

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; subpoena duces tecum;  
41 levy and distraint; 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. THE DIRECTOR MAY ISSUE SUBPOENAS DUCES TECUM, SIGNED BY THE  
2 DIRECTOR OR THE DIRECTOR'S DESIGNEE, TO BE SERVED ON A FINANCIAL INSTITUTION  
3 FOR THE PURPOSES OF IDENTIFYING AN ACCOUNT OWNER, CO-OWNER, SIGNATORY OR ANY  
4 OTHER PERSON WHO HAD ACCESS TO THE ACCOUNT AFTER THE DATE ASRS DETERMINES A  
5 DEBT IS OWED AS A RESULT OF A PAYMENT TO THAT ACCOUNT.

6 C. IF A DEBTOR NEGLECTS OR REFUSES TO PAY A DEBT OWED TO ASRS AFTER  
7 ASRS HAS MADE AT LEAST TWO SEPARATE ATTEMPTS TO COLLECT THE DEBT AND NOT  
8 FEWER THAN THIRTY DAYS AFTER ASRS DETERMINES A DEBT IS OWED, ASRS MAY COLLECT  
9 THE DEBT AND SUCH OTHER SUMS AS ARE SUFFICIENT TO COVER THE EXPENSES OF THE  
10 LEVY, BY LEVY ON:

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

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

14 D. THE FINANCIAL INSTITUTION OR THE CHIEF DISBURSING OFFICER OF THE  
15 DEBTOR'S EMPLOYER SHALL NOTIFY THE DEBTOR OF THE LEVY WITHIN FIVE BUSINESS  
16 DAYS OF THE LEVY. THE DEBTOR MAY APPEAL THE LEVY TO ASRS.

17 E. THE EFFECT OF A LEVY ON SALARY OR WAGES PAYABLE TO OR RECEIVED BY A  
18 DEBTOR IS CONTINUOUS FROM THE DATE THE LEVY IS FIRST MADE UNTIL THE LIABILITY  
19 OUT OF WHICH THE LEVY AROSE IS SATISFIED OR BECOMES UNENFORCEABLE. ASRS  
20 SHALL PROMPTLY RELEASE THE LEVY WHEN THE LIABILITY OUT OF WHICH THE LEVY  
21 AROSE IS SATISFIED OR BECOMES UNENFORCEABLE AND SHALL PROMPTLY NOTIFY THE  
22 DEBTOR ON WHOM THE LEVY WAS MADE THAT THE LEVY HAS BEEN RELEASED.

23 F. IF A LEVY HAS BEEN MADE OR IS ABOUT TO BE MADE, ANY PERSON HAVING  
24 CUSTODY OR CONTROL OF ANY BOOKS OR RECORDS CONTAINING EVIDENCE OR STATEMENTS  
25 RELATING TO THE PROPERTY SUBJECT TO LEVY, ON REQUEST FROM ASRS, SHALL EXHIBIT  
26 THE BOOKS OR RECORDS TO ASRS.

27 G. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION E OF THIS SECTION, A  
28 LEVY EXTENDS ONLY TO PROPERTY POSSESSED AND OBLIGATIONS EXISTING AT THE TIME  
29 OF THE LEVY OR WITHIN THIRTY DAYS AFTER THE DATE OF THE LEVY. IN ANY CASE IN  
30 WHICH ASRS MAY LEVY ON PROPERTY, ASRS MAY SEIZE THE CASH PROPERTY AND MAY  
31 SEIZE AND CONVERT CASH EQUIVALENT PROPERTY TO CASH.

32 H. FOR THE PURPOSES OF THIS SECTION:

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

40 2. "LEVY" INCLUDES THE POWER OF DISTRRAINT AND SEIZURE BY ANY MEANS.

41 38-724. Surrender of property subject to levy; authority to  
42 release levy and return property; definitions

43 A. ANY PERSON IN POSSESSION OF, OR OBLIGATED WITH RESPECT TO, PROPERTY  
44 SUBJECT TO LEVY ON WHICH A LEVY HAS BEEN MADE SHALL, ON REQUEST OF ASRS,  
45 SURRENDER THE PROPERTY OR DISCHARGE THE OBLIGATION TO ASRS, EXCEPT THE PART

1 OF THE PROPERTY THAT IS, AT THE TIME OF THE REQUEST, SUBJECT TO AN ATTACHMENT  
2 OR EXECUTION UNDER ANY JUDICIAL PROCESS.

