

House Engrossed

ASRS; retirement application; changes

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

CHAPTER 47

HOUSE BILL 2009

AN ACT

AMENDING SECTIONS 38-747 AND 38-764, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-747, Arizona Revised Statutes, is amended to
3 read:

4 38-747. Purchase of credited service; payment; limitations;
5 definitions

6 A. A member who purchases credited service pursuant to section
7 38-738, 38-742, 38-743, 38-744, 38-745 or 38-922 shall either:

8 1. Make payments directly to ASRS as provided in subsection H of
9 this section.

10 2. Elect to have the member's employer make payments as provided in
11 subsection B of this section.

12 B. A member may elect to have the member's employer make payments
13 for all or any portion of the amounts payable for the member's purchase of
14 credited service pursuant to the sections prescribed in subsection A of
15 this section through a salary reduction program in accordance with the
16 following:

17 1. The amounts paid pursuant to a salary reduction program are in
18 lieu of contributions by the electing member. The electing member's
19 salary or other compensation shall be reduced by the amount paid by the
20 employer pursuant to this subsection. For the purposes of this paragraph,
21 "other compensation" includes a member's termination pay.

22 2. The member shall make an election pursuant to this subsection at
23 any time on or after the date the member elects to purchase credited
24 service pursuant to the sections prescribed in subsection A of this
25 section and before the member's termination of employment. The election
26 shall specify the number of payroll periods that deductions will be made
27 from the member's compensation and the dollar amount of deductions for
28 each payroll period during the specified number of payroll periods. In
29 the case of an election to utilize all or any part of the member's
30 termination pay to purchase credited service, the member's election shall
31 be made at least three full calendar months before the date of the
32 member's termination of employment and entitlement to receive the
33 termination pay. After an election is made pursuant to this subsection,
34 the election is binding on and irrevocable for the member and the member's
35 employer during the member's remaining period of current employment.
36 After a member makes an irrevocable election pursuant to this subsection,
37 the member does not have the option of choosing to receive the contributed
38 amounts directly. For the purposes of this paragraph, "termination pay"
39 means any lump sum that is paid at the member's termination of employment
40 for accrued vacation, sick leave or overtime pay.

41 3. A member who makes an irrevocable election pursuant to this
42 subsection to have the member's employer make payments for less than all
43 of the amounts payable for the member's purchase of credited service may
44 irrevocably elect to have the member's employer make payments for all or
45 any portion of the remaining amounts payable for the member's purchase of
46 credited service. A member who makes one or more irrevocable elections

1 pursuant to this subsection may also make other contributions to ASRS
2 pursuant to subsection H of this section to the extent of any remaining
3 amounts payable for which the member has not made an election pursuant to
4 this subsection. An additional election or contribution with respect to a
5 portion of the amounts payable for the member's purchase of credited
6 service does not alter, amend or revoke an irrevocable election already
7 made pursuant to this subsection for any other portion of the amounts
8 payable for the member's purchase of credited service.

9 4. If on termination of the member's employment with an ASRS
10 employer all amounts have not been paid to ASRS pursuant to the member's
11 irrevocable election pursuant to this subsection, the member may pay ASRS,
12 within thirty days after the member's termination of employment and
13 subject to other limitations prescribed in this section, all or any
14 portion of the unpaid amounts as provided in subsection H of this section.
15 These payments do not alter, amend or revoke any irrevocable election
16 already made pursuant to this subsection with respect to any amount to be
17 paid by the member's employer while the member is employed by the member's
18 employer.

19 5. Amounts paid by an employer pursuant to this subsection shall be
20 treated as employer contributions for the purpose of determining tax
21 treatment under the internal revenue code. The effective date of employer
22 payments pursuant to this subsection shall not be before the date ASRS
23 receives notification from the United States internal revenue service that
24 pursuant to section 414(h)(2) of the internal revenue code the amounts
25 paid by an employer pursuant to this subsection will not be included in
26 the member's gross income for income tax purposes until those amounts are
27 distributed by refund or retirement benefit payments.

28 6. Unless otherwise provided, member contributions paid by an
29 employer pursuant to this subsection are treated for all other purposes
30 under ASRS in the same manner and to the same extent as member
31 contributions that are not paid by an employer pursuant to this
32 subsection. ASRS shall not grant credited service for contributions made
33 pursuant to this subsection until those contributions are received by
34 ASRS. ASRS may assess interest or administrative charges attributable to
35 any salary reduction election made pursuant to this subsection. The
36 interest or administrative charges shall be added to the amount of
37 contributions that is made to ASRS by the member each payroll period and
38 that is paid by the member's employer. The interest or administrative
39 charges shall not be treated as member contributions for any purposes
40 under this article and a member or a member's beneficiary does not have a
41 right to the return of the interest or administrative charges pursuant to
42 any other provision of this article. Interest assessed pursuant to this
43 subsection shall be at the rate specified by the board pursuant to section
44 38-711, paragraph 2.

1 7. If a member transfers employment from one participating employer
2 with which the member has made an irrevocable election pursuant to this
3 subsection to another participating employer, the member and the successor
4 participating employer shall complete the terms of the irrevocable
5 election that the member made with the original participating employer.

