

COMMITTEE ON INSURANCE AND RETIREMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2294
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 38-727, Arizona Revised Statutes, is amended to
3 read:

4 38-727. Eligibility; options

5 The following provisions apply to all employees hired on or after the
6 effective date:

7 1. All employees and officers of this state and all officers and
8 employees of political subdivisions establishing a retirement plan
9 administered by the board pursuant to this article who as a result of state
10 service or service for the political subdivision are included in agreements
11 providing for their coverage under the federal old age and survivors
12 insurance system are subject to this article, except that membership is not
13 mandatory:

14 (a) On the part of any employee who is eligible and who elects to
15 participate in the optional retirement programs established by the Arizona
16 board of regents pursuant to the authority conferred by section 15-1628 or by
17 a community college district board pursuant to authority conferred by section
18 15-1451.

19 (b) For a state elected official who is subject to term limits, who is
20 eligible for participation in ASRS because the state elected official elected
21 not to participate in the elected officials' retirement plan as provided in
22 section 38-804, subsection A and who elects not to participate in ASRS as
23 provided in paragraph 7 of this section.

24 (c) On the part of any employee or officer who is eligible to
25 participate and who participates in the elected officials' retirement plan
26 pursuant to article 3 of this chapter, the public safety personnel retirement
27 system pursuant to article 4 of this chapter or the corrections officer
28 retirement plan pursuant to article 6 of this chapter.

29 2. All employees and officers of political subdivisions whose
30 compensation is provided wholly or in part from state monies and who are
31 declared to be state employees and officers by the legislature for retirement
32 purposes are subject, on legislative enactment, to this article and are
33 members of ASRS.

1 3. Any member whose service terminates other than by death or
2 withdrawal from membership is deemed to be a member of ASRS until the
3 member's death benefit is paid.

4 4. Employees and officers shall not become members of ASRS and, if
5 they are members immediately before becoming employed as provided by this
6 section, shall have their membership status suspended while they are employed
7 by state departments paying the salaries of their officers and employees
8 wholly or in part from monies received from sources other than appropriations
9 from the state general fund for the period or periods payment of the employer
10 contributions is not made by or on behalf of the departments.

11 5. Notwithstanding other provisions of this section, a temporary
12 employee of the legislature whose projected term of employment is for not
13 more than six months is ineligible for membership in ASRS. If the employment
14 continues beyond six successive months, the employee may elect to either:

15 (a) Receive credit for service for the first six months of employment
16 and establish membership in ASRS as of the beginning of the current term of
17 employment if, within forty-five days after the first six months of
18 employment, both the employer and the employee contribute to ASRS the amount
19 that would have been required to be contributed to ASRS during the first six
20 months of employment as if the employee had been a member of ASRS during
21 those six months.

22 (b) Establish membership in ASRS as of the day following the
23 completion of six months of employment.

24 6. A person who is employed in postgraduate training in an approved
25 medical residency training program of an employer or a postdoctoral scholar
26 who is employed by a university under the jurisdiction of the Arizona board
27 of regents is ineligible for membership in ASRS.

28 7. A state elected official who is subject to term limits and who is
29 eligible for participation in ASRS because the state elected official elected
30 not to participate in the elected officials' retirement plan as provided in
31 section 38-804, subsection A may elect not to participate in ASRS. The
32 election not to participate is specific for that term of office. The state
33 elected official who is subject to term limits shall make the election in
34 writing and file the election with ASRS within thirty days after the elected
35 official's retirement plan mails the notice to the state elected official of
36 the state elected official's eligibility to participate in ASRS. The
37 election is effective on the first day of the state elected official's
38 eligibility. If a state elected official who is subject to term limits fails

1 to make an election as provided in this paragraph, the state elected official
2 is deemed to have elected to participate in ASRS. The election not to
3 participate in ASRS is irrevocable and constitutes a waiver of all benefits
4 provided by ASRS for the state elected official's entire term, except for any
5 benefits accrued by the state elected official in ASRS for periods of
6 participation before being elected to an office subject to term limits or any
7 benefits expressly provided by law.