3 B. A PERSON WHO FAILS OR REFUSES TO SURRENDER ANY PROPERTY SUBJECT TO  
4 LEVY, ON REQUEST BY ASRS, IS LIABLE IN PERSON AND ESTATE TO THIS STATE IN A  
5 SUM EQUAL TO THE VALUE OF THE PROPERTY NOT SO SURRENDERED, BUT NOT EXCEEDING  
6 THE AMOUNT OF DEBT FOR THE COLLECTION OF WHICH THE LEVY HAS BEEN MADE, WITH  
7 COSTS AND INTEREST ON THE SUM AT THE INTEREST RATE DETERMINED BY THE BOARD  
8 FROM THE DATE OF THE LEVY OR, IN THE CASE OF A LEVY DESCRIBED IN SECTION  
9 38-723, SUBSECTION E, FROM THE DATE THE PERSON WOULD OTHERWISE HAVE BEEN  
10 OBLIGATED TO PAY THE AMOUNTS TO THE DEBTOR. ANY AMOUNT, OTHER THAN COSTS,  
11 RECOVERED UNDER THIS SUBSECTION SHALL BE CREDITED AGAINST THE DEBT FOR THE  
12 COLLECTION OF WHICH THE LEVY WAS MADE.

13 C. A PERSON IN POSSESSION OF OR OBLIGATED WITH RESPECT TO PROPERTY  
14 SUBJECT TO LEVY ON WHICH A LEVY HAS BEEN MADE WHO, ON REQUEST BY ASRS,  
15 SURRENDERS THE PROPERTY OR DISCHARGES THE OBLIGATION TO ASRS IS DISCHARGED  
16 FROM ANY OBLIGATION OR LIABILITY TO THE DEBTOR WITH RESPECT TO THE PROPERTY  
17 ARISING FROM THE SURRENDER OR PAYMENT.

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

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

23 F. FOR THE PURPOSES OF THIS SECTION:

24 1. "LEVY" INCLUDES THE POWER OF DISTRRAINT AND SEIZURE BY ANY MEANS.

25 2. "PERSON" INCLUDES AN OFFICER OR EMPLOYEE OF A CORPORATION, AN  
26 OFFICER, EMPLOYEE OR ELECTED OFFICIAL OF THIS STATE OR ITS POLITICAL  
27 SUBDIVISIONS, OR ANY AGENCY OR INSTRUMENTALITY OF THIS STATE OR ITS POLITICAL  
28 SUBDIVISIONS, OR A MEMBER OR EMPLOYEE OF A PARTNERSHIP, WHO AS SUCH OFFICER,  
29 EMPLOYEE, ELECTED OFFICIAL OR MEMBER IS UNDER A DUTY TO SURRENDER THE  
30 PROPERTY OR RIGHTS TO PROPERTY OR TO DISCHARGE THE OBLIGATION.

31 38-725. Financial institutions data match; prohibited  
32 disclosure; fee; definition

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

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

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

1 D. ASRS MAY PAY A REASONABLE FEE TO A FINANCIAL INSTITUTION FOR  
2 CONDUCTING A DATA MATCH. THE FEE SHALL NOT EXCEED THE ACTUAL COSTS INCURRED  
3 BY THE FINANCIAL INSTITUTION.

4 E. FOR THE PURPOSES OF THIS SECTION "FINANCIAL INSTITUTIONS" MEANS  
5 STATE AND FEDERALLY CHARTERED BANKS, TRUST COMPANIES, FEDERAL AND STATE  
6 SAVINGS AND LOAN ASSOCIATIONS, FEDERAL AND STATE CREDIT UNIONS, CONSUMER  
7 LENDERS, INTERNATIONAL BANKING FACILITIES AND FINANCIAL INSTITUTION HOLDING  
8 COMPANIES, INSURANCE COMPANIES, BENEFIT ASSOCIATIONS, SAFE DEPOSIT COMPANIES,  
9 MONEY MARKET MUTUAL FUNDS AND SIMILAR INSTITUTIONS AUTHORIZED TO DO BUSINESS  
10 IN THIS STATE AND ANY PARTY AFFILIATED WITH THESE FINANCIAL INSTITUTIONS.

11 Sec. 4. Section 38-755, Arizona Revised Statutes, is amended to read:  
12 38-755. Information as to member's status; spousal notification

13 A. Subject to rules prescribed by the board, on application of a  
14 member, the board shall furnish information concerning the member's status.  
15 In addition, the board shall ~~annually~~ furnish to each member an account,  
16 ~~statement~~ THAT MAY BE ELECTRONIC OR ONLINE, showing the status of the  
17 member's account including the name of the member's beneficiary as last  
18 listed with the board.

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

22 C. A member shall notify the member's current spouse before the member  
23 names a beneficiary other than the member's current spouse or before the  
24 member changes the member's beneficiary if the member's current spouse is the  
25 beneficiary at the time of the change.