

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2745

AN ACT

AMENDING SECTIONS 38-711, 38-714, 38-715 AND 38-718, ARIZONA REVISED STATUTES; REPEALING SECTION 38-719, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-721, 38-740, 38-743, 38-744, 38-745 AND 38-760, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 38-761, ARIZONA REVISED STATUTES; AMENDING SECTIONS 38-762, 38-783, 38-797.07 AND 38-843.05, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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 contributions
9 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 the
13 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 January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the higher of either:

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

25 (ii) The monthly average of compensation on which contributions were
26 remitted during a period of sixty consecutive months during which the member
27 receives the highest compensation within the last one hundred twenty months
28 of credited service. Any month for which no contributions are reported to
29 ASRS or that falls within a period of nonpaid or partially paid leave of
30 absence or sabbatical leave shall be excluded from the computation. The
31 sixty consecutive months may entirely precede, may be both before and after
32 or may be completely after any excluded months. If the member was employed
33 for less than sixty consecutive months, the average monthly compensation is
34 based on the total consecutive months worked. Payments for accumulated
35 vacation or annual leave, sick leave, compensatory time or other forms of
36 termination pay which, before August 12, 2005, constitute compensation for
37 members whose membership in ASRS commenced before January 1, 1984, do not
38 cease to be included as compensation if paid in the form of nonelective
39 employer contributions under a 26 United States Code section 403(b) plan if
40 all payments of employer and employee contributions are made at the time of
41 termination. Contributions shall be made to ASRS on these amounts pursuant
42 to sections 38-735, 38-736 and 38-737.

43 (b) For a member whose membership in ASRS commenced on or after
44 January 1, 1984 but before July 1, 2011, the monthly average of compensation
45 on which contributions were remitted during a period of thirty-six

1 consecutive months during which a member receives the highest compensation
2 within the last one hundred twenty months of credited service. Any month for
3 which no contributions are reported to ASRS or that falls within a period of
4 nonpaid or partially paid leave of absence or sabbatical leave shall be
5 excluded from the computation. The thirty-six consecutive months may
6 entirely precede, may be both before and after or may be completely after any
7 excluded months. If the member was employed for less than thirty-six
8 consecutive months, the average monthly compensation shall be based on the
9 total consecutive months worked.

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

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

22 7. "Compensation" means the gross amount paid to a member by an
23 employer as salary or wages, including amounts that are subject to deferred
24 compensation or tax shelter agreements, for services rendered to or for an
25 employer, or that would have been paid to the member except for the member's
26 election or a legal requirement that all or part of the gross amount be used
27 for other purposes, but does not include amounts paid in excess of
28 compensation limits established in section 38-746. Compensation includes
29 amounts paid as salary or wages to a member by a second employer if the
30 member meets the requirements prescribed in paragraph 23, subdivision (b) of
31 this section with that second employer. Compensation, as provided in
32 paragraph 5, subdivision (b) or (c) of this section, does not include:

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

37 (b) Damages, costs, attorney fees, interest or other penalties paid
38 pursuant to a court order or a compromise settlement or agreement to satisfy
39 a grievance or claim even though the amount of the payment is based in whole
40 or in part on previous salary or wage levels, except that, if the court order
41 or compromise settlement or agreement directs salary or wages to be paid for
42 a specific period of time, the payment is compensation for that specific
43 period of time. If the amount directed to be paid is less than the actual
44 salary or wages that would have been paid for the period if service had been

1 performed, the contributions for the period shall be based on the amount of
2 compensation that would have been paid if the service had been performed.

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

5 (d) Merit awards pursuant to section 38-613 and performance bonuses
6 paid to assistant attorneys general pursuant to section 41-192.

7 (e) Amounts that are paid as salary or wages to a member for which
8 employer contributions have not been paid.

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

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

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

16 (a) Annualized compensation of the typical pay period amount
17 immediately before the date of a request to ASRS to purchase credited service
18 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
19 shall be determined by taking the five pay periods immediately before the
20 date of a request, disregarding the highest and lowest compensation amount
21 pay periods and averaging the three remaining pay periods.

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

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

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

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

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

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

42 13. "Employer" means:

43 (a) This state.

44 (b) Participating political subdivisions.

45 (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 30
4 of the following year.
- 5 16. "Inactive member" means a member who previously made contributions
6 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 ~~management~~ MANAGER" means the persons, companies,
16 banks, insurance company investment funds, mutual fund companies, management
17 or any combinations of those entities that are appointed by ASRS and that
18 have 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 pursue
22 education or training.
- 23 22. "Life annuity" means equal monthly installments payable during the
24 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 membership
28 pursuant to section 38-727 and who are engaged to work at least twenty weeks
29 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 has
32 not withdrawn contributions from ASRS pursuant to section 38-740.
- 33 (e) Does not include any employee of an employer who is otherwise
34 eligible pursuant to this article and who begins service in a limited
35 appointment for not more than eighteen months on or after July 1, 1979. If
36 the employment exceeds eighteen months, the employee shall be covered by ASRS
37 as of the beginning of the nineteenth month of employment. In order to be
38 excluded under this subdivision, classifications of employees designated by
39 employers as limited appointments must be approved by the director.
- 40 (f) Does not include any leased employee. For the purposes of section
41 414(n) of the internal revenue code, "leased employee" means an individual
42 who:
- 43 (i) Is not otherwise an employee of an employer.

- 1 (ii) Pursuant to a leasing agreement between the employer and another
2 person, performs services for the employer on a substantially full-time basis
3 for at least one year.
- 4 (iii) Performs services under the primary direction or control of the
5 employer.
- 6 24. "Member contributions" means all amounts paid to ASRS by a member.
- 7 25. "Normal costs" means the sum of the individual normal costs for all
8 active members for each fiscal year. The normal cost for an individual
9 active member is the cost that is assigned to the fiscal year using the
10 projected unit credit method.
- 11 26. "Normal retirement age" means the age at which a member reaches the
12 member's normal retirement date.
- 13 27. "Normal retirement date" means the earliest of the following:
- 14 (a) For a member whose membership commenced before July 1, 2011:
- 15 (i) A member's sixty-fifth birthday.
- 16 (ii) A member's sixty-second birthday and completion of at least ten
17 years of credited service.
- 18 (iii) The first day that the sum of a member's age and years of total
19 credited service equals eighty.
- 20 (b) For a member whose membership commenced on or after July 1, 2011:
- 21 (i) A member's sixty-fifth birthday.
- 22 (ii) A member's sixty-second birthday and completion of at least ten
23 years of credited service.
- 24 (iii) A member's sixtieth birthday and completion of at least
25 twenty-five years of credited service.
- 26 (iv) A member's fifty-fifth birthday and completion of at least thirty
27 years of credited service.
- 28 28. "Political subdivision" means any political subdivision of this
29 state and includes a political subdivision entity.
- 30 29. "Political subdivision entity" means an entity:
- 31 (a) That is located in this state.
- 32 (b) That is created in whole or in part by political subdivisions,
33 including instrumentalities of political subdivisions.
- 34 (c) Where a majority of the membership of the entity is composed of
35 political subdivisions.
- 36 (d) Whose primary purpose is the performance of a government related
37 service.
- 38 30. "Retired member" means a member who is receiving retirement
39 benefits pursuant to this article.
- 40 31. "Service year" means fiscal year, except that:
- 41 (a) If the normal work year required of a member is less than the full
42 fiscal year but is for a period of at least nine months, the service year is
43 the normal work year.
- 44 (b) For a salaried member employed on a contract basis under one
45 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 paragraph
4 5 of this section, the service year is considered to be twelve months of
5 compensation.

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

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

10 Sec. 2. Section 38-714, Arizona Revised Statutes, is amended to read:

11 ~~38-714.~~ Powers and duties of ASRS and board

12 A. ASRS shall have the powers and privileges of a corporation, shall
13 have an official seal and shall transact all business in the name "Arizona
14 state retirement system", and in that name may sue and be sued.

15 B. The board is responsible for supervising the administration of this
16 article by the director of ASRS, ~~except the investment powers and duties of~~
17 ~~investment management.~~

18 C. The board is responsible for the performance of fiduciary duties
19 and other responsibilities required to preserve and protect the retirement
20 trust fund established by section 38-712.

21 ~~D. The board shall:~~

22 ~~1. Prescribe investment goals, objectives and policies that are~~
23 ~~consistent with the purposes of this article and the limitations and standard~~
24 ~~of care prescribed in section 38-719, subsection B.~~

25 ~~2. Allocate assets to meet the investment goals, objectives and~~
26 ~~policies it prescribes.~~

27 ~~3. Adopt specific policy directives for the guidance of investment~~
28 ~~management.~~

29 ~~4. Meet with each investment manager at least annually or at the~~
30 ~~request of a board member to review the investment manager's performance and~~
31 ~~the investment manager's attainment of and adherence to the board's~~
32 ~~investment goals, objectives and policies.~~

33 ~~E.~~ D. The board shall not advocate for or against legislation
34 providing for benefit modifications, except that the board shall provide
35 technical and administrative information regarding the impact of benefit
36 modification legislation.

37 ~~F.~~ E. The board may:

38 1. Determine the rights, benefits or obligations of any person under
39 this article and afford any person dissatisfied with a determination a
40 hearing on the determination.