8 ~~8. Every full-time superior court commissioner who is appointed on or~~
9 ~~after July 1 of the first fiscal year after the social security~~
10 ~~administration approves the inclusion of superior court commissioners on this~~
11 ~~state's section 218 agreement is a member of ASRS and is subject to this~~
12 ~~article.~~

13 ~~9.~~ 8. Before July 1, 2015, a person may elect not to participate in
14 ASRS if the person becomes employed by an employer after the person has
15 attained at least sixty-five years of age, is not an active member, inactive
16 member, retired member or receiving benefits pursuant to article 2.1 of this
17 chapter and does not have any credited service or prior service in ASRS. The
18 employee shall make the election not to participate in writing and file the
19 election with ASRS within thirty days of employment. The election not to
20 participate is irrevocable for the remainder of the person's employment for
21 which the person made the election and constitutes a waiver of all benefits
22 provided by the Arizona state retirement system. The period the person works
23 is not eligible for purchase under section 38-743 or 38-744.

24 Sec. 2. Section 38-801, Arizona Revised Statutes, is amended to read:

25 **38-801. Definitions**

26 In this article, unless the context otherwise requires:

27 1. "Accumulated contributions" means the sum of all member
28 contributions deducted from the member's salary pursuant to section 38-810,
29 subsection A plus the amount transferred to the fund on behalf of the member
30 plus the amount deposited in the fund pursuant to section 38-816.

31 2. "Actuarial equivalent" means equality in present value of the
32 aggregate amounts expected to be received under two different forms of
33 payment, based on mortality and interest assumptions adopted by the board.

34 3. "Alternate payee" means the spouse or former spouse of a
35 participant as designated in a domestic relations order.

36 4. "Alternate payee's portion" means benefits that are payable to an
37 alternate payee pursuant to a plan approved domestic relations order.

1 5. "Average yearly salary" means the result obtained by dividing the
2 total salary paid to an employee during a considered period by the number of
3 years, including fractional years, in which the salary was received. The
4 considered period shall be:

5 (a) For an elected official who becomes a member of the plan before
6 January 1, 2012, the three consecutive years within the last ten completed
7 years of credited service as an elected official that yield the highest
8 average. If a member does not have three consecutive years of credited
9 service as an elected official, the considered period is the member's last
10 consecutive period of employment with a plan employer immediately before
11 retirement.

12 (b) For an elected official who becomes a member of the plan on or
13 after January 1, 2012, the five consecutive years within the last ten
14 completed years of credited service as an elected official that yield the
15 highest average. If a member does not have five consecutive years of
16 credited service as an elected official, the considered period is the
17 member's last consecutive period of employment with a plan employer
18 immediately before retirement.

19 6. "Board" means the board of trustees of the system.

20 7. "Credited service" means the number of whole and fractional years
21 of a member's service as an elected official after the elected official's
22 effective date of participation for which member and employer contributions
23 are on deposit with the fund, plus credited service transferred to the plan
24 from another retirement system or plan for public employees of this state,
25 plus service as an elected official before the elected official's effective
26 date of participation that is being funded pursuant to a joinder agreement
27 pursuant to section 38-810, subsection C and section 38-815 or service that
28 was redeemed pursuant to section 38-816. Credited service does not include
29 periods of service for which an active member is uncompensated by the
30 employer and for which no contributions to the plan are made.

31 8. "Cure period" means the ninety-day period in which a participant or
32 alternate payee may submit an amended domestic relations order and request a
33 determination, calculated from the time the plan issues a determination
34 finding that a previously submitted domestic relations order did not qualify
35 as a plan approved domestic relations order.

36 9. "Determination" means a written document that indicates to a
37 participant and alternate payee whether a domestic relations order qualifies
38 as a plan approved domestic relations order.

1 10. "Determination period" means the ninety-day period in which the
2 plan must review a domestic relations order that is submitted by a
3 participant or alternate payee to determine whether the domestic relations
4 order qualifies as a plan approved domestic relations order, calculated from
5 the time the plan mails a notice of receipt to the participant and alternate
6 payee.

7 11. "Direct rollover" means a payment by the plan to an eligible
8 retirement plan that is specified by the distributee.

9 12. "Distributee" means a member, a member's surviving spouse or a
10 member's spouse or former spouse who is the alternate payee under a plan
11 approved domestic relations order.

