

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SENATE BILL 1170

AN ACT

AMENDING SECTIONS 38-737 AND 38-747, 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 38-757, ARIZONA REVISED STATUTES; AMENDING SECTION 38-760, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2012, CHAPTER 88, SECTION 2 AND CHAPTER 362, SECTION 11; AMENDING SECTIONS 38-762, 38-767, 38-769, 38-776 AND 38-782, 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 38-737, 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 38-747, Arizona Revised Statutes, is amended to read:

30 38-747. Purchase of credited service; payment; limitations;
31 definitions

32 A. A member who purchases credited service pursuant to section 38-738,
33 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

34 1. Make payments directly to ASRS as provided in subsection H of this
35 section.

36 2. Elect to have the member's employer make payments as provided in
37 subsection B of this section.

38 B. A member may elect to have the member's employer make payments for
39 all or any portion of the amounts payable for the member's purchase of
40 credited service pursuant to the sections prescribed in subsection A of this
41 section through a salary reduction program in accordance with the following:

42 1. The amounts paid pursuant to a salary reduction program are in lieu
43 of contributions by the electing member. The electing member's salary or
44 other compensation shall be reduced by the amount paid by the employer

1 pursuant to this subsection. For the purposes of this paragraph, "other
2 compensation" includes a member's termination pay.

3 2. The member shall make an election pursuant to this subsection at
4 any time on or after the date the member elects to purchase credited service
5 pursuant to the sections prescribed in subsection A of this section and
6 before the member's termination of employment. The election shall specify
7 the number of payroll periods that deductions will be made from the member's
8 compensation and the dollar amount of deductions for each payroll period
9 during the specified number of payroll periods. In the case of an election
10 to utilize all or any part of the member's termination pay to purchase
11 credited service, the member's election shall be made at least three full
12 calendar months before the date of the member's termination of employment and
13 entitlement to receive the termination pay. After an election is made
14 pursuant to this subsection, the election is binding on and irrevocable for
15 the member and the member's employer during the member's remaining period of
16 current employment. After a member makes an irrevocable election pursuant to
17 this subsection, the member does not have the option of choosing to receive
18 the contributed amounts directly. For the purposes of this paragraph,
19 "termination pay" means any lump sum that is paid at the member's termination
20 of employment for accrued vacation, sick leave or overtime pay.

21 3. A member who makes an irrevocable election pursuant to this
22 subsection to have the member's employer make payments for less than all of
23 the amounts payable for the member's purchase of credited service may
24 irrevocably elect to have the member's employer make payments for all or any
25 portion of the remaining amounts payable for the member's purchase of
26 credited service. A member who makes one or more irrevocable elections
27 pursuant to this subsection may also make other contributions to ASRS
28 pursuant to subsection H of this section to the extent of any remaining
29 amounts payable for which the member has not made an election pursuant to
30 this subsection. An additional election or contribution with respect to a
31 portion of the amounts payable for the member's purchase of credited service
32 does not alter, amend or revoke an irrevocable election already made pursuant
33 to this subsection for any other portion of the amounts payable for the
34 member's purchase of credited service.

35 4. If on termination of the member's employment with an ASRS employer
36 all amounts have not been paid to ASRS pursuant to the member's irrevocable
37 election pursuant to this subsection, the member may pay ASRS, within thirty
38 days after the member's termination of employment and subject to other
39 limitations prescribed in this section, all or any portion of the unpaid
40 amounts as provided in subsection H of this section. These payments do not
41 alter, amend or revoke any irrevocable election already made pursuant to this
42 subsection with respect to any amount to be paid by the member's employer
43 while the member is employed by the member's employer.

1 5. Amounts paid by an employer pursuant to this subsection shall be
2 treated as employer contributions for the purpose of determining tax
3 treatment under the internal revenue code. The effective date of employer
4 payments pursuant to this subsection shall not be before the date ASRS
5 receives notification from the United States internal revenue service that
6 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
7 by an employer pursuant to this subsection will not be included in the
8 member's gross income for income tax purposes until those amounts are
9 distributed by refund or retirement benefit payments.

10 6. Unless otherwise provided, member contributions paid by an employer
11 pursuant to this subsection are treated for all other purposes under ASRS in
12 the same manner and to the same extent as member contributions that are not
13 paid by an employer pursuant to this subsection. ASRS shall not grant
14 credited service for contributions made pursuant to this subsection until
15 those contributions are received by ASRS. ASRS may assess interest or
16 administrative charges attributable to any salary reduction election made
17 pursuant to this subsection. The interest or administrative charges shall be
18 added to the amount of contributions that is made to ASRS by the member each
19 payroll period and that is paid by the member's employer. The interest or
20 administrative charges shall not be treated as member contributions for any
21 purposes under this article and a member or a member's beneficiary does not
22 have a right to the return of the interest or administrative charges pursuant
23 to any other provision of this article. Interest assessed pursuant to this
24 subsection shall be at the rate specified by the board pursuant to section
25 38-711, paragraph 2.

26 7. If a member transfers employment from one participating employer
27 with which the member has made an irrevocable election pursuant to this
28 subsection to another participating employer, the member and the successor
29 participating employer shall complete the terms of the irrevocable election
30 that the member made with the original participating employer.

31 C. A member who elects before July 1, 1999 to receive retirement
32 benefits based on section 38-771, subsection C, paragraph 2 or a member who
33 elects to make contributions to ASRS pursuant to section 38-771.01,
34 subsection F, paragraph 4 shall either make the member's additional
35 contributions required pursuant to section 38-771, subsection E or allowed
36 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS as
37 provided in subsection H of this section or shall elect to have the member's
38 employer make payments for those additional contributions as provided in
39 subsection D of this section. A member who elected to be covered or who was
40 deemed to be covered by section 38-771 on or before December 31, 1995 or who
41 elects to make member contributions pursuant to section 38-771.01, subsection
42 F, paragraph 3 is deemed to have made an irrevocable election pursuant to
43 subsection D of this section to make the member's contributions to ASRS that
44 are required by section 38-771, subsection D or allowed by section 38-771.01,
45 subsection F, paragraph 3.

1 D. Any member contributions that are required by section 38-771,
2 subsection D or that are allowed pursuant to section 38-771.01, subsection F,
3 paragraph 3 are deemed to be made by the member to ASRS through a salary
4 reduction program in accordance with the following:

5 1. A member may make member contributions pursuant to section 38-771,
6 subsection E or section 38-771.01, subsection F, paragraph 4 through a salary
7 reduction program elected pursuant to this subsection. If a member makes an
8 irrevocable election pursuant to this subsection before July 1, 1999 to have
9 the member's employer make payments for additional contributions pursuant to
10 section 38-771, subsection E, the election continues in effect from and after
11 June 30, 1999 and shall not be revoked, amended or altered by any election
12 made pursuant to section 38-771.01 or otherwise. The amounts paid pursuant
13 to a salary reduction program are in lieu of contributions by the electing
14 member. The member's salary or other compensation shall be reduced by the
15 amount paid by the employer pursuant to this subsection.

16 2. Before a member's termination of employment, the member may make an
17 election pursuant to this subsection at any time after the date the member
18 elects to receive retirement benefits based on section 38-771, subsection C,
19 paragraph 2 but before July 1, 1999 or at any time after the member elects to
20 make member contributions pursuant to section 38-771.01, subsection F,
21 paragraph 4. The election shall specify the number of payroll periods that
22 deductions will be made from the member's compensation and the dollar amount
23 of deductions for each payroll period during the specified number of payroll
24 periods. After an election is made pursuant to this subsection, the election
25 is binding on and irrevocable for the member and the member's employer during
26 the member's remaining period of employment.

27 3. After a member makes or is deemed to have made an irrevocable
28 election pursuant to this subsection, the member does not have the option of
29 choosing to receive the contributed amounts directly. A member who makes an
30 irrevocable election pursuant to this subsection to have the member's
31 employer make payments for less than all of the amounts payable for the
32 member's additional contributions allowed by section 38-771.01, subsection F,
33 paragraph 4 may irrevocably elect to have the member's employer make payments
34 for all or any portion of the remaining amounts payable for the member's
35 additional contributions. A member who makes one or more irrevocable
36 elections pursuant to this subsection may also make other contributions to
37 ASRS pursuant to section 38-771.01, subsection F, paragraph 4 or pursuant to
38 subsection H of this section to the extent of any remaining amounts payable
39 for which the member has not made an election pursuant to this subsection.
40 An additional election or contribution with respect to a portion of the
41 amounts payable for the member's additional contributions pursuant to section
42 38-771.01, subsection F, paragraph 4 does not alter, amend or revoke an
43 irrevocable election already made pursuant to this subsection for any other
44 portion of the amounts payable for the member's additional contributions
45 allowed by section 38-771.01, subsection F, paragraph 4.

1 4. If on termination of the member's employment all amounts have not
2 been paid to ASRS pursuant to the member's irrevocable election pursuant to
3 this subsection, the member may pay ASRS, within thirty days after the
4 member's termination of employment and subject to other limitations
5 prescribed in this section, all or any portion of the unpaid amounts as
6 provided in subsection H of this section. These payments do not alter, amend
7 or revoke any irrevocable election already made pursuant to this subsection
8 with respect to any amount to be paid by the member's employer while the
9 member is employed by the member's employer.

10 5. Amounts paid by an employer pursuant to this subsection shall be
11 treated as employer contributions for the purpose of determining tax
12 treatment under the internal revenue code. The effective date of employer
13 payments pursuant to this subsection shall not be before the date ASRS
14 receives notification from the United States internal revenue service that
15 pursuant to section 414(h)(2) of the internal revenue code the amounts paid
16 by an employer pursuant to this subsection will not be included in the
17 member's gross income for income tax purposes until those amounts are
18 distributed by refund or retirement benefit payments.

19 6. Unless otherwise provided, member contributions paid by an employer
20 pursuant to this subsection are treated for all other purposes under ASRS in
21 the same manner and to the same extent as member contributions that are not
22 paid by an employer pursuant to this subsection.

23 7. If a member transfers employment from one participating employer
24 with which the member has made an irrevocable election pursuant to this
25 subsection to another participating employer, the member and the successor
26 participating employer shall complete the terms of the irrevocable election
27 that the member made with the original participating employer.

