

REFERENCE TITLE: ASRS membership; section 218 requirements

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2050

Introduced by
Representatives Lovas, Allen

AN ACT

AMENDING SECTION 38-727, ARIZONA REVISED STATUTES; REPEALING SECTION 38-728, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-729, 38-766.02, 38-797 AND 38-797.07, ARIZONA REVISED STATUTES; REPEALING SECTIONS 38-955 AND 38-956, 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 38-727, 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 ~~who as a result of state~~
10 ~~service or service for the political subdivision are included in agreements~~
11 ~~providing for their coverage under the federal old age and survivors~~
12 ~~insurance system~~ are subject to this article, except that membership is not
13 mandatory:

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

19 (b) For a state elected official who is subject to term limits, who is
20 elected or appointed before January 1, 2014, who is eligible for
21 participation in ASRS because the state elected official elected not to
22 participate in the elected officials' retirement plan as provided in section
23 38-804, subsection A and who elects not to participate in ASRS as provided in
24 paragraph 7 of this section.

25 (c) On the part of any employee or officer who is eligible to
26 participate and who participates in the elected officials' retirement plan
27 pursuant to article 3 of this chapter, the elected officials' defined
28 contribution retirement system pursuant to article 3.1 of this chapter, the
29 public safety personnel retirement system pursuant to article 4 of this
30 chapter or the corrections officer retirement plan pursuant to article 6 of
31 this chapter.

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

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

40 4. Employees and officers shall not become members of ASRS and, if
41 they are members immediately before becoming employed as provided by this
42 section, shall have their membership status suspended while they are employed
43 by state departments paying the salaries of their officers and employees
44 wholly or in part from monies received from sources other than appropriations

1 from the state general fund for the period or periods payment of the employer
2 contributions is not made by or on behalf of the departments.

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

7 (a) Receive credit for service for the first six months of employment
8 and establish membership in ASRS as of the beginning of the current term of
9 employment if, within forty-five days after the first six months of
10 employment, both the employer and the employee contribute to ASRS the amount
11 that would have been required to be contributed to ASRS during the first six
12 months of employment as if the employee had been a member of ASRS during
13 those six months.

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

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

20 7. A state elected official who is subject to term limits, who is
21 elected or appointed before January 1, 2014 and who is eligible for
22 participation in ASRS because the state elected official elected not to
23 participate in the elected officials' retirement plan as provided in section
24 38-804, subsection A may elect not to participate in ASRS. The election not
25 to participate is specific for that term of office. The state elected
26 official who is subject to term limits shall make the election in writing and
27 file the election with ASRS within thirty days after the elected official's
28 retirement plan mails the notice to the state elected official of the state
29 elected official's eligibility to participate in ASRS. The election is
30 effective on the first day of the state elected official's eligibility. If a
31 state elected official who is subject to term limits fails to make an
32 election as provided in this paragraph, the state elected official is deemed
33 to have elected to participate in ASRS. The election not to participate in
34 ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS
35 for the state elected official's entire term, except for any benefits accrued
36 by the state elected official in ASRS for periods of participation before
37 being elected to an office subject to term limits or any benefits expressly
38 provided by law.

39 8. Before July 1, 2015, a person may elect not to participate in ASRS
40 if the person becomes employed by an employer after the person has attained
41 at least sixty-five years of age, is not an active member, inactive member,
42 retired member or receiving benefits pursuant to article 2.1 of this chapter
43 and does not have any credited service or prior service in ASRS. The
44 employee shall make the election not to participate in writing and file the
45 election with ASRS within thirty days of employment. The election not to

1 participate is irrevocable for the remainder of the person's employment for
2 which the person made the election and constitutes a waiver of all benefits
3 provided by the Arizona state retirement system. The period the person works
4 is not eligible for purchase under section 38-743 or 38-744.

5 9. THE FOLLOWING ARE INELIGIBLE FOR MEMBERSHIP IN ASRS:

6 (a) A PERSON WHO PERFORMS SERVICES IN A HOSPITAL, HOME OR OTHER
7 INSTITUTION AS AN INMATE OR PATIENT AT THE HOSPITAL, HOME OR OTHER
8 INSTITUTION.

9 (b) A PERSON WHO PERFORMS AGRICULTURAL LABOR SERVICES, AS DEFINED IN
10 SECTION 210 OF THE SOCIAL SECURITY ACT.