41 2. Determine the amount, manner and time of payment of any benefits
42 under this article.

43 ~~3. Assign, transfer and deliver all stocks, bonds and other~~
44 ~~investments owned by ASRS if it is not inconsistent with or does not in any~~

1 ~~way contravene the authority of investment management for investing,~~
2 ~~reinvesting, purchasing and selling stocks, bonds and other investments.~~

3 ~~4.~~ 3. Recommend amendments to this article and articles 2.1 and 7 of
4 this chapter that are required for efficient and effective administration.

5 ~~5.~~ 4. Adopt, amend or repeal rules for the administration of the
6 plan, this article and articles 2.1 and 7 of this chapter.

7 ~~6. Prescribe investment diversification programs and assign investment~~
8 ~~management responsibilities regarding those programs as it deems appropriate~~
9 ~~to achieve its investment goals, objectives and policies.~~

10 ~~G.~~ F. The board shall submit to the governor and legislature for each
11 fiscal year no later than eight months after the close of the fiscal year a
12 report of its operations and the operations of ASRS. The report shall follow
13 generally accepted accounting principles and generally accepted financial
14 reporting standards and shall include:

15 1. A report on an actuarial valuation of ASRS assets and liabilities.

16 2. Any other statistical and financial data that may be necessary for
17 the proper understanding of the financial condition of ASRS and the results
18 of board operations.

19 3. On request of the governor or the legislature, a list of
20 investments owned. This list shall be provided in electronic format.

21 ~~H.~~ G. The board shall:

22 1. Prepare and publish a synopsis of the annual report for the
23 information of ASRS members.

24 2. Contract for a study of the mortality, disability, service and
25 other experiences of the members and employers participating in ASRS. The
26 study shall be conducted for fiscal year 1990-1991 and for at least every
27 fifth fiscal year thereafter. A report of the study shall be completed
28 within eight months of the close of the applicable fiscal year and shall be
29 submitted to the governor and the legislature.

30 3. Conduct an annual actuarial valuation of ASRS assets and
31 liabilities.

32 ~~I.~~ H. The auditor general may make an annual audit of ASRS and
33 transmit the results to the governor and the legislature.

34 Sec. 3. Section 38-715, Arizona Revised Statutes, is amended to read:

35 38-715. Director; powers and duties

36 A. The board shall appoint a director. The term of the director is
37 one year and expires on June 30. On expiration of a director's term, the
38 board may reappoint the director for another term. The board may remove the
39 director at any time for cause.

40 B. The director shall appoint a deputy director and assistant
41 directors with the approval of the board.

42 C. The director, under the supervision of the board, shall:

43 1. Administer this article, ~~except the investment powers and duties of~~
44 ~~investment management.~~

- 1 2. Hire employees and services the director deems necessary and
2 prescribe their duties.
- 3 3. Prescribe procedures to be followed by members and their
4 beneficiaries in filing applications for benefits.
- 5 4. Be responsible for:
- 6 (a) Income and the collection of income and the accuracy of all
7 expenditures.
- 8 (b) Maintaining books and maintaining and processing records of ASRS.
- 9 ~~(c) The investment of temporary surplus monies only in obligations of~~
10 ~~the United States government or agencies whose obligations are guaranteed by~~
11 ~~the United States government, commercial paper or banker's acceptances for a~~
12 ~~term of not more than fifteen days.~~
- 13 ~~(d)~~ (c) Providing continuing education programs for the board to keep
14 the board members informed of current issues and information needed to carry
15 out their duties.
- 16 5. Perform additional powers and duties as may be prescribed by the
17 board and delegated to the director.
- 18 D. The director, under the supervision and approval of the board, may:
- 19 1. Delegate duties and responsibilities to such state departments as
20 the director deems feasible and desirable to administer this article.
- 21 2. Appoint a custodian for the safekeeping of all investments owned by
22 ASRS and register stocks, bonds and other investments in the name of a
23 nominee.
- 24 ~~3. Invest marketable securities owned by ASRS by entering into~~
25 ~~security loan agreements with one or more security lending entities. For the~~
26 ~~purpose of this paragraph:~~
- 27 ~~(a) "Marketable securities" means securities that are freely and~~
28 ~~regularly traded on recognized exchanges or marketplaces.~~
- 29 ~~(b) "Security loan agreement" means a written contract under which~~
30 ~~ASRS, as lender, agrees to lend specific marketable securities for a period~~
31 ~~of not more than one year. ASRS, under a security loan agreement, shall~~
32 ~~retain the right to collect from the borrower all dividends, interest,~~
33 ~~premiums and rights and any other distributions to which ASRS otherwise would~~
34 ~~have been entitled. During the term of a security loan agreement ASRS shall~~
35 ~~waive the right to vote the securities that are the subject of the agreement.~~
36 ~~A security loan agreement shall provide for termination by either party on~~
37 ~~terms mutually acceptable to the parties. The borrower shall deliver~~
38 ~~collateral to ASRS or its designated representative. At all times during the~~
39 ~~term of any security loan agreement the collateral shall be in an amount~~
40 ~~equal to at least one hundred per cent of the market value of the loaned~~
41 ~~securities. A security loan agreement shall provide for payment of~~
42 ~~additional collateral on a daily basis, or at such other less frequent~~
43 ~~intervals as the value of the loaned securities increases. A security loan~~
44 ~~agreement with a security lending entity shall contain the terms and~~
45 ~~conditions of the fees to be paid to a security lending entity for servicing~~

1 ~~the security loan agreement. ASRS shall pay the fees approved by the board~~
2 ~~to the security lending entity for servicing a security loan agreement from~~
3 ~~the revenues of the security lending program.~~

4 ~~4.~~ 3. Establish one or more reserve holding accounts, into which the
5 board shall close periodically the account balances of inactive accounts. If
6 any person files a claim and furnishes proof of ownership of any amounts in
7 any inactive account the claim shall be paid from the reserve holding account
8 on the same basis as if no action had been taken under this paragraph.
9 Interest and supplemental credits shall be allocated to each reserve holding
10 account on June 30 of each year, as determined by the board. For the
11 purposes of this paragraph, "inactive account" means an account to which
12 contributions have not been paid for six months or more.

13 ~~5.~~ 4. Make retirement under this article effective retroactively to
14 on or after the day following the date employment is terminated if the member
15 was unable to apply before the retroactive effective date through no fault of
16 the member.

17 E. The director, under supervision of the governing committee for tax
18 deferred annuity and deferred compensation plans, may hire and supervise
19 employees and obtain services the director deems necessary to administer
20 article 5 of this chapter. The tax deferred annuity and deferred
21 compensation programs established pursuant to article 5 of this chapter shall
22 bear the costs for these employees and services.

23 F. The director and all persons employed by the director are not
24 subject to section 38-611 or title 41, chapter 4, article 5 or 6.

25 Sec. 4. Section 38-718, Arizona Revised Statutes, is amended to read:

26 38-718. Investment managers: general powers and duties:
27 investment of monies: limitations

28 ~~A. The board shall appoint investment management. Investment~~
29 ~~management shall have:~~

30 ~~1. The highest professional and fiduciary recommendations.~~

31 ~~2. Not less than three years' experience at handling institutional~~
32 ~~investments of at least two hundred fifty million dollars. This paragraph is~~
33 ~~satisfied if investment management, the individual retained by investment~~
34 ~~management or individual employees within a firm meet this requirement.~~

35 ~~3. Had responsibility for investment decision making as an insurance~~
36 ~~company investment fund, an investment division of a bank, a mutual fund, an~~
37 ~~investment organization, a pension fund or an investment adviser who is~~
38 ~~designated as a chartered financial analyst by the association for investment~~
39 ~~management and research.~~

40 ~~B.~~ A. A bank FINANCIAL INSTITUTION serving as AN investment
41 management MANAGER does not have a conflict of interest because it is also a
42 depository in which ASRS monies are deposited.

43 ~~C. The board shall appoint the investment management for a term of one~~
44 ~~year and may appoint the investment management to succeeding terms. The~~
45 ~~board may remove investment management for not complying with this article or~~

1 ~~for failure to comply with or adhere to the board's investment goals,~~
2 ~~objectives or policies.~~

3 ~~D. Investment management:~~

4 ~~1. Has the sole authority to invest and reinvest in the name of ASRS~~
5 ~~all ASRS monies assigned to investment management and shall purchase and sell~~
6 ~~in the name of ASRS any of the securities and investments held by ASRS under~~
7 ~~this article.~~

8 ~~2. Is responsible for making and executing all investment decisions.~~

9 ~~3. Shall be multiple.~~

10 ~~E. Investment management shall not directly or indirectly:~~

11 ~~1. Have an interest in making an investment or purchasing annuities~~
12 ~~from a private insurer or in the gains or profits accruing from an investment~~
13 ~~or annuities.~~

14 ~~2. As investment management or as agent or partner of others borrow~~
15 ~~monies, funds or deposits of ASRS or use monies, funds or deposits in any~~
16 ~~manner except as directed under this article.~~

17 ~~3. Be an endorser, surety or obligor on investments made under this~~
18 ~~article.~~

19 ~~F. Subject to the limitations in section 38-719, the board may~~
20 ~~authorize the director to make investments that are designated by the board~~
21 ~~and that do not exceed fifty per cent of the assets of the investment account~~
22 ~~measured at cost.~~

23 B. THE BOARD SHALL APPOINT AND MAY REMOVE MULTIPLE INVESTMENT MANAGERS
24 TO INVEST AND REINVEST THE ASSETS OF ASRS. THE BOARD MAY AUTHORIZE THE
25 DIRECTOR TO RETAIN AND MANAGE STAFF TO MAKE INVESTMENTS AS AN INVESTMENT
26 MANAGER.