28 E. The following limits apply to contributions to ASRS:

29 1. Except to the extent paragraphs 2 and 3 of this subsection apply to
30 certain contributions made by a member to ASRS and to the extent permitted
31 under section 414(v) of the internal revenue code, if applicable, in any one
32 limitation year, the annual additions contributed or allocated to ASRS for or
33 on behalf of a member shall not exceed the lesser of either:

34 (a) Forty thousand dollars or a larger amount that is prescribed by
35 the board and that is due to any cost of living adjustment announced by the
36 United States secretary of the treasury pursuant to section 415(d) of the
37 internal revenue code. The board shall increase the amount prescribed by
38 this subdivision as of the effective date of the increase announced by the
39 United States secretary of the treasury.

40 (b) One hundred per cent of the member's compensation for the
41 limitation year. The compensation limit prescribed in this subdivision does
42 not apply to any contribution to ASRS for medical benefits after a member's
43 separation from service, within the meaning prescribed in section 401(h) or
44 419A(f)(2) of the internal revenue code, that is otherwise treated as an
45 annual addition.

1 2. Unless paragraph 4 of this subsection applies, for plan years
2 beginning on or after July 1, 1998, in any one limitation year, the annual
3 additions credited to ASRS for or on behalf of a member who makes
4 contributions to ASRS to purchase credited service pursuant to section
5 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
6 election has not been made pursuant to subsection B of this section shall not
7 exceed the greater of either:

8 (a) The requirements of section 38-769. For the purposes of applying
9 the limits prescribed in section 38-769 under this subdivision, the accrued
10 benefit derived from the contributions shall be treated as an annual benefit
11 and the reduced limit for certain early retirement in section 38-769,
12 subsection C, paragraph 2 does not apply.

13 (b) Except as provided in paragraph 3 of this subsection, the
14 requirements of paragraph 1 of this subsection. The contributions shall be
15 treated as annual additions and any of the member's other annual additions
16 for the limitation year shall be taken into account. For the purposes of
17 applying the requirements of paragraph 1 of this subsection under this
18 subdivision, the percentage of compensation limit in paragraph 1, subdivision
19 (b) of this paragraph does not apply.

20 3. For plan years beginning on or after July 1, 1998, the requirements
21 of paragraph 1 of this subsection shall not be applied to reduce the amount
22 of credited service that may be purchased by an eligible member pursuant to
23 section 38-743, 38-744, 38-745 or 38-922 to an amount that is less than the
24 amount of credited service allowed to be purchased pursuant to those sections
25 on August 5, 1997 without the application of any of the limits prescribed in
26 this section or section 415 of the internal revenue code. For the purposes
27 of this paragraph, "eligible member" means a person who first becomes a
28 member of ASRS before July 1, 1999.

29 4. Member contributions to ASRS to purchase credited service pursuant
30 to section 38-743, 38-744 or 38-922 shall not be made by a member if
31 recognition of that service would cause a member to receive a retirement
32 benefit for the same service from ASRS and one or more other retirement
33 plans. This paragraph does not apply to either of the following:

34 (a) Contributions made by an eligible member as defined in paragraph 3
35 of this subsection, except that any service purchase by an eligible member is
36 subject to any other limitations, including limitations on duplicative
37 service purchase, otherwise provided in this article.

38 (b) Any member contributions with respect to which an irrevocable
39 election has been made by a member pursuant to subsection B of this section,
40 except that the service purchase is subject to any other limitations,
41 including limitations on duplicative service purchase, otherwise provided in
42 this article.

43 F. If a member's contributions are subject to the limitations of
44 subsection E of this section, the contributions shall be treated as being
45 made to a separate defined contribution plan. If the member's contributions

1 exceed the limits prescribed in subsection E of this section when taking into
2 account other member and employer contributions to ASRS on behalf of the
3 member for the limitation year, the amount to be paid by the member shall be
4 reduced to not exceed the limits prescribed in subsection E of this section
5 and the remaining amount shall be carried forward to the next limitation
6 year, unless the limits are exceeded in the next limitation year. If the
7 limits are exceeded in the next limitation year, the procedure prescribed by
8 this subsection shall be repeated until all payments have been made.

9 G. If, after the application of subsection F of this section, the
10 annual additions on behalf of a member exceed the limitations prescribed in
11 subsection E of this section, ASRS shall dispose of excess amounts by either
12 of the following:

13 1. Returning to the member any contributions that are made by the
14 member and that are nondeductible under the internal revenue code.

15 2. Holding the amounts in a suspense account established pursuant to
16 subsection L of this section and allocating the amounts as either member or
17 employer contributions for the benefit of the member in the next limitation
18 year and before any further member or employer contributions are made that
19 would constitute annual additions made to a defined contribution plan
20 pursuant to section 415 of the internal revenue code. ASRS shall allocate
21 contributions as prescribed in this section, and the amount allocated shall
22 reduce the amount of the member or employer contributions for the limitation
23 year in which the allocation is made.

24 H. To the extent that a payment under this subsection does not alter,
25 amend or revoke any one or more currently effective irrevocable elections
26 made by the member pursuant to subsection B or D of this section, the board
27 may accept contributions made pursuant to section 38-771 or member
28 contributions for the payment for credited service purchases pursuant to
29 section 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 or contributions
30 made pursuant to section 38-771.01, subsection F, paragraph 4, in whole or in
31 part, by any one or a combination of the following methods:

32 1. In lump sum payments.

33 2. Subject to the limitations prescribed in sections 401(a)(31) and
34 402(c) of the internal revenue code and subsection J of this section,
35 accepting a direct transfer of any eligible rollover distribution or a
36 contribution by a member of an eligible rollover distribution from one or
37 more:

38 (a) Retirement programs that are qualified under section 401(a) or
39 403(a) of the internal revenue code.

40 (b) Annuity contracts described in section 403(b) of the internal
41 revenue code.

42 (c) Eligible deferred compensation plans described in section 457(b)
43 of the internal revenue code that are maintained by a state, a political
44 subdivision of a state or any agency or instrumentality of a state or a
45 political subdivision of a state.

1 3. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
2 of the internal revenue code, accepting from a member a rollover contribution
3 of that portion of a distribution from an individual retirement account or
4 individual retirement annuity described in section 408(a) or 408(b) of the
5 internal revenue code that is eligible to be rolled over and would otherwise
6 be includable as gross income.

7 4. Providing by rule that the contributions may be made in installment
8 payments over a period of time.

9 I. To the extent that a payment under this subsection does not alter,
10 amend or revoke any one or more currently effective irrevocable elections
11 made by a member pursuant to subsection B or D of this section, the board may
12 accept a direct trustee-to-trustee transfer from retirement programs that are
13 qualified under section 401(a) or 403(a) of the internal revenue code, an
14 annuity contract described in section 403(b) of the internal revenue code or
15 an eligible deferred compensation plan described in section 457(b) of the
16 internal revenue code for the payment for credited service purchases pursuant
17 to section 38-742, 38-743, 38-744, 38-745 or 38-922. If a direct
18 trustee-to-trustee transfer is from a retirement program that is qualified
19 under section 401(a) of the internal revenue code and that includes a cash or
20 deferred arrangement described in section 401(k) of the internal revenue
21 code, the member on whose behalf the transfer was made is not eligible to
22 retire under section 38-764, subsection I before the date the member attains
23 fifty-nine and one-half years of age.

24 J. ASRS shall separately account for all amounts rolled over or
25 directly transferred to ASRS. Subject to the limitations contained in the
26 internal revenue code applicable to the type of plan from which an eligible
27 rollover distribution is transferred, to the extent any eligible rollover
28 distribution that is directly transferred to ASRS consists wholly or
29 partially of amounts that would otherwise not be included in the member's
30 gross income if not so transferred, ASRS shall separately account for the
31 amounts so transferred, and earnings on those amounts, including separately
32 accounting for the portion of the amount that is includable in gross income
33 and the portion of the amount that is not includable in gross income.

34 K. ASRS shall not grant credited service under section 38-738, 38-742,
35 38-743, 38-744 or 38-922 for contributions made pursuant to subsection H of
36 this section until the contributions are received by ASRS. ASRS may assess
37 interest or administrative charges attributable to any installment payment
38 made pursuant to subsection H, paragraph 4 of this section to purchase
39 credited service pursuant to section 38-738, 38-742, 38-743, 38-744 or
40 38-922. The interest or administrative charges shall be added to the amount
41 of contributions made to ASRS by the member. The interest or administrative
42 charges shall not be treated as member contributions for any purposes under
43 this article, and a member or a member's beneficiary does not have a right to
44 the return of the interest or administrative charges pursuant to any other
45 provision of this article. Interest assessed pursuant to this subsection

1 shall be at the rate specified by the board pursuant to section 38-711,
2 paragraph 2.

3 ~~L. ASRS shall establish a suspense account that conforms with 26 Code~~
4 ~~of Federal Regulations section 1.415-6(b)(6) regarding excess annual~~
5 ~~additions.~~

6 L. NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, IF
7 THE ANNUAL ADDITIONS CREDITED ON BEHALF OF AN ASRS MEMBER DURING ANY
8 LIMITATION YEAR EXCEED THE LIMITS OF SECTION 415(c) OF THE INTERNAL REVENUE
9 CODE AND SUBSECTION E OF THIS SECTION, ASRS MAY ONLY CORRECT THE EXCESS
10 PURSUANT TO THE EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM PRESCRIBED IN
11 INTERNAL REVENUE SERVICE REVENUE PROCEDURE 2008-50 OR ANY FUTURE GUIDANCE
12 ISSUED BY THE INTERNAL REVENUE SERVICE, INCLUDING THE PREAMBLE OF THE FINAL
13 TREASURY REGULATIONS ISSUED UNDER SECTION 415 OF THE INTERNAL REVENUE CODE.

14 M. If the member retires before all payments are made pursuant to this
15 section, ASRS shall calculate the member's benefits based only on the
16 payments actually made.

17 N. On satisfaction of the requirements of this section, ASRS shall
18 adjust the member's credited service history and add any additional service
19 credits acquired.

20 O. Annual additions on behalf of a member in any limitation year shall
21 be the sum of:

22 1. The amount of the member contributions made to ASRS to purchase
23 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or 38-922
24 and with respect to which an irrevocable election made pursuant to subsection
25 B of this section is not in effect.

26 2. The amount of member and employer contributions made to ASRS on
27 behalf of a member who elected or was deemed to have elected to receive
28 retirement benefits pursuant to section 38-771 or who is entitled to benefits
29 pursuant to section 38-771.01, except that, other than as provided in
30 subsection P of this section, corrective contributions shall be considered
31 annual additions for the limitation years to which the contributions relate
32 and interest and gains shall not be considered as annual additions for the
33 purpose of any limitation prescribed in this article or in section 415 of the
34 internal revenue code. If the corrective contributions exceed the limit on
35 annual additions for a limitation year prior to the limitation year in which
36 the corrective contributions are contributed by the employer to ASRS, the
37 retirement benefit attributable to the excess corrective contributions shall
38 be treated as an excess benefit and shall be payable to the member as any
39 other excess benefit is payable pursuant to section 38-774, and the employer
40 shall pay the excess corrective contributions to the separate unfunded
41 governmental excess benefit arrangement administered by the board pursuant to
42 section 38-774.

