

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1202

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 38-711, Arizona Revised Statutes, is amended to  
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Active member" means a member as defined in paragraph 23,  
7 subdivision (b) of this section who satisfies the eligibility criteria  
8 prescribed in section 38-727 and who is currently making member  
9 contributions as prescribed in section 38-736.

10 2. "Actuarial equivalent" means equality in value of the aggregate  
11 amounts expected to be received under two different forms of payment, based  
12 on mortality and interest rate assumptions approved from time to time by  
13 the board.

14 3. "ASRS" means the Arizona state retirement system established by  
15 this article.

16 4. "Assets" means the resources of ASRS including all cash,  
17 investments or securities.

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before  
20 January 1, 1984 and who left the member's contributions on deposit or  
21 reinstated forfeited credited service pursuant to section 38-742 for a  
22 period of employment that commenced before January 1, 1984, the higher of  
23 either:

1           (i) The monthly average of compensation that is calculated pursuant  
2 to subdivision (b) of this paragraph.

3           (ii) The monthly average of compensation on which contributions were  
4 remitted during a period of sixty consecutive months during which the  
5 member receives the highest compensation within the last one hundred twenty  
6 months of credited service. Any month for which no contributions are  
7 reported to ASRS or that falls within a period of nonpaid or partially paid  
8 leave of absence or sabbatical leave shall be excluded from the  
9 computation. The sixty consecutive months may entirely precede, may be  
10 both before and after or may be completely after any excluded months. If  
11 the member was employed for less than sixty consecutive months, the average  
12 monthly compensation is based on the total consecutive months  
13 worked. Payments for accumulated vacation or annual leave, sick leave,  
14 compensatory time or other forms of termination pay that, before August 12,  
15 2005, constitute compensation for members whose membership in ASRS  
16 commenced before January 1, 1984, do not cease to be included as  
17 compensation if paid in the form of nonelective employer contributions  
18 under a 26 United States Code section 403(b) plan if all payments of  
19 employer and employee contributions are made at the time of termination.  
20 Contributions shall be made to ASRS on these amounts pursuant to sections  
21 38-735, 38-736 and 38-737.

22           (b) For a member whose membership in ASRS commenced on or after  
23 January 1, 1984 but before July 1, 2011, the monthly average of  
24 compensation on which contributions were remitted during a period of  
25 thirty-six consecutive months during which a member receives the highest  
26 compensation within the last one hundred twenty months of credited service.  
27 Any month for which no contributions are reported to ASRS or that falls  
28 within a period of nonpaid or partially paid leave of absence or sabbatical  
29 leave shall be excluded from the computation. The thirty-six consecutive  
30 months may entirely precede, may be both before and after or may be  
31 completely after any excluded months. If the member was employed for less

1 than thirty-six consecutive months, the average monthly compensation shall  
2 be based on the total consecutive months worked.

3 (c) For a member whose membership in ASRS commenced on or after July  
4 1, 2011, the monthly average of compensation on which contributions were  
5 remitted during a period of sixty consecutive months during which a member  
6 receives the highest compensation within the last one hundred twenty months  
7 of credited service. Any month for which no contributions are reported to  
8 ASRS or that falls within a period of nonpaid or partially paid leave of  
9 absence or sabbatical leave shall be excluded from the computation. The  
10 sixty consecutive months may entirely precede, may be both before and after  
11 or may be completely after any excluded months. If the member was employed  
12 for less than sixty consecutive months, the average monthly compensation  
13 shall be based on the total consecutive months worked.