27 C. AN INVESTMENT MANAGER SHALL BE QUALIFIED TO MAKE THE TYPE OF
28 INVESTMENTS FOR WHICH THE INVESTMENT MANAGER IS APPOINTED.

29 D. THE BOARD SHALL:

30 1. PRESCRIBE INVESTMENT GOALS AND POLICIES THAT ARE CONSISTENT WITH
31 THE PURPOSES OF THIS ARTICLE AND THE LIMITATIONS AND STANDARD OF CARE
32 PRESCRIBED IN THIS SECTION.

33 2. ALLOCATE ASSETS AND USE INVESTMENT STRATEGIES TO MEET THE
34 INVESTMENT GOALS AND POLICIES ASRS PRESCRIBES.

35 3. ADOPT SPECIFIC DIRECTIVES FOR THE GUIDANCE OF INVESTMENT MANAGERS.

36 4. REVIEW THE PERFORMANCE OF EACH INVESTMENT MANAGER AT LEAST ANNUALLY
37 OR AT THE REQUEST OF A BOARD MEMBER.

38 5. PRESCRIBE INVESTMENT DIVERSIFICATION PROGRAMS AND ASSIGN INVESTMENT
39 MANAGER RESPONSIBILITIES REGARDING THOSE PROGRAMS AS IT DEEMS APPROPRIATE TO
40 ACHIEVE ITS INVESTMENT GOALS, OBJECTIVES AND POLICIES.

41 E. AN INVESTMENT MANAGER SHALL DISCHARGE THE DUTIES OF THE POSITION
42 WITH THE CARE, SKILL, PRUDENCE AND DILIGENCE UNDER THE CIRCUMSTANCES THEN
43 PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH
44 THE SAME MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE
45 CHARACTER AND WITH LIKE AIMS AS THAT OF ASRS.

1 F. AN INVESTMENT MANAGER MAY INVEST AND REINVEST IN THE NAME OF ASRS
2 ALL ASRS MONIES ASSIGNED TO THE INVESTMENT MANAGER AND SHALL PURCHASE AND
3 SELL IN THE NAME OF ASRS ANY OF THE SECURITIES AND INVESTMENTS HELD BY ASRS
4 UNDER THIS ARTICLE. AN INVESTMENT MANAGER MAY HOLD, PURCHASE, SELL, ASSIGN,
5 LOAN, BORROW, TRANSFER AND DISPOSE OF ANY OF THE SECURITIES AND INVESTMENTS
6 IN WHICH ANY OF ITS ACCOUNT MONIES ARE INVESTED, SUBJECT TO THE SPECIFIC
7 DIRECTIVES DETERMINED BY ASRS. AN INVESTMENT MANAGER SHALL REDEPOSIT THE
8 PROCEEDS OF SALES, MATURITIES AND CALLS IN THE ASRS DEPOSITORY.

9 G. THE DIRECTOR MAY ENTER INTO SECURITY LOAN AGREEMENTS WITH ONE OR
10 MORE SECURITY LENDING ENTITIES.

11 H. NO MORE THAN EIGHTY PER CENT OF ASRS ASSETS MAY BE INVESTED AT ANY
12 GIVEN TIME IN EQUITIES, MEASURED AT MARKET VALUE.

13 I. NO MORE THAN FORTY PER CENT OF ASRS ASSETS MAY BE INVESTED IN
14 NON-UNITED STATES PUBLIC INVESTMENTS, MEASURED AT MARKET VALUE.

15 J. NO MORE THAN SIXTY PER CENT OF ASRS ASSETS MAY BE INVESTED
16 INTERNALLY, MEASURED AT MARKET VALUE.

17 K. NO MORE THAN FIVE PER CENT OF ASRS ASSETS MAY BE INVESTED IN
18 SECURITIES ISSUED BY ANY ONE INSTITUTION, AGENCY OR CORPORATION, OTHER THAN
19 SECURITIES ISSUED AS DIRECT OBLIGATIONS OF OR FULLY GUARANTEED BY THE UNITED
20 STATES GOVERNMENT OR MORTGAGE BACKED SECURITIES AND AGENCY DEBENTURES ISSUED
21 BY FEDERAL AGENCIES, MEASURED AT MARKET VALUE.

22 L. NO MORE THAN TEN PER CENT OF ASRS ASSETS MAY BE INVESTED IN BONDS
23 OR OTHER EVIDENCES OF INDEBTEDNESS OF THOSE MULTINATIONAL DEVELOPMENT BANKS
24 IN WHICH THE UNITED STATES IS A MEMBER NATION, INCLUDING THE INTERNATIONAL
25 BANK FOR RECONSTRUCTION AND DEVELOPMENT, THE AFRICAN DEVELOPMENT BANK, THE
26 ASIAN DEVELOPMENT BANK AND THE INTER-AMERICAN DEVELOPMENT BANK, MEASURED AT
27 MARKET VALUE.

28 M. IF A LIMITATION IN SUBSECTION H, I, J, K OR L OF THIS SECTION IS
29 REACHED, ASRS IS NOT REQUIRED TO SELL ASSETS, BUT SHALL NOT MAKE ANY FURTHER
30 INVESTMENTS OF THAT TYPE UNTIL THE LIMIT IS NO LONGER EXCEEDED.

31 N. NOTWITHSTANDING ANY OTHER LAW, AN INVESTMENT MANAGER IS NOT
32 REQUIRED TO INVEST IN ANY TYPE OF INVESTMENT THAT IS INTENDED TO FUND
33 ECONOMIC DEVELOPMENT PROJECTS, PUBLIC WORKS OR SOCIAL PROGRAMS BUT MAY
34 CONSIDER SUCH ECONOMICALLY TARGETED INVESTMENTS PURSUANT TO ITS FIDUCIARY
35 RESPONSIBILITY.

36 ~~G.~~ O. For the purpose of exercising the investment responsibilities
37 prescribed in this section, the board may enter into contracts to receive
38 market data and other market information from securities, commodities,
39 options and monetary exchanges. These contracts may be interpreted and
40 enforced under the laws of a jurisdiction other than this state and are not
41 subject to section 35-214 or 38-511 or title 41, chapter 23.

42 ~~H.~~ P. Proprietary commercial information that is provided to the
43 board, director, investment ~~management~~ MANAGER, employees of the director and
44 attorneys of the board or the director relating to investments in which AN
45 investment ~~management~~ MANAGER has invested or has considered for investment

1 is confidential and not a public record if the information is information
2 that customarily would not be released to the public by the person or entity
3 from whom the information was obtained.

4 Sec. 5. Repeal

5 Section 38-719, Arizona Revised Statutes, is repealed.

6 Sec. 6. Section 38-721, Arizona Revised Statutes, is amended to read:
7 38-721. Administration account

8 A. ASRS shall maintain an administration account consisting of all
9 monies for administrative purposes. The following monies shall be deposited
10 in the administration account:

11 1. All monies appropriated by the legislature to pay administrative
12 expenses of ASRS.

13 2. All monies received for proportionate shares of administrative
14 expenses from departments that pay the salaries of their officers and
15 employees wholly or in part from monies received from sources other than
16 appropriations from the state general fund.

17 3. All monies received for proportionate shares of administrative
18 expenses from political subdivisions paying employer contributions.

19 4. Monies that the director transfers from the investment account and
20 that are necessary for the payment of expenditures made pursuant to
21 subsections C and D of this section.

22 B. Except as provided in subsection C of this section, expenditures
23 from the administration account shall be made in accordance with board
24 directives, subject to legislative appropriation.

25 C. Expenditures for the following are continuously appropriated and
26 shall be paid from the administration account in the amount deemed necessary
27 by the board:

28 1. Investment management fees and related consulting fees necessary to
29 meet the board's investment objectives.

30 2. Rent.

31 3. Actuarial consulting fees.

32 4. Retiree payroll.

33 D. With the approval of the board, the director:

34 1. May expend monies from the administration account for staff,
35 expenses and related consulting fees necessary to implement section 38-714,
36 subsection ~~F- E~~, ~~paragraphs~~ PARAGRAPH 1 ~~and 6~~ and subsection ~~H- G~~, paragraphs
37 2 and 3, SECTION 38-718, SUBSECTION D, PARAGRAPH 5 and sections 38-755 and
38 38-756.

39 2. Shall pay from the administration account the costs for
40 administering the health insurance program for retired members pursuant to
41 section 38-782, the cost of continuing education programs for the board and
42 the cost of legal counsel.