43 3. Any member or employer contributions made to ASRS or any other plan
44 that are treated as being made to a defined contribution plan maintained by
45 an employer of the member.

1 4. Any forfeitures, including any income attributable to forfeitures,
2 allocated for or on behalf of a member of ASRS or any other plan that are
3 treated as being allocated under a defined contribution plan maintained by an
4 employer of the member.

5 P. To the extent any portion of the subject benefits, if treated as
6 subject to the benefit limitations of section 415(b) of the internal revenue
7 code, exceed the applicable limitation on benefits pursuant to section 38-769
8 for the form of distribution, a percentage of corrective contributions and
9 interest and gains shall be treated as annual additions for the limitation
10 year in which contributed by the employer to ASRS. This percentage of
11 corrective contributions and interest and gains shall be equal to the
12 percentage determined by dividing the subject benefits that exceed the
13 limitation on benefits pursuant to section 38-769 by the subject benefits.
14 If the corrective contributions and interest and gains that are treated as
15 annual additions for the limitation year in which the corrective
16 contributions and interest and gains are contributed by the employer to ASRS
17 exceed the limit on annual additions for the limitation year, the retirement
18 benefit attributable to the excess shall be treated as an excess benefit and
19 shall be payable to the member as any other excess benefit is payable
20 pursuant to section 38-774, and the employer shall pay the excess to the
21 separate unfunded governmental excess benefit arrangement administered by the
22 board pursuant to section 38-774.

23 Q. Subsection 0 of this section shall be construed and interpreted in
24 accordance with ~~26 Code of Federal Regulations section 1.415-6 to the extent~~
25 ~~that section is applicable~~ SECTION 415 OF THE INTERNAL REVENUE CODE AND THE
26 FINAL TREASURY REGULATIONS ISSUED UNDER THAT SECTION.

27 R. For the purposes of this section:

28 1. "Compensation" has the same meaning prescribed in section 38-769.

29 2. "Corrective contributions" means any contributions that are paid by
30 an employer pursuant to section 38-771.01, subsection C, paragraph 3 and that
31 are attributable to employer contributions that should have been made for
32 prior limitation years.

33 3. "Defined contribution plan" has the same meaning prescribed in
34 section 38-769.

35 4. "Eligible rollover distribution" has the same meaning prescribed in
36 section 38-770.

37 5. "Interest and gains" means employer contributions to ASRS pursuant
38 to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that are
39 attributable to earnings and supplemental credits that would have been earned
40 or added to a member's annuity payment.

41 6. "Limitation year" has the same meaning prescribed in section
42 38-769.

43 7. "Participating employer" means an employer that participates in
44 ASRS.

1 8. "Subject benefits" means the retirement benefit received by a
2 member pursuant to section 38-771.01 minus the sum of the portion of such
3 retirement benefit attributable to contributions that were made by or on
4 behalf of the member to the defined contribution program administered by ASRS
5 for periods before July 1, 1981 and contributions that were made by the
6 member after June 30, 1981 and that were not picked up as provided in section
7 414(h)(2) of the internal revenue code.

8 Sec. 3. Section 38-755, Arizona Revised Statutes, as amended by Laws
9 2012, chapter 87, section 4 and chapter 88, section 1, is amended to read:

10 38-755. Information as to member's status; beneficiary
11 designation; spousal consent; confidentiality

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

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

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

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

29 1. THE MEMBER'S NAME.

30 2. WHETHER THE MEMBER IS AN ACTIVE MEMBER AS DEFINED IN SECTION
31 38-711, AN INACTIVE MEMBER AS DEFINED IN SECTION 38-711 OR A RETIRED MEMBER
32 AS DEFINED IN SECTION 38-711.

33 3. THE MEMBER'S CURRENT OR MOST RECENT EMPLOYER.

34 4. FOR A RETIRED MEMBER, THE AVERAGE MONTHLY COMPENSATION, AS DEFINED
35 IN SECTION 38-711, USED TO CALCULATE THE MEMBER'S RETIREMENT BENEFIT.

36 5. THE CREDITED SERVICE AS DEFINED IN SECTION 38-711 ON ACCOUNT FOR AN
37 ACTIVE OR INACTIVE MEMBER OR THE CREDITED SERVICE USED TO CALCULATE THE
38 RETIREMENT BENEFIT FOR A RETIRED MEMBER.

39 6. THE GROSS PENSION AMOUNT ACTUALLY PAID TO A RETIRED MEMBER.

40 7. THE MOST RECENT RETIREMENT DATE.

41 8. THE CURRENT ACCOUNT BALANCE FOR AN ACTIVE OR INACTIVE MEMBER.

42 9. THE GROSS LONG-TERM DISABILITY PROGRAM BENEFIT ACTUALLY PAID TO A
43 DISABLED MEMBER PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER.

44 10. THE AMOUNT PAID TO PURCHASE CREDITED SERVICE PURSUANT TO SECTION
45 38-743, 38-744 OR 38-745.

1 11. THE AMOUNT OF CREDITED SERVICE PURCHASED PURSUANT TO SECTION
2 38-743, 38-744 OR 38-745.

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

8 Sec. 4. Section 38-757, Arizona Revised Statutes, is amended to read:
9 38-757. Normal retirement

10 A. After application on a form prescribed by the director, a member
11 may retire on reaching the member's normal retirement date. EXCEPT AS
12 PROVIDED IN SECTION 13-713, A MEMBER'S RIGHT TO THE MEMBER'S NORMAL
13 RETIREMENT BENEFIT AS DESCRIBED IN SUBSECTION B OF THIS SECTION IS
14 NONFORFEITABLE BY AN EMPLOYER OR ASRS ON ATTAINMENT OF THE MEMBER'S NORMAL
15 RETIREMENT DATE.

16 B. Except as provided in section 38-768, a member who meets the
17 requirements for retirement benefits at normal retirement shall receive a
18 monthly life annuity that equals the result of paragraph 1 OF THIS SUBSECTION
19 multiplied by paragraph 2 OF THIS SUBSECTION when those paragraphs are
20 defined as follows:

21 1. The number of whole and fractional years of credited service times
22 the following:

23 (a) 2.10 per cent if the member does not have more than 19.99 years of
24 credited service.

25 (b) 2.15 per cent if the member has at least 20.00 years of credited
26 service but not more than 24.99 years of credited service.

27 (c) 2.20 per cent if the member has at least 25.00 years of credited
28 service but not more than 29.99 years of credited service.

29 (d) 2.30 per cent if the member has at least 30.00 years of credited
30 service.

31 2. The member's average monthly compensation.

32 C. Employers shall provide evidence of, and certify to, in a manner
33 provided by the board, the member's average monthly compensation if that
34 information is not already available from the records of ASRS.

35 Sec. 5. Section 38-760, Arizona Revised Statutes, as amended by Laws
36 2012, chapter 88, section 2 and chapter 362, section 11, is amended to read:
37 38-760. Optional forms of retirement benefits

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

40 B. The optional retirement benefits available under this section
41 include the following:

42 1. Joint and survivor annuity in a reduced amount payable to the
43 retiring member during life, with the provisions that after the member's
44 death all, two-thirds or one-half of the retirement income, as the member
45 elects, shall be continued during the lifetime of the contingent annuitant

1 designated by the retiring member subject to the restrictions prescribed in
2 section 38-764. The amount of retirement income shall be the actuarial
3 equivalent of the retirement income to which the member would be entitled
4 under normal or early retirement. The election in a manner prescribed by the
5 board shall name the contingent annuitant. The election may be revoked at
6 any time before the member's effective date of retirement. At any time after
7 benefits have commenced, the member may name a different contingent annuitant
8 or rescind the election by written notice to the board as follows:

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

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

23 (c) If a member whose original date of retirement is before July 1,
24 2008 rescinds the joint and survivor annuity option previously elected and
25 receives the straight life annuity pursuant to subdivision (b) of this
26 paragraph, the member may again elect the same joint and survivor annuity
27 option previously elected subject to the same restrictions prescribed in
28 subdivision (a) of this paragraph.

29 (d) A member whose original date of retirement is on or after July 1,
30 2008 may exercise a one-time election to rescind the joint and survivor
31 annuity option elected by the member if the contingent annuitant dies or
32 ceases to be a contingent annuitant pursuant to the terms of a qualified
33 domestic relations order.

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

39 2. A period certain and life annuity actuarially reduced with payments
40 for five, ten or fifteen years that are not dependent on the continued
41 lifetime of the member but whose payments continue for the member's lifetime
42 beyond the five, ten or fifteen year period. At the time of electing this
43 option the member shall name a period certain beneficiary or beneficiaries
44 who are entitled to receive the payments for any portion of the period
45 certain beyond the lifetime of the member. The member may name a different

1 beneficiary at any time. If no beneficiary survives the member, any
2 remaining payments are the property of the member's estate. A member who
3 retires after August 9, 2001 and before July 1, 2008 may rescind the election
4 of a period certain and life annuity. If the member rescinds the election of
5 a period certain and life annuity, the member shall thereafter receive a
6 straight life annuity equal to what the member would otherwise be entitled to
7 receive if the member had not elected the period certain and life annuity
8 option, including all postretirement increases in retirement income that are
9 authorized by law after the date of retirement. The increased payment shall
10 continue during the remainder of the member's lifetime. If the member
11 reverts to a straight life annuity pursuant to this paragraph, the member may
12 again elect a period certain and life annuity subject to the same provisions
13 of the period certain and life annuity previously elected by the member. If
14 the member's contingent annuitant is the member's current spouse, the member
15 shall obtain the consent of the contingent annuitant pursuant to section
16 38-776 before the member rescinds the election of a period certain and life
17 annuity or again elects a period certain and life annuity. A member whose
18 original date of retirement is on or after July 1, 2008 may exercise a
19 one-time election to rescind the period certain and life annuity option
20 elected by the member if the beneficiary dies or ceases to be a beneficiary
21 pursuant to the terms of a qualified domestic relations order or at the
22 expiration of the member's period certain term.

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

31 (a) If the benefit increase is a percentage increase of the member's
32 retirement benefit, the increase shall be based on the actuarially reduced
33 retirement benefit of the member.

