

COMMITTEE ON FINANCE  
SENATE AMENDMENTS TO H.B. 2104  
(Reference to House engrossed bill)

1 Page 1, between lines 1 and 2, insert:

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

4 38-727. Eligibility: options

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

7 1. All employees and officers of this state and all officers and  
8 employees of political subdivisions establishing a retirement plan  
9 administered by the board pursuant to this article are subject to this  
10 article, except that membership is not mandatory:

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

16 (b) For a state elected official who is subject to term limits, who is  
17 elected or appointed before January 1, 2014, who is eligible for  
18 participation in ASRS because the state elected official elected not to  
19 participate in the elected officials' retirement plan as provided in section  
20 38-804, subsection A and who elects not to participate in ASRS as provided in  
21 paragraph 7 of this subsection.

22 (c) On the part of any employee or officer who is eligible to  
23 participate and who participates in the elected officials' retirement plan  
24 pursuant to article 3 of this chapter, the elected officials' defined  
25 contribution retirement system pursuant to article 3.1 of this chapter, the

1 public safety personnel retirement system pursuant to article 4 of this  
2 chapter or the corrections officer retirement plan pursuant to article 6 of  
3 this chapter.

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

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

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

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

23 (a) Receive credit for service for the first six months of employment  
24 and establish membership in ASRS as of the beginning of the current term of  
25 employment if, within forty-five days after the first six months of  
26 employment, both the employer and the employee contribute to ASRS the amount  
27 that would have been required to be contributed to ASRS during the first six  
28 months of employment as if the employee had been a member of ASRS during  
29 those six months.

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

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

5           7. A state elected official who is subject to term limits, who is  
6 elected or appointed before January 1, 2014 and who is eligible for  
7 participation in ASRS because the state elected official elected not to  
8 participate in the elected officials' retirement plan as provided in section  
9 38-804, subsection A may elect not to participate in ASRS. The election not  
10 to participate is specific for that term of office. The state elected  
11 official who is subject to term limits shall make the election in writing and  
12 file the election with ASRS within thirty days after the elected official's  
13 retirement plan mails the notice to the state elected official of the state  
14 elected official's eligibility to participate in ASRS. The election is  
15 effective on the first day of the state elected official's eligibility. If a  
16 state elected official who is subject to term limits fails to make an  
17 election as provided in this paragraph, the state elected official is deemed  
18 to have elected to participate in ASRS. The election not to participate in  
19 ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS  
20 for the state elected official's entire term, except for any benefits accrued  
21 by the state elected official in ASRS for periods of participation before  
22 being elected to an office subject to term limits or any benefits expressly  
23 provided by law.

24           8. A person may elect not to participate in ASRS if the person becomes  
25 employed by an employer after the person has attained at least sixty-five  
26 years of age, is not an active member, inactive member, retired member or  
27 receiving benefits pursuant to article 2.1 of this chapter and does not have  
28 any credited service or prior service in ASRS. The employee shall make the  
29 election not to participate in writing and file the election with ASRS within  
30 thirty days after employment. The election not to participate is irrevocable  
31 for the remainder of the person's employment for which the person made the  
32 election and constitutes a waiver of all benefits provided by the Arizona

1 state retirement system. The period the person works is not eligible for  
2 purchase under section 38-743 or 38-744.

3 9. The following are ineligible for membership in ASRS:

4 (a) A person who performs services in a hospital, home or other  
5 institution as an inmate or patient at the hospital, home or other  
6 institution.

7 (b) A person who performs agricultural labor services, as defined in  
8 section 210 of the social security act.

9 (c) A person who is a nonresident alien temporarily residing in the  
10 United States and who holds an F-1, J-1, M-1 or Q-1 visa when services are  
11 performed.

12 (d) A person who performs services for a school, college or university  
13 in this state at which the person is enrolled as a student, as defined by the  
14 employing institution. The employing institution shall maintain an appeal  
15 process for a person who disagrees with the employing institution's  
16 determination that the person is a student and not eligible for membership in  
17 ASRS.

18 (e) A person who performs services under a program designed to relieve  
19 the person from unemployment.

20 B. The following elected officials are subject to this article if the  
21 member's employer is an employer under article 3 of this chapter:

22 1. A state elected official who is subject to term limits, who is  
23 elected or appointed on or before December 31, 2013 and who is an active, an  
24 inactive or a retired member of ASRS or a member of ASRS with a disability  
25 because the state elected official had previously elected not to participate  
26 in the elected officials' retirement plan as provided in section 38-804,  
27 subsection A.