11 (c) A PERSON WHO IS A NONRESIDENT ALIEN TEMPORARILY RESIDING IN THE
12 UNITED STATES AND WHO HOLDS AN F-1, J-1, M-1 OR Q-1 VISA WHEN SERVICES ARE
13 PERFORMED.

14 (d) A PERSON WHO PERFORMS SERVICES FOR A SCHOOL, COLLEGE OR UNIVERSITY
15 IN THIS STATE AT WHICH THE PERSON IS ENROLLED AS A STUDENT, AS DEFINED BY THE
16 EMPLOYING INSTITUTION. THE EMPLOYING INSTITUTION SHALL MAINTAIN AN APPEAL
17 PROCESS FOR A PERSON WHO DISAGREES WITH THE EMPLOYING INSTITUTION'S
18 DETERMINATION THAT THE PERSON IS A STUDENT AND NOT ELIGIBLE FOR MEMBERSHIP IN
19 ASRS.

20 (e) A PERSON WHO PERFORMS SERVICES UNDER A PROGRAM DESIGNED TO RELIEVE
21 THE PERSON FROM UNEMPLOYMENT.

22 B. The following elected officials are subject to this article if the
23 member's employer is an employer under article 3 of this chapter and the
24 member elects to participate in ASRS pursuant to subsection C of this
25 section:

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

31 2. ~~Notwithstanding any exclusion from an agreement providing for~~
32 ~~coverage under the federal old age and survivors insurance system,~~ An elected
33 official, as defined in section 38-831, who is an active or inactive member
34 of ASRS, if the elected official's employer is a participating employer under
35 this article.

36 C. If an elected official as described in subsection B of this section
37 elects to continue or resume the member's participation in ASRS, the election
38 shall be made in writing and filed with ASRS within thirty days after the
39 elected official's term begins. The election is irrevocable for the
40 remainder of the elected official's term for which the election was made. If
41 the elected official does not make an election under this subsection, the
42 elected official shall be enrolled in the elected officials' defined
43 contribution retirement system pursuant to article 3.1 of this chapter.

44 Sec. 2. Repeal

45 Section 38-728, Arizona Revised Statutes, is repealed.

1 Sec. 3. Section 38-729, Arizona Revised Statutes, is amended to read:
2 38-729. Political subdivision plans

3 A. The governing body of any political subdivision may adopt, by
4 appropriate legislation, a supplemental retirement plan for employees and
5 officers of the political subdivision ~~who are included within agreements~~
6 ~~entered into between the governing body and the state agency providing for~~
7 ~~the extension of federal old age and survivors insurance benefits to the~~
8 ~~officers and employees~~. The supplemental retirement plan shall provide the
9 same retirement benefits and require the same obligations for entitlement as
10 are provided for other members under this article, except that:

11 1. The supplemental retirement plan shall specify the date of
12 commencement of the supplemental retirement plan as the first day of the
13 month following board approval of the supplemental plan of the political
14 subdivision as provided in this section.

15 2. Employer and employee obligations shall be paid to ASRS in
16 accordance with that date.

17 B. The governing body of the political subdivision shall submit the
18 supplemental retirement plan to the board in the form of an agreement. The
19 agreement shall state the terms of the supplemental retirement plan as
20 provided in this section. The board shall either approve or disapprove the
21 supplemental retirement plan submitted by the governing body of the political
22 subdivision.

23 C. On approval, the board shall administer the supplemental plan of
24 the political subdivision.

25 D. The employer's share of contributions and payments in excess of
26 those required of the employer under section 38-737 shall be paid from monies
27 of the political subdivision.

28 E. On establishment of the supplemental retirement plan the governing
29 body of the political subdivision shall deduct member contributions in the
30 same amounts and in the same manner as provided in this article for state
31 employees and shall pay those contributions, together with the employer
32 contributions for the political subdivision, to ASRS for deposit in the ASRS
33 depository. The governing body of the political subdivision shall reimburse
34 ASRS in a similar manner for its pro rata share of administrative costs
35 attributable to coverage of employees of the political subdivision.

36 F. In addition to the employer contributions required under section
37 38-737, on establishment of the supplemental retirement plan the governing
38 body of the political subdivision shall pay to ASRS the amounts, as
39 determined by the board, required to fund additional costs of benefits
40 attributable to service for the political subdivision before the effective
41 date of the supplemental retirement plan. The board may authorize payments
42 to be made at such times as the board requires and in amounts that are less
43 than the amount required for fully funding the additional costs.