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

37 4. Other forms of actuarially reduced optional benefits prescribed by
38 the board.

39 C. A member who is married at the time of retirement shall elect a
40 monthly benefit in the form of a joint and survivor annuity pursuant to
41 subsection B, paragraph 1 of this section, and the member's current spouse
42 shall be the contingent annuitant unless the member's current spouse consents
43 to a waiver of this requirement pursuant to section 38-776 OR THE ELECTION
44 WOULD VIOLATE ANOTHER LAW, AN EXISTING CONTRACT OR A COURT ORDER. If the
45 married member does not elect a type of joint and survivor annuity for the

1 member's current spouse and the member's current spouse has not waived the
2 requirements of this subsection, ASRS shall cancel the member's retirement.
3 The member may reapply for retirement at any time in a manner established by
4 ASRS.

5 Sec. 6. Section 38-762, Arizona Revised Statutes, is amended to read:
6 38-762. Survivor benefits before retirement; definition

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

10 1. The member's contribution and interest and the employer's
11 contribution and interest to the defined benefit plan established by this
12 article for credited service that a member earned by working for an employer,
13 plus all contributions and interest made for the purchase of military
14 service, leave without pay or other public service credit. This amount
15 excludes payments made by an employer pursuant to section 38-738, subsection
16 B, paragraph 3, unless the member has made the payment required by section
17 38-738, subsection B, paragraph 1.

18 2. The amount of the member's employee account and the member's
19 employer account together with supplemental credits, if any, transferred from
20 the defined contribution program administered by ASRS to the defined benefit
21 program established by this article.

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

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

29 ~~1. A AS monthly income for five, ten or fifteen years certain and for~~
30 ~~life, thereafter.~~

31 ~~2. Another form of optional benefits approved by the board.~~

32 ~~D. On the death of an active or inactive member who has reached an~~
33 ~~early retirement date applicable to the member or who has a minimum of~~
34 ~~fifteen years of credited service and whose designated beneficiary is a~~
35 ~~spouse, a member's natural or adopted child under the age of twenty-one or a~~
36 ~~member's natural or adopted child of any age who is disabled, ASRS shall pay~~
37 ~~the designated beneficiary a survivor benefit equal to the present value, on~~
38 ~~the date following the date of the member's death, of the life annuity that~~
39 ~~would have been payable to the designated beneficiary if the member had~~
40 ~~retired on the date of the member's death and elected to receive an annuity~~
41 ~~in the form of a joint and survivor annuity providing the same amount of~~
42 ~~annuity to the surviving beneficiary as the reduced amount that would have~~
43 ~~been payable during the lifetime of the member. If there is more than one~~
44 ~~designated beneficiary under this subsection, ASRS shall determine the amount~~
45 ~~of the annuity and its present value as if the oldest of the beneficiaries~~

1 ~~was the sole beneficiary. Payment under this subsection shall be in lieu of,~~
2 ~~but not less than, any payment under subsection A of this section. Payment~~
3 ~~under this subsection, at the election of the designated beneficiary, may be~~
4 ~~made in a single sum or may be made in accordance with subsection C of this~~
5 ~~section. A beneficiary may not elect this option unless a benefit of~~
6 ~~twenty five dollars or more per month is payable to the designated~~
7 ~~beneficiary or the designated beneficiary's estate. IF THE RESULTING MONTHLY~~
8 ~~AMOUNT IS GREATER THAN OR EQUAL TO THE AMOUNT DETERMINED BY THE BOARD UNDER~~
9 ~~SECTION 38-764, SUBSECTION F.~~

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

15 ~~F.~~ E. If a deceased member did not designate a beneficiary or the
16 beneficiary named by a member predeceases the member, ASRS shall pay the
17 member's survivor benefit to the following persons in the following order of
18 priority:

- 19 1. The member's surviving spouse.
- 20 2. The member's surviving natural or adopted children in equal shares.
- 21 3. The member's surviving parents in equal shares.
- 22 4. The member's estate.

23 ~~G.~~ F. Any payment pursuant to this section is payment for the account
24 of the member or the member's beneficiary and all persons entitled to payment
25 and, to the extent of the payment, is a full and complete discharge of all
26 liability of the board or ASRS, or both, under or in connection with ASRS.

27 ~~H.~~ G. For the purposes of this section, ~~+~~

28 ~~1.~~ "designated beneficiary" means any individual designated by the
29 member as the member's beneficiary.

30 ~~2. "Disabled" means a person is incapable of self sustaining~~
31 ~~employment by reason of mental or physical handicap and is chiefly dependent~~
32 ~~on the member for support.~~

33 Sec. 7. Section 38-767, Arizona Revised Statutes, is amended to read:

34 ~~38-767.~~ Benefit increases; applicability

35 A. **FOR A MEMBER WHOSE MEMBERSHIP COMMENCED BEFORE THE EFFECTIVE DATE**
36 **OF THIS AMENDMENT TO THIS SECTION**, effective July 1 of each year, each
37 retired member or beneficiary of a retired member is entitled to receive a
38 permanent benefit increase in the base benefit equal to the amount determined
39 in subsection D of this section if the retired member or beneficiary of a
40 retired member was receiving benefits on or before July 31 of the previous
41 calendar year. The annual permanent benefit increases shall be paid on a
42 monthly basis. The benefit increase shall commence on July 1.

43 B. The total amount of the percentage increase provided in subsection
44 A of this section shall not exceed four per cent in aggregate for all persons

1 eligible for an increase. The percentage payable from excess investment
2 earnings shall be determined as follows:

3 1. Determine any excess investment earnings account balance available.

4 2. Determine the total excess investment earnings as provided in
5 subsection C of this section.

6 3. Add the amount determined in paragraph 1 of this subsection to the
7 amount determined in paragraph 2 of this subsection.

8 4. Determine one per cent of the actuarial present value of benefits
9 for retired members and beneficiaries as of June 30 of the year prior to the
10 year for which an increase is being granted.

11 5. Divide the amount determined in paragraph 3 of this subsection by
12 the amount determined in paragraph 4 of this subsection. If the quotient is
13 equal to or more than four, the percentage increase payable from excess
14 investment earnings on accounts associated with those persons eligible for an
15 annual benefit increase pursuant to subsection A of this section is four per
16 cent. If the quotient is one or more but less than four, the percentage
17 increase payable from excess investment earnings on accounts associated with
18 those persons eligible for an annual benefit increase pursuant to subsection
19 A of this section is that per cent rounded to the nearest tenth of a per
20 cent. If the quotient is less than one, no benefit increases shall be
21 granted.

22 C. The excess investment earnings on accounts associated with those
23 persons eligible for an annual benefit increase pursuant to subsection A of
24 this section are equal to the actuarial present value of benefits for all
25 retired members and beneficiaries as of June 30 of the year prior to the year
26 for which an increase is being granted multiplied by the positive difference,
27 if any, between the yield rate on the actuarial value of ASRS assets for the
28 fiscal year that ended June 30 of the year prior to the year for which an
29 increase is being granted and eight per cent. The excess investment earnings
30 on accounts associated with those persons eligible for an annual benefit
31 increase pursuant to subsection A of this section are zero if the yield rate
32 on ASRS assets is less than or equal to eight per cent.

33 D. The permanent benefit increase for each person entitled to receive
34 an increase pursuant to subsection A of this section shall be determined
35 based on years of credited service as follows:

36 1. Multiply the percentage determined in subsection B, paragraph 5 of
37 this section by the actuarial present value of benefits for retired members
38 and beneficiaries as of June 30 of the year prior to the year for which an
39 increase is being granted.

40 2. Determine the actuarial present value of a one dollar per year of
41 credited service annual increase in the base benefit amounts as of June 30 of
42 the year prior to the year for which an increase is being granted, received
43 by all persons entitled to receive an increase pursuant to subsection A of
44 this section.

1 3. Divide the amount determined in paragraph 1 of this subsection by
2 the amount determined in paragraph 2 of this subsection.

3 4. Multiply the amount determined in paragraph 3 of this subsection by
4 the number of years of credited service for each retired member and the
5 number of years of credited service earned by a retired member for each
6 beneficiary entitled to receive an increase pursuant to subsection A of this
7 section.

8 E. Any excess investment earnings on accounts associated with those
9 persons eligible for an annual benefit increase pursuant to subsection A of
10 this section from any year that are not used for benefit adjustments for that
11 year are available for future benefit increases in the following years.

12 F. Monies available for future benefit increases shall earn interest
13 at a rate of eight per cent per year. This interest shall be used to pay the
14 additional benefit increases provided for in subsection G of this section.

15 G. In addition to a benefit increase pursuant to subsection A of this
16 section, if a retired member WHO WAS ELIGIBLE FOR AN ANNUAL BENEFIT INCREASE
17 PURSUANT TO SUBSECTION A OF THIS SECTION had more than ten years of credited
18 service, the retired member or beneficiary of the retired member is entitled
19 to receive a benefit increase based on the number of years following
20 retirement as follows:

21 1. At least five years but less than ten years, a monthly benefit
22 increase equal to the amount determined in subsection H of this section.

23 2. At least ten years but less than fifteen years, a monthly benefit
24 increase equal to two times the amount determined in subsection H of this
25 section.

26 3. At least fifteen years but less than twenty years, a monthly
27 benefit increase equal to three times the amount determined in subsection H
28 of this section.

29 4. At least twenty years but less than twenty-five years, a monthly
30 benefit increase equal to four times the amount determined in subsection H of
31 this section.

32 5. At least twenty-five years but less than thirty years, a monthly
33 benefit increase equal to five times the amount determined in subsection H of
34 this section.

35 6. At least thirty years, a monthly benefit increase equal to six
36 times the amount determined in subsection H of this section.

37 H. The amount of the monthly benefit increase under subsection G of
38 this section for a retired member or beneficiary of a retired member who is
39 entitled to the increase when at least five years but less than ten years
40 have elapsed since the retired member's retirement date is equal to the
41 amount obtained by dividing the amount of interest credited pursuant to
42 subsection F of this section by the amount that equals the sum of:

43 1. The actuarial present value, as of June 30 of the year prior to the
44 year for which the increase is granted, of a benefit increase of one dollar
45 per month for the retired members and beneficiaries of retired members who

1 are eligible for an increase under subsection G of this section and for whom
2 at least five years but less than ten years have elapsed since the retired
3 members' retirement dates.

