

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

# HB 2059

Introduced by  
Representative Lovas

## AN ACT

AMENDING SECTION 38-737, ARIZONA REVISED STATUTES; AMENDING SECTION 38-755, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 87, SECTION 4 AND CHAPTER 88, SECTION 1; AMENDING SECTION 38-760, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 88, SECTION 2 AND CHAPTER 362, SECTION 11; AMENDING SECTIONS 38-776 AND 38-782, 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 38-737, Arizona Revised Statutes, is amended to  
3 read:

4 38-737. Employer contributions

5 A. Employer contributions shall be a percentage of compensation of all  
6 employees of the employers, excluding the compensation of those employees who  
7 are members of the defined contribution program administered by ASRS, as  
8 determined by the ASRS actuary pursuant to this section for June 30 of the  
9 fiscal year immediately preceding the preceding fiscal year, except that  
10 beginning with fiscal year 2001-2002 the contribution rate shall not be less  
11 than two per cent of compensation of all employees of the employers.  
12 Beginning July 1, 2011, the total employer contribution shall be determined  
13 on the projected unit credit method. The total employer contributions shall  
14 be equal to the employer normal cost plus the amount required to amortize the  
15 past service funding requirement over a ~~rolling-thirty-year~~ period **THAT IS  
16 DETERMINED BY THE BOARD AND CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL  
17 STANDARDS. IN DETERMINING THE PAST SERVICE FUNDING PERIOD, THE BOARD SHALL  
18 SEEK TO IMPROVE THE FUNDED STATUS WHENEVER THE ASRS TRUST FUND IS LESS THAN  
19 ONE HUNDRED PER CENT FUNDED.**

20 B. All contributions made by the employer and allocated to the fund  
21 established by section 38-712 are irrevocable and shall be used as benefits  
22 under this article or to pay expenses of ASRS.

23 C. The required employer contributions shall be determined on an  
24 annual basis by an actuary who is selected by the board and who is a fellow  
25 of the society of actuaries. ASRS shall provide a preliminary report by  
26 November 1 and a final report by December 15 of each fiscal year to the  
27 governor, the speaker of the house of representatives and the president of  
28 the senate on the contribution rate for the ensuing fiscal year.

29 Sec. 2. Section 38-755, Arizona Revised Statutes, as amended by Laws  
30 2012, chapter 87, section 4 and chapter 88, section 1, is amended to read:

31 38-755. Information as to member's status; beneficiary  
32 designation; spousal consent; confidentiality

33 A. Subject to rules prescribed by the board, on application of a  
34 member, the board shall furnish information concerning the member's status.  
35 In addition, the board shall furnish to each member an account, that may be  
36 electronic or online, showing the status of the member's account, including  
37 the name of the member's beneficiary as last listed with the board.

38 B. The member may change the member's beneficiary at any time in a  
39 manner established by ASRS.

40 C. A member who is married shall name and maintain the member's  
41 current spouse as a beneficiary to receive at least fifty per cent of the  
42 member's account, **UNLESS NAMING OR MAINTAINING THE CURRENT SPOUSE AS A  
43 BENEFICIARY VIOLATES ANOTHER LAW, AN EXISTING CONTRACT OR A COURT ORDER.** The  
44 member's current spouse may consent to a waiver of this requirement pursuant  
45 to section 38-776.

1 D. IN ORDER TO PROTECT A MEMBER'S IDENTITY FROM FRAUD, ABUSE, THEFT OR  
2 CIVIL OR CRIMINAL ACTIVITY, INFORMATION ABOUT A MEMBER IS NOT SUBJECT TO  
3 INSPECTION PURSUANT TO TITLE 39, CHAPTER 1, ARTICLE 2, EXCEPT THAT THE  
4 FOLLOWING INFORMATION ABOUT A MEMBER IS SUBJECT TO INSPECTION:

- 5 1. THE MEMBER'S NAME.
- 6 2. WHETHER THE MEMBER IS AN ACTIVE MEMBER AS DEFINED IN SECTION  
7 38-711, AN INACTIVE MEMBER AS DEFINED IN SECTION 38-711 OR A RETIRED MEMBER  
8 AS DEFINED IN SECTION 38-711.
- 9 3. THE MEMBER'S CURRENT OR MOST RECENT EMPLOYER.
- 10 4. FOR A RETIRED MEMBER, THE AVERAGE MONTHLY COMPENSATION, AS DEFINED  
11 IN SECTION 38-711, USED TO CALCULATE THE MEMBER'S RETIREMENT BENEFIT.
- 12 5. THE CREDITED SERVICE AS DEFINED IN SECTION 38-711 ON ACCOUNT FOR AN  
13 ACTIVE OR INACTIVE MEMBER OR THE CREDITED SERVICE USED TO CALCULATE THE  
14 RETIREMENT BENEFIT FOR A RETIRED MEMBER.
- 15 6. THE GROSS PENSION AMOUNT ACTUALLY PAID TO A RETIRED MEMBER.
- 16 7. THE MOST RECENT RETIREMENT DATE.
- 17 8. THE CURRENT ACCOUNT BALANCE FOR AN ACTIVE OR INACTIVE MEMBER.
- 18 9. THE GROSS LONG-TERM DISABILITY PROGRAM BENEFIT ACTUALLY PAID TO A  
19 DISABLED MEMBER PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER.
- 20 10. THE AMOUNT PAID TO PURCHASE CREDITED SERVICE PURSUANT TO SECTION  
21 38-743, 38-744 OR 38-745.
- 22 11. THE AMOUNT OF CREDITED SERVICE PURCHASED PURSUANT TO SECTION  
23 38-743, 38-744 OR 38-745.

24 E. ASRS SHALL NOT PERMIT ANY UNREDACTED RECORD TO BE INSPECTED THAT  
25 CONTAINS A MEMBER'S SOCIAL SECURITY NUMBER, BANK ACCOUNT INFORMATION,  
26 ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS, MEDICAL RECORDS, HEALTH INSURANCE  
27 INFORMATION, BENEFICIARY OR SURVIVOR INFORMATION OR DISABILITY INFORMATION OR  
28 ANY INFORMATION THAT IS PROTECTED BY ANY FEDERAL OR STATE LAW.

29 Sec. 3. Section 38-760, Arizona Revised Statutes, as amended by Laws  
30 2012, chapter 88, section 2 and chapter 362, section 11, is amended to read:

31 38-760. Optional forms of retirement benefits

32 A. On retirement, members may elect an optional form of retirement  
33 benefit as provided in this section.

34 B. The optional retirement benefits available under this section  
35 include the following:

- 36 1. Joint and survivor annuity in a reduced amount payable to the  
37 retiring member during life, with the provisions that after the member's  
38 death all, two-thirds or one-half of the retirement income, as the member  
39 elects, shall be continued during the lifetime of the contingent annuitant  
40 designated by the retiring member subject to the restrictions prescribed in  
41 section 38-764. The amount of retirement income shall be the actuarial  
42 equivalent of the retirement income to which the member would be entitled  
43 under normal or early retirement. The election in a manner prescribed by the  
44 board shall name the contingent annuitant. The election may be revoked at  
45 any time before the member's effective date of retirement. At any time after

1 benefits have commenced, the member may name a different contingent annuitant  
2 or rescind the election by written notice to the board as follows:

3 (a) If a different contingent annuitant is named, the annuity of the  
4 member under the same joint and survivor annuity option previously elected  
5 shall be adjusted to the actuarial equivalent of the original annuity, based  
6 on the age of the new contingent annuitant. The adjustment shall include all  
7 postretirement increases in retirement income that are authorized by law  
8 after the member's date of retirement. Payment of this adjusted annuity  
9 shall continue under the provisions of the option previously elected by the  
10 member.

11 (b) If the member rescinds the election, the member shall thereafter  
12 receive a straight life annuity equal to what the member would otherwise be  
13 entitled to receive if the member had not elected the joint and survivor  
14 annuity option, including all postretirement increases in retirement income  
15 that are authorized by law after the date of retirement. The increased  
16 payment shall continue during the remainder of the member's lifetime.

17 (c) If a member whose original date of retirement is before July 1,  
18 2008 rescinds the joint and survivor annuity option previously elected and  
19 receives the straight life annuity pursuant to subdivision (b) of this  
20 paragraph, the member may again elect the same joint and survivor annuity  
21 option previously elected subject to the same restrictions prescribed in  
22 subdivision (a) of this paragraph.

23 (d) A member whose original date of retirement is on or after July 1,  
24 2008 may exercise a one-time election to rescind the joint and survivor  
25 annuity option elected by the member if the contingent annuitant dies or  
26 ceases to be a contingent annuitant pursuant to the terms of a qualified  
27 domestic relations order.