44 G. If the supplemental retirement plan is authorized by a political
45 subdivision, then on or after the effective date of the supplemental

1 retirement plan the governing body of the political subdivision and the board
2 may sign an agreement to waive the provisions of subsection F of this section
3 and to authorize benefits under the supplemental retirement plan only for
4 service with the political subdivision after the effective date of the
5 supplemental retirement plan. In lieu of waiving benefits for all service
6 before the effective date of the supplemental retirement plan, the governing
7 body of the political subdivision may elect to waive benefits for a portion
8 of that service. Amendments to the agreement may increase but shall not
9 reduce the service for which a member is entitled to benefits. The governing
10 body of the political subdivision shall certify for each member the years of
11 service before the effective date of the supplemental retirement plan for
12 which the member is entitled to benefits. In addition to the employer
13 contributions required in section 38-737, the governing body of the political
14 subdivision shall pay to ASRS the amount, as determined by the board,
15 required to fund the cost of the benefits attributable to service before the
16 effective date of the supplemental retirement plan for which members are
17 entitled to benefits.

18 H. The new political subdivision shall designate the classification of
19 employees that is eligible for membership in ASRS and shall make
20 contributions each year as provided in this section.

21 I. The liability of the political subdivision providing a supplemental
22 retirement plan within ASRS arises in consideration of the officer's or
23 employee's retention in or entrance into service for the political
24 subdivision.

25 Sec. 4. Section 38-766.02, Arizona Revised Statutes, is amended to
26 read:

27 38-766.02. Retired members; return to work; employer
28 contribution payments; definitions

29 A. Notwithstanding section 38-766.01, subsection D, beginning July 1,
30 2012, an employer shall pay contributions at an alternate contribution rate
31 on behalf of a retired member who returns to work in any capacity in a
32 position ordinarily filled by an employee of the employer ~~who is included in~~
33 ~~agreements providing for their coverage under the federal old age and~~
34 ~~survivors insurance system.~~ This subsection applies to a retired member who
35 has reached a normal retirement age or a retired member who retired under
36 section 38-758 if the retired member's retirement benefit has not been
37 suspended pursuant to section 38-766.

38 B. The ASRS actuary shall determine the alternate contribution rate in
39 an annual valuation performed as of June 30. For the fiscal year beginning
40 on July 1 of the following calendar year, the valuation shall determine the
41 percentage to be applied to the compensation, gross salary or contract fee of
42 a retired member who meets the requirements of this section.

43 C. The alternate contribution rate shall not be less than two per cent
44 in any fiscal year. The alternate contribution rate is equal to the lesser
45 of:

1 1. The employer contribution rate established by the ASRS actuary
2 pursuant to section 38-737 plus the employer contribution rate established by
3 the ASRS actuary pursuant to section 38-797.06.

4 2. The total past service funding requirement rate established by the
5 ASRS actuary pursuant to section 38-737 plus the total past service funding
6 requirement rate established by the ASRS actuary pursuant to section
7 38-797.06.

8 D. ASRS shall determine the schedule and method of payment of the
9 alternate contribution rate. Subject to section 38-738, subsection A, all
10 contributions made by the employer and allocated to the fund established by
11 section 38-712 are irrevocable and shall be used as benefits under this
12 article or to pay the expenses of ASRS. Payments made pursuant to this
13 section by employers become delinquent after the due date prescribed in the
14 board's rules and thereafter shall be increased by interest from and after
15 that date until payment is received by ASRS. ASRS shall charge interest on
16 the delinquent payments as prescribed in section 38-711. ASRS may recover
17 delinquent payments due under this section, together with interest charges as
18 provided in this section, by action in a court of competent jurisdiction
19 against an employer liable for payments or, at the request of the director,
20 ASRS may deduct the delinquent payments and interest charges from any other
21 monies, including excise revenue taxes, payable to the employer by any
22 department or agency of this state.

23 E. An employer of a retired member shall submit any reports, data,
24 paperwork or materials that are requested by ASRS and that are necessary to
25 determine the compensation, gross salary or contract fee associated with a
26 retired member who returns to work or to determine the function, utilization,
27 efficacy or operation of the return to work program.

28 F. For the purposes of this section:

29 1. "Contract fee" means the gross amount paid to a retired member as
30 an independent contractor minus an amount, not to exceed ten per cent, for an
31 administrative fee.