4 2. The actuarial present value, as of June 30 of the year prior to the
5 year for which the increase is granted, of a benefit increase of two dollars
6 per month for the retired members and beneficiaries of retired members who
7 are eligible for an increase under subsection G of this section and for whom
8 at least ten years but less than fifteen years have elapsed since the retired
9 members' retirement dates.

10 3. The actuarial present value, as of June 30 of the year prior to the
11 year for which the increase is granted, of a benefit increase of three
12 dollars per month for the retired members and beneficiaries of retired
13 members who are eligible for an increase under subsection G of this section
14 and for whom at least fifteen years but less than twenty years have elapsed
15 since the retired members' retirement dates.

16 4. The actuarial present value, as of June 30 of the year prior to the
17 year for which the increase is granted, of a benefit increase of four dollars
18 per month for the retired members and beneficiaries of retired members who
19 are eligible for an increase under subsection G of this section and for whom
20 at least twenty years but less than twenty-five years have elapsed since the
21 retired members' retirement dates.

22 5. The actuarial present value, as of June 30 of the year prior to the
23 year for which the increase is granted, of a benefit increase of five dollars
24 per month for the retired members and beneficiaries of retired members who
25 are eligible for an increase under subsection G of this section and for whom
26 at least twenty-five years but less than thirty years have elapsed since the
27 retired members' retirement dates.

28 6. The actuarial present value, as of June 30 of the year prior to the
29 year for which the increase is granted, of a benefit increase of six dollars
30 per month for the retired members and beneficiaries of retired members who
31 are eligible for an increase under subsection G of this section and for whom
32 at least thirty years have elapsed since the retired members' retirement
33 dates.

34 I. A member of the defined contribution program administered by ASRS
35 is only eligible for the benefit increases pursuant to this section if the
36 member elects to transfer irrevocably from the defined contribution program
37 administered by ASRS to the defined benefit program established by this
38 article.

39 J. The cost of the benefit increases granted pursuant to this section
40 shall be added to the existing liabilities of ASRS.

41 K. As used in this section, the actuarial present value of benefits
42 for retired members and beneficiaries does not include the value of benefits
43 provided pursuant to section 38-783.

1 Sec. 8. Section 38-769, Arizona Revised Statutes, is amended to read:
2 38-769. Maximum retirement benefits; termination; definitions

3 A. Notwithstanding any other provision of this article, except as
4 provided in subsection C of this section, the employer provided portion of a
5 member's annual benefit payable in the form of a straight life annuity, at
6 any time within a limitation year, shall not exceed one hundred sixty
7 thousand dollars or a larger amount that is effective as of January 1 of each
8 calendar year, is prescribed by the board and is due to any cost of living
9 adjustment announced by the United States secretary of the treasury pursuant
10 to section 415(d) of the internal revenue code. The board shall increase the
11 amount pursuant to this subsection as of the effective date of the increase
12 as prescribed by the United States secretary of the treasury. Benefit
13 increases provided in this section resulting from the increase in the
14 limitations of section 415(b) of the internal revenue code as amended by the
15 economic growth and tax relief reconciliation act of 2001 shall be provided
16 to all current and former members who have benefits that are limited by
17 section 415(b) of the internal revenue code and who have an accrued benefit
18 under ASRS immediately before July 1, 2001, other than an accrued benefit
19 resulting from a benefit increase solely as a result of the increases
20 provided by this section resulting from the increase in the limitations of
21 section 415(b) of the internal revenue code as amended by the economic growth
22 and tax relief reconciliation act of 2001.

23 B. Notwithstanding the limitations of subsection A of this section,
24 the benefits payable to a member are deemed not to exceed the limitations
25 determined under subsection A of this section if the retirement benefits
26 payable to the member under this article do not exceed ten thousand dollars
27 for the limitation year and if an employer has not at any time maintained a
28 defined contribution plan in which the member has participated.

29 C. The limitations determined under subsection A of this section are
30 subject to the following adjustments:

31 1. If a member has less than ten years of membership in ASRS, the
32 maximum dollar limitation determined under subsection A of this section shall
33 be multiplied by a fraction, the numerator of which is the number of years,
34 or partial years, of membership in ASRS and the denominator of which is ten.
35 The reduction provided in this paragraph also applies to the ten thousand
36 dollar floor limitation provided in subsection B of this section, except that
37 the reduction applies to years of service with an employer rather than to
38 years of membership in ASRS. The reduction in this paragraph does not reduce
39 the limitations determined under subsection A of this section to an amount
40 less than one-tenth of the limitations as determined without regard to this
41 paragraph.

42 ~~2. If a member's annual benefit commences before the member attains~~
43 ~~sixty-two years of age, the defined benefit dollar limitation applicable to~~
44 ~~the member at the earlier age is an annual benefit payable in the form of a~~
45 ~~straight life annuity beginning at the earlier age that is the actuarial~~

1 ~~equivalent of the defined benefit dollar limitation applicable to the member~~
2 ~~at age sixty two and that is adjusted under paragraph 1 of this subsection,~~
3 ~~if required. The defined benefit dollar limitation applicable at an age~~
4 ~~before age sixty two is determined as the lesser of:~~

5 ~~(a) The actuarial equivalent at that age of the defined benefit dollar~~
6 ~~limitation computed using the interest rate specified by the board in section~~
7 ~~38 711, paragraph 2 and the mortality table or other tabular factors~~
8 ~~prescribed in paragraph 5 of this subsection.~~

9 ~~(b) The actuarial equivalent at that age of the defined benefit dollar~~
10 ~~limitation computed using a five per cent interest rate and the applicable~~
11 ~~mortality table prescribed in paragraph 5 of this subsection. Any decrease~~
12 ~~in the defined benefit dollar limitation determined in accordance with this~~
13 ~~paragraph shall not reflect a mortality decrement if benefits are not~~
14 ~~forfeited on the death of the member. If any benefits are forfeited on~~
15 ~~death, the full mortality decrement is taken into account.~~

16 ~~3. If a member's annual benefit commences after sixty five years of~~
17 ~~age, the limitation determined under subsection A of this section applicable~~
18 ~~to the member at the later age is the annual benefit payable in the form of a~~
19 ~~straight life annuity beginning at the later age that is actuarially~~
20 ~~equivalent to the defined benefit dollar limitation applicable to the~~
21 ~~participant at age sixty five and that is adjusted under paragraph 1 of this~~
22 ~~subsection, if required. The actuarial equivalent of the defined benefit~~
23 ~~dollar limitation applicable at an age after age sixty five is determined as~~
24 ~~the lesser of:~~

25 ~~(a) The actuarial equivalent at that age of the defined benefit dollar~~
26 ~~limitation computed using the interest rate specified by the board as~~
27 ~~provided in section 38 711, paragraph 2 and the mortality table or other~~
28 ~~tabular factors prescribed in paragraph 5 of this subsection.~~

29 ~~(b) The actuarial equivalent at that age of the defined benefit dollar~~
30 ~~limitation computed using a five per cent interest rate assumption and the~~
31 ~~applicable mortality table prescribed in paragraph 5 of this subsection. For~~
32 ~~the purposes of this subdivision, mortality between age sixty five and the~~
33 ~~age at which benefits commence shall be ignored.~~

34 ~~4. If the member's benefit is paid in a form other than a straight~~
35 ~~life annuity, the benefit paid may not exceed the actuarial equivalent of the~~
36 ~~maximum annual benefit payable as a straight life annuity disregarding the~~
37 ~~portion of any joint and survivor annuity that constitutes a qualified joint~~
38 ~~and survivor annuity as defined in section 417 of the internal revenue code.~~
39 ~~Effective for plan years beginning from and after June 30, 2004, actuarial~~
40 ~~equivalency under this paragraph shall be determined by the use of an~~
41 ~~interest rate assumption equal to one of the following rates:~~

42 ~~(a) For benefits paid under ASRS in a form to which section 417(e)(3)~~
43 ~~of the internal revenue code would apply if that section of the internal~~
44 ~~revenue code were applicable to ASRS, the greater of:~~

45 ~~(i) Five and one-half per cent a year.~~

1 ~~(ii) The rate that provides a benefit of not more than one hundred~~
2 ~~five per cent of the benefit that would be provided if the applicable~~
3 ~~interest rate, as defined in section 417(e)(3) of the internal revenue code,~~
4 ~~were the interest rate assumption.~~

5 ~~(iii) The rate specified by the board as provided in section 38-711,~~
6 ~~paragraph 2.~~

7 ~~(b) For benefits paid under ASRS in a form to which section 417(e)(3)~~
8 ~~of the internal revenue code does not apply if that section of the internal~~
9 ~~revenue code were applicable to ASRS, five per cent per year.~~

10 ~~In the case of any member or beneficiary receiving a distribution from and~~
11 ~~after December 31, 2003 but before January 1, 2005, the amount payable under~~
12 ~~any form of benefit subject to adjustment under this paragraph shall not,~~
13 ~~solely by reason of the interest rate assumptions contained in this~~
14 ~~paragraph, be less than the amount that would have been payable had the~~
15 ~~amount payable been determined using the applicable interest rate in effect~~
16 ~~as of the last day of the plan year beginning July 1, 2003.~~

17 ~~5. For the purposes of adjusting any benefit or limitation under~~
18 ~~paragraph 2, 3 or 4 of this subsection, the board shall use the mortality~~
19 ~~table prescribed by the United States secretary of the treasury as required~~
20 ~~by section 415(b)(2)(E)(v) of the internal revenue code, which, effective for~~
21 ~~distributions with annuity starting dates from and after December 30, 2002,~~
22 ~~shall be the mortality table published by the internal revenue service in~~
23 ~~revenue ruling 2001-62, as modified by the internal revenue service in~~
24 ~~revenue ruling 2007-67, until later changed or modified by the internal~~
25 ~~revenue service.~~

26 2. IF THE MEMBER'S BENEFIT UNDER ASRS COMMENCES BEFORE THE MEMBER
27 REACHES SIXTY-TWO YEARS OF AGE, THE BENEFIT WILL BE LIMITED TO:

28 (a) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING
29 BEFORE JULY 1, 2007, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
30 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
31 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
32 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
33 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING WHICHEVER OF THE FOLLOWING
34 PRODUCES THE SMALLER ANNUAL AMOUNT:

35 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
36 SPECIFIED BY THE BOARD FOR DETERMINING ACTUARIAL EQUIVALENCE FOR EARLY
37 RETIREMENT PURPOSES.

38 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
39 MORTALITY TABLE.

