

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HOUSE BILL 2157

AN ACT

AMENDING SECTION 38-711, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-711, Arizona Revised Statutes, is amended to
3 read:
4 38-711. Definitions
5 In this article, unless the context otherwise requires:
6 1. "Active member" means a member as defined in paragraph 23,
7 subdivision (b) of this section who satisfies the eligibility criteria
8 prescribed in section 38-727 and who is currently making member contributions
9 as prescribed in section 38-736.
10 2. "Actuarial equivalent" means equality in value of the aggregate
11 amounts expected to be received under two different forms of payment, based
12 on mortality and interest rate assumptions approved from time to time by the
13 board.
14 3. "ASRS" means the Arizona state retirement system established by
15 this article.
16 4. "Assets" means the resources of ASRS including all cash,
17 investments or securities.
18 5. "Average monthly compensation" means:
19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the higher of either:
23 (i) The monthly average of compensation that is calculated pursuant to
24 subdivision (b) of this paragraph.
25 (ii) The monthly average of compensation on which contributions were
26 remitted during a period of sixty consecutive months during which the member
27 receives the highest compensation within the last one hundred twenty months
28 of credited service. Any month for which no contributions are reported to
29 ASRS or that falls within a period of nonpaid or partially paid leave of
30 absence or sabbatical leave shall be excluded from the computation. The
31 sixty consecutive months may entirely precede, may be both before and after
32 or may be completely after any excluded months. If the member was employed
33 for less than sixty consecutive months, the average monthly compensation is
34 based on the total consecutive months worked. Payments for accumulated
35 vacation or annual leave, sick leave, compensatory time or other forms of
36 termination pay that, before August 12, 2005, constitute compensation for
37 members whose membership in ASRS commenced before January 1, 1984, do not
38 cease to be included as compensation if paid in the form of nonelective
39 employer contributions under a 26 United States Code section 403(b) plan if
40 all payments of employer and employee contributions are made at the time of
41 termination. Contributions shall be made to ASRS on these amounts pursuant
42 to sections 38-735, 38-736 and 38-737.
43 (b) For a member whose membership in ASRS commenced on or after
44 January 1, 1984 but before July 1, 2011, the monthly average of compensation
45 on which contributions were remitted during a period of thirty-six

1 consecutive months during which a member receives the highest compensation
2 within the last one hundred twenty months of credited service. Any month for
3 which no contributions are reported to ASRS or that falls within a period of
4 nonpaid or partially paid leave of absence or sabbatical leave shall be
5 excluded from the computation. The thirty-six consecutive months may
6 entirely precede, may be both before and after or may be completely after any
7 excluded months. If the member was employed for less than thirty-six
8 consecutive months, the average monthly compensation shall be based on the
9 total consecutive months worked.

10 (c) For a member whose membership in ASRS commenced on or after July
11 1, 2011, the monthly average of compensation on which contributions were
12 remitted during a period of sixty consecutive months during which a member
13 receives the highest compensation within the last one hundred twenty months
14 of credited service. Any month for which no contributions are reported to
15 ASRS or that falls within a period of nonpaid or partially paid leave of
16 absence or sabbatical leave shall be excluded from the computation. The
17 sixty consecutive months may entirely precede, may be both before and after
18 or may be completely after any excluded months. If the member was employed
19 for less than sixty consecutive months, the average monthly compensation
20 shall be based on the total consecutive months worked.

21 6. "Board" means the ASRS board established in section 38-713.

22 7. "Compensation" means the gross amount paid to a member by an
23 employer as salary or wages, including amounts that are subject to deferred
24 compensation or tax shelter agreements, for services rendered to or for an
25 employer, or that would have been paid to the member except for the member's
26 election or a legal requirement that all or part of the gross amount be used
27 for other purposes, but does not include amounts paid in excess of
28 compensation limits established in section 38-746. Compensation includes
29 amounts paid as salary or wages to a member by a second employer if the
30 member meets the requirements prescribed in paragraph 23, subdivision (b) of
31 this section with that second employer. Compensation, as provided in
32 paragraph 5, subdivision (b) or (c) of this section, does not include:

33 (a) Lump sum payments, on termination of employment, for accumulated
34 vacation or annual leave, sick leave, compensatory time or any other form of
35 termination pay whether the payments are made in one payment or by
36 installments over a period of time.