12 13. "Domestic relations order" means an order of a court of this state
13 that is made pursuant to the domestic relations laws of this state and that
14 creates or recognizes the existence of an alternate payee's right to, or
15 assigns to an alternate payee the right to, receive a portion of the benefits
16 payable to a participant.

17 14. "Effective date of participation" means August 7, 1985, except with
18 respect to employers and their elected officials whose contributions to the
19 plan commence after that date, in which case the effective date of their
20 participation in the plan is specified in the applicable joinder agreement.

21 15. "Elected official" means:

22 (a) Every elected official of this state.

23 (b) Every elected official of each county of this state.

24 (c) Every justice of the supreme court, ~~and~~

25 ~~(d) every judge of the court of appeals, and~~

26 ~~(e) every judge of the superior court.~~

27 ~~(f) AND every full-time superior court commissioner who is a member of~~
28 ~~the plan before July 1 of the first fiscal year after the social security~~
29 ~~administration approves the inclusion of superior court commissioners on this~~
30 ~~state's section 218 agreement, except full-time superior court commissioners~~
31 ~~who failed to make a timely election of membership under the judges'~~
32 ~~retirement plan, repealed on August 7, 1985.~~

33 ~~(g)~~ (d) The administrator of the board if the administrator is a
34 natural person but only if the administrator is employed by the board before
35 January 1, 2012.

36 ~~(h)~~ (e) Each elected official of an incorporated city or town whose
37 employer has executed a proper joinder agreement for coverage of its elected
38 officials.

1 16. "Eligible child" means an unmarried child of a deceased active or
2 retired member who meets one of the following qualifications:

3 (a) Is under eighteen years of age.

4 (b) Is at least eighteen years of age and under twenty-three years of
5 age only during any period that the child is a full-time student.

6 (c) Is under a disability that began before the child attained
7 twenty-three years of age and remains a dependent of the surviving spouse or
8 guardian.

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

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

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

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

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

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

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

27 18. "Eligible rollover distribution" means a payment to a distributee,
28 but does not include any of the following:

29 (a) Any distribution that is one of a series of substantially equal
30 periodic payments made not less frequently than annually for the life or life
31 expectancy of the member or the joint lives or joint life expectancies of the
32 member and the member's beneficiary or for a specified period of ten years or
33 more.

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

36 (c) The portion of any distribution that is not includable in gross
37 income.

1 19. "Employer" means a department, agency or political subdivision of
2 this state that makes employer contributions to the plan pursuant to section
3 38-810 on behalf of an elected official who participates in the plan.

4 20. "Fund" means the elected officials' retirement plan fund.

5 21. "Notice of receipt" means a written document that is issued by the
6 plan to a participant and alternate payee and that states that the plan has
7 received a domestic relations order and a request for a determination that
8 the domestic relations order is a plan approved domestic relations order.

9 22. "Participant" means a member who is subject to a domestic relations
10 order.

11 23. "Participant's portion" means benefits that are payable to a
12 participant pursuant to a plan approved domestic relations order.

13 24. "Pension" means a series of monthly payments to a person who is
14 entitled to receive benefits under the plan.

15 25. "Personal representative" means the personal representative of a
16 deceased alternate payee.

17 26. "Plan" means the elected officials' retirement plan.

18 27. "Plan approved domestic relations order" means a domestic relations
19 order that the plan approves as meeting all the requirements for a plan
20 approved domestic relations order as otherwise prescribed in this article.

21 28. "Retired member" means a person who is being paid a pension based
22 on the person's credited service as a member of the plan.

23 29. "Segregated funds" means the amount of benefits that would
24 currently be payable to an alternate payee pursuant to a domestic relations
25 order under review by the plan, or a domestic relations order submitted to
26 the plan that failed to qualify as a plan approved domestic relations order,
27 if the domestic relations order were determined to be a plan approved
28 domestic relations order.

29 30. "System" means the public safety personnel retirement system."

30 Amend title to conform

and, as so amended, it do pass

PHIL LOVAS
Chairman

2294-se-ir
2/19/13
H:lae

2294br.doc
02/15/2013
08:39 AM
C: mjh