1 Sec. 7. Section 38-740, Arizona Revised Statutes, is amended to read:
2 38-740. Return of contributions

3 A. A member whose membership commenced before July 1, 2011 and who
4 leaves employment other than by retirement or death may elect to receive a
5 return of the contributions as follows:

6 1. If the member has less than five years of credited service, the
7 member shall receive all of the member's contributions.

8 2. If a member has five or more years of credited service, the member
9 shall receive the member's contributions and an amount equal to a percentage
10 of the employer contributions paid on behalf of the member. **THIS AMOUNT
11 EXCLUDES PAYMENTS MADE BY AN EMPLOYER PURSUANT TO SECTION 38-738, SUBSECTION
12 B, PARAGRAPH 3, UNLESS THE MEMBER HAS MADE THE PAYMENT REQUIRED BY SECTION
13 38-738, SUBSECTION B, PARAGRAPH 1.** The percentage of employer contributions
14 paid on behalf of the member shall be as follows:

15 (a) 5.0 to 5.9 years of credited service, twenty-five per cent.

16 (b) 6.0 to 6.9 years of credited service, forty per cent.

17 (c) 7.0 to 7.9 years of credited service, fifty-five per cent.

18 (d) 8.0 to 8.9 years of credited service, seventy per cent.

19 (e) 9.0 to 9.9 years of credited service, eighty-five per cent.

20 (f) 10.0 or more years of credited service, one hundred per cent.

21 3. Interest on the returned contributions as determined by the board.

22 B. A member whose membership commenced on or after July 1, 2011 and
23 who leaves employment other than by retirement or death may elect to receive
24 a return of all of the member's contributions with interest as determined by
25 the board.

26 C. Notwithstanding subsection B **OF THIS SECTION**, if a member has five
27 or more years of credited service and the member is terminated solely because
28 of an employer reduction in force by reason of a lack of monies or
29 elimination of the member's position, the member is entitled to receive the
30 amounts prescribed in subsection A **OF THIS SECTION**.

31 D. Withdrawal of contributions with interest constitutes a withdrawal
32 from membership in ASRS and results in a forfeiture of all other benefits
33 under ASRS.

34 E. Notwithstanding any other provision of this article, a member who
35 has not received a return of contributions pursuant to this section may
36 combine any two or more periods of service for purposes of determining the
37 member's benefits.

38 F. If a member receives more than the amount due to a member pursuant
39 to this section, the member shall repay the amount of the overpayment
40 together with interest at the interest rate earned on ASRS investments as
41 reported on a quarterly basis, but not less than the valuation rate
42 established by the board, from the time of overpayment to the settlement of
43 the debt.

1 Sec. 8. Section 38-743, Arizona Revised Statutes, is amended to read:
2 38-743. Public service credit

3 A. If an active member of ASRS or a member who is receiving benefits
4 pursuant to section 38-797.07 was previously employed by the United States
5 government, a state, territory, commonwealth, overseas possession or insular
6 area of the United States or a political subdivision of a state, territory,
7 commonwealth, overseas possession or insular area of the United States,
8 excluding any time worked for a prison while the member was incarcerated, the
9 member may receive up to sixty months of credited service for this prior
10 employment if the member pays into ASRS the amount prescribed in subsection B
11 of this section.

12 B. A member who elects to receive credit for service with the United
13 States government, a state, territory, commonwealth, overseas possession or
14 insular area of the United States or a political subdivision of a state,
15 territory, commonwealth, overseas possession or insular area of the United
16 States shall pay to ASRS an amount equal to the present value of the
17 additional benefit that is derived from the purchased credited service using
18 the actuarial assumptions that are approved by the board.

19 C. A member who previously was a member of another public employee
20 retirement system and who receives or is eligible to receive retirement
21 benefits from that system for any period of employment is ineligible to
22 receive retirement benefits from ASRS for the same period.

23 D. A member shall have at least ~~ten~~ FIVE years of credited service in
24 ASRS before electing to receive credit for service pursuant to this section.

25 Sec. 9. Section 38-744, Arizona Revised Statutes, is amended to read:
26 38-744. Leave of absence; credit for leave without pay

27 ~~A. If an active member of ASRS or a member who is receiving benefits~~
28 ~~pursuant to section 38-797.07 is officially granted a leave of absence from~~
29 ~~employment without pay and returns to employment with the same employer,~~
30 ~~unless employment could not be resumed because of disability or~~
31 ~~nonavailability of a position, the member may elect to be credited with~~
32 ~~service for retirement purposes for not more than one year of the leave, but~~
33 ~~not more than a total of sixty months under this section, by paying to ASRS~~
34 ~~the amounts as provided in subsection B of this section, if the member has~~
35 ~~not withdrawn contributions from ASRS and the member's employer has certified~~
36 ~~that the leave of absence benefits or is in the best interests of the~~
37 ~~employer.~~

38 A. A MEMBER MAY ELECT TO BE CREDITED WITH SERVICE FOR RETIREMENT
39 PURPOSES FOR AN OFFICIALLY GRANTED LEAVE OF ABSENCE FROM EMPLOYMENT WITHOUT
40 PAY IF ALL OF THE FOLLOWING APPLY:

41 1. AT THE TIME THE ABSENCE WAS GRANTED THE MEMBER WAS AN ACTIVE MEMBER
42 OF ASRS OR A MEMBER WHO WAS RECEIVING BENEFITS PURSUANT TO SECTION 38-797.07.

43 2. AT THE TIME THE CREDIT IS REQUESTED THE MEMBER IS AN ACTIVE MEMBER
44 OF ASRS, RECEIVING BENEFITS PURSUANT TO SECTION 38-797.07 OR A FORMER ACTIVE
45 MEMBER OF ASRS WHO HAS NOT WITHDRAWN CONTRIBUTIONS FROM ASRS PURSUANT TO

1 SECTION 38-740 AND WHO WAS UNABLE TO RESUME EMPLOYMENT BECAUSE A POSITION IS
2 NOT AVAILABLE.

3 3. THE MEMBER RETURNS TO EMPLOYMENT WITH THE SAME EMPLOYER, UNLESS
4 EMPLOYMENT COULD NOT BE RESUMED BECAUSE OF DISABILITY OR A POSITION WAS NOT
5 AVAILABLE.

6 4. THE MEMBER ELECTS NOT MORE THAN ONE YEAR OF THE LEAVE AND NOT MORE
7 THAN A TOTAL OF SIXTY MONTHS PURSUANT TO THIS SECTION.

8 5. THE MEMBER PAYS THE AMOUNT PROVIDED IN SUBSECTION B OF THIS
9 SECTION.

10 6. THE MEMBER'S EMPLOYER HAS CERTIFIED THAT THE LEAVE OF ABSENCE
11 BENEFITS OR IS IN THE BEST INTERESTS OF THE EMPLOYER.

12 B. A member who elects to be credited with a leave period as provided
13 in subsection A of this section shall pay to ASRS an amount equal to the
14 present value of the additional benefit that is derived from the purchased
15 credited service using the actuarial assumptions that are approved by the
16 board.

17 C. A member who previously was a member of another public employee
18 retirement system and who receives or is eligible to receive a retirement
19 benefit from that system for any period of employment is ineligible to
20 receive retirement benefits from ASRS for the same period.

21 D. A member shall have at least ~~ten~~ FIVE years of credited service in
22 ASRS before electing to receive credit for service pursuant to this section.

23 E. For the purposes of subsection A of this section, each employer
24 shall adopt rules establishing guidelines for a leave of absence that
25 benefits or is in the best interests of the employer.

26 Sec. 10. Section 38-745, Arizona Revised Statutes, is amended to read:
27 38-745. Credit for military service

28 A. An active member of ASRS or a member who is receiving benefits
29 pursuant to section 38-797.07 may purchase up to sixty months of credited
30 service in ASRS for active military service if all of the following apply:

31 1. The member was honorably separated from the military service.

32 2. The member submits a copy of the member's military service record
33 (DD-214) or its equivalent with the member's application for military service
34 credit.

35 3. A member has at least ~~ten~~ FIVE years of credited service in ASRS.

36 4. EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736, the
37 member is not yet eligible for a military retirement benefit.

38 B. The cost to purchase military service credit is an amount equal to
39 the present value of the additional benefit that is derived from the
40 purchased credited service using the actuarial assumptions that are approved
41 by the board.

42 C. An active member of ASRS who is called to active military service
43 may receive credited service for not more than sixty months of active
44 military service, except as provided by the uniformed services employment and
45 reemployment rights act (38 United States Code section 4312(c)). The

1 member's employer shall make employer contributions and member contributions
2 for the member if the member meets the following requirements:

3 1. Was an active member of ASRS on the day before the member began
4 active military service.

5 2. Is a member of the Arizona national guard or is a member of the
6 reserves of any military establishment of the United States.

7 3. Volunteers or is ordered into active military service of the United
8 States as part of a military call-up.

9 4. One of the following occurs:

10 (a) Is honorably separated from active military service and returns to
11 employment for the same employer from which the member left for active
12 military service within ninety days after the date active military service is
13 terminated.

14 (b) Is hospitalized as a result of military service and returns to
15 employment for the same employer from which the member left for active
16 military service within ninety days after release from service related
17 hospitalization.

18 (c) Becomes disabled as a result of or during the military service and
19 is unable to return to the same employer.