37 (b) Damages, costs, attorney fees, interest or other penalties paid
38 pursuant to a court order or a compromise settlement or agreement to satisfy
39 a grievance or claim even though the amount of the payment is based in whole
40 or in part on previous salary or wage levels, except that, if the court order
41 or compromise settlement or agreement directs salary or wages to be paid for
42 a specific period of time, the payment is compensation for that specific
43 period of time. If the amount directed to be paid is less than the actual
44 salary or wages that would have been paid for the period if service had been

1 performed, the contributions for the period shall be based on the amount of
2 compensation that would have been paid if the service had been performed.

3 (c) Payment, at the member's option, in lieu of fringe benefits that
4 are normally paid for or provided by the employer.

5 (d) Merit awards pursuant to section 38-613 and performance bonuses
6 paid to assistant attorneys general pursuant to section 41-192.

7 (e) Amounts that are paid as salary or wages to a member for which
8 employer contributions have not been paid.

9 8. "Contingent annuitant" means the person named by a member to
10 receive retirement income payable following a member's death after retirement
11 as provided in section 38-760.

12 9. "Credited service" means, subject to section 38-739, the number of
13 years standing to the member's credit on the books of ASRS during which the
14 member made the required contributions.

15 10. "Current annual compensation" means the greater of:

16 (a) Annualized compensation of the typical pay period amount
17 immediately before the date of a request to ASRS to purchase credited service
18 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
19 shall be determined by taking the five pay periods immediately before the
20 date of a request, disregarding the highest and lowest compensation amount
21 pay periods and averaging the three remaining pay periods.

22 (b) Annualized compensation of the partial year, disregarding the
23 first compensation amount pay period, if the member has less than twelve
24 months total compensation on the date of a request to purchase credited
25 service pursuant to section 38-743, 38-744 or 38-745.

26 (c) The sum of the twelve months of compensation immediately before
27 the date of a request to ASRS to purchase credited service pursuant to
28 section 38-743, 38-744 or 38-745.

29 (d) The sum of the thirty-six months of compensation immediately
30 before the date of a request to ASRS to purchase credited service pursuant to
31 section 38-743, 38-744 or 38-745 divided by three.

32 (e) If the member has retired one or more times from ASRS, the average
33 monthly compensation that was used for calculating the member's last pension
34 benefit times twelve.

35 11. "Early retirement" means retirement before a member's normal
36 retirement date after five years of total credited service and attainment of
37 age fifty.

38 12. "Effective date" means July 1, 1970, except with respect to
39 employers and members whose contributions to ASRS commence thereafter, the
40 effective date of their membership in ASRS is as specified in the applicable
41 joinder agreement.

42 13. "Employer" means:

43 (a) This state.

44 (b) Participating political subdivisions.

45 (c) Participating political subdivision entities.

