

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1117

AN ACT

AMENDING SECTIONS 38-713 AND 38-715, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-723, 38-724 AND 38-725; AMENDING SECTION 38-755, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-713, Arizona Revised Statutes, is amended to
3 read:

4 38-713. ASRS board; qualifications; term; compensation

5 A. The ASRS board is established consisting of the following nine
6 members appointed by the governor pursuant to section 38-211:

7 1. Five members from among the members of ASRS to represent the
8 members of ASRS as follows:

9 (a) An educator.

10 (b) An employee of a political subdivision.

11 (c) A retired member.

12 (d) An employee of this state.

13 (e) An at large member who may represent any ASRS member group.

14 2. Four members who are not members of ASRS to represent the public.

15 B. Four of the members shall have at least ten years' substantial
16 experience as any one or a combination of the following:

17 1. A portfolio manager acting in a fiduciary capacity.

18 2. A securities analyst.

19 3. An employee or principal of a trust institution, investment
20 organization or endowment fund acting either in a management or an investment
21 related capacity.

22 4. A chartered financial analyst in good standing as determined by the
23 ~~association for investment management and research~~ CFA INSTITUTE.

24 5. A professor at the university level teaching economics or
25 investment related subjects.

26 6. An economist.

27 7. Any other professional engaged in the field of public or private
28 finances.

29 C. Each member who represents an ASRS member group shall have not less
30 than five years of administrative management experience.

31 D. The following persons are not eligible for membership on the board:

32 1. A person who is a stockbroker or bond broker and who is actively
33 engaged in the profession of a stockbroker or bond broker.

34 2. A person who holds a real estate license pursuant to title 32,
35 chapter 20.

36 E. A member may be reappointed. Vacancies occurring other than by
37 expiration of a term shall be filled for the balance of the term in the same
38 manner as for initial appointment. On the expiration of any term, the
39 governor shall appoint a successor for a full term of three years that
40 expires on the third Monday in January of the appropriate year.

41 F. Board members are eligible to receive compensation for performing
42 their duties in an amount of fifty dollars a day, but not more than one
43 thousand dollars in any one fiscal year, and are eligible for reimbursement
44 of expenses pursuant to chapter 4, article 2 of this title.

1 Sec. 2. Section 38-715, Arizona Revised Statutes, is amended to read:
2 38-715. Director: powers and duties

3 A. The board shall appoint a director. The term of the director is
4 one year and expires on June 30. On expiration of a director's term, the
5 board may reappoint the director for another term. The board may remove the
6 director at any time for cause.

7 B. The director shall appoint a deputy director and assistant
8 directors with the approval of the board.

9 C. The director, under the supervision of the board, shall:

10 1. Administer this article, except the investment powers and duties of
11 investment management.

12 2. Hire employees and services the director deems necessary and
13 prescribe their duties.

14 3. Prescribe procedures to be followed by members and their
15 beneficiaries in filing applications for benefits.

16 4. PRESCRIBE PROCEDURES TO BE FOLLOWED BY EMPLOYERS FOR REMITTING DATA
17 AND MONIES TO ASRS AND FOR RECEIVING DATA AND MONIES FROM ASRS.

18 ~~4.~~ 5. Be responsible for:

19 (a) Income and the collection of income and the accuracy of all
20 expenditures.

21 (b) Maintaining books and maintaining and processing records of ASRS.

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

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

29 ~~5.~~ 6. Perform additional powers and duties as may be prescribed by
30 the board and delegated to the director.

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

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

34 2. Appoint a custodian for the safekeeping of all investments owned by
35 ASRS and register stocks, bonds and other investments in the name of a
36 nominee.

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

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

42 (b) "Security loan agreement" means a written contract under which
43 ASRS, as lender, agrees to lend specific marketable securities for a period
44 of not more than one year. ASRS, under a security loan agreement, shall
45 retain the right to collect from the borrower all dividends, interest,

1 premiums and rights and any other distributions to which ASRS otherwise would
2 have been entitled. During the term of a security loan agreement ASRS shall
3 waive the right to vote the securities that are the subject of the agreement.
4 A security loan agreement shall provide for termination by either party on
5 terms mutually acceptable to the parties. The borrower shall deliver
6 collateral to ASRS or its designated representative. At all times during the
7 term of any security loan agreement the collateral shall be in an amount
8 equal to at least one hundred per cent of the market value of the loaned
9 securities. A security loan agreement shall provide for payment of
10 additional collateral on a daily basis, or at such other less frequent
11 intervals as the value of the loaned securities increases. A security loan
12 agreement with a security lending entity shall contain the terms and
13 conditions of the fees to be paid to a security lending entity for servicing
14 the security loan agreement. ASRS shall pay the fees approved by the board
15 to the security lending entity for servicing a security loan agreement from
16 the revenues of the security lending program.