40 (b) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
41 OR AFTER JULY 1, 2007 AND ASRS DOES NOT HAVE AN IMMEDIATELY COMMENCING
42 STRAIGHT LIFE ANNUITY PAYABLE AT BOTH AGE SIXTY-TWO AND THE AGE OF BENEFIT
43 COMMENCEMENT, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
44 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
45 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION

1 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
2 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING A FIVE PER CENT INTEREST
3 RATE ASSUMPTION AND THE APPLICABLE MORTALITY TABLE AND EXPRESSING THE
4 MEMBER'S AGE BASED ON COMPLETED CALENDAR MONTHS AS OF THE ANNUITY START DATE.

5 (c) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
6 OR AFTER JULY 1, 2007 AND ASRS HAS AN IMMEDIATELY COMMENCING STRAIGHT LIFE
7 ANNUITY PAYABLE AT BOTH AGE SIXTY-TWO AND THE AGE OF BENEFIT COMMENCEMENT,
8 THE LESSER OF:

9 (i) THE ADJUSTED DOLLAR LIMITATION DETERMINED IN ACCORDANCE WITH
10 SUBDIVISION (b) OF THIS PARAGRAPH, DETERMINED WITHOUT APPLYING THE
11 LIMITATIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE.

12 (ii) THE PRODUCT OF THE DOLLAR LIMITATION UNDER SECTION 415(b)(1)(A)
13 OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS SECTION,
14 MULTIPLIED BY THE RATIO OF THE ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING
15 STRAIGHT LIFE ANNUITY UNDER ASRS AT THE MEMBER'S ANNUITY STARTING DATE TO THE
16 ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING STRAIGHT LIFE ANNUITY UNDER ASRS
17 AT AGE SIXTY-TWO, DETERMINED WITHOUT APPLYING THE LIMITATIONS OF SECTION 415
18 OF THE INTERNAL REVENUE CODE.

19 3. IF THE RETIREMENT BENEFIT UNDER ASRS COMMENCES AFTER THE MEMBER
20 REACHES SIXTY-FIVE YEARS OF AGE, THE DOLLAR LIMITATION UNDER SECTION
21 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
22 SECTION ON THAT BENEFIT IS INCREASED TO:

23 (a) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING
24 BEFORE JULY 1, 2007, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
25 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
26 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
27 415(b)(1)(A) AS ADJUSTED UNDER SECTION 415(d) OF THE INTERNAL REVENUE CODE,
28 WITH ACTUARIAL EQUIVALENCE COMPUTED USING WHICHEVER OF THE FOLLOWING PRODUCES
29 THE SMALLER ANNUAL AMOUNT:

30 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
31 SPECIFIED BY THE BOARD FOR DETERMINING ACTUARIAL EQUIVALENCE FOR DELAYED
32 RETIREMENT PURPOSES.

33 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
34 MORTALITY TABLE.

35 (b) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
36 OR AFTER JULY 1, 2007 AND ASRS DOES NOT HAVE AN IMMEDIATELY COMMENCING
37 STRAIGHT LIFE ANNUITY PAYABLE AT BOTH AGE SIXTY-FIVE AND THE AGE OF BENEFIT
38 COMMENCEMENT, THE ANNUAL AMOUNT OF A BENEFIT PAYABLE IN THE FORM OF A
39 STRAIGHT LIFE ANNUITY COMMENCING AT THE MEMBER'S ANNUITY STARTING DATE THAT
40 IS THE ACTUARIAL EQUIVALENT OF THE DOLLAR LIMITATION UNDER SECTION
41 415(b)(1)(A) OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS
42 SECTION, WITH ACTUARIAL EQUIVALENCE COMPUTED USING A FIVE PER CENT INTEREST
43 RATE ASSUMPTION AND THE APPLICABLE MORTALITY TABLE AND EXPRESSING THE
44 MEMBER'S AGE BASED ON COMPLETED CALENDAR MONTHS AS OF THE ANNUITY STARTING
45 DATE.

1 (c) IF THE ANNUITY STARTING DATE IS IN A LIMITATION YEAR BEGINNING ON
2 OR AFTER JULY 1, 2007 AND ASRS HAS AN IMMEDIATELY COMMENCING STRAIGHT LIFE
3 ANNUITY PAYABLE AT BOTH AGE SIXTY-FIVE AND THE AGE OF BENEFIT COMMENCEMENT,
4 THE LESSER OF:

5 (i) THE ADJUSTED DOLLAR LIMITATION DETERMINED IN ACCORDANCE WITH
6 SUBDIVISION (b) OF THIS PARAGRAPH, DETERMINED WITHOUT APPLYING THE
7 LIMITATIONS OF SECTION 415 OF THE INTERNAL REVENUE CODE.

8 (ii) THE PRODUCT OF THE DOLLAR LIMITATION UNDER SECTION 415(b)(1)(A)
9 OF THE INTERNAL REVENUE CODE AS ADJUSTED IN SUBSECTION A OF THIS SECTION,
10 MULTIPLIED BY THE RATIO OF THE ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING
11 STRAIGHT LIFE ANNUITY UNDER ASRS AT THE MEMBER'S ANNUITY STARTING DATE TO THE
12 ANNUAL AMOUNT OF THE IMMEDIATELY COMMENCING STRAIGHT LIFE ANNUITY UNDER ASRS
13 AT AGE SIXTY-FIVE, DETERMINED WITHOUT APPLYING THE LIMITATIONS OF SECTION 415
14 OF THE INTERNAL REVENUE CODE.

15 4. FOR PURPOSES OF APPLYING THE LIMITS OF SECTION 415 OF THE INTERNAL
16 REVENUE CODE, A RETIREMENT BENEFIT THAT IS PAYABLE IN ANY FORM OTHER THAN A
17 STRAIGHT LIFE ANNUITY AND THAT IS NOT SUBJECT TO SECTION 417(e)(3) OF THE
18 INTERNAL REVENUE CODE MUST BE ADJUSTED TO AN ACTUARIALLY EQUIVALENT STRAIGHT
19 LIFE ANNUITY THAT EQUALS EITHER:

20 (a) FOR LIMITATION YEARS BEGINNING ON OR AFTER JULY 1, 2007, THE
21 GREATER OF THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY, IF ANY, PAYABLE
22 UNDER ASRS AT THE SAME ANNUITY STARTING DATE, AND THE ANNUAL AMOUNT OF A
23 STRAIGHT LIFE ANNUITY COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS
24 THE SAME ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT COMPUTED
25 USING AN INTEREST RATE OF FIVE PER CENT AND THE APPLICABLE MORTALITY TABLE
26 UNDER SECTION 417(e)(3) OF THE INTERNAL REVENUE CODE.

27 (b) FOR LIMITATION YEARS BEGINNING BEFORE JULY 1, 2007, THE ANNUAL
28 AMOUNT OF A STRAIGHT LIFE ANNUITY COMMENCING AT THE SAME ANNUITY STARTING
29 DATE THAT HAS THE SAME ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF
30 BENEFIT COMPUTED USING WHICHEVER OF THE FOLLOWING PRODUCES THE GREATER ANNUAL
31 AMOUNT:

32 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
33 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

34 (ii) A FIVE PER CENT INTEREST RATE ASSUMPTION AND THE APPLICABLE
35 MORTALITY TABLE.

36 5. FOR THE PURPOSE OF APPLYING THE LIMITS OF SECTION 415 OF THE
37 INTERNAL REVENUE CODE, A RETIREMENT BENEFIT THAT IS PAYABLE IN ANY FORM OTHER
38 THAN A STRAIGHT LIFE ANNUITY TO WHICH SECTION 417(e)(3) OF THE INTERNAL
39 REVENUE CODE WOULD APPLY IF THAT SECTION OF THE INTERNAL REVENUE CODE WERE
40 APPLICABLE TO ASRS MUST BE ADJUSTED TO AN ACTUARIALLY EQUIVALENT STRAIGHT
41 LIFE ANNUITY THAT EQUALS:

42 (a) IF THE ANNUITY STARTING DATE IS IN A PLAN YEAR BEGINNING ON OR
43 AFTER JULY 1, 2006, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY COMMENCING
44 AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME ACTUARIAL PRESENT VALUE

1 AS THE MEMBER'S FORM OF BENEFIT, USING WHICHEVER OF THE FOLLOWING PRODUCES
2 THE GREATER ANNUAL AMOUNT:

3 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
4 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

5 (ii) A FIVE AND ONE-HALF PER CENT INTEREST RATE ASSUMPTION AND THE
6 APPLICABLE MORTALITY TABLE.

7 (iii) THE APPLICABLE INTEREST RATE UNDER SECTION 417(e)(3) OF THE
8 INTERNAL REVENUE CODE AND THE APPLICABLE MORTALITY TABLE, DIVIDED BY 1.05.

9 (b) IF THE ANNUITY STARTING DATE IS IN A PLAN YEAR BEGINNING IN JULY
10 1, 2004 OR JULY 1, 2005, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE ANNUITY
11 COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME ACTUARIAL
12 PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT PAYABLE, USING WHICHEVER OF THE
13 FOLLOWING PRODUCES THE GREATER ANNUAL AMOUNT:

14 (i) THE INTEREST RATE AND MORTALITY TABLE OR OTHER TABULAR FACTOR
15 SPECIFIED BY THE BOARD FOR ADJUSTING BENEFITS IN THE SAME FORM.

16 (ii) A FIVE AND ONE-HALF PER CENT INTEREST ASSUMPTION AND THE
17 APPLICABLE MORTALITY TABLE.

18 (c) IF THE ANNUITY STARTING DATE IS ON OR AFTER JULY 1, 2004 AND
19 BEFORE DECEMBER 31, 2004, AND ASRS APPLIES THE TRANSITION RULE IN SECTION
20 101(d)(3) OF THE PENSION FUNDING EQUITY ACT OF 2005 IN LIEU OF THE RULE IN
21 SUBDIVISION (b) OF THIS PARAGRAPH, THE ANNUAL AMOUNT OF THE STRAIGHT LIFE
22 ANNUITY COMMENCING AT THE SAME ANNUITY STARTING DATE THAT HAS THE SAME
23 ACTUARIAL PRESENT VALUE AS THE MEMBER'S FORM OF BENEFIT, DETERMINED IN
24 ACCORDANCE WITH INTERNAL REVENUE SERVICE NOTICE 2004-78.

25 6. WHEN CALCULATING THE LIMITATIONS OF PARAGRAPH 4 OR 5 OF THIS
26 SUBSECTION, THE PORTION OF ANY JOINT OR SURVIVOR ANNUITY THAT CONSTITUTES A
27 QUALIFIED JOINT AND SURVIVOR ANNUITY AS DEFINED IN SECTION 417 OF THE
28 INTERNAL REVENUE CODE SHALL BE DISREGARDED.