20 (d) Dies as a result of or during the military service.

21 D. Contributions made pursuant to subsection C of this section shall
22 be for the period of time beginning on the date the member began active
23 military service and ending on the later of one of the following dates:

24 1. The date the member returns to employment or the date the member
25 should have returned to employment pursuant to 20 Code of Federal Regulations
26 section 1002.115, whichever date is earlier.

27 2. The date the member is released from service related
28 hospitalization or two years after initiation of service related
29 hospitalization, whichever date is earlier.

30 3. One year after the date of disability.

31 4. The date the member dies as a result of or during active military
32 service.

33 E. Notwithstanding any other law, on payment of the contributions made
34 pursuant to subsection C of this section, the member shall be credited with
35 service for retirement purposes for the period of time of active military
36 service of not more than sixty months.

37 F. The employer shall make contributions pursuant to subsection C of
38 this section as follows:

39 1. Contributions shall be based on the compensation that a member
40 would have received but for the period that the member was ordered into
41 active military service.

42 2. If the employer cannot reasonably determine a member's rate of
43 compensation for the period that the member was ordered into active military
44 service, the employer shall make contributions based on the member's average

1 rate of compensation during the twelve-month period immediately preceding the
2 period of active military service.

3 3. If a member has been employed less than twelve months before being
4 ordered into active military service, the employer shall make contributions
5 based on the employment period immediately preceding the period of active
6 military service.

7 4. Employer contributions shall be made in a lump sum and without
8 penalty when the member returns to employment, when it is determined that the
9 member is unable to return to employment because of a disability as a result
10 of or that occurred during military service or on receipt of the member's
11 death certificate. If a member suffers a service related death, the employer
12 shall make the employer and member contributions up to and including the date
13 of the member's death. Death benefits shall be calculated as prescribed by
14 law.

15 G. In computing the length of total credited service of a member for
16 the purpose of determining retirement benefits or eligibility, the period of
17 military service, as prescribed by this section, shall be included.

18 H. Notwithstanding any other law, the member is not required to
19 reimburse the member's employer or ASRS for any contribution made pursuant to
20 subsection C of this section.

21 I. In addition to, but not in duplication of, the provisions of
22 subsection C of this section, contributions, benefits and credited service
23 provided pursuant to this section shall be provided in accordance with
24 section 414(u) of the internal revenue code.

25 J. A member who does not currently perform services for an employer by
26 reason of qualified military service, as that term is defined in section
27 414(u) of the internal revenue code, and who is receiving differential wage
28 payments, as that term is defined in section 3401(h)(2) of the internal
29 revenue code, shall not be considered as having a severance from employment
30 for all purposes under ASRS during the period the differential wages are
31 being paid by the employer to the employee.

32 Sec. 11. Section 38-760, Arizona Revised Statutes, is amended to read:

33 38-760. Optional forms of retirement benefits

34 A. On retirement, members may elect an optional form of retirement
35 benefit as provided in this section.

36 B. The optional retirement benefits available under this section
37 include the following:

38 1. Joint and survivor annuity in a reduced amount payable to the
39 retiring member during life, with the provisions that after the member's
40 death all, two-thirds or one-half of the retirement income, as the member
41 elects, shall be continued during the lifetime of the contingent annuitant
42 designated by the retiring member subject to the restrictions prescribed in
43 section 38-764. The amount of retirement income shall be the actuarial
44 equivalent of the retirement income to which the member would be entitled
45 under normal or early retirement. The election in a manner prescribed by the

1 board shall name the contingent annuitant. The election may be revoked at
2 any time before the member's effective date of retirement. At any time after
3 benefits have commenced, the member may name a different contingent annuitant
4 or rescind the election by written notice to the board as follows:

5 (a) If a different contingent annuitant is named, the annuity of the
6 member under the same joint and survivor annuity option previously elected
7 shall be adjusted to the actuarial equivalent of the original annuity, based
8 on the age of the new contingent annuitant. The adjustment shall include all
9 postretirement increases in retirement income that are authorized by law
10 after the member's date of retirement. Payment of this adjusted annuity
11 shall continue under the provisions of the option previously elected by the
12 member.

13 (b) If the member rescinds the election, the member shall thereafter
14 receive a straight life annuity equal to what the member would otherwise be
15 entitled to receive if the member had not elected the joint and survivor
16 annuity option, including all postretirement increases in retirement income
17 that are authorized by law after the date of retirement. The increased
18 payment shall continue during the remainder of the member's lifetime.

19 (c) If a member whose original date of retirement is before ~~the~~
20 ~~effective date of this amendment to this section~~ JULY 1, 2008 rescinds the
21 joint and survivor annuity option previously elected and receives the
22 straight life annuity pursuant to subdivision (b) of this paragraph, the
23 member may again elect the same joint and survivor annuity option previously
24 elected subject to the same restrictions prescribed in subdivision (a) of
25 this paragraph.

26 (d) A member whose original date of retirement is on or after ~~the~~
27 ~~effective date of this amendment to this section~~ JULY 1, 2008 may exercise a
28 one-time election to rescind the joint and survivor annuity option elected by
29 the member if the contingent annuitant dies or ceases to be a contingent
30 annuitant pursuant to the terms of a qualified domestic relations order.

31 (e) If the member's contingent annuitant is the member's current
32 spouse, the member shall notify the contingent annuitant before the member
33 names a new contingent annuitant or before the member rescinds the election.

34 2. A period certain and life annuity actuarially reduced with payments
35 for five, ten or fifteen years that are not dependent on the continued
36 lifetime of the member but whose payments continue for the member's lifetime
37 beyond the five, ten or fifteen year period. At the time of electing this
38 option the member shall name a period certain beneficiary or beneficiaries
39 who are entitled to receive the payments for any portion of the period
40 certain beyond the lifetime of the member. The member may name a different
41 beneficiary at any time. If no beneficiary survives the member, any
42 remaining payments are the property of the member's estate. A member who
43 retires after August 9, 2001 and before ~~the effective date of this amendment~~
44 ~~to this section~~ JULY 1, 2008 may rescind the election of a period certain and
45 life annuity. If the member rescinds the election of a period certain and

1 life annuity, the member shall thereafter receive a straight life annuity
2 equal to what the member would otherwise be entitled to receive if the member
3 had not elected the period certain and life annuity option, including all
4 postretirement increases in retirement income that are authorized by law
5 after the date of retirement. The increased payment shall continue during
6 the remainder of the member's lifetime. If the member reverts to a straight
7 life annuity pursuant to this paragraph, the member may again elect a period
8 certain and life annuity subject to the same provisions of the period certain
9 and life annuity previously elected by the member. A member whose original
10 date of retirement is on or after ~~the effective date of this amendment to~~
11 ~~this section~~ JULY 1, 2008 may exercise a one-time election to rescind the
12 period certain and life annuity option elected by the member if the
13 beneficiary dies or ceases to be a beneficiary pursuant to the terms of a
14 qualified domestic relations order or at the expiration of the member's
15 period certain term. If the member's contingent annuitant is the member's
16 current spouse, the member shall notify the contingent annuitant before the
17 member rescinds the election of a period certain and life annuity or again
18 elects a period certain and life annuity pursuant to this paragraph.

19 3. Beginning on July 1, 2002, a lump sum payment equal to not more
20 than thirty-six months of the member's retirement benefits ~~under the benefit~~
21 ~~option elected by the member~~ BASED ON THE ACTUARIAL EQUIVALENT OF THE
22 RETIREMENT INCOME TO WHICH THE MEMBER WOULD BE ENTITLED UNDER NORMAL OR EARLY
23 RETIREMENT. The member's benefit shall be actuarially reduced to provide for
24 the lump sum payment. The lump sum payment shall be made at the time of
25 retirement. Any benefit increase granted to a member who elects a lump sum
26 payment pursuant to this paragraph is subject to the following conditions:

27 (a) If the benefit increase is a percentage increase of the member's
28 retirement benefit, the increase shall be based on the actuarially reduced
29 retirement benefit of the member.

30 (b) If the benefit increase is pursuant to section 38-767, the amount
31 of the member's benefit increase shall be calculated without regard to the
32 lump sum payment pursuant to this paragraph.

33 4. Other forms of actuarially reduced optional benefits prescribed by
34 the board.

35 Sec. 12. Delayed repeal

36 Section 38-761, Arizona Revised Statutes, is repealed from and after
37 June 30, 2013.

38 Sec. 13. Section 38-762, Arizona Revised Statutes, is amended to read:
39 38-762. Survivor benefits before retirement; definitions

40 A. On the death of any active or inactive member before retirement,
41 the designated beneficiary of the member shall be paid a survivor benefit
42 equal to the sum of both of the following:

43 1. The member's contribution and interest and the employer's
44 contribution and interest to the defined benefit plan established by this
45 article for credited service that a member earned by working for an employer,

1 plus all contributions and interest made for the purchase of military
2 service, leave without pay or other public service credit. THIS AMOUNT
3 EXCLUDES PAYMENTS MADE BY AN EMPLOYER PURSUANT TO SECTION 38-738, SUBSECTION
4 B, PARAGRAPH 3, UNLESS THE MEMBER HAS MADE THE PAYMENT REQUIRED BY SECTION
5 38-738, SUBSECTION B, PARAGRAPH 1.