28 2. An elected official, as defined in section 38-831, **OTHER THAN A**  
29 **STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS**, who is an active, an  
30 inactive or a retired member of ASRS or a member of ASRS with a disability,  
31 if the elected official's employer is a participating employer under this  
32 article."

1 Renumber to conform

2 Page 1, between lines 12 and 13, insert:

3 "Sec. 3. Section 38-766, Arizona Revised Statutes, is amended to read:

4 38-766. Retired members; return to work; suspension of benefits;  
5 exceptions; maximum benefit

6 A. A retired member who is engaged to work by an employer for at least  
7 twenty weeks in each fiscal year and at least twenty hours per week resumes  
8 active membership in ASRS. ASRS shall suspend payment of the member's  
9 retirement benefits until the member either:

10 1. Terminates employment and files an application for reretirement on  
11 a form that is approved by the director.

12 2. Attains a normal retirement date, no longer meets the requirements  
13 for active membership pursuant to this subsection and files an application  
14 for reretirement on a form that is approved by the director.

15 B. A retired member whose retirement benefits have been suspended  
16 pursuant to subsection A of this section shall repay ASRS any retirement  
17 benefits received by the member from the date ASRS notifies the member in  
18 writing that the member's employment resulted in active membership in ASRS  
19 pursuant to subsection A of this section, from the date ASRS determines that  
20 the member knew or should have known that the member's employment resulted in  
21 membership in ASRS pursuant to subsection A of this section or for any other  
22 period that approximates the duration of the violation, as determined by  
23 ASRS.

24 C. A member who satisfies subsection A, paragraph 1 or 2 of this  
25 section is entitled to receive an annuity recomputed to include the  
26 additional compensation and credited service. However, the recomputed  
27 annuity shall be in the original optional form chosen pursuant to section  
28 38-760, with the same beneficiary, if applicable, as when the member first  
29 retired, unless the member has resumed active membership for at least sixty  
30 consecutive months. A member who retired under a provision of law allowing  
31 increased benefits if the retirement occurred during a specific period of  
32 time and who subsequently becomes an employee under ASRS shall not retain the

1 increased benefits under the prior law when benefits are computed for the  
2 member's most recent retirement.

3 D. Notwithstanding subsection A of this section, ASRS shall not  
4 suspend the payment of retirement benefits if a retired member begins or  
5 returns to employment with an employer in a position that satisfies all of  
6 the following:

7 1. Results in a true change in position, job duties and job title from  
8 the position occupied by the member before ASRS retirement.

9 2. Either:

10 (a) Requires participation in another state retirement system, plan or  
11 program and the retired member makes contributions or waives participation  
12 pursuant to section 38-804, subsection A.

13 (b) Permits a member to elect to participate in another state  
14 retirement system, plan or program and the member makes such an election.

15 3. EITHER:

16 (a) Does not require membership in the defined benefit plan  
17 established by this article.

18 (b) CONSTITUTES SERVICE AS A STATE ELECTED OFFICIAL WHO IS SUBJECT TO  
19 TERM LIMITS.

20 E. A retired member who returns to work pursuant to subsection D of  
21 this section does not accrue credited service, member service as provided in  
22 section 15-1628, subsection B, paragraph 4, additional account balances,  
23 retirement benefits or long-term disability program benefits pursuant to  
24 article 2.1 of this chapter for the period the retired member returns to  
25 work. The period the retired member returns to work is not eligible for  
26 purchase under section 38-743 or 38-744.

27 F. Section 38-769, subsection L applies when determining the maximum  
28 benefit that may be paid to a retired member who resumes active membership  
29 and subsequently retires.

30 G. An employer that engaged the retired member to work pursuant to  
31 this section shall pay to ASRS an amount equal to the rate established by the  
32 actuary pursuant to section 38-766.02, subsection B for the period starting

1 with the first day the retired member began working after retirement through  
2 the earlier of:

3 1. The date the member terminates employment.

4 2. The date the employer begins payment for that member pursuant to  
5 section 38-766.02.

6 3. The date the member resumes active membership pursuant to  
7 subsection A of this section and the member and employer are required to make  
8 contributions pursuant to section 38-736, 38-737 or 38-738.

9 Sec. 4. Retroactivity

10 Sections 38-727 and 38-766, Arizona Revised Statutes, as amended by  
11 this act, apply retroactively to from and after June 30, 2015."

12 Renumber to conform

13 Amend title to conform

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02/17/2016  
01:35 PM  
C: MEB