28 (e) If the member's contingent annuitant is the member's current  
29 spouse, the member shall obtain the consent of the contingent annuitant  
30 pursuant to section 38-776 before the member names a new contingent annuitant  
31 or before the member rescinds the election, except that consent is not  
32 required if the rescission is pursuant to subdivision (d) of this paragraph.

33 2. A period certain and life annuity actuarially reduced with payments  
34 for five, ten or fifteen years that are not dependent on the continued  
35 lifetime of the member but whose payments continue for the member's lifetime  
36 beyond the five, ten or fifteen year period. At the time of electing this  
37 option the member shall name a period certain beneficiary or beneficiaries  
38 who are entitled to receive the payments for any portion of the period  
39 certain beyond the lifetime of the member. The member may name a different  
40 beneficiary at any time. If no beneficiary survives the member, any  
41 remaining payments are the property of the member's estate. A member who  
42 retires after August 9, 2001 and before July 1, 2008 may rescind the election  
43 of a period certain and life annuity. If the member rescinds the election of  
44 a period certain and life annuity, the member shall thereafter receive a  
45 straight life annuity equal to what the member would otherwise be entitled to

1 receive if the member had not elected the period certain and life annuity  
2 option, including all postretirement increases in retirement income that are  
3 authorized by law after the date of retirement. The increased payment shall  
4 continue during the remainder of the member's lifetime. If the member  
5 reverts to a straight life annuity pursuant to this paragraph, the member may  
6 again elect a period certain and life annuity subject to the same provisions  
7 of the period certain and life annuity previously elected by the member. If  
8 the member's contingent annuitant is the member's current spouse, the member  
9 shall obtain the consent of the contingent annuitant pursuant to section  
10 38-776 before the member rescinds the election of a period certain and life  
11 annuity or again elects a period certain and life annuity. A member whose  
12 original date of retirement is on or after July 1, 2008 may exercise a  
13 one-time election to rescind the period certain and life annuity option  
14 elected by the member if the beneficiary dies or ceases to be a beneficiary  
15 pursuant to the terms of a qualified domestic relations order or at the  
16 expiration of the member's period certain term.

17 3. Beginning on July 1, 2002, a lump sum payment equal to not more  
18 than thirty-six months of the member's retirement benefits based on the  
19 actuarial equivalent of the retirement income to which the member would be  
20 entitled under normal or early retirement. The member's benefit shall be  
21 actuarially reduced to provide for the lump sum payment. The lump sum  
22 payment shall be made at the time of retirement. Any benefit increase  
23 granted to a member who elects a lump sum payment pursuant to this paragraph  
24 is subject to the following conditions:

25 (a) If the benefit increase is a percentage increase of the member's  
26 retirement benefit, the increase shall be based on the actuarially reduced  
27 retirement benefit of the member.

28 (b) If the benefit increase is pursuant to section 38-767, the amount  
29 of the member's benefit increase shall be calculated without regard to the  
30 lump sum payment pursuant to this paragraph.

31 4. Other forms of actuarially reduced optional benefits prescribed by  
32 the board.

33 C. A member who is married at the time of retirement shall elect a  
34 monthly benefit in the form of a joint and survivor annuity pursuant to  
35 subsection B, paragraph 1 of this section, and the member's current spouse  
36 shall be the contingent annuitant unless the member's current spouse consents  
37 to a waiver of this requirement pursuant to section 38-776 OR THE ELECTION  
38 WOULD VIOLATE ANOTHER LAW, AN EXISTING CONTRACT OR A COURT ORDER. If the  
39 married member does not elect a type of joint and survivor annuity for the  
40 member's current spouse and the member's current spouse has not waived the  
41 requirements of this subsection, ASRS shall cancel the member's retirement.  
42 The member may reapply for retirement at any time in a manner established by  
43 ASRS.

1           Sec. 4. Section 38-776, Arizona Revised Statutes, is amended to read:  
2           38-776. Spousal waiver and consent

3           A. A member's current spouse may consent to one of the following  
4 requirements established in section 38-755 or 38-760 by signing and  
5 submitting an acknowledgement in a manner established by ASRS:

6           1. A change of beneficiary that provides the member's current spouse  
7 with less than fifty per cent of the member's account balance.

8           2. The member's retirement application that does not name the member's  
9 current spouse as a contingent annuitant of a joint and survivor annuity.

10           3. A change or rescission of the member's current spouse's contingent  
11 annuitant status.

12           B. If the member's current spouse is not capable of executing the  
13 acknowledgement because of an incapacitating mental or physical condition, a  
14 power of attorney or guardian may execute the acknowledgment on the current  
15 spouse's behalf.