6 2. The amount of the member's employee account and the member's
7 employer account together with supplemental credits, if any, transferred from
8 the defined contribution program administered by ASRS to the defined benefit
9 program established by this article.

10 B. Subsection A, paragraphs 1 and 2 of this section shall be
11 accumulated at compound interest at a rate determined by the board through
12 the day of the payment of the benefit.

13 C. In lieu of a single payment, a designated beneficiary who is
14 eligible for a survivor benefit pursuant to subsection A of this section of
15 more than five thousand dollars may elect to receive the actuarial equivalent
16 of the survivor benefit pursuant to one of the following options:

17 1. A monthly income for five, ten or fifteen years certain and for
18 life thereafter.

19 2. Another form of optional benefits approved by the board.

20 D. On the death of an active or inactive member who has reached an
21 early retirement date applicable to the member or who has a minimum of
22 fifteen years of credited service and whose designated beneficiary is a
23 spouse, a member's natural or adopted child under the age of twenty-one or a
24 member's natural or adopted child of any age who is disabled, ASRS shall pay
25 the designated beneficiary a survivor benefit equal to the present value, on
26 the date following the date of the member's death, of the life annuity that
27 would have been payable to the designated beneficiary if the member had
28 retired on the date of the member's death and elected to receive an annuity
29 in the form of a joint and survivor annuity providing the same amount of
30 annuity to the surviving beneficiary as the reduced amount that would have
31 been payable during the lifetime of the member. If there is more than one
32 designated beneficiary under this subsection, ASRS shall determine the amount
33 of the annuity and its present value as if the oldest of the beneficiaries
34 was the sole beneficiary. Payment under this subsection shall be in lieu of,
35 but not less than, any payment under subsection A of this section. Payment
36 under this subsection, at the election of the designated beneficiary, may be
37 made in a single sum or may be made in accordance with subsection C of this
38 section. A beneficiary may not elect this option unless a benefit of
39 twenty-five dollars or more per month is payable to the designated
40 beneficiary or the designated beneficiary's estate.

41 E. If a member dies before distribution of the member's benefits
42 commences, the member's entire benefits shall be distributed within the
43 required distribution provisions of section 401(a)(9) of the internal revenue
44 code and the regulations that are issued under that section by the United
45 States secretary of the treasury as prescribed in section 38-775.

1 F. If a deceased member did not designate a beneficiary or the
2 beneficiary named by a member predeceases the member, ASRS shall pay the
3 member's survivor benefit to the following persons in the following order of
4 priority:

- 5 1. The member's surviving spouse.
- 6 2. The member's surviving natural or adopted children in equal shares.
- 7 3. The member's surviving parents in equal shares.
- 8 4. The member's estate.

9 G. Any payment pursuant to this section is payment for the account of
10 the member or the member's beneficiary and all persons entitled to payment
11 and, to the extent of the payment, is a full and complete discharge of all
12 liability of the board or ASRS, or both, under or in connection with ASRS.

13 H. For the purposes of this section:

- 14 1. "Designated beneficiary" means any individual designated by the
15 member as the member's beneficiary.
- 16 2. "Disabled" means a person is incapable of self-sustaining
17 employment by reason of mental or physical handicap and is chiefly dependent
18 on the member for support.

19 Sec. 14. Section 38-783, Arizona Revised Statutes, is amended to read:

20 38-783. Retired members; dependents; health insurance; premium
21 payment; separate account; definitions

22 A. Subject to subsections ~~F, G and H~~ G, H AND I of this section, the
23 board shall pay from ASRS assets part of the single coverage premium of any
24 health and accident insurance for each retired, contingent annuitant or
25 disabled member of ASRS if the member elects to participate in the coverage
26 provided by ASRS or section 38-651.01 or elects to participate in a health
27 and accident insurance program provided or administered by an employer or
28 paid for, in whole or in part, by an employer to an insurer. A contingent
29 annuitant must be receiving a monthly retirement benefit from ASRS in order
30 to obtain any premium payment provided by this section. The board shall pay:

31 1. Up to one hundred fifty dollars per month for a member of ASRS who
32 is not eligible for medicare if the retired or disabled member has ten or
33 more years of credited service.

34 2. Up to one hundred dollars per month for each member of ASRS who is
35 eligible for medicare if the retired or disabled member has ten or more years
36 of credited service.

37 B. Subject to subsections ~~F, G and H~~ G, H AND I of this section, the
38 board shall pay from ASRS assets part of the family coverage premium of any
39 health and accident insurance for a retired, contingent annuitant or disabled
40 member of ASRS who elects family coverage and who otherwise qualifies for
41 payment pursuant to subsection A of this section. If a member of ASRS and
42 the member's spouse are both either retired or disabled under ASRS and apply
43 for family coverage, the member who elects family coverage is entitled to
44 receive the payments under this section as if they were both applying under a
45 single coverage premium unless the payment under this section for family

1 coverage is greater. Payment under this subsection is in the following
2 amounts:

3 1. Up to two hundred sixty dollars per month if the member of ASRS and
4 one or more dependents are not eligible for medicare.

5 2. Up to one hundred seventy dollars per month if the member of ASRS
6 and one or more dependents are eligible for medicare.

7 3. Up to two hundred fifteen dollars per month if either:

8 (a) The member of ASRS is not eligible for medicare and one or more
9 dependents are eligible for medicare.

10 (b) The member of ASRS is eligible for medicare and one or more
11 dependents are not eligible for medicare.

12 C. In addition each retired, contingent annuitant or disabled member
13 of ASRS with less than ten years of credited service and a dependent of such
14 a retired, contingent annuitant or disabled member who elects to participate
15 in the coverage provided by ASRS or section 38-651.01 or who elects to
16 participate in a health and accident insurance program provided or
17 administered by an employer or paid for, in whole or in part, by an employer
18 to an insurer is entitled to receive a proportion of the full benefit
19 prescribed by subsection A or B of this section according to the following
20 schedule:

21 1. 9.0 to 9.9 years of credited service, ninety per cent.

22 2. 8.0 to 8.9 years of credited service, eighty per cent.

23 3. 7.0 to 7.9 years of credited service, seventy per cent.

24 4. 6.0 to 6.9 years of credited service, sixty per cent.

25 5. 5.0 to 5.9 years of credited service, fifty per cent.

26 6. Those with less than five years of credited service do not qualify
27 for the benefit.

28 D. The board shall not pay more than the amount prescribed in this
29 section for a member of ASRS.

30 E. NOTWITHSTANDING SUBSECTIONS A, B AND C OF THIS SECTION, FOR A
31 MEMBER WHO RETIRES ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
32 SECTION, THE BOARD SHALL NOT MAKE A PAYMENT UNDER THIS SECTION TO A RETIRED,
33 CONTINGENT ANNUITANT OR DISABLED MEMBER WHO IS ENROLLED IN AN EMPLOYER'S
34 ACTIVE EMPLOYEE GROUP HEALTH AND ACCIDENT INSURANCE PROGRAM EITHER AS THE
35 INSURED OR AS A DEPENDENT, EXCEPT THAT IF THE RETIRED, CONTINGENT ANNUITANT
36 OR DISABLED MEMBER IS ENROLLED AS A DEPENDENT AND THE PREMIUM PAID TO THE
37 EMPLOYER'S ACTIVE EMPLOYEE GROUP HEALTH AND ACCIDENT INSURANCE PROGRAM IS NOT
38 SUBSIDIZED BY THE EMPLOYER, THE RETIRED, CONTINGENT ANNUITANT OR DISABLED
39 MEMBER IS ENTITLED TO RECEIVE THE AMOUNT PROVIDED IN SUBSECTION A OF THIS
40 SECTION.

41 ~~E.~~ F. The board shall establish a separate account that consists of
42 the benefits provided by this section. The board shall not use or divert any
43 part of the corpus or income of the account for any purpose other than the
44 provision of benefits under this section unless the liabilities of ASRS to
45 provide the benefits are satisfied. If the liabilities of ASRS to provide

1 the benefits described in this section are satisfied, the board shall return
2 any amount remaining in the account to the employer.

3 ~~F.~~ G. Payment of the benefits provided by this section is subject to
4 the following conditions:

5 1. The payment of the benefits is subordinate to the payment of
6 retirement benefits payable by ASRS.

7 2. The total of contributions for the benefits and actual
8 contributions for life insurance protection, if any, shall not exceed
9 twenty-five per cent of the total actual employer and employee contributions
10 to ASRS, less contributions to fund past service credits, after the day the
11 account is established.

12 3. The board shall deposit the benefits provided by this section in
13 the account.

14 4. The contributions by the employer to the account shall be
15 reasonable and ascertainable.