- 1 14. "Employer contributions" means all amounts paid into ASRS by an
2 employer on behalf of a member.
- 3 15. "Fiscal year" means the period from July 1 of any year to June 30
4 of the following year.
- 5 16. "Inactive member" means a member who previously made contributions
6 to ASRS and who satisfies each of the following:
- 7 (a) Has not retired.
- 8 (b) Is not eligible for active membership in ASRS.
- 9 (c) Is not currently making contributions to ASRS.
- 10 (d) Has not withdrawn contributions from ASRS.
- 11 17. "Interest" means the assumed actuarial investment earnings rate
12 approved by the board.
- 13 18. "Internal revenue code" means the United States internal revenue
14 code of 1986, as amended.
- 15 19. "Investment manager" means the persons, companies, banks,
16 insurance company investment funds, mutual fund companies, management or any
17 combinations of those entities that are appointed by ASRS and that have
18 responsibility and authority for investment of the monies of ASRS.
- 19 20. "Late retirement" means retirement after normal retirement.
- 20 21. "Leave of absence" means any unpaid leave authorized by the
21 employer, including leaves authorized for sickness or disability or to pursue
22 education or training.
- 23 22. "Life annuity" means equal monthly installments payable during the
24 member's lifetime after retirement.
- 25 23. "Member":
- 26 (a) Means any employee of an employer on the effective date.
- 27 (b) Means all employees of an employer who are eligible for membership
28 pursuant to section 38-727 and who are engaged to work at least twenty weeks
29 in each fiscal year and at least twenty hours each week.
- 30 (c) Means any person receiving a benefit under ASRS.
- 31 (d) Means any person who is a former active member of ASRS and who has
32 not withdrawn contributions from ASRS pursuant to section 38-740.
- 33 (e) Does not include any employee of an employer who is otherwise
34 eligible pursuant to this article and who begins service in a limited
35 appointment for not more than eighteen months on or after July 1, 1979. If
36 the employment exceeds eighteen months, the employee shall be covered by ASRS
37 as of the beginning of the nineteenth month of employment. In order to be
38 excluded under this subdivision, classifications of employees designated by
39 employers as limited appointments must be approved by the director.
- 40 (f) Does not include any leased employee. For the purposes of section
41 414(n) of the internal revenue code, "leased employee" means an individual
42 who:
- 43 (i) Is not otherwise an employee of an employer.

1 (ii) Pursuant to a leasing agreement between the employer and another
2 person, performs services for the employer on a substantially full-time basis
3 for at least one year.

4 (iii) Performs services under the primary direction or control of the
5 employer.

6 (g) DOES NOT INCLUDE ANY EMPLOYEE OF A POLITICAL SUBDIVISION ENTITY
7 WHO IS HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
8 SECTION.

9 24. "Member contributions" means all amounts paid to ASRS by a member.

10 25. "Normal costs" means the sum of the individual normal costs for
11 all active members for each fiscal year. The normal cost for an individual
12 active member is the cost that is assigned to the fiscal year, through June
13 29, 2016, using the projected unit credit method and, beginning June 30,
14 2016, using the actuarial cost method determined by the board pursuant to
15 section 38-714.

16 26. "Normal retirement age" means the age at which a member reaches
17 the member's normal retirement date.

18 27. "Normal retirement date" means the earliest of the following:

19 (a) For a member whose membership commenced before July 1, 2011:

20 (i) A member's sixty-fifth birthday.

21 (ii) A member's sixty-second birthday and completion of at least ten
22 years of credited service.

23 (iii) The first day that the sum of a member's age and years of total
24 credited service equals eighty.

25 (b) For a member whose membership commenced on or after July 1, 2011:

26 (i) A member's sixty-fifth birthday.

27 (ii) A member's sixty-second birthday and completion of at least ten
28 years of credited service.

29 (iii) A member's sixtieth birthday and completion of at least
30 twenty-five years of credited service.

31 (iv) A member's fifty-fifth birthday and completion of at least thirty
32 years of credited service.

33 28. "Political subdivision" means any political subdivision of this
34 state and includes a political subdivision entity.

35 29. "Political subdivision entity" means an entity:

36 (a) That is located in this state.

37 (b) That is created in whole or in part by political subdivisions,
38 including instrumentalities of political subdivisions.

39 (c) Where a majority of the membership of the entity is composed of
40 political subdivisions.

41 (d) Whose primary purpose is the performance of a government related
42 service.

43 30. "Retired member" means a member who is receiving retirement
44 benefits pursuant to this article.

45 31. "Service year" means fiscal year, except that:

1 (a) If the normal work year required of a member is less than the full
2 fiscal year but is for a period of at least nine months, the service year is
3 the normal work year.

4 (b) For a salaried member employed on a contract basis under one
5 contract, or two or more consecutive contracts, for a total period of at
6 least nine months, the service year is the total period of the contract or
7 consecutive contracts.

8 (c) In determining average monthly compensation pursuant to paragraph
9 5 of this section, the service year is considered to be twelve months of
10 compensation.

11 32. "State" means this state, including any department, office, board,
12 commission, agency, institution or other instrumentality of this state.

13 33. "Vested" means that a member is eligible to receive a future
14 retirement benefit.