32 2. "Gross salary" means the gross amount paid to a retired member by a
33 leasing company as salary or wages, including amounts that are subject to
34 deferred compensation or tax shelter agreements, for services rendered or
35 that would have been paid to the retired member except for the member's
36 election or a legal requirement that all or part of the gross amount be used
37 for other purposes.

38 Sec. 5. Section 38-797, Arizona Revised Statutes, is amended to read:
39 38-797. Definitions

40 In this article, unless the context otherwise requires:

41 1. "ASRS" means the Arizona state retirement system established by
42 article 2 of this chapter.

43 2. "Assets" means the accumulated resources of the LTD program.

44 3. "Board" means the ASRS board established pursuant to section
45 38-713.

- 1 4. "Compensation" has the same meaning prescribed in section 38-711.
2 5. "Depository" means a bank in which the monies of the LTD program
3 are deposited and collateralized as provided by law.
4 6. "Employer" has the same meaning prescribed in section 38-711.
5 7. "Employer contributions" means all amounts paid into the LTD
6 program by an employer.
7 8. "Fiscal year" has the same meaning prescribed in section 38-711.
8 9. "LTD program" means the long-term disability program established by
9 this article.
10 10. "Member"~~+~~
11 ~~(a) has the same meaning prescribed in section 38-711.~~
12 ~~(b) Includes an employee described in section 38-956.~~
13 11. "Monthly compensation" means one-twelfth of a member's annual
14 compensation paid and payable in the fiscal year during which a member
15 becomes disabled.
16 12. "Normal retirement date"~~+~~
17 ~~(a) has the same meaning prescribed in section 38-711. for members~~
18 ~~eligible pursuant to article 2 of this chapter.~~
19 ~~(b) Means sixty-five years of age for members eligible pursuant to~~
20 ~~section 38-956.~~
21 13. "Political subdivision" has the same meaning prescribed in section
22 38-711.
23 14. "State" has the same meaning prescribed in section 38-711.
24 Sec. 6. Section 38-797.07, Arizona Revised Statutes, is amended to
25 read:
26 38-797.07. LTD program benefits; limitations; definitions
27 A. The LTD program is subject to the following limitations:
28 1. Except as provided in paragraph 9 of this subsection, monthly LTD
29 program benefits shall not exceed two-thirds of a member's monthly
30 compensation at the time disability commences, reduced by:
31 (a) For a member whose disability commences before July 1, 2008,
32 sixty-four per cent of social security disability benefits that the member
33 and the member's dependents are eligible to receive.
34 (b) For a member whose disability commences on or after July 1, 2008,
35 eighty-five per cent of social security disability benefits that the member
36 and the member's dependents are eligible to receive, but not including:
37 (i) The amount of attorney fees approved pursuant to social security
38 administration rules and reasonable documented costs paid to an attorney to
39 secure that disability benefit.
40 (ii) Any cost-of-living adjustments that are granted after the member
41 commences benefits under this section.
42 (c) For a member whose disability commences before July 1, 2008,
43 eighty-three per cent of social security retirement benefits that the member
44 is eligible to receive.

1 (d) For a member whose disability commences on or after July 1, 2008,
2 eighty-five per cent of social security retirement benefits that the member
3 is eligible to receive, but not including any cost-of-living adjustments that
4 are granted after the member commences benefits under this section.

5 (e) All of any workers' compensation benefits.

6 (f) All of any payments for a veteran's disability if both of the
7 following apply:

8 (i) The veteran's disability payment is for the same condition or a
9 condition related to the condition currently causing the member's total
10 disability.

11 (ii) The veteran's disability is due to, or a result of, service in
12 the armed forces of the United States.

13 (g) All of any other benefits by reason of employment that are
14 financed partly or wholly by an employer, including payments for sick leave.
15 This subdivision does not include any retirement benefit that is received by
16 the member pursuant to a state retirement system or plan other than ASRS.

17 (h) Fifty per cent of any salary, wages, commissions or other
18 employment related pay that the member receives or is entitled to receive
19 from any gainful employment in which the member actually engages.

20 2. For a member whose disability commences on or after August 2, 2012,
21 a member's monthly income from the monthly LTD program benefits and sources
22 listed in paragraph 1 of this subsection shall not exceed one hundred per
23 cent of the member's monthly compensation at the time disability
24 commences. ASRS shall offset the member's monthly LTD program benefits by
25 the amount necessary to reduce the member's total monthly income to meet the
26 limit prescribed in this paragraph.