16 ~~G.~~ H. A member who elects to receive a retirement benefit pursuant to
17 section 38-760, subsection B, paragraph 1 may elect at the time of retirement
18 an optional form of health and accident insurance premium benefit payment
19 pursuant to this subsection as follows:

20 1. The optional premium benefit payment shall be an amount prescribed
21 by subsection A, B or C of this section that is actuarially reduced to the
22 retiring member for life. The amount of the optional premium benefit payment
23 shall be the actuarial equivalent of the premium benefit payment to which the
24 retired member would otherwise be entitled. The election in a manner
25 prescribed by the board shall name the contingent annuitant and may be
26 revoked at any time before the retiring member's effective date of
27 retirement. At any time after benefits have commenced, the member may name a
28 different contingent annuitant or rescind the election by written notice to
29 the board as follows:

30 (a) If the retired member names a different contingent annuitant, the
31 optional premium benefit payment shall be adjusted to the actuarial
32 equivalent of the original premium benefit payment based on the age of the
33 new contingent annuitant. The adjustment shall include all postretirement
34 increases or decreases in amounts prescribed by subsection A, B or C of this
35 section that are authorized by law after the retired member's date of
36 retirement. Payment of this adjusted premium benefit payment shall continue
37 under the provisions of the optional premium benefit payment previously
38 elected by the retired member. A retired member cannot name a different
39 contingent annuitant if the retired member has at any time rescinded the
40 optional form of health and accident insurance premium benefit payment.

41 (b) If the retired member rescinds the election, the retired member
42 shall thereafter receive the premium benefit payment that the retired member
43 would otherwise be entitled to receive if the retired member had not elected
44 the optional premium benefit payment, including all postretirement increases
45 or decreases in amounts prescribed by subsection A, B or C of this section

1 that are authorized by law after the member's date of retirement. The
2 increased benefit payment shall continue during the remainder of the retired
3 member's lifetime. The decision to rescind shall be irrevocable.

4 2. If, at the time of the retired member's death:

5 (a) The retired member was receiving a reduced premium benefit payment
6 based on an amount prescribed in subsection B or C of this section and the
7 contingent annuitant is eligible for family health and accident insurance
8 coverage, the contingent annuitant is entitled to receive a premium benefit
9 payment based on an amount prescribed in subsection B or C of this section
10 times the reduction factor applied to the retired member's premium benefit
11 payment times the joint and survivor option reduction factor elected by the
12 retired member at the time of retirement pursuant to section 38-760,
13 subsection B, paragraph 1.

14 (b) The retired member was receiving a reduced premium benefit payment
15 based on an amount prescribed in subsection A or C of this section and the
16 contingent annuitant is eligible for single health and accident insurance
17 coverage, the contingent annuitant is entitled to receive a premium benefit
18 payment based on an amount prescribed in subsection A or C of this section
19 times the reduction factor applied to the retired member's premium benefit
20 payment times the joint and survivor option reduction factor elected by the
21 retired member at the time of retirement pursuant to section 38-760,
22 subsection B, paragraph 1.

23 (c) The retired member was receiving a reduced premium benefit payment
24 based on an amount prescribed in subsection B or C of this section and the
25 contingent annuitant is not eligible for family health and accident insurance
26 coverage, the contingent annuitant is entitled to receive a premium benefit
27 payment based on an amount prescribed in subsection A or C of this section
28 times the reduction factor applied to the retired member's premium benefit
29 payment times the joint and survivor option reduction factor elected by the
30 retired member at the time of retirement pursuant to section 38-760,
31 subsection B, paragraph 1.

32 ~~H.~~ I. A member who elects to receive a retirement benefit pursuant to
33 section 38-760, subsection B, paragraph 2 may elect at the time of retirement
34 an optional form of health and accident insurance premium benefit payment
35 pursuant to this subsection as follows:

36 1. The optional premium benefit payment shall be an amount prescribed
37 by subsection A, B or C of this section that is actuarially reduced with
38 payments for five, ten or fifteen years that are not dependent on the
39 continued lifetime of the retired member but whose payments continue for the
40 retired member's lifetime beyond the five, ten or fifteen year period. The
41 election in a manner prescribed by the board shall name the contingent
42 annuitant and may be revoked at any time before the retiring member's
43 effective date of retirement. At any time after benefits have commenced, the
44 member may name a different contingent annuitant or rescind the election by
45 written notice to the board. If the retired member rescinds the election,

1 the retired member shall thereafter receive the premium benefit payment that
2 the retired member would otherwise be entitled to receive if the retired
3 member had not elected the optional premium benefit payment, including all
4 postretirement increases or decreases in amounts prescribed by subsection A,
5 B or C of this section that are authorized by law after the member's date of
6 retirement. The increased benefit payment shall continue during the
7 remainder of the retired member's lifetime. The decision to rescind shall be
8 irrevocable.

9 2. If, at the time of the retired member's death:

10 (a) The retired member was receiving a reduced premium benefit payment
11 based on an amount prescribed in subsection B or C of this section and the
12 contingent annuitant is eligible for family health and accident insurance
13 coverage, the contingent annuitant is entitled to receive a premium benefit
14 payment based on an amount prescribed in subsection B or C of this section
15 times the period certain and life option reduction factor elected by the
16 retired member at the time of retirement pursuant to section 38-760,
17 subsection B, paragraph 2.

18 (b) The retired member was receiving a reduced premium benefit payment
19 based on an amount prescribed in subsection A or C of this section and the
20 contingent annuitant is eligible for single health and accident insurance
21 coverage, the contingent annuitant is entitled to receive a premium benefit
22 payment based on an amount prescribed in subsection A or C of this section
23 times the period certain and life option reduction factor elected by the
24 retired member at the time of retirement pursuant to section 38-760,
25 subsection B, paragraph 2.

26 (c) The retired member was receiving a reduced premium benefit payment
27 based on an amount prescribed in subsection B or C of this section and the
28 contingent annuitant is not eligible for family health and accident insurance
29 coverage, the contingent annuitant is entitled to receive a premium benefit
30 payment based on an amount prescribed in subsection A or C of this section
31 times the period certain and life option reduction factor elected by the
32 retired member at the time of retirement pursuant to section 38-760,
33 subsection B, paragraph 2.

34 ~~I.~~ J. If, at the time of retirement, a retiring member does not elect
35 to receive a reduced premium benefit payment pursuant to subsection ~~G or~~ H OR
36 I of this section, the retired member's contingent annuitant is not eligible
37 at any time for the optional premium benefit payment.

38 ~~J.~~ K. A contingent annuitant is not eligible for any premium benefit
39 payment if the contingent annuitant was not enrolled in an eligible health
40 and accident insurance plan at the time of the retired member's death or if
41 the contingent annuitant is not the dependent beneficiary or insured
42 surviving dependent as provided in section 38-782.

43 ~~K.~~ L. For the purposes of this section:

44 1. "Account" means the separate account established pursuant to
45 subsection ~~E~~ F of this section.

1 2. "Credited service" includes prior service.

2 3. "Prior service" means service for this state or a political
3 subdivision of this state before membership in the defined contribution
4 program administered by ASRS.

5 4. "SUBSIDIZED" MEANS A PORTION OF THE TOTAL PREMIUM IS PAID BY THE
6 EMPLOYER, BUT DOES NOT NECESSARILY MEAN A PLAN IN WHICH THE EMPLOYER USES
7 BLENDED RATES TO DETERMINE THE TOTAL PREMIUM.

8 Sec. 15. Section 38-797.07, Arizona Revised Statutes, is amended to
9 read:

10 38-797.07. LTD program benefits; limitations; definitions

11 A. The LTD program is subject to the following limitations:

12 1. Except as provided in paragraph ~~8~~ 9 of this subsection, monthly
13 LTD program benefits shall not exceed two-thirds of a member's monthly
14 compensation at the time disability commences, reduced by:

15 (a) For a member whose disability commences before July 1, 2008,
16 sixty-four per cent of social security disability benefits that the member
17 and the member's dependents are eligible to receive.

18 (b) For a member whose disability commences on or after July 1, 2008,
19 eighty-five per cent of social security disability benefits that the member
20 and the member's dependents are eligible to receive, but not including:

21 (i) The amount of attorney fees approved pursuant to social security
22 administration rules and reasonable documented costs paid to an attorney to
23 secure that disability benefit.

24 (ii) Any cost-of-living adjustments that are granted after the member
25 commences benefits under this section.

26 (c) For a member whose disability commences before July 1, 2008,
27 eighty-three per cent of social security retirement benefits that the member
28 is eligible to receive.

29 (d) For a member whose disability commences on or after July 1, 2008,
30 eighty-five per cent of social security retirement benefits that the member
31 is eligible to receive, but not including any cost-of-living adjustments that
32 are granted after the member commences benefits under this section.

33 (e) All of any workers' compensation benefits.

34 (f) All of any payments for a veteran's disability if both of the
35 following apply:

36 (i) The veteran's disability payment is for the same condition or a
37 condition related to the condition currently causing the member's total
38 disability.

39 (ii) The veteran's disability is due to, or a result of, service in
40 the armed forces of the United States.

41 (g) All of any other benefits by reason of employment that are
42 financed partly or wholly by an employer, including payments for sick leave.
43 This subdivision does not include any retirement benefit that is received by
44 the member pursuant to a state retirement system or plan other than ASRS.

1 (h) Fifty per cent of any salary, wages, commissions or other
2 employment related pay that the member receives or is entitled to receive
3 from any gainful employment in which the member actually engages.