16           C. The member may affirm in writing under penalty of perjury in a  
17 manner determined by ASRS that spousal consent is not required because of one  
18 of the following reasons:

19           1. The member is not married.

20           2. The member's current spouse has no identifiable community property  
21 interest in the member's benefits.

22           3. The member does not know, and has taken all reasonable steps to  
23 determine, the location of the member's current spouse.

24           4. The member has received notification from the board that a domestic  
25 relations order is acceptable pursuant to section 38-773 and that domestic  
26 relations order requires ASRS to pay benefits to an alternate payee that is  
27 contrary to the requirements of section 38-760.

28           5. Obtaining consent violates another law, ~~or~~ AN existing **CONTRACT OR**  
29 **A** court order.

30           D. This section does not abrogate any community property laws of this  
31 state.

32           E. Payments or distributions made by ASRS in good faith reliance on  
33 the consent or waiver of a member's current spouse, the affirmations of a  
34 member contained in documents submitted to ASRS pursuant to this section or  
35 the member's indication to ASRS that the member is not married constitute a  
36 full and complete discharge and release of all liability of the board or  
37 ASRS, or both, respecting these payments or distributions.

38           F. If questions arise as to the distribution of a particular member's  
39 account, ASRS shall use reasonable judgment to distribute the account in a  
40 manner that is consistent with Arizona community property laws and  
41 interpretations of those laws.

1 Sec. 5. Section 38-782, Arizona Revised Statutes, is amended to read:

2 38-782. Group health and accident coverage for retired public  
3 employees and elected officials and their dependents

4 A. The board shall establish group health and accident coverage for  
5 eligible retired and disabled members and their dependents. THE BOARD MAY  
6 ESTABLISH A SELF-INSURANCE PROGRAM FOR THE PURPOSES OF THIS SUBSECTION IF THE  
7 BOARD DETERMINES THAT SELF-INSURING WOULD BE LESS EXPENSIVE THAN AND AT LEAST  
8 AS EFFECTIVE AS A FULLY INSURED PLAN, WHILE CONSIDERING THE RISKS AND COSTS.  
9 IF THE BOARD ESTABLISHES A SELF-INSURANCE PROGRAM, ASRS SHALL ESTABLISH A  
10 SEPARATE ACCOUNT FOR THE PURPOSES OF THIS SECTION IN AN AMOUNT DETERMINED  
11 APPROPRIATE BY ASRS. ASRS SHALL NOT USE OR DIVERT ANY PART OF THE CORPUS OR  
12 INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN TO ADMINISTER THE  
13 SELF-INSURANCE PROGRAM UNLESS THE BOARD DETERMINES THAT A SELF-INSURANCE  
14 PROGRAM SHOULD NO LONGER BE OFFERED. IF A SELF-INSURANCE PROGRAM IS NO  
15 LONGER OFFERED, MONIES IN THE ACCOUNT SHALL BE TRANSFERRED TO ANOTHER ACCOUNT  
16 OF ASRS AS DETERMINED BY ASRS. Eligible retired and disabled members are  
17 those members who are receiving retirement benefits from ASRS or long-term  
18 disability benefits pursuant to section 38-651.03 or article 2.1 of this  
19 chapter and who elect not to obtain health and accident insurance through  
20 their former employer. If an insured retired or disabled member dies before  
21 the insured member's dependent beneficiary or an insured surviving dependent,  
22 the dependent beneficiary or insured surviving dependent is entitled to  
23 coverage at group rates if the dependent beneficiary or surviving dependent  
24 elects to continue in the coverage within six months of the insured member's  
25 death and the dependent beneficiary or surviving dependent agrees to pay the  
26 cost of the premium for group health and accident insurance. On notification  
27 of the insured member's death, the board shall immediately notify a dependent  
28 beneficiary or an insured surviving dependent of the provisions of this  
29 section.

30 B. Retired members of the public safety personnel retirement system,  
31 the elected officials' retirement plan, the corrections officer retirement  
32 plan or the optional retirement programs authorized pursuant to sections  
33 15-1451 and 15-1628 and their dependents who are receiving benefits from the  
34 public safety personnel retirement system, the elected officials' retirement  
35 plan, the corrections officer retirement plan or the optional retirement  
36 programs authorized pursuant to sections 15-1451 and 15-1628 and who are not  
37 covered by section 38-651.01 may participate in group health and accident  
38 coverage provided pursuant to this section. On the death of an insured  
39 member of the public safety personnel retirement system, the elected  
40 officials' retirement plan, the corrections officer retirement plan or the  
41 optional retirement programs authorized pursuant to sections 15-1451 and  
42 15-1628, the insured surviving dependent is entitled to coverage at group  
43 rates. Except as provided in subsection H of this section, the surviving  
44 dependent shall be charged amounts that are sufficient to pay for the premium  
45 and administrative expense of providing the coverage.