29 D. Subsection C, paragraphs 1 and 2 of this section do not apply to
30 income received from ASRS as a pension, annuity or similar allowance as a
31 result of the recipient becoming disabled by personal injury or sickness or
32 to amounts received from ASRS by beneficiaries, survivors or the estate of a
33 member as a result of the death of the member.

34 E. Notwithstanding any other provision of this section, the annual
35 benefit payable under this article may be reduced to the extent necessary, as
36 determined by the board, to prevent disqualification of ASRS under section
37 415 of the internal revenue code that imposes additional limitations on the
38 annual benefits payable to members who also may be participating in another
39 tax qualified pension or savings plan of this state. An employer shall not
40 provide employee retirement or deferred benefits if the benefits authorized
41 by this section and as required by federal law result in the failure of ASRS
42 to meet federal qualification standards as applied to public pension plans.
43 The board shall advise affected members of any additional information
44 concerning their annual benefits required by this subsection. All benefits
45 payable pursuant to this subsection shall comply with the limitations of

1 benefits contained in section 415 of the internal revenue code and the final
2 treasury regulations issued under that section. Notwithstanding any
3 provision of this article to the contrary, if the annual benefits within the
4 meaning of section 415 of the internal revenue code ~~are exceeded~~ for any
5 member **EXCEED THE LIMITS OF SECTION 415(b) OF THE INTERNAL REVENUE CODE AND**
6 **THIS SECTION**, ASRS may only correct the excess pursuant to the employee plans
7 compliance resolution system prescribed in internal revenue service revenue
8 procedure 2008-50 or any future guidance by the internal revenue service,
9 including the preamble of the final treasury regulations issued under section
10 415 of the internal revenue code.

11 F. If the maximum amount of benefit allowed under section 415 of the
12 internal revenue code is increased after the commencement date of a member's
13 benefit due to any cost of living adjustment announced by the United States
14 secretary of the treasury pursuant to the provisions of section 415(d) of the
15 internal revenue code, the amount of the monthly benefit payable under ASRS
16 to a member whose benefit is restricted due to the provisions of section
17 415(d) of the internal revenue code shall be increased by the board as of the
18 date prescribed by the United States secretary of the treasury on which the
19 increase shall become effective. The increase shall reflect the increase in
20 the amount of retirement income that may be payable under this article as a
21 result of the cost of living adjustment.

22 G. In determining the adjustments to the defined benefit dollar
23 limitation authorized by subsection A of this section, the board shall
24 prescribe a larger defined benefit dollar limitation if prescribed by the
25 United States secretary of the treasury pursuant to section 415(d) of the
26 internal revenue code. An adjustment to the defined benefit dollar
27 limitation prescribed in subsection A of this section is not effective before
28 the first calendar year for which the United States secretary of the treasury
29 publishes the adjustment. After it is prescribed by the board, the new
30 defined benefit dollar limitation applies to the limitation year ending with
31 or within the calendar year for which the secretary of the treasury makes the
32 adjustment.

33 H. For the purposes of the limitations prescribed by this section, all
34 member and employer contributions made to ASRS to provide a member benefits
35 pursuant to section 38-771 or 38-771.01 and all member contributions that are
36 not treated as picked up by the employer under section 414(h)(2) of the
37 internal revenue code shall be treated as made to a separate defined
38 contribution plan.

39 I. On termination **OR PARTIAL TERMINATION** of ASRS, the accrued benefit
40 of each member is, as of the date of termination **OR PARTIAL TERMINATION**,
41 fully vested and nonforfeitable **TO THE EXTENT THEN FUNDED**.

42 J. If ASRS terminates, the benefit of any highly compensated employee
43 as defined in section 414(q) of the internal revenue code and any highly
44 compensated former employee is limited to a benefit that is nondiscriminatory
45 under section 401(a)(4) of the internal revenue code and as follows:

1 1. Benefits distributed to any of the twenty-five active and former
2 highly compensated employees with the greatest compensation in the current or
3 any prior fiscal year are restricted so that the annual payments are no
4 greater than an amount equal to the payment that would be made on behalf of
5 the member under a straight life annuity that is the actuarial equivalent of
6 the sum of the member's accrued benefit, the member's other benefits under
7 ASRS, excluding a social security supplement as defined in 26 Code of Federal
8 Regulations section 1.411(a)-7(C)(4)(ii), and the amount the member is
9 entitled to receive under a social security supplement.

10 2. Paragraph 1 of this subsection does not apply if either:

11 (a) After payment of the benefit to a member described in paragraph 1
12 of this subsection, the value of ASRS assets equals or exceeds one hundred
13 ten per cent of the value of the current liabilities, as defined in section
14 412(l)(7) of the internal revenue code, of ASRS.

15 (b) The value of the benefits for a member described in paragraph 1 of
16 this subsection is less than one per cent of the value of the current
17 liabilities, as defined in section 412(l)(7) of the internal revenue code, of
18 ASRS before distribution.

19 (c) The value of the benefits payable by ASRS to a member described in
20 paragraph 1 of this subsection does not exceed three thousand five hundred
21 dollars.

22 K. For the purposes of subsection J of this section, "benefit"
23 includes loans in excess of the amount prescribed in section 72(p)(2)(A) of
24 the internal revenue code, any periodic income, any withdrawal values payable
25 to a living member and any death benefits not provided for by insurance on
26 the member's life.

27 L. On retirement of a member who was a retired member, who resumed
28 active membership and who subsequently retires, the limitations of this
29 section in effect on the member's subsequent retirement apply to the member's
30 retirement benefit payable as recomputed pursuant to section 38-766. In
31 addition, the sum of the present value of the member's recomputed retirement
32 benefits plus the present value of the benefits the member received during
33 the member's prior retirement shall not exceed the present value of the
34 limitations in effect on the member's subsequent retirement. The limitations
35 prescribed in this subsection shall not reduce a member's retirement benefit
36 below the retirement benefit the member was receiving before the member
37 resumed active membership. For the purposes of determining present value
38 under this subsection, the board shall use the actuarial equivalent
39 assumptions provided in section 38-711, paragraph 2.

40 M. For the purposes of this section:

41 1. The following adjustments shall be made to the definition of
42 compensation prescribed in subsection O of this section:

43 (a) Compensation shall be adjusted for the types of compensation that
44 are prescribed in this paragraph and that are paid after a member's severance
45 from employment with an employer. Amounts described in subdivisions (b), (c)

1 and (d) OF THIS PARAGRAPH may be included only as compensation to the extent
2 the amounts are paid by the later of two and one-half months after severance
3 from employment or by the end of the limitation year that includes the date
4 of the severance from employment. Any other payment of compensation paid
5 after severance of employment that is not described in the types of
6 compensation prescribed in this paragraph is not considered compensation for
7 purposes of this section, even if payment is made within the time period
8 prescribed in this subdivision.

9 (b) Compensation shall include regular pay after severance of
10 employment if the payment is regular compensation for services performed
11 during the member's regular working hours or compensation for services
12 performed outside the member's regular working hours, such as overtime or
13 shift differential, commission, bonus or other similar payments, and the
14 payment would have been paid to the member before a severance from employment
15 if the member had continued in employment with the employer.

16 (c) Leave cash-outs shall be included in compensation if those amounts
17 would have been included in compensation if they were paid before the
18 member's severance from employment and the amounts are payment for unused
19 accrued bona fide sick, vacation or other leave, but only if the member would
20 have been able to use the leave if employment had continued.

21 (d) Deferred compensation shall be included in compensation if the
22 compensation would have been included in compensation if it had been paid
23 before the member's severance from employment and the compensation is
24 received pursuant to a nonqualified unfunded deferred compensation plan, but
25 only if the payment would have been paid at the same time if the member had
26 continued in employment with the employer and only to the extent that the
27 payment is includable in the member's gross income.

28 (e) Compensation does include payments to an individual who does not
29 currently perform services for an employer by reason of qualified military
30 service as defined in section 414(u)(5) of the internal revenue code to the
31 extent those payments do not exceed the amounts the individual would have
32 received if the individual had continued to perform services for the employer
33 rather than entering qualified military service.

34 (f) Compensation does not include compensation paid to a member who is
35 permanently and totally disabled as defined in section 22(e)(3) of the
36 internal revenue code.

37 (g) Compensation shall include amounts that are includable in the
38 gross income of a member as required by section 409A or section 457(f)(1)(A)
39 of the internal revenue code or because the amounts are constructively
40 received by the member.

41 2. Compensation for a limitation year shall not include amounts earned
42 but not paid during the limitation year solely because of the timing of pay
43 periods and pay dates.

44 3. Payments awarded by an administrative agency or court or pursuant
45 to a bona fide agreement by an employer to compensate a member for lost wages

1 are compensation for the limitation year to which the back pay relates, but
2 only to the extent the payments represent wages and compensation that would
3 otherwise be included in compensation under this section.

4 N. The definition of limitation year prescribed in subsection 0 of
5 this section may only be changed by an amendment to subsection 0, except that
6 if ASRS is terminated effective as of a date other than the last day of the
7 limitation year, the termination shall be treated as if this section has been
8 amended to change the definition of limitation year.

9 O. For the purposes of this section:

10 1. Annual additions shall be determined as provided in section 38-747,
11 subsection 0.

12 2. "Annual benefit" means a benefit, including any portion of a
13 member's retirement benefit payable to an alternate payee under a qualified
14 domestic relations order that satisfies the requirements prescribed in
15 section 414(p)(1)(A)(i) of the internal revenue code and section 38-773,
16 payable annually in the form of a straight life annuity, disregarding the
17 portion of a joint and survivor annuity that constitutes a qualified joint
18 and survivor annuity as defined in section 417 of the internal revenue code,
19 with no ancillary or incidental benefits or rollover contributions and
20 excluding any portion of the benefit derived from member contributions or
21 other contributions that are treated as a separate defined contribution plan
22 under section 415 of the internal revenue code but including any of those
23 contributions that are picked up by the employer under section 414(h) of the
24 internal revenue code, or that otherwise are not treated as a separate
25 defined contribution plan. If the benefit is payable in another form, the
26 determination as to whether the limitation described in subsection A of this
27 section has been satisfied shall be made by the board by adjusting the
28 benefit so that it is actuarially equivalent to the annual benefit described
29 in this paragraph in accordance with the regulations promulgated by the
30 United States secretary of the treasury. In addition, for determining the
31 annual benefit attributable to member contributions, the factors described in
32 section 411(c)(2)(B) of the internal revenue code and the regulations
33 promulgated under the internal revenue code shall be used by the board
34 regardless of whether section 411 of the internal revenue code applies to
35 ASRS. The factors described in section 411(c)(2)(B) of the internal revenue
36 code shall be those factors described under section 417(e)(3) of the internal
37 revenue code and determined on the basis of the 417(e) mortality table and an
38 interest rate as prescribed in subsection C, ~~paragraphs 4 and~~ PARAGRAPH 5 of
39 this section.