27 3. Monthly LTD program benefits are not payable until a member has
28 been totally disabled for a period of six consecutive months.

29 4. Monthly LTD program benefits are not payable to a member who files
30 an initial claim for disability more than twelve months after the date of the
31 member's date of disability unless the member demonstrates to ASRS good cause
32 for not filing the initial claim within twelve months after the date of
33 disability.

34 5. Monthly LTD program benefits are not payable to a member who is
35 receiving retirement benefits from ASRS.

36 6. Monthly LTD program benefits are not payable to a member whose
37 disability is due to, or a result of, any of the following:

38 (a) An intentionally self-inflicted injury.

39 (b) War, whether declared or not.

40 (c) An injury incurred while engaged in a felonious criminal act or
41 enterprise.

42 (d) For a member whose most recent membership in the LTD program
43 commences before July 1, 2008, an injury or sickness for which the member
44 received medical treatment within three months before the date of the

1 member's coverage under the LTD program. This subdivision does not apply to
2 a member who either:

3 (i) Has been an active member of an employer for twelve continuous
4 months.

5 (ii) Is employed by an employer before July 1, 1988.

6 (e) For a member whose most recent membership in the LTD program
7 commences on or after July 1, 2008, an injury or sickness for which the
8 member received medical treatment within six months before the date of the
9 member's coverage under the LTD program. This subdivision does not apply to
10 a member who has been an active member of an employer for twelve continuous
11 months.

12 7. Monthly LTD program benefits cease to be payable to a member at the
13 earliest of the following:

14 (a) The date the member ceases to be totally disabled.

15 (b) The date the member:

16 (i) Ceases to be under the direct care of a doctor.

17 (ii) Refuses to undergo any medical examination or refuses to
18 participate in any work rehabilitation program for which the member is
19 reasonably qualified by education, training or experience and that is
20 requested by the insurance company or claims administrator that is selected
21 by the board to administer the LTD program.

22 (c) The date the member withdraws employee contributions with interest
23 and ceases to be a member.

24 (d) The later of the following:

25 (i) The member's normal retirement date.

26 (ii) The month following sixty months of payments if disability occurs
27 before sixty-five years of age.

28 (iii) The month following attainment of seventy years of age if
29 disability occurs at sixty-five years of age or after but before sixty-nine
30 years of age.

31 (iv) The month following twelve months of payments if disability
32 occurs at or after sixty-nine years of age.

33 (e) If the member is convicted of a criminal offense and sentenced to
34 more than six months in a jail, prison or other penal institution, the first
35 day of the month following the first thirty continuous days of the member's
36 confinement for the remainder of the confinement.

37 8. Monthly LTD program benefits are payable only for disabilities that
38 commence on or after July 1, 1988.

39 9. The minimum benefit for a member who is entitled to receive monthly
40 LTD program benefits is fifty dollars per month.

41 10. Members are eligible to receive the LTD program benefits and
42 payments described in paragraph 1 of this subsection, and the reductions
43 provided by paragraph 1 of this subsection apply even though the social
44 security benefits are not actually paid as follows:

1 (a) For primary and dependent social security benefits, the members
2 are eligible for the social security benefits until the social security
3 benefits are actually awarded, or if the social security benefits are denied,
4 until the member pursues the social security appeal process through a hearing
5 before a social security administrative law judge or until the insurance
6 company or claims administrator determines that the member is not eligible
7 for social security benefits.

8 (b) For benefits and payments from any other source provided in
9 paragraph 1 of this subsection, the members are eligible for the benefits if
10 it is reasonable to believe that those benefits will be paid on proper
11 completion of the claim or would have been paid except for the failure of the
12 member to pursue the claim in time.

13 11. A member shall be considered totally disabled if based on objective
14 medical evidence:

15 (a) During the first thirty months of a period of disability, the
16 member is unable to perform all duties of the position held by the member
17 when the member became totally disabled.

18 (b) For a member who has received monthly LTD program benefits for
19 twenty-four months within a five-year period, the member is unable to perform
20 any work for compensation or gain for which the member is reasonably
21 qualified by education, training or experience in an amount at least equal to
22 the scheduled LTD program benefits prescribed in paragraph 1 of this
23 subsection.

