House Engrossed

ASRS; supplemental employee deferral plan

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

CHAPTER 262

HOUSE BILL 2034

AN ACT

AMENDING SECTION 38-781, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-781, Arizona Revised Statutes, is amended to read:

38-781. Supplemental employee deferral plan; public employees; administration; immunity; definitions

A. One or more supplemental employee deferral plans may be established pursuant to this section to provide public employees an opportunity to save additional tax-deferred monies for retirement.

B. ASRS may establish, administer, manage and operate supplemental employee deferral plans for employers.

C. ASRS may:

1. Employ services it deems necessary, including legal services, for the operation and administration of the plans.

2. Administer the plans through contracts with multiple vendors.

3. Perform all acts, whether or not expressly authorized, that it deems necessary and proper for the operation and protection of the plans.

4. For the purposes of this section, enter into intergovernmental agreements pursuant to title 11, chapter 7, article 3.

D. A supplemental employee deferral plan does not replace an employee's existing state defined benefit retirement plan.

E. If an employer, including this state, elects to participate in a supplemental employee deferral plan, any employee of the employer who meets the eligibility requirements that are prescribed by ASRS for participation in the supplemental employee deferral plan may participate in the supplemental employee deferral plan.

F. Notwithstanding subsection E of this section, on or after July 1, 2022, an employee of an employer who is not ~~eligible to participate~~ PARTICIPATING in a public retirement system established by article 3, 3.1, 4, 4.1 or 6 of this chapter may elect to participate in a supplemental employee deferral plan if the employee meets the eligibility requirements that are prescribed by ASRS for participation in the supplemental employee deferral plan.

G. Employee participation in a supplemental employee deferral plan requires the participant's employer to make salary reductions from the participant's compensation at no cost to the employee, ASRS or any vendor retained by ASRS and contribute such salary reductions to the plan. An employer may make employer contributions to the supplemental employee deferral plan if the plan allows. The employer shall submit any reports required by the plan. If the participant is an active member, any compensation deferred by an employee under a plan shall be included as regular compensation or compensation for the purpose of computing the retirement and pension benefits provided in this article earned by any employee participating in the plan.

H. Employee contributions and earnings on employee contributions are immediately vested. Employer contributions, if any, and the earnings on employer contributions shall vest according to the schedule established by the employer, if the employer completes and submits a schedule to ASRS. If the employer does not complete and submit a schedule to ASRS, employer contributions, if any, and the earnings on employer contributions shall vest according to the default schedule established by ASRS.

I. Notwithstanding any other law, this state and its officers and employees, the board and ASRS are immune from civil liability and are not subject to suit directly or by way of contribution for any act or omission resulting in any damage or injury arising out of the supplemental employee deferral plan.

J. A political subdivision or a political subdivision entity that is not participating in ASRS may elect to allow its employees to participate in a supplemental employee deferral plan that is overseen by ASRS pursuant to this section by entering into an agreement with ASRS. AN EMPLOYEE OF A POLITICAL SUBDIVISION OR A POLITICAL SUBDIVISION ENTITY WHO IS PARTICIPATING IN A PUBLIC RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 3, 3.1, 4, 4.1 OR 6 OF THIS CHAPTER IS NOT ELIGIBLE TO PARTICIPATE IN A SUPPLEMENTAL EMPLOYEE DEFERRAL PLAN PURSUANT TO THIS SECTION. A political subdivision or political subdivision entity that elects to allow its employees to participate in a supplemental employee deferral plan pursuant to this subsection:

1. Is not an employer for the purposes of this article and its employees are not members for the purposes of this article.

2. May not provide any information indicating or implying that the political subdivision or political subdivision entity offers any ASRS benefits other than participation in a supplemental employee deferral plan pursuant to this subsection. A political subdivision or political subdivision entity that violates this paragraph may not elect to allow new employees to participate in a supplemental employee deferral plan pursuant to this subsection until the violation is corrected at the discretion of ASRS.

3. May elect to join ASRS pursuant to section 38-729.

K. For the purposes of this section:

1. "State" means this state, including any department, office, board, commission, agency or university, but does not mean any school district or community college district.

2. "Supplemental employee deferral plan" means a tax deferred annuity described in section 403(b) of the internal revenue code, including a custodial account described in 403(b)(7) of the internal revenue code, and an eligible deferred compensation plan described in section 457(b) of the internal revenue code. A supplemental employee deferral plan shall comply with all applicable provisions of the section of the internal revenue code under which such plan is adopted and maintained.

APPROVED BY THE GOVERNOR JULY 1, 2025.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 1, 2025.