 26 1. Are normally payable in monthly installments beginning on the
- 27 commencement of retirement as prescribed in subsection A of this section.
- 28 2. Continue to and include the first day of the month in which death
- 29 occurs or continue until the date of their cessation in accordance with any
- 30 optional method of payment that may have been elected.
- 31 C. In the case of incapacity of a retired member or contingent
- 32 annuitant, or in the case of any other emergency, as determined by the board,
- 33 the board may make the payment to or on behalf of the retired member or
- 34 contingent annuitant or to another person or persons the board determines to
- 35 be lawfully entitled to receive payment. The payment is payment for the
- 36 account of the retired member or contingent annuitant and all persons
- 37 entitled to payment and, to the extent of the payment, is a full and complete
- 38 discharge of all liability of the board or ASRS, or both, under or in
- 39 connection with ASRS.
- 40 D. Except as provided in subsection E of this section, at the request
- 41 of a retired member, a retired member's guardian or a court appointed
- 42 conservator, the board may pay any increase in retirement benefits or the
- 43 entire retirement benefit in a lump sum payment based on the actuarial
- 44 present value of the benefit or the increase in the benefit if the payment of
- 45 the benefits would result in ineligibility, reduction or elimination of

1 social service programs provided to the member by this state, its political
2 subdivisions or the federal government.

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

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

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

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

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

28 Sec. 9. Section 38-766, Arizona Revised Statutes, is amended to read:
29 38-766. Retired members; return to work; suspension of
30 benefits; exceptions; maximum benefit

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

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

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

40 B. A RETIRED MEMBER WHOSE RETIREMENT BENEFITS HAVE BEEN SUSPENDED
41 PURSUANT TO SUBSECTION A OF THIS SECTION SHALL REPAY ASRS ANY RETIREMENT
42 BENEFITS RECEIVED BY THE MEMBER FROM THE DATE ASRS NOTIFIES THE MEMBER IN
43 WRITING THAT THE MEMBER'S EMPLOYMENT RESULTED IN ACTIVE MEMBERSHIP IN ASRS
44 PURSUANT TO SUBSECTION A OF THIS SECTION, FROM THE DATE ASRS DETERMINES THAT
45 THE MEMBER KNEW OR SHOULD HAVE KNOWN THAT THE MEMBER'S EMPLOYMENT RESULTED IN

1 MEMBERSHIP IN ASRS PURSUANT TO SUBSECTION A OF THIS SECTION OR FOR ANY OTHER
2 PERIOD AS DETERMINED BY ASRS.

3 ~~B.~~ C. A member who satisfies subsection A, paragraph 1 or 2 of this
4 section is entitled to receive an annuity recomputed to include the
5 additional compensation and credited service. However, the recomputed
6 annuity shall be in the original optional form chosen pursuant to section
7 38-760, with the same beneficiary, if applicable, as when the member first
8 retired, unless the member has resumed active membership for at least sixty
9 consecutive months. A member who retired under a provision of law allowing
10 increased benefits if the retirement occurred during a specific period of
11 time and who subsequently becomes an employee under ASRS shall not retain the
12 increased benefits under the prior law when benefits are computed for the
13 member's most recent retirement.

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

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

20 2. Either:

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

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

26 3. Does not require membership in the defined benefit plan established
27 by this article.

28 ~~D.~~ E. A retired member who returns to work pursuant to subsection ~~C.~~
29 D of this section does not accrue credited service, member service as
30 provided in section 15-1628, subsection B, paragraph 4, additional account
31 balances, retirement benefits or long-term disability program benefits
32 pursuant to article 2.1 of this chapter for the period the retired member
33 returns to work. The period the retired member returns to work is not
34 eligible for purchase under section 38-743 or 38-744.

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

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

43 1. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

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

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

4 Sec. 10. Section 38-766.01, Arizona Revised Statutes, is amended to
5 read:

6 38-766.01. Retired members; return to work

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

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

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

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

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

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

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

25 E. A retired member who returns to work pursuant to this section does
26 not accrue credited service, member service as provided in section 15-1628,
27 subsection B, paragraph 4, additional account balances, retirement benefits
28 or long-term disability program benefits pursuant to article 2.1 of this
29 chapter for the period the retired member returns to work. The period the
30 retired member returns to work is not eligible for purchase under section
31 38-743 or 38-744.

32 Sec. 11. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
33 amended by adding section 38-766.02, to read:

34 38-766.02. Retired members; return to work; employer
35 contribution payments; definitions

36 A. NOTWITHSTANDING SECTION 38-766.01, SUBSECTION D, BEGINNING JULY 1,
37 2013, AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION RATE
38 ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A
39 POSITION ORDINARILY FILLED BY AN EMPLOYEE OF THE EMPLOYER WHO IS INCLUDED IN
40 AGREEMENTS PROVIDING FOR THEIR COVERAGE UNDER THE FEDERAL OLD AGE AND
41 SURVIVORS INSURANCE SYSTEM. THIS SUBSECTION APPLIES TO A RETIRED MEMBER WHO
42 HAS BEEN RETIRED FOR MORE THAN THREE HUNDRED SIXTY-FIVE DAYS IF THE RETIRED
43 MEMBER HAS REACHED A NORMAL RETIREMENT AGE OR IF THE RETIRED MEMBER RETIRED
44 UNDER SECTION 38-758 AND THE RETIRED MEMBER'S RETIREMENT BENEFIT HAS NOT BEEN
45 SUSPENDED PURSUANT TO SECTION 38-766.