17 4. Establish one or more reserve holding accounts, into which the
18 board shall close periodically the account balances of inactive accounts. If
19 any person files a claim and furnishes proof of ownership of any amounts in
20 any inactive account the claim shall be paid from the reserve holding account
21 on the same basis as if no action had been taken under this paragraph.
22 Interest and supplemental credits shall be allocated to each reserve holding
23 account on June 30 of each year, as determined by the board. For the
24 purposes of this paragraph, "inactive account" means an account to which
25 contributions have not been paid for six months or more.

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

30 E. The director, under supervision of the governing committee for tax
31 deferred annuity and deferred compensation plans, may hire and supervise
32 employees and obtain services the director deems necessary to administer
33 article 5 of this chapter. The tax deferred annuity and deferred
34 compensation programs established pursuant to article 5 of this chapter shall
35 bear the costs for these employees and services.

36 F. The director and all persons employed by the director are not
37 subject to section 38-611 or title 41, chapter 4, article 5 or 6.

38 Sec. 3. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
39 amended by adding sections 38-723, 38-724 and 38-725, to read:

40 38-723. Recovery of collection costs; levy and distraint;
41 definitions

42 A. A DEBTOR WHO FAILS TO PAY ANY MONIES OWED TO ASRS IS LIABLE FOR ALL
43 COSTS AND EXPENSES INCURRED BY ASRS TO COLLECT THE MONIES OWED. ASRS MAY
44 COLLECT THESE EXPENSES AND COSTS AT THE TIME OF COLLECTING THE MONIES OWED TO
45 ASRS.

1 B. IF A DEBTOR NEGLECTS OR REFUSES TO PAY A DEBT OWED TO ASRS AFTER
2 ASRS HAS MADE AT LEAST TWO SEPARATE ATTEMPTS TO COLLECT THE DEBT AND NOT
3 FEWER THAN THIRTY DAYS AFTER ASRS DETERMINES A DEBT IS OWED, ASRS MAY COLLECT
4 THE DEBT AND SUCH OTHER SUMS AS ARE SUFFICIENT TO COVER THE EXPENSES OF THE
5 LEVY, BY LEVY ON:

6 1. CASH AND CASH EQUIVALENT PROPERTY AT FINANCIAL INSTITUTIONS.

7 2. THE ACCRUED SALARY OR WAGES OF THE DEBTOR, BY SERVING NOTICE OF
8 LEVY ON THE CHIEF DISBURSING OFFICER OF THE DEBTOR'S EMPLOYER.

9 C. THE FINANCIAL INSTITUTION OR THE CHIEF DISBURSING OFFICER OF THE
10 DEBTOR'S EMPLOYER SHALL NOTIFY THE DEBTOR OF THE LEVY WITHIN FIVE BUSINESS
11 DAYS OF THE LEVY. THE DEBTOR MAY APPEAL THE LEVY TO ASRS.

12 D. THE EFFECT OF A LEVY ON SALARY OR WAGES PAYABLE TO OR RECEIVED BY A
13 DEBTOR IS CONTINUOUS FROM THE DATE THE LEVY IS FIRST MADE UNTIL THE LIABILITY
14 OUT OF WHICH THE LEVY AROSE IS SATISFIED OR BECOMES UNENFORCEABLE. ASRS
15 SHALL PROMPTLY RELEASE THE LEVY WHEN THE LIABILITY OUT OF WHICH THE LEVY
16 AROSE IS SATISFIED OR BECOMES UNENFORCEABLE AND SHALL PROMPTLY NOTIFY THE
17 DEBTOR ON WHOM THE LEVY WAS MADE THAT THE LEVY HAS BEEN RELEASED.

18 E. IF A LEVY HAS BEEN MADE OR IS ABOUT TO BE MADE, ANY PERSON HAVING
19 CUSTODY OR CONTROL OF ANY BOOKS OR RECORDS CONTAINING EVIDENCE OR STATEMENTS
20 RELATING TO THE PROPERTY SUBJECT TO LEVY, ON REQUEST FROM ASRS, SHALL EXHIBIT
21 THE BOOKS OR RECORDS TO ASRS.