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

15 7. "Compensation" means:

16 (a) For members whose membership began on or before December 31,  
17 2019, the gross amount paid to a member by an employer as salary or wages,  
18 including amounts that are subject to deferred compensation or tax shelter  
19 agreements, for services rendered to or for an employer, or that would have  
20 been paid to the member except for the member's election or a legal  
21 requirement that all or part of the gross amount be used for other  
22 purposes, but does not include amounts paid in excess of compensation  
23 limits established in section 38-746. Compensation includes amounts paid  
24 as salary or wages to a member by a second employer if the member meets the  
25 requirements prescribed in paragraph 23, subdivision (b) of this section  
26 with that second employer. Compensation, as provided in paragraph 5,  
27 subdivision (b) or (c) of this section, does not include:

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

1           (ii) Damages, costs, attorney fees, interest or other penalties paid  
2 pursuant to a court order or a compromise settlement or agreement to  
3 satisfy a grievance or claim even though the amount of the payment is based  
4 in whole or in part on previous salary or wage levels, except that, if the  
5 court order or compromise settlement or agreement directs salary or wages  
6 to be paid for a specific period of time, the payment is compensation for  
7 that specific period of time. If the amount directed to be paid is less  
8 than the actual salary or wages that would have been paid for the period if  
9 service had been performed, the contributions for the period shall be based  
10 on the amount of compensation that would have been paid if the service had  
11 been performed.

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

14           (iv) Merit awards pursuant to section 38-613 and performance bonuses  
15 paid to assistant attorneys general pursuant to section 41-192.

16           (v) Amounts that are paid as salary or wages to a member for which  
17 employer contributions have not been paid.

18           (b) For a member whose membership began on or after January 1, 2020,  
19 only gross wages paid to a member by the employer for services rendered to  
20 the employer during the period considered as credited service, including  
21 amounts reported as wages and tips and other compensation on the member's  
22 federal form W-2 wage and tax statement, including pretax deductions,  
23 except for the following:

24           (i) Payments made for accrued leave that is not being used to  
25 replace regular work hours, whether paid in a lump sum or in installments.

26           (ii) Payments made on termination from employment, whether paid in a  
27 lump sum or in installments or as a bonus or an incentive for termination  
28 or retirement.

29           (iii) Employer-paid contributions that are made to, and any  
30 distributions from, plans, programs or arrangements qualified under section  
31 117, 125, 129, 401, 403, 408 or 457 of the internal revenue code.

32           (iv) Payments for allowances.

1 (v) Reimbursements for employee business expenses or employee  
2 personal expenses.

3 (vi) Employer-paid contributions for coverage under, or  
4 distributions from, an accident, health or life insurance plan, program or  
5 arrangement.

6 (vii) Payments made in lieu of any employer-paid insurance coverage.

7 (viii) Workers' compensation, unemployment compensation payments and  
8 disability payments.

9 (ix) Merit awards pursuant to section 38-613.

10 (x) Payments paid pursuant to a court order or settlement agreement  
11 to satisfy a claim even though the amount of the payment is based on  
12 previous salary or wage levels, except if the court order or settlement  
13 agreement directs salary or wages to be paid for a specific period of time,  
14 the payment is compensation for that specific period of time.

15 (xi) Payments made in the form of goods or services in lieu of gross  
16 wages.

17 (xii) Any other payment that is not reported as wages and tips and  
18 other compensation on the member's federal W-2 wage and tax statement for  
19 actual services rendered.

20 (xiii) Payments in excess of the section 401(a)(17) of the internal  
21 revenue code limits established in section 38-746.

22 (xiv) Payments for any other employment benefit.

23 (xv) Payments for which employer or employee contributions have not  
24 been paid.

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

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

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

2           (a) Annualized compensation of the typical pay period amount  
3 immediately before the date of a request to ASRS to purchase credited  
4 service pursuant to section 38-743, 38-744 or 38-745. The typical pay  
5 period amount shall be determined by taking the five pay periods  
6 immediately before the date of a request, disregarding the highest and  
7 lowest compensation amount pay periods and averaging the three remaining  
8 pay periods.

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

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

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

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

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

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

29           13. "Employer" means:

30           (a) This state.

31           (b) Participating political subdivisions.

32           (c) Participating political subdivision entities.