40 3. "APPLICABLE MORTALITY TABLE" MEANS THE MORTALITY TABLE DESCRIBED IN
41 INTERNAL REVENUE SERVICE REVENUE RULING 2001-62.

42 ~~3-~~ 4. "Compensation" means the member's earned income, wages,
43 salaries, fees for professional service and other amounts received for
44 personal services actually rendered in the course of employment with the
45 employer and includes amounts described in sections 104(a)(3) and 105(a) of

1 the internal revenue code, but only to the extent that these amounts are
2 includable in the gross income of the member. Compensation also includes any
3 elective deferral as defined in section 402(g)(3) of the internal revenue
4 code and any amount that is contributed or deferred by an employer at the
5 election of a member and that is not includable in the gross income of the
6 member by reason of section 125, 132(f)(4) or 457 of the internal revenue
7 code. Compensation does not mean:

8 (a) Employer contributions to a plan of deferred compensation to the
9 extent the contributions are not included in the gross income of the employee
10 for the taxable year in which contributed and any distributions from a plan
11 of deferred compensation, regardless of whether the amounts are includable in
12 gross income of the employee when distributed, except that any amount
13 received by a member pursuant to an unfunded nonqualified plan may be
14 considered as compensation for the purposes of this section in the year the
15 amounts are includable in the gross income of the member under the internal
16 revenue code.

17 (b) Other amounts that receive special tax benefits, such as premiums
18 for group term life insurance, but only to the extent that the premiums are
19 not includable in the gross income of the employee, qualified transportation
20 fringe benefits as defined in section 132 of the internal revenue code and,
21 effective for plan years beginning from and after December 31, 1987, any
22 amounts under section 125 of the internal revenue code that are not available
23 to a ~~participant~~ MEMBER in cash in lieu of group health coverage because the
24 member is unable to certify that the member has other health coverage.

25 ~~4.~~ 5. "Defined benefit dollar limitation" means the dollar limitation
26 determined under subsection A of this section.

27 ~~5.~~ 6. "Defined benefit plan" has the same meaning prescribed in
28 section 414(j) of the internal revenue code.

29 ~~6.~~ 7. "Defined contribution plan" has the same meaning prescribed in
30 section 414(i) of the internal revenue code.

31 ~~7.~~ 8. "Limitation year" and "years of service" ~~means~~ MEAN the fiscal
32 year.

33 Sec. 9. Section 38-776, Arizona Revised Statutes, is amended to read:

34 ~~38-776.~~ Spousal waiver and consent

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

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

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

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

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

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

8 1. The member is not married.

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

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

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

17 5. Obtaining consent violates another law, ~~or~~ AN existing CONTRACT OR
18 A court order.

19 D. This section does not abrogate any community property laws of this
20 state.

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

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

31 Sec. 10. Section 38-782, Arizona Revised Statutes, is amended to read:

32 38-782. Group health and accident coverage for retired public
33 employees and elected officials and their dependents;
34 definition

35 A. The board shall establish group health and accident coverage for
36 eligible retired, SURVIVING and disabled members and their dependents.
37 ~~Eligible retired and disabled members are those members who are receiving~~
38 ~~retirement benefits from ASRS or long-term disability benefits pursuant to~~
39 ~~section 38-651.03 or article 2.1 of this chapter and who elect not to obtain~~
40 ~~health and accident insurance through their former employer. THE BOARD MAY~~
41 ~~ESTABLISH A SELF-INSURANCE PROGRAM FOR THE PURPOSES OF THIS SUBSECTION IF THE~~
42 ~~BOARD DETERMINES THAT SELF-INSURING WOULD BE LESS EXPENSIVE THAN AND AT LEAST~~
43 ~~AS EFFECTIVE AS A FULLY INSURED PLAN, WHILE CONSIDERING THE RISKS AND COSTS.~~
44 ~~IF THE BOARD ESTABLISHES A SELF-INSURANCE PROGRAM, THE BOARD SHALL PROVIDE~~
45 ~~THAT THE SELF-INSURANCE PROGRAM INCLUDE ALL HEALTH COVERAGE BENEFITS THAT ARE~~

1 REQUIRED PURSUANT TO TITLE 20. ASRS SHALL ESTABLISH A SEPARATE ACCOUNT FOR
2 ANY SELF-INSURANCE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION IN AN AMOUNT
3 DETERMINED APPROPRIATE BY ASRS. ASRS SHALL NOT USE OR DIVERT ANY PART OF THE
4 CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN TO ADMINISTER THE
5 SELF-INSURANCE PROGRAM UNLESS THE BOARD DETERMINES THAT A SELF-INSURANCE
6 PROGRAM SHOULD NO LONGER BE OFFERED. IF A SELF-INSURANCE PROGRAM IS NO
7 LONGER OFFERED, MONIES IN THE ACCOUNT SHALL BE TRANSFERRED TO ANOTHER ACCOUNT
8 OF ASRS AS DETERMINED BY ASRS. If an insured retired or disabled member dies
9 before the insured member's dependent beneficiary or an insured surviving
10 dependent, the dependent beneficiary or insured surviving dependent is
11 entitled to coverage at group rates if the dependent beneficiary or surviving
12 dependent elects to continue in the coverage within six months of the insured
13 member's death and the dependent beneficiary or surviving dependent agrees to
14 pay the cost of the premium for group health and accident insurance. On
15 notification of the insured member's death, the board shall immediately
16 notify a dependent beneficiary or an insured surviving dependent of the
17 provisions of this section.

18 B. Retired members of the public safety personnel retirement system,
19 the elected officials' retirement plan, the corrections officer retirement
20 plan or the optional retirement programs authorized pursuant to sections
21 15-1451 and 15-1628 and their dependents who are receiving benefits from the
22 public safety personnel retirement system, the elected officials' retirement
23 plan, the corrections officer retirement plan or the optional retirement
24 programs authorized pursuant to sections 15-1451 and 15-1628 and who are not
25 covered by section 38-651.01 may participate in group health and accident
26 coverage provided pursuant to this section. On the death of an insured
27 member of the public safety personnel retirement system, the elected
28 officials' retirement plan, the corrections officer retirement plan or the
29 optional retirement programs authorized pursuant to sections 15-1451 and
30 15-1628, the insured surviving dependent is entitled to coverage at group
31 rates. Except as provided in subsection H of this section, the surviving
32 dependent shall be charged amounts that are sufficient to pay for the premium
33 and administrative expense of providing the coverage.

34 C. The board may enter into agreements with retired, SURVIVING and
35 disabled members of ASRS who elect to obtain the coverage provided pursuant
36 to subsection A of this section. Those agreements may include provisions for
37 the deduction from the retirement benefits of the members who elect to obtain
38 the coverage of amounts sufficient to pay for the premium not covered under
39 retirement benefits and the administrative expense of providing the coverage.

40 D. The board of trustees of the public safety personnel retirement
41 system may enter into agreements with retired members of the public safety
42 personnel retirement system, the elected officials' retirement plan, the
43 corrections officer retirement plan and their dependents who elect to obtain
44 the coverage provided pursuant to this section. Those agreements may include
45 provisions for the deduction from the retirement benefits of the members who

1 elect to obtain the coverage of amounts sufficient to pay for the premium not
2 covered under their retirement benefits and the administrative expense of
3 providing the coverage.

4 E. The board may enter into agreements with retired members of the
5 optional retirement programs authorized pursuant to sections 15-1451 and
6 15-1628 and their dependents who elect to obtain the coverage provided
7 pursuant to this section. Those agreements may include provisions for the
8 payment of amounts sufficient to pay for the premium and administrative
9 expense of providing the coverage.

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

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

18 2. The member shall pay the full premium cost of the coverage
19 selected, and the member is not eligible for benefits pursuant to section
20 38-783.

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

27 G. Retired, **SURVIVING** or disabled members who are not eligible for
28 medicare, who live in this state, who enroll in a qualifying health
29 maintenance organization under this section and who reside outside the area
30 of a qualifying health maintenance organization shall be offered the option
31 of enrolling with a qualified health maintenance organization offered through
32 their provider under the same premiums as if they lived within the area
33 boundaries of the qualified health maintenance organization provided that:

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

37 2. All nonemergency or nonurgent travel, ambulatory and other expenses
38 from the residence area of the member to the designated office of the
39 qualifying health maintenance organization or the facility referred by the
40 health maintenance organization are the responsibility of and at the expense
41 of the member.

42 3. All emergency or urgent travel, ambulatory and other expenses from
43 the residence area of the member to the designated office of the qualifying
44 health maintenance organization or the facility referred by the health
45 maintenance organization shall be paid pursuant to any agreement between the

1 health maintenance organization and the member living outside the area of the
2 qualifying health maintenance organization.

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

7 I. FOR THE PURPOSES OF THIS SECTION, "ELIGIBLE RETIRED, SURVIVING AND
8 DISABLED MEMBER" MEANS A RETIRED MEMBER WHO IS RECEIVING RETIREMENT BENEFITS
9 FROM ASRS, A DESIGNATED BENEFICIARY OF A DECEASED MEMBER WHO IS RECEIVING A
10 SURVIVOR BENEFIT PURSUANT TO SECTION 38-762, SUBSECTION C AS MONTHLY INCOME
11 OR A DISABLED MEMBER WHO IS RECEIVING LONG-TERM DISABILITY BENEFITS PURSUANT
12 TO SECTION 38-651.03 OR ARTICLE 2.1 OF THIS CHAPTER, AND WHO DOES NOT
13 OTHERWISE ELECT TO OBTAIN COVERAGE UNDER A GROUP HEALTH AND ACCIDENT
14 INSURANCE PLAN OR PROGRAM.

15 Sec. 11. Appropriation; ASRS; exemption

16 A. The sum of \$200,000 is appropriated from the Arizona state
17 retirement system administration account fund in fiscal year 2013-2014 to the
18 Arizona state retirement system for the implementation of this act.

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

22 Sec. 12. Retroactivity

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

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

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

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

30 Sec. 13. Effective date

31 Section 38-762, Arizona Revised Statutes, as amended by this act, is
32 effective from and after December 31, 2013.