22 F. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION D OF THIS SECTION, A
23 LEVY EXTENDS ONLY TO PROPERTY POSSESSED AND OBLIGATIONS EXISTING AT THE TIME
24 OF THE LEVY OR WITHIN THIRTY DAYS AFTER THE DATE OF THE LEVY. IN ANY CASE IN
25 WHICH ASRS MAY LEVY ON PROPERTY, ASRS MAY SEIZE THE CASH PROPERTY AND MAY
26 SEIZE AND CONVERT CASH EQUIVALENT PROPERTY TO CASH.

27 G. FOR THE PURPOSES OF THIS SECTION:

28 1. "FINANCIAL INSTITUTIONS" MEANS STATE AND FEDERALLY CHARTERED BANKS,
29 TRUST COMPANIES, FEDERAL AND STATE SAVINGS AND LOAN ASSOCIATIONS, FEDERAL AND
30 STATE CREDIT UNIONS, CONSUMER LENDERS, INTERNATIONAL BANKING FACILITIES AND
31 FINANCIAL INSTITUTION HOLDING COMPANIES, INSURANCE COMPANIES, BENEFIT
32 ASSOCIATIONS, SAFE DEPOSIT COMPANIES, MONEY MARKET MUTUAL FUNDS AND SIMILAR
33 INSTITUTIONS AUTHORIZED TO DO BUSINESS IN THIS STATE AND ANY PARTY AFFILIATED
34 WITH THESE FINANCIAL INSTITUTIONS.

35 2. "LEVY" INCLUDES THE POWER OF DISTRAINT AND SEIZURE BY ANY MEANS.

36 38-724. Surrender of property subject to levy; authority to
37 release levy and return property; definitions

38 A. ANY PERSON IN POSSESSION OF, OR OBLIGATED WITH RESPECT TO, PROPERTY
39 SUBJECT TO LEVY ON WHICH A LEVY HAS BEEN MADE SHALL, ON REQUEST OF ASRS,
40 SURRENDER THE PROPERTY OR DISCHARGE THE OBLIGATION TO ASRS, EXCEPT THE PART
41 OF THE PROPERTY THAT IS, AT THE TIME OF THE REQUEST, SUBJECT TO AN ATTACHMENT
42 OR EXECUTION UNDER ANY JUDICIAL PROCESS.

43 B. A PERSON WHO FAILS OR REFUSES TO SURRENDER ANY PROPERTY SUBJECT TO
44 LEVY, ON REQUEST BY ASRS, IS LIABLE IN PERSON AND ESTATE TO THIS STATE IN A
45 SUM EQUAL TO THE VALUE OF THE PROPERTY NOT SO SURRENDERED, BUT NOT EXCEEDING

1 THE AMOUNT OF DEBT FOR THE COLLECTION OF WHICH THE LEVY HAS BEEN MADE, WITH
2 COSTS AND INTEREST ON THE SUM AT THE INTEREST RATE DETERMINED BY THE BOARD
3 FROM THE DATE OF THE LEVY OR, IN THE CASE OF A LEVY DESCRIBED IN SECTION
4 38-723, SUBSECTION E, FROM THE DATE THE PERSON WOULD OTHERWISE HAVE BEEN
5 OBLIGATED TO PAY THE AMOUNTS TO THE DEBTOR. ANY AMOUNT, OTHER THAN COSTS,
6 RECOVERED UNDER THIS SUBSECTION SHALL BE CREDITED AGAINST THE DEBT FOR THE
7 COLLECTION OF WHICH THE LEVY WAS MADE.

8 C. A PERSON IN POSSESSION OF OR OBLIGATED WITH RESPECT TO PROPERTY
9 SUBJECT TO LEVY ON WHICH A LEVY HAS BEEN MADE WHO, ON REQUEST BY ASRS,
10 SURRENDERS THE PROPERTY OR DISCHARGES THE OBLIGATION TO ASRS IS DISCHARGED
11 FROM ANY OBLIGATION OR LIABILITY TO THE DEBTOR WITH RESPECT TO THE PROPERTY
12 ARISING FROM THE SURRENDER OR PAYMENT.

13 D. ASRS MAY RELEASE A LEVY ON ALL OR PART OF PROPERTY LEVIED ON. THE
14 RELEASE SHALL NOT OPERATE TO PREVENT ANY SUBSEQUENT LEVY.

15 E. IF ASRS DETERMINES THAT PROPERTY HAS BEEN WRONGFULLY LEVIED ON,
16 ASRS SHALL RETURN THE SPECIFIC PROPERTY LEVIED ON OR AN AMOUNT OF MONEY EQUAL
17 TO THE VALUE OF THE PROPERTY LEVIED ON.