24 B. A member ~~who is eligible pursuant to article 2 of this chapter and~~
25 who receives monthly LTD program benefits is entitled to receive service
26 credit pursuant to article 2 of this chapter from the time disability
27 commences until LTD program benefits cease to be payable, except that for a
28 member who receives monthly LTD program benefits on or after June 30, 1999
29 the number of years of service credited to the member's retirement account
30 during the period the member receives LTD program benefit payments shall not
31 cause the member's total credited service for retirement benefits to exceed
32 the greater of thirty years or the total years of service credited to the
33 member's retirement account on the commencement of disability.

34 C. This section does not prohibit a member whose disability has been
35 established to the satisfaction of the board from relying on treatment by
36 prayer through spiritual means in accordance with the tenets and practice of
37 a recognized church, religious denomination or Native American traditional
38 medicine by a duly accredited practitioner of the church, denomination or
39 Native American traditional medicine without suffering reduction or
40 suspension of the member's monthly LTD program benefits.

41 D. ASRS may suspend or terminate benefits under this article if a
42 member fails to provide information, data, paperwork or other materials that
43 are requested by ASRS or the insurance company or claims administrator that
44 is selected by the board to administer the LTD program. If the member

1 provides the information requested, ASRS shall retroactively reinstate the
2 benefits or claim for which the member qualifies under this article.

3 E. For the purposes of this section:

4 1. "Objective medical evidence" means evidence that established facts
5 and conditions, as perceived without distortion by personal feelings,
6 prejudices or interpretations, and includes x-rays, quantitative tests,
7 laboratory findings, data, records, reports from the attending physician and
8 reports from a consulting physician, as applicable.

9 2. "Received medical treatment" means that the member consulted with
10 or received the advice of a licensed medical or dental practitioner,
11 including advice given during a routine examination, and it includes
12 situations in which the member received medical or dental care, treatment or
13 services, including the taking of drugs, medication, insulin or similar
14 substances.

15 3. "Social security" and "social security disability" includes the
16 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
17 Code sections 231 through 231u).

18 Sec. 7. Repeal

19 Sections 38-955 and 38-956, Arizona Revised Statutes, are repealed.

20 Sec. 8. Defined contribution plan termination; distribution;
21 long-term disability

22 A. An employee who is participating in the defined contribution plan
23 established pursuant to section 38-955, Arizona Revised Statutes, as repealed
24 by this act, shall discontinue employee contributions to the plan and to the
25 long-term disability program established by title 38, chapter 5, article 2.1,
26 Arizona Revised Statutes, on the effective date of this act.

27 B. At the election of the employee, the Arizona state retirement
28 system shall either distribute the balance of the employee's account under
29 the defined contribution plan or transfer the balance of the employee's
30 account to another eligible plan. If the employee has not made an election
31 within one hundred eighty days after the effective date of this section, the
32 Arizona state retirement system shall transfer the balance of the employee's
33 account to an individual retirement account and designate the employee as the
34 account holder.

35 C. An employee who was participating in the defined contribution plan
36 established pursuant to section 38-955, Arizona Revised Statutes, as repealed
37 by this act, and who is receiving benefits pursuant to title 38, chapter 5,
38 article 2.1, Arizona Revised Statutes, is subject to all of the provisions of
39 that article and may continue to receive those benefits until the earliest of
40 the following:

41 1. The date the member ceases to be totally disabled.

42 2. The date the member:

43 (a) Ceases to be under the direct care of a doctor.

44 (b) Refuses to undergo any medical examination or refuses to
45 participate in any work rehabilitation program for which the member is

1 reasonably qualified by education, training or experience and that is
2 requested by the insurance company or claims administrator that is selected
3 by the Arizona state retirement system board to administer the long-term
4 disability program.

5 3. The later of the following:

6 (a) Age sixty-five.

7 (b) The month following sixty months of payments if the disability
8 commences before the member reaches sixty-five years of age.

9 (c) The month after the member reaches seventy years of age if the
10 disability commences when the member is at least sixty-five years of age.

11 (d) The month following twelve months of payments if the disability
12 commences when the member is at least sixty-nine years of age.

13 4. If the member is convicted of a criminal offense and sentenced to
14 more than six months in a jail, prison or other penal institution, the first
15 day of the month following the first thirty continuous days of the member's
16 confinement for the remainder of the confinement.