

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

HOUSE BILL 2050

AN ACT

AMENDING SECTION 38-727, ARIZONA REVISED STATUTES; REPEALING SECTION 38-728, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-729, 38-766.02 AND 38-797, 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.

1 Sec. 2. Repeal

2 Section 38-728, Arizona Revised Statutes, is repealed.

3 Sec. 3. Section 38-729, Arizona Revised Statutes, is amended to read:
4 38-729. Political subdivision plans

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

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

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

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

25 C. On approval, the board shall administer the supplemental plan of
26 the political subdivision.

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

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

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

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

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

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

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

29 38-766.02. Retired members; return to work; employer
30 contribution payments; definitions

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

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

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

4 1. The employer contribution rate established by the ASRS actuary
5 pursuant to section 38-737 plus the employer contribution rate established by
6 the ASRS actuary pursuant to section 38-797.06.

7 2. The total past service funding requirement rate established by the
8 ASRS actuary pursuant to section 38-737 plus the total past service funding
9 requirement rate established by the ASRS actuary pursuant to section
10 38-797.06.

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

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

31 F. For the purposes of this section:

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

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

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

42 38-797. Definitions

43 In this article, unless the context otherwise requires:

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

- 1 2. "Assets" means the accumulated resources of the LTD program.
2 3. "Board" means the ASRS board established pursuant to section
3 38-713.
4 4. "Compensation" has the same meaning prescribed in section 38-711.
5 5. "Depository" means a bank in which the monies of the LTD program
6 are deposited and collateralized as provided by law.
7 6. "Employer" has the same meaning prescribed in section 38-711.
8 7. "Employer contributions" means all amounts paid into the LTD
9 program by an employer.
10 8. "Fiscal year" has the same meaning prescribed in section 38-711.
11 9. "LTD program" means the long-term disability program established by
12 this article.
13 10. "Member" ~~:-~~
14 ~~(a)~~ has the same meaning prescribed in section 38-711.
15 ~~(b) Includes an employee described in section 38-956.~~
16 11. "Monthly compensation" means one-twelfth of a member's annual
17 compensation paid and payable in the fiscal year during which a member
18 becomes disabled.
19 12. "Normal retirement date" ~~:-~~
20 ~~(a)~~ has the same meaning prescribed in section 38-711. ~~for members~~
21 ~~eligible pursuant to article 2 of this chapter.~~
22 ~~(b) Means sixty-five years of age for members eligible pursuant to~~
23 ~~section 38-956.~~
24 13. "Political subdivision" has the same meaning prescribed in section
25 38-711.
26 14. "State" has the same meaning prescribed in section 38-711.
27 Sec. 6. Repeal
28 Sections 38-955 and 38-956, Arizona Revised Statutes, are repealed.
29 Sec. 7. Defined contribution plan termination; distribution;
30 long-term disability
31 A. An employee who is participating in the defined contribution plan
32 established pursuant to section 38-955, Arizona Revised Statutes, as repealed
33 by this act, shall discontinue employee contributions to the plan and to the
34 long-term disability program established by title 38, chapter 5, article 2.1,
35 Arizona Revised Statutes, on the effective date of this act.
36 B. At the election of the employee, the Arizona state retirement
37 system shall either distribute the balance of the employee's account under
38 the defined contribution plan or transfer the balance of the employee's
39 account to another eligible retirement plan as defined in section
40 401(a)(31)(E) of the United States internal revenue code. If the employee
41 has not made an election within one hundred eighty days after the effective
42 date of this section, the Arizona state retirement system shall transfer the
43 balance of the employee's account to an individual retirement account as
44 defined in section 408(a) of the United States internal revenue code and
45 designate the employee as the account holder.

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

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

8 2. The date the member:

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

10 (b) Refuses to undergo any medical examination or refuses to
11 participate in any work rehabilitation program for which the member is
12 reasonably qualified by education, training or experience and that is
13 requested by the insurance company or claims administrator that is selected
14 by the Arizona state retirement system board to administer the long-term
15 disability program.

