

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 25
HOUSE BILL 2007

AN ACT

AMENDING SECTIONS 38-729 AND 38-738, 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 38-729, Arizona Revised Statutes, is amended to
3 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. The supplemental retirement plan
8 shall provide the same retirement benefits and require the same
9 obligations for entitlement as are provided for other members under this
10 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
19 agreement. The agreement shall state the terms of the supplemental
20 retirement plan as provided in this section. The board shall either
21 approve or disapprove the supplemental retirement plan submitted by the
22 governing body of the political 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
27 monies of the political subdivision.

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

37 F. In addition to the employer contributions required under section
38 38-737, on establishment of the supplemental retirement plan the governing
39 body of the political subdivision shall pay to ASRS the ~~amounts, as~~
40 ~~determined by the board;~~ AMOUNT EQUAL TO THE PRESENT VALUE required to
41 fund additional costs of benefits attributable to service for the
42 political subdivision before the effective date of the supplemental
43 retirement plan USING THE ACTUARIAL ASSUMPTIONS THAT ARE APPROVED BY THE
44 BOARD. The board may authorize payments to be made at such times as the

1 board requires and in amounts that are less than the amount required for
2 fully funding the additional costs.

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

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

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

29 J. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYEE OF A POLITICAL
30 SUBDIVISION WHO WAS PREVIOUSLY A MEMBER OF ANOTHER PUBLIC EMPLOYEE
31 RETIREMENT SYSTEM AND WHO RECEIVES OR IS ELIGIBLE TO RECEIVE RETIREMENT
32 BENEFITS FROM THAT PUBLIC EMPLOYEE RETIREMENT SYSTEM FOR ANY PERIOD OF
33 EMPLOYMENT IS INELIGIBLE TO RECEIVE SERVICE CREDIT FROM ASRS FOR THE SAME
34 PERIOD OF EMPLOYMENT.

35 Sec. 2. Section 38-738, Arizona Revised Statutes, is amended to
36 read:

37 38-738. Adjustment and refund

38 A. If more than the correct amount of employer or member
39 contributions is paid into ASRS by an employer through a mistake of fact,
40 ASRS shall return those contributions to the employer if the employer
41 requests return of the contributions through an employer credit or, if the
42 request is made within one year after the date of overpayment, by check on
43 request of the employer. If more than the correct amount of employer or
44 member contributions is paid into ASRS by an employer through a mistake of

1 law, ASRS shall return those contributions to the employer if the employer
2 requests return of the contributions through an employer credit.

3 B. If less than the correct amount of employer or member
4 contributions is paid into ASRS by an employer, the following apply:

5 1. The member shall pay an amount that is equal to the amount that
6 would have been paid in member contributions for the period in question.
7 For active members, payments shall be made as provided in section 38-747.
8 For members who are inactive, retired or on long-term disability, payments
9 shall be made using after-tax income and a personal check, cashier's check
10 or money order. If the member does not make the payment within ninety
11 days after being notified by ASRS that the employer has paid all amounts
12 due from the employer, the unpaid amount accrues interest until the amount
13 is paid in full. The member is responsible for payment of the unpaid
14 amount and interest. The interest rate is the interest rate assumption
15 that is approved by the board for actuarial equivalency for the period in
16 question to the date payment is received.

17 2. If the member contributions to ASRS made pursuant to this
18 subsection exceed the limits prescribed in section 38-747, subsection E
19 when taking into account other annual additions of the member for the
20 limitation year, the amount to be paid by the member shall be adjusted as
21 provided in section 38-747. For the purposes of this paragraph,
22 "limitation year" has the same meaning prescribed in section 38-769.

23 3. The employer shall pay to ASRS an amount equal to the amount
24 that would have been paid in employer contributions for the period in
25 question together with accumulated interest that would have accrued on
26 both the employer and member contributions due. If the employer does not
27 remit full payment of all employer contributions and all interest due
28 within ninety days after being notified by ASRS of the amount due, the
29 unpaid amount accrues interest until the amount is paid in full. The
30 interest rate is the interest rate assumption that is approved by the
31 board for actuarial equivalency for the period in question to the date
32 payment is received.

33 4. On satisfaction of the requirements of this subsection, the
34 member's salary history on the records of ASRS shall be adjusted and any
35 additional service credits acquired by the member shall be reinstated.

36 5. If the member retires before all contributions are made pursuant
37 to this subsection, the member's benefits shall be calculated only based
38 on the contributions actually made.

39 6. Annual additions shall be determined as provided in section
40 38-747, subsection 0.

41 7. The initiator of the request for correction of salary history
42 and service credits on records of ASRS is responsible for providing
43 credible evidence of past employment and compensation to ASRS in a form or
44 forms that would lead a reasonable person to conclude that a period of
45 employment occurred under circumstances that made the employee eligible

1 for membership in ASRS during that period. A determination of eligibility
2 by ASRS may be appealed to the ASRS board in a manner prescribed by the
3 board.

4 8. A member who previously received a return of contributions
5 pursuant to section 38-740 may receive an adjustment of employer
6 contributions or service credits pursuant to this section only for
7 qualifying employment and compensation that occurred after the member's
8 most recent return of contributions pursuant to section 38-740.

9 C. Subsection B of this section applies to eligible verified
10 service that occurred less than or equal to fifteen years before the date
11 the initiator of the request for correction of salary history and service
12 credits on the records of ASRS provides ASRS with credible evidence in
13 writing that less than the correct amount of contributions was paid into
14 ASRS or ASRS otherwise determines that less than the correct amount of
15 contributions was made.

16 D. Eligible verified service that is more than fifteen years before
17 the date the initiator of the request for correction of salary history and
18 service credits on the records of ASRS provides ASRS with credible
19 evidence in writing that less than the correct amount of contributions was
20 paid into ASRS or ASRS otherwise determines that less than the correct
21 amount of contributions was made is considered public service credit. The
22 member may purchase this service pursuant to section 38-743.

23 E. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYER MAY CORRECT A
24 CONTRIBUTIONS ERROR PURSUANT TO SUBSECTION B OF THIS SECTION BY MAKING
25 PAYMENT ADJUSTMENTS THROUGH THE EMPLOYER'S PAYROLL REPORTING FOR THE
26 CONTRIBUTIONS THAT WERE NOT SUBMITTED IF BOTH OF THE FOLLOWING APPLY:

27 1. THE ADJUSTMENT IS MADE WITHIN THE SAME FISCAL YEAR THAT THE
28 CONTRIBUTIONS WERE DUE TO ASRS.

29 2. THE EMPLOYER OBTAINS WRITTEN CONSENT FROM THE EMPLOYEE TO MAKE
30 THE ADJUSTMENT TO THE EMPLOYEE'S PAYCHECK.

APPROVED BY THE GOVERNOR MARCH 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2019.