4 2. FOR A MEMBER WHOSE DISABILITY COMMENCES ON OR AFTER THE EFFECTIVE
5 DATE OF THIS AMENDMENT TO THIS SECTION, A MEMBER'S MONTHLY INCOME FROM THE
6 MONTHLY LTD PROGRAM BENEFITS AND SOURCES LISTED IN PARAGRAPH 1 OF THIS
7 SUBSECTION SHALL NOT EXCEED ONE HUNDRED PER CENT OF THE MEMBER'S MONTHLY
8 COMPENSATION AT THE TIME DISABILITY COMMENCES. ASRS SHALL OFFSET THE
9 MEMBER'S MONTHLY LTD PROGRAM BENEFITS BY THE AMOUNT NECESSARY TO REDUCE THE
10 MEMBER'S TOTAL MONTHLY INCOME TO MEET THE LIMIT PRESCRIBED IN THIS PARAGRAPH.

11 ~~2-~~ 3. Monthly LTD program benefits are not payable until a member has
12 been totally disabled for a period of six consecutive months.

13 ~~3-~~ 4. Monthly LTD program benefits are not payable to a member who
14 files an initial claim for disability more than twelve months after the date
15 of the member's date of disability unless the member demonstrates to ASRS
16 good cause for not filing the initial claim within twelve months after the
17 date of disability.

18 ~~4-~~ 5. Monthly LTD program benefits are not payable to a member who is
19 receiving retirement benefits from ASRS.

20 ~~5-~~ 6. Monthly LTD program benefits are not payable to a member whose
21 disability is due to, or a result of, any of the following:

22 (a) An intentionally self-inflicted injury.

23 (b) War, whether declared or not.

24 (c) An injury incurred while engaged in a felonious criminal act or
25 enterprise.

26 (d) For a member whose most recent membership in the LTD program
27 commences before July 1, 2008, an injury or sickness for which the member
28 received medical treatment within three months before the date of the
29 member's coverage under the LTD program. This subdivision does not apply to
30 a member who either:

31 (i) Has been an active member of an employer for twelve continuous
32 months.

33 (ii) Is employed by an employer before July 1, 1988.

34 (e) For a member whose most recent membership in the LTD program
35 commences on or after July 1, 2008, an injury or sickness for which the
36 member received medical treatment within six months before the date of the
37 member's coverage under the LTD program. This subdivision does not apply to
38 a member who has been an active member of an employer for twelve continuous
39 months.

40 ~~6-~~ 7. Monthly LTD program benefits cease to be payable to a member at
41 the earliest of the following:

42 (a) The date the member ceases to be totally disabled.

43 (b) The date the member:

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

1 (ii) Refuses to undergo any medical examination or refuses to
2 participate in any work rehabilitation program for which the member is
3 reasonably qualified by education, training or experience and that is
4 requested by the insurance company or claims administrator that is selected
5 by the board to administer the LTD program.

6 (c) The date the member withdraws employee contributions with interest
7 and ceases to be a member.

8 (d) The later of the following:

9 (i) The member's normal retirement date.

10 (ii) The month following sixty months of payments if disability occurs
11 before sixty-five years of age.

12 (iii) The month following attainment of seventy years of age if
13 disability occurs at sixty-five years of age or after but before sixty-nine
14 years of age.

15 (iv) The month following twelve months of payments if disability
16 occurs at or after sixty-nine years of age.

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

21 ~~7-~~ 8. Monthly LTD program benefits are payable only for disabilities
22 that commence on or after July 1, 1988.

23 ~~8-~~ 9. The minimum benefit for a member who is entitled to receive
24 monthly LTD program benefits is fifty dollars per month.

25 ~~9-~~ 10. Members are eligible to receive the LTD program benefits and
26 payments described in paragraph 1 of this subsection, and the reductions
27 provided by paragraph 1 of this subsection apply even though the social
28 security benefits are not actually paid as follows:

29 (a) For primary and dependent social security benefits, the members
30 are eligible for the social security benefits until the social security
31 benefits are actually awarded, or if the social security benefits are denied,
32 until the member pursues the social security appeal process through a hearing
33 before a social security administrative law judge or until the insurance
34 company or claims administrator determines that the member is not eligible
35 for social security benefits.

36 (b) For benefits and payments from any other source provided in
37 paragraph 1 of this subsection, the members are eligible for the benefits if
38 it is reasonable to believe that those benefits will be paid on proper
39 completion of the claim or would have been paid except for the failure of the
40 member to pursue the claim in time.

41 ~~10-~~ 11. A member shall be considered totally disabled if **BASED ON**
42 **OBJECTIVE MEDICAL EVIDENCE**:

43 (a) During the first thirty months of a period of disability, the
44 member is unable to perform all duties of the position held by the member
45 when the member became totally disabled.

1 (b) For a member who has received monthly LTD program benefits for
2 twenty-four months within a five-year period, the member is unable to perform
3 any work for compensation or gain for which the member is reasonably
4 qualified by education, training or experience in an amount at least equal to
5 the scheduled LTD program benefits prescribed in paragraph 1 of this
6 subsection.

7 B. A member who receives monthly LTD program benefits is entitled to
8 receive service credit pursuant to article 2 of this chapter from the time
9 disability commences until LTD program benefits cease to be payable, except
10 that for a member who receives monthly LTD program benefits on or after June
11 30, 1999 the number of years of service credited to the member's retirement
12 account during the period the member receives LTD program benefit payments
13 shall not cause the member's total credited service for retirement benefits
14 to exceed the greater of thirty years or the total years of service credited
15 to the member's retirement account on the commencement of disability.

16 C. This section does not prohibit a member whose disability has been
17 established to the satisfaction of the board from relying on treatment by
18 prayer through spiritual means in accordance with the tenets and practice of
19 a recognized church, religious denomination or Native American traditional
20 medicine by a duly accredited practitioner of the church, denomination or
21 Native American traditional medicine without suffering reduction or
22 suspension of the member's monthly LTD program benefits.

23 D. ASRS may suspend or terminate benefits under this article if a
24 member fails to provide information, data, paperwork or other materials that
25 are requested by ASRS or the insurance company or claims administrator that
26 is selected by the board to administer the LTD program. If the member
27 provides the information requested, ASRS shall retroactively reinstate the
28 benefits or claim for which the member qualifies under this article.

29 E. For the purposes of this section:

30 1. "OBJECTIVE MEDICAL EVIDENCE" MEANS EVIDENCE THAT ESTABLISHED FACTS
31 AND CONDITIONS, AS PERCEIVED WITHOUT DISTORTION BY PERSONAL FEELINGS,
32 PREJUDICES OR INTERPRETATIONS, AND INCLUDES X-RAYS, QUANTITATIVE TESTS,
33 LABORATORY FINDINGS, DATA, RECORDS, REPORTS FROM THE ATTENDING PHYSICIAN AND
34 REPORTS FROM A CONSULTING PHYSICIAN, AS APPLICABLE.

35 ~~1-~~ 2. "Received medical treatment" means that the member consulted
36 with or received the advice of a licensed medical or dental practitioner,
37 including advice given during a routine examination, and it includes
38 situations in which the member received medical or dental care, treatment or
39 services, including the taking of drugs, medication, insulin or similar
40 substances.

41 ~~2-~~ 3. "Social security" and "social security disability" includes the
42 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
43 Code sections 231 through 231u).

1 Sec. 16. Section 38-843.05, Arizona Revised Statutes, is amended to
2 read:

3 38-843.05. Retired members; return to work; employer
4 contributions

5 A. An employer shall pay contributions at an alternate contribution
6 rate on behalf of a retired member who returns to work in any capacity in a
7 position ordinarily filled by an employee of the employer of an eligible
8 group, **UNLESS THE RETIRED MEMBER IS REQUIRED TO PARTICIPATE IN ANOTHER STATE**
9 **RETIREMENT SYSTEM AND THE RETIRED MEMBER RETURNED TO WORK BEFORE JULY 20,**
10 **2011.** This section applies to a retired member who returns to work with
11 another participating employer and a retired member who returns to work after
12 sixty consecutive days with the same employer from which the member retired.

13 B. The alternate contribution rate shall be equal to that portion of
14 the total required contribution that is applied to the amortization of the
15 unfunded actuarial accrued liability for the fiscal year beginning July 1,
16 based on the system's actuary's calculation of the total required
17 contribution for the preceding fiscal year ended on June 30. The alternate
18 contribution rate shall be applied to the compensation, gross salary or
19 contract fee of a retired member who meets the requirements of this section.

20 C. The alternate contribution rate shall not be less than eight per
21 cent in any fiscal year.

22 D. All contributions made by the employer and allocated to the fund
23 are irrevocable and shall be used as benefits under this article or to pay
24 the expenses of the system. Payments made pursuant to this section by
25 employers become delinquent after the due date prescribed in 38-843,
26 subsection D, and thereafter shall be increased by interest from and after
27 that date until payment is received by the system.

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

33 Sec. 17. Appropriation; ASRS; purpose; exemption

34 A. The sum of \$47,000 is appropriated from the Arizona state
35 retirement system administration account in fiscal year 2012-2013 to the
36 Arizona state retirement system for the implementation of this act.

37 B. The appropriation made in subsection A of this section is exempt
38 from the provisions of section 35-190, Arizona Revised Statutes, relating to
39 lapsing of appropriations.