16 3. The later of the following:

17 (a) Age sixty-five.

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

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

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

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

28 Sec. 8. Enrollment in ASRS; service purchase; definitions

29 A. An ASRS employer shall enroll an eligible employee in ASRS and the
30 eligible employee may have the previous period of continuous employment
31 credited to the employee's service credit for pension purposes if both of the
32 following conditions are met:

33 1. The eligible employee elects to purchase eligible service credit
34 within ninety days after the effective date of this act.

35 2. The eligible employee pays into the ASRS depository the amounts
36 prescribed in this section within one hundred eighty days after the effective
37 date of this act.

38 B. If the eligible employee does not meet the requirements of
39 subsection A of this section, the eligible employee may purchase the eligible
40 service credit at a later date pursuant to section 38-743, Arizona Revised
41 Statutes.

42 C. The eligible employee who is purchasing service credit pursuant to
43 subsection A of this section shall pay the member contributions that would
44 have been contributed by the employer on the employee's behalf as prescribed
45 in section 38-736, Arizona Revised Statutes, plus interest, equal to the

1 interest rate assumption approved by the ASRS board for actuarial
2 equivalency, through the date of deposit in the ASRS depository. If the
3 eligible employee pays less than the amount required by this subsection, ASRS
4 shall proportionately reduce the amount of service credited to the member's
5 account and the eligible employee may purchase the remaining amount of
6 eligible service credit at a later date pursuant to section 38-743, Arizona
7 Revised Statutes. For an eligible employee as defined in subsection F,
8 paragraph 2, subdivision (a) of this section, interest is calculated from the
9 date of the return of the employee's and employer's contributions to the
10 employer through the date of the deposit in the ASRS depository. If an
11 eligible employee as defined in subsection F, paragraph 2, subdivision (c) of
12 this section transfers the balance of the employee's account under the
13 defined contribution plan established pursuant to section 38-955, Arizona
14 Revised Statutes, as repealed by this act, to ASRS and the amount transferred
15 is less than the amount required to purchase the employee's service credit,
16 the eligible employee may elect either to pay the difference or to accept a
17 reduced amount of service credits.

18 D. The employer whose eligible employee is purchasing service credit
19 pursuant to subsection A of this section shall pay the employer contributions
20 that would have been contributed by the employer on behalf of the member as
21 prescribed in section 38-737, Arizona Revised Statutes, except that the
22 employer is required to pay for only the amount of service credit the
23 eligible employee elects to purchase. The employer also shall pay interest,
24 equal to the interest rate assumption approved by the board for actuarial
25 equivalency, through the date of deposit into the ASRS depository. The
26 employer shall pay the amounts prescribed in this subsection within twelve
27 months after the eligible employee elects to purchase eligible service credit
28 pursuant to subsection A, paragraph 1 of this section.

29 E. The employer whose eligible employee is purchasing service credit
30 pursuant to subsection A of this section may elect to pay all or a portion of
31 the interest due on the member contributions as prescribed in subsection C of
32 this section.

33 F. For the purposes of this section:

34 1. "ASRS" means the Arizona state retirement system.

35 2. "Eligible employee" means one of the following:

36 (a) An employee who is currently employed by an ASRS employer, who was
37 previously enrolled in ASRS but was disenrolled because the employee was not
38 included in agreements providing for the employee's coverage under the
39 federal old age and survivors insurance system as required in section 38-727,
40 Arizona Revised Statutes, in effect before the effective date of this act,
41 and who had the member and employer contributions to ASRS returned to the
42 employer and the employee's service credit reduced.

1 (b) An employee who is currently employed by an ASRS employer and who
2 was not enrolled in ASRS because the employee was not included in agreements
3 providing for the employee's coverage under the federal old age and survivors
4 insurance system as required in section 38-727, Arizona Revised Statutes, in
5 effect before the effective date of this act.

6 (c) An employee who is currently employed by an ASRS employer and who
7 was participating in the defined contribution plan established pursuant to
8 section 38-955, Arizona Revised Statutes, as repealed by this act.