

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

**CHAPTER 44**  
**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  
45 from the state general fund for the period or periods payment of the employer  
46 contributions is not made by or on behalf of the departments.

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

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

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

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

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

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

1 provided by the Arizona state retirement system. The period the person works  
2 is not eligible for 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 and the  
22 member elects to participate in ASRS pursuant to subsection C of this  
23 section:

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

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

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

42 Sec. 2. Repeal

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

44 Sec. 3. Section 38-729, Arizona Revised Statutes, is amended to read:

45 38-729. Political subdivision plans

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

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

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

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

21           C. On approval, the board shall administer the supplemental plan of  
22 the political subdivision.

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

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

34           F. In addition to the employer contributions required under section  
35 38-737, on establishment of the supplemental retirement plan the governing  
36 body of the political subdivision shall pay to ASRS the amounts, as  
37 determined by the board, required to fund additional costs of benefits  
38 attributable to service for the political subdivision before the effective  
39 date of the supplemental retirement plan. The board may authorize payments  
40 to be made at such times as the board requires and in amounts that are less  
41 than the amount required for fully funding the additional costs.

42           G. If the supplemental retirement plan is authorized by a political  
43 subdivision, then on or after the effective date of the supplemental  
44 retirement plan the governing body of the political subdivision and the board  
45 may sign an agreement to waive the provisions of subsection F of this section  
46 and to authorize benefits under the supplemental retirement plan only for

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

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

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

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

24 38-766.02. Retired members; return to work; employer  
25 contribution payments; definitions

26 A. Notwithstanding section 38-766.01, subsection D, beginning July 1,  
27 2012, an employer shall pay contributions at an alternate contribution rate  
28 on behalf of a retired member who returns to work in any capacity in a  
29 position ordinarily filled by an employee of the employer ~~who is included in~~  
30 ~~agreements providing for their coverage under the federal old age and~~  
31 ~~survivors insurance system.~~ This subsection applies to a retired member who  
32 has reached a normal retirement age or a retired member who retired under  
33 section 38-758 if the retired member's retirement benefit has not been  
34 suspended pursuant to section 38-766.

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

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

43 1. The employer contribution rate established by the ASRS actuary  
44 pursuant to section 38-737 plus the employer contribution rate established by  
45 the ASRS actuary pursuant to section 38-797.06.

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

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

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

25           F. For the purposes of this section:

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

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

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

36           38-797. Definitions

37           In this article, unless the context otherwise requires:

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

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

41           3. "Board" means the ASRS board established pursuant to section  
42 38-713.

43           4. "Compensation" has the same meaning prescribed in section 38-711.

44           5. "Depository" means a bank in which the monies of the LTD program  
45 are deposited and collateralized as provided by law.

46           6. "Employer" has the same meaning prescribed in section 38-711.

1           7. "Employer contributions" means all amounts paid into the LTD  
2 program by an employer.

3           8. "Fiscal year" has the same meaning prescribed in section 38-711.

4           9. "LTD program" means the long-term disability program established by  
5 this article.

6           10. "Member"~~:-~~

7           ~~(a)~~ has the same meaning prescribed in section 38-711.

8           ~~(b) Includes an employee described in section 38-956.~~

9           11. "Monthly compensation" means one-twelfth of a member's annual  
10 compensation paid and payable in the fiscal year during which a member  
11 becomes disabled.

12           12. "Normal retirement date"~~:-~~

13           ~~(a)~~ has the same meaning prescribed in section 38-711. ~~for members~~  
14 ~~eligible pursuant to article 2 of this chapter.~~

15           ~~(b) Means sixty-five years of age for members eligible pursuant to~~  
16 ~~section 38-956.~~

17           13. "Political subdivision" has the same meaning prescribed in section  
18 38-711.

19           14. "State" has the same meaning prescribed in section 38-711.

20           Sec. 6. Repeal

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

22           Sec. 7. Defined contribution plan termination; distribution;  
23 long-term disability

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

29           B. At the election of the employee, the Arizona state retirement  
30 system shall either distribute the balance of the employee's account under  
31 the defined contribution plan or transfer the balance of the employee's  
32 account to another eligible retirement plan as defined in section  
33 401(a)(31)(E) of the United States internal revenue code. If the employee  
34 has not made an election within one hundred eighty days after the effective  
35 date of this section, the Arizona state retirement system shall transfer the  
36 balance of the employee's account to an individual retirement account as  
37 defined in section 408(a) of the United States internal revenue code and  
38 designate the employee as the account holder.

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

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

46           2. The date the member:



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

2 (b) Refuses to undergo any medical examination or refuses to  
3 participate in any work rehabilitation program for which the member is  
4 reasonably qualified by education, training or experience and that is  
5 requested by the insurance company or claims administrator that is selected  
6 by the Arizona state retirement system board to administer the long-term  
7 disability program.

8 3. The later of the following:

9 (a) Age sixty-five.

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

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

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

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

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

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

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

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

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

34 C. The eligible employee who is purchasing service credit pursuant to  
35 subsection A of this section shall pay the member contributions that would  
36 have been contributed by the employer on the employee's behalf as prescribed  
37 in section 38-736, Arizona Revised Statutes, plus interest, equal to the  
38 interest rate assumption approved by the ASRS board for actuarial  
39 equivalency, through the date of deposit in the ASRS depository. If the  
40 eligible employee pays less than the amount required by this subsection, ASRS  
41 shall proportionately reduce the amount of service credited to the member's  
42 account and the eligible employee may purchase the remaining amount of  
43 eligible service credit at a later date pursuant to section 38-743, Arizona  
44 Revised Statutes. For an eligible employee as defined in subsection F,  
45 paragraph 2, subdivision (a) of this section, interest is calculated from the  
46 date of the return of the employee's and employer's contributions to the

1 employer through the date of the deposit in the ASRS depository. If an  
2 eligible employee as defined in subsection F, paragraph 2, subdivision (c) of  
3 this section transfers the balance of the employee's account under the  
4 defined contribution plan established pursuant to section 38-955, Arizona  
5 Revised Statutes, as repealed by this act, to ASRS and the amount transferred  
6 is less than the amount required to purchase the employee's service credit,  
7 the eligible employee may elect either to pay the difference or to accept a  
8 reduced amount of service credits.

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

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

24 F. For the purposes of this section:

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

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

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

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

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

H.B. 2050

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2014.