18 F. FOR THE PURPOSES OF THIS SECTION:

19 1. "LEVY" INCLUDES THE POWER OF DISTRAINT AND SEIZURE BY ANY MEANS.

20 2. "PERSON" INCLUDES AN OFFICER OR EMPLOYEE OF A CORPORATION, AN
21 OFFICER, EMPLOYEE OR ELECTED OFFICIAL OF THIS STATE OR ITS POLITICAL
22 SUBDIVISIONS, OR ANY AGENCY OR INSTRUMENTALITY OF THIS STATE OR ITS POLITICAL
23 SUBDIVISIONS, OR A MEMBER OR EMPLOYEE OF A PARTNERSHIP, WHO AS SUCH OFFICER,
24 EMPLOYEE, ELECTED OFFICIAL OR MEMBER IS UNDER A DUTY TO SURRENDER THE
25 PROPERTY OR RIGHTS TO PROPERTY OR TO DISCHARGE THE OBLIGATION.

26 38-725. Financial institutions data match: prohibited
27 disclosure: fee: definition

28 A. ASRS MAY ENTER INTO AGREEMENTS WITH FINANCIAL INSTITUTIONS THAT
29 CONDUCT BUSINESS IN THIS STATE TO DEVELOP AND OPERATE A DATA MATCH SYSTEM TO
30 ASSIST ASRS IN THE COLLECTION OF MONIES OWED. THE DATA MATCH SYSTEM SHALL
31 USE AUTOMATED DATA EXCHANGE PROCEDURES TO THE MAXIMUM EXTENT POSSIBLE.

32 B. THE DATA EXCHANGES SHALL INCLUDE THE NAME, ADDRESS OF RECORD,
33 SOCIAL SECURITY NUMBER AND ANY OTHER IDENTIFYING INFORMATION FOR EACH PERSON
34 WHO MAINTAINS AN ACCOUNT AT THE INSTITUTION AND WHO OWES MONEY AS IDENTIFIED
35 BY ASRS BY NAME AND SOCIAL SECURITY NUMBER.

36 C. ASRS OR ITS AGENT MAY ONLY DISCLOSE A DEBTOR'S FINANCIAL RECORD
37 UNDER THIS SECTION IN ORDER TO ENFORCE THE COLLECTION OF THE MONEY THE DEBTOR
38 OWES TO ASRS.

39 D. ASRS MAY PAY A REASONABLE FEE TO A FINANCIAL INSTITUTION FOR
40 CONDUCTING A DATA MATCH. THE FEE SHALL NOT EXCEED THE ACTUAL COSTS INCURRED
41 BY THE FINANCIAL INSTITUTION.

42 E. FOR THE PURPOSES OF THIS SECTION "FINANCIAL INSTITUTIONS" MEANS
43 STATE AND FEDERALLY CHARTERED BANKS, TRUST COMPANIES, FEDERAL AND STATE
44 SAVINGS AND LOAN ASSOCIATIONS, FEDERAL AND STATE CREDIT UNIONS, CONSUMER
45 LENDERS, INTERNATIONAL BANKING FACILITIES AND FINANCIAL INSTITUTION HOLDING

1 COMPANIES, INSURANCE COMPANIES, BENEFIT ASSOCIATIONS, SAFE DEPOSIT COMPANIES,
2 MONEY MARKET MUTUAL FUNDS AND SIMILAR INSTITUTIONS AUTHORIZED TO DO BUSINESS
3 IN THIS STATE AND ANY PARTY AFFILIATED WITH THESE FINANCIAL INSTITUTIONS.

4 Sec. 4. Section 38-755, Arizona Revised Statutes, is amended to read:
5 38-755. Information as to member's status; spousal notification

6 A. Subject to rules prescribed by the board, on application of a
7 member, the board shall furnish information concerning the member's status.
8 In addition, the board shall ~~annually~~ furnish to each member an account,
9 ~~statement~~ THAT MAY BE ELECTRONIC OR ONLINE, showing the status of the
10 member's account including the name of the member's beneficiary as last
11 listed with the board.

12 B. The member may change the member's beneficiary at any time ~~pursuant~~
13 ~~to rules adopted by the board and on forms furnished by the board~~ IN A MANNER
14 ESTABLISHED BY ASRS.

15 C. A member shall notify the member's current spouse before the member
16 names a beneficiary other than the member's current spouse or before the
17 member changes the member's beneficiary if the member's current spouse is the
18 beneficiary at the time of the change.