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

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

9 1. THE EMPLOYER CONTRIBUTION RATE ESTABLISHED BY THE ASRS ACTUARY
10 PURSUANT TO SECTION 38-737 PLUS THE EMPLOYER CONTRIBUTION RATE ESTABLISHED BY
11 THE ASRS ACTUARY PURSUANT TO SECTION 38-797.06.

12 2. TWO TIMES THE PAST SERVICE FUNDING REQUIREMENT RATE ESTABLISHED BY
13 THE ASRS ACTUARY PURSUANT TO SECTION 38-737 PLUS THE PAST SERVICE FUNDING
14 REQUIREMENT RATE ESTABLISHED BY THE ASRS ACTUARY PURSUANT TO SECTION
15 38-797.06.

16 D. ASRS SHALL DETERMINE THE SCHEDULE AND METHOD OF PAYMENT OF THE
17 ALTERNATE CONTRIBUTION RATE. SUBJECT TO SECTION 38-738, SUBSECTION A, ALL
18 CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND ESTABLISHED BY
19 SECTION 38-712 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS
20 ARTICLE OR TO PAY THE EXPENSES OF ASRS. PAYMENTS MADE PURSUANT TO THIS
21 SECTION BY EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE PRESCRIBED IN THE
22 BOARD'S RULES AND THEREAFTER SHALL BE INCREASED BY INTEREST FROM AND AFTER
23 THAT DATE UNTIL PAYMENT IS RECEIVED BY ASRS. ASRS SHALL CHARGE INTEREST ON
24 THE DELINQUENT PAYMENTS AS PRESCRIBED IN SECTION 38-711. ASRS MAY RECOVER
25 DELINQUENT PAYMENTS DUE UNDER THIS SECTION, TOGETHER WITH INTEREST CHARGES AS
26 PROVIDED IN THIS SECTION, BY ACTION IN A COURT OF COMPETENT JURISDICTION
27 AGAINST AN EMPLOYER LIABLE FOR PAYMENTS OR, AT THE REQUEST OF THE DIRECTOR,
28 ASRS MAY DEDUCT THE DELINQUENT PAYMENTS AND INTEREST CHARGES FROM ANY OTHER
29 MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY
30 DEPARTMENT OR AGENCY OF THIS STATE.

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

36 F. FOR THE PURPOSES OF THIS SECTION:

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

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

1 Sec. 12. Section 38-770, Arizona Revised Statutes, is amended to read:

2 38-770. Eligible rollover distribution; definitions

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

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

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

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

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

24 D. For the purposes of this section:

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

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

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

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

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

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

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

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

42 (f) An eligible deferred compensation plan described in section 457(b)
43 of the internal revenue code that is maintained by a state, a political
44 subdivision of a state or any agency or instrumentality of a state or a

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

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

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

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

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

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

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

28 Sec. 13. Section 38-773, Arizona Revised Statutes, is amended to read:

29 38-773. Benefit payments to alternate payee under acceptable
30 domestic relations order; termination of marriage;
31 revocation of beneficiary designation; definitions

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

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

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

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

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

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

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

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

9 1. Disposition or appointment of benefits made by a divorced member to
10 that member's former spouse or to a relative of the divorced member's former
11 spouse in an instrument executed by the member before the divorce or
12 annulment of the member's marriage to the former spouse.

13 2. Provision in an instrument executed by the member before the
14 divorce or annulment of the member's marriage to the former spouse conferring
15 any power or right on the divorced member's former spouse or on a relative of
16 the divorced member's former spouse.

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

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

23 2. In the case of a revoked power or right, as if the former spouse
24 and relatives of the former spouse died immediately before the divorce or
25 annulment.

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

29 G. IF AN ALTERNATE PAYEE PREDECEASES THE MEMBER, AMOUNTS PAYABLE TO
30 THE ALTERNATE PAYEE CEASE ON THE DEATH OF THE ALTERNATE PAYEE. ASRS SHALL
31 CAUSE THE AMOUNT FORMERLY PAYABLE TO THE ALTERNATE PAYEE TO REVERT TO THE
32 MEMBER.

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

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

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

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

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

43 2. "Relative of the divorced member's former spouse" means a person
44 who is related to the divorced member's former spouse by blood, adoption or

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

3 Sec. 14. Section 38-797.07, Arizona Revised Statutes, is amended to
4 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) An intentionally self-inflicted injury.

11 (b) War, whether declared or not.

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

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

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

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

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

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

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

31 (b) The date the member:

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

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

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

40 (d) The later of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 15. Section 38-922, Arizona Revised Statutes, is amended to read:

28 38-922. Transfer or redemption of service credits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Sec. 16. Rule making authority

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

7 Sec. 17. Legislative intent; alternate contribution rate; ASRS
8 employers

9 The legislature intends by this act to establish an alternate
10 contribution rate in order to mitigate the potential actuarial impact that a
11 retired member who returns to work for an employer may have on the Arizona
12 state retirement system. Through the establishment of the alternate
13 contribution rate the legislature intends to assure employers that the use of
14 leased, contracted or retired employees and services will have a minimal, if
15 any, actuarial impact on the Arizona state retirement system.

16 Sec. 18. Appropriation; Arizona state retirement system;
17 exemption

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

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