1           14. "Employer contributions" means all amounts paid into ASRS by an  
2 employer on behalf of a member.

3           15. "Fiscal year" means the period from July 1 of any year to June  
4 30 of the following year.

5           16. "Inactive member" means a member who previously made  
6 contributions to ASRS and who satisfies each of the following:

7           (a) Has not retired.

8           (b) Is not eligible for active membership in ASRS.

9           (c) Is not currently making contributions to ASRS.

10          (d) Has not withdrawn contributions from ASRS.

11          17. "Interest" means the assumed actuarial investment earnings rate  
12 approved by the board.

13          18. "Internal revenue code" means the United States internal revenue  
14 code of 1986, as amended.

15          19. "Investment manager" means the persons, companies, banks,  
16 insurance company investment funds, mutual fund companies, management or  
17 any combinations of those entities that are appointed by ASRS and that have  
18 responsibility and authority for investment of the monies of ASRS.

19          20. "Late retirement" means retirement after normal retirement.

20          21. "Leave of absence" means any unpaid leave authorized by the  
21 employer, including leaves authorized for sickness or disability or to  
22 pursue education or training.

23          22. "Life annuity" means equal monthly installments payable during  
24 the member's lifetime after retirement.

25          23. "Member":

26          (a) Means any employee of an employer on the effective date.

27          (b) Means all employees of an employer who are eligible for  
28 membership pursuant to section 38-727 and who are engaged to work at least  
29 twenty weeks in each fiscal year and at least twenty hours each week.

30          (c) Means any person receiving a benefit under ASRS.

31          (d) Means any person who is a former active member of ASRS and who  
32 has not withdrawn contributions from ASRS pursuant to section 38-740.

1 (e) Does not include any employee of an employer who is otherwise  
2 eligible pursuant to this article and who begins service in a limited  
3 appointment for not more than eighteen months on or after July 1, 1979. If  
4 the employment exceeds eighteen months, the employee shall be covered by  
5 ASRS as of the beginning of the nineteenth month of employment. In order  
6 to be excluded under this subdivision, classifications of employees  
7 designated by employers as limited appointments must be approved by the  
8 director.

9 (f) Does not include any leased employee. For the purposes of  
10 section 414(n) of the internal revenue code, "leased employee" means an  
11 individual who:

12 (i) Is not otherwise an employee of an employer.

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

16 (iii) Performs services under the primary direction or control of  
17 the employer.

18 (g) DOES NOT INCLUDE ANY EMPLOYEE OF A POLITICAL SUBDIVISION ENTITY  
19 THAT IS A STATEWIDE ORGANIZATION REPRESENTING CITIES AND TOWNS WHO IS HIRED  
20 ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

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

23 25. "Normal costs" means the sum of the individual normal costs for  
24 all active members for each fiscal year. The normal cost for an individual  
25 active member is the cost that is assigned to the fiscal year, through June  
26 29, 2016, using the projected unit credit method and, beginning June 30,  
27 2016, using the actuarial cost method determined by the board pursuant to  
28 section 38-714.

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

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

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



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

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

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

6 (b) For a member whose membership commenced on or after July 1,  
7 2011:

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

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

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

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

15 28. "Political subdivision" means any political subdivision of this  
16 state and includes a political subdivision entity.

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

18 (a) That is located in this state.

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

21 (c) Where a majority of the membership of the entity is composed of  
22 political subdivisions.

23 (d) Whose primary purpose is the performance of a government-related  
24 service.

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

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

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

31 (b) For a salaried member employed on a contract basis under one  
32 contract, or two or more consecutive contracts, for a total period of at

1 least nine months, the service year is the total period of the contract or  
2 consecutive contracts.

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

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

9 33. "Vested" means that a member is eligible to receive a future  
10 retirement benefit."

11 Amend title to conform

NEAL CARTER

1202CARTER.docx  
03/22/2023  
04:37 PM  
C: MH