1 C. The board may enter into agreements with retired and disabled  
2 members of ASRS who elect to obtain the coverage provided pursuant to  
3 subsection A of this section. Those agreements may include provisions for  
4 the deduction from the retirement benefits of the members who elect to obtain  
5 the coverage of amounts sufficient to pay for the premium not covered under  
6 retirement benefits and the administrative expense of providing the coverage.

7 D. The board of trustees of the public safety personnel retirement  
8 system may enter into agreements with retired members of the public safety  
9 personnel retirement system, the elected officials' retirement plan, the  
10 corrections officer retirement plan and their dependents who elect to obtain  
11 the coverage provided pursuant to this section. Those agreements may include  
12 provisions for the deduction from the retirement benefits of the members who  
13 elect to obtain the coverage of amounts sufficient to pay for the premium not  
14 covered under their retirement benefits and the administrative expense of  
15 providing the coverage.

16 E. The board may enter into agreements with retired members of the  
17 optional retirement programs authorized pursuant to sections 15-1451 and  
18 15-1628 and their dependents who elect to obtain the coverage provided  
19 pursuant to this section. Those agreements may include provisions for the  
20 payment of amounts sufficient to pay for the premium and administrative  
21 expense of providing the coverage.

22 F. If an insured member receiving long-term disability benefits  
23 pursuant to article 2.1 of this chapter becomes ineligible for the long-term  
24 disability benefits, the member and the covered dependents of the member may  
25 continue to participate in the group health and accident coverage provided  
26 pursuant to this section subject to the following conditions:

27 1. Participation in the coverage is limited to twelve months from the  
28 date the member ceases eligibility for benefits under article 2.1 of this  
29 chapter or the member commences employment, whichever occurs first.

30 2. The member shall pay the full premium cost of the coverage  
31 selected, and the member is not eligible for benefits pursuant to section  
32 38-783.

33 3. If a member who participates in the coverage dies during the twelve  
34 month period provided by this subsection, covered dependents of the member  
35 may continue coverage after the death of the member through the end of the  
36 twelve month period. Covered dependents of the member who continue coverage  
37 pursuant to this paragraph shall pay the full premium cost of the coverage  
38 selected and are not eligible for benefits pursuant to section 38-783.

39 G. Retired or disabled members who are not eligible for medicare, who  
40 live in this state, who enroll in a qualifying health maintenance  
41 organization under this section and who reside outside the area of a  
42 qualifying health maintenance organization shall be offered the option of  
43 enrolling with a qualified health maintenance organization offered through  
44 their provider under the same premiums as if they lived within the area  
45 boundaries of the qualified health maintenance organization provided that:

1           1. All medical services are rendered and received at an office  
2 designated by the qualifying health maintenance organization or at a facility  
3 referred by the health maintenance organization.

4           2. All nonemergency or nonurgent travel, ambulatory and other expenses  
5 from the residence area of the member to the designated office of the  
6 qualifying health maintenance organization or the facility referred by the  
7 health maintenance organization are the responsibility of and at the expense  
8 of the member.

9           3. All emergency or urgent travel, ambulatory and other expenses from  
10 the residence area of the member to the designated office of the qualifying  
11 health maintenance organization or the facility referred by the health  
12 maintenance organization shall be paid pursuant to any agreement between the  
13 health maintenance organization and the member living outside the area of the  
14 qualifying health maintenance organization.

15           H. Public monies shall not be spent to pay all or any part of the  
16 insurance premium pursuant to this section except for monies authorized to be  
17 paid for any insured from the retirement plan from which the insured is  
18 receiving benefits.

19           Sec. 6. Retroactivity

20           The amendments to the following sections apply retroactively to from  
21 and after June 30, 2013:

22           1. Section 38-755, Arizona Revised Statutes, as amended by Laws 2012,  
23 chapter 87, section 4 and chapter 88, section 1, and this act.

24           2. Section 38-760, Arizona Revised Statutes, as amended by Laws 2012,  
25 chapter 88, section 2 and chapter 362, section 11, and this act.

26           3. Section 38-776, Arizona Revised Statutes, as amended by this act.