6 C. A member who elects before July 1, 1999 to receive retirement
7 benefits based on section 38-771, subsection C, paragraph 2 or a member
8 who elects to make contributions to ASRS pursuant to section 38-771.01,
9 subsection F, paragraph 4 shall either make the member's additional
10 contributions required pursuant to section 38-771, subsection E or allowed
11 pursuant to section 38-771.01, subsection F, paragraph 4 directly to ASRS
12 as provided in subsection H of this section or shall elect to have the
13 member's employer make payments for those additional contributions as
14 provided in subsection D of this section. A member who elected to be
15 covered or who was deemed to be covered by section 38-771 on or before
16 December 31, 1995 or who elects to make member contributions pursuant to
17 section 38-771.01, subsection F, paragraph 3 is deemed to have made an
18 irrevocable election pursuant to subsection D of this section to make the
19 member's contributions to ASRS that are required by section 38-771,
20 subsection D or allowed by section 38-771.01, subsection F, paragraph 3.

21 D. Any member contributions that are required by section 38-771,
22 subsection D or that are allowed pursuant to section 38-771.01, subsection
23 F, paragraph 3 are deemed to be made by the member to ASRS through a
24 salary reduction program in accordance with the following:

25 1. A member may make member contributions pursuant to section
26 38-771, subsection E or section 38-771.01, subsection F, paragraph 4
27 through a salary reduction program elected pursuant to this subsection.
28 If a member makes an irrevocable election pursuant to this subsection
29 before July 1, 1999 to have the member's employer make payments for
30 additional contributions pursuant to section 38-771, subsection E, the
31 election continues in effect from and after June 30, 1999 and shall not be
32 revoked, amended or altered by any election made pursuant to section
33 38-771.01 or otherwise. The amounts paid pursuant to a salary reduction
34 program are in lieu of contributions by the electing member. The member's
35 salary or other compensation shall be reduced by the amount paid by the
36 employer pursuant to this subsection.

37 2. Before a member's termination of employment, the member may make
38 an election pursuant to this subsection at any time after the date the
39 member elects to receive retirement benefits based on section 38-771,
40 subsection C, paragraph 2 but before July 1, 1999 or at any time after the
41 member elects to make member contributions pursuant to section 38-771.01,
42 subsection F, paragraph 4. The election shall specify the number of
43 payroll periods that deductions will be made from the member's
44 compensation and the dollar amount of deductions for each payroll period
45 during the specified number of payroll periods. After an election is made
46 pursuant to this subsection, the election is binding on and irrevocable

1 for the member and the member's employer during the member's remaining
2 period of employment.

3 3. After a member makes or is deemed to have made an irrevocable
4 election pursuant to this subsection, the member does not have the option
5 of choosing to receive the contributed amounts directly. A member who
6 makes an irrevocable election pursuant to this subsection to have the
7 member's employer make payments for less than all of the amounts payable
8 for the member's additional contributions allowed by section 38-771.01,
9 subsection F, paragraph 4 may irrevocably elect to have the member's
10 employer make payments for all or any portion of the remaining amounts
11 payable for the member's additional contributions. A member who makes one
12 or more irrevocable elections pursuant to this subsection may also make
13 other contributions to ASRS pursuant to section 38-771.01, subsection F,
14 paragraph 4 or pursuant to subsection H of this section to the extent of
15 any remaining amounts payable for which the member has not made an
16 election pursuant to this subsection. An additional election or
17 contribution with respect to a portion of the amounts payable for the
18 member's additional contributions pursuant to section 38-771.01,
19 subsection F, paragraph 4 does not alter, amend or revoke an irrevocable
20 election already made pursuant to this subsection for any other portion of
21 the amounts payable for the member's additional contributions allowed by
22 section 38-771.01, subsection F, paragraph 4.

23 4. If on termination of the member's employment all amounts have
24 not been paid to ASRS pursuant to the member's irrevocable election
25 pursuant to this subsection, the member may pay ASRS, within thirty days
26 after the member's termination of employment and subject to other
27 limitations prescribed in this section, all or any portion of the unpaid
28 amounts as provided in subsection H of this section. These payments do
29 not alter, amend or revoke any irrevocable election already made pursuant
30 to this subsection with respect to any amount to be paid by the member's
31 employer while the member is employed by the member's employer.

32 5. Amounts paid by an employer pursuant to this subsection shall be
33 treated as employer contributions for the purpose of determining tax
34 treatment under the internal revenue code. The effective date of employer
35 payments pursuant to this subsection shall not be before the date ASRS
36 receives notification from the United States internal revenue service that
37 pursuant to section 414(h)(2) of the internal revenue code the amounts
38 paid by an employer pursuant to this subsection will not be included in
39 the member's gross income for income tax purposes until those amounts are
40 distributed by refund or retirement benefit payments.

41 6. Unless otherwise provided, member contributions paid by an
42 employer pursuant to this subsection are treated for all other purposes
43 under ASRS in the same manner and to the same extent as member
44 contributions that are not paid by an employer pursuant to this
45 subsection.

1 7. If a member transfers employment from one participating employer
2 with which the member has made an irrevocable election pursuant to this
3 subsection to another participating employer, the member and the successor
4 participating employer shall complete the terms of the irrevocable
5 election that the member made with the original participating employer.

6 E. The following limits apply to contributions to ASRS:

7 1. Except to the extent paragraphs 2 and 3 of this subsection apply
8 to certain contributions made by a member to ASRS and to the extent
9 permitted under section 414(v) of the internal revenue code, if
10 applicable, in any one limitation year, the annual additions contributed
11 or allocated to ASRS for or on behalf of a member shall not exceed the
12 lesser of either:

13 (a) \$40,000 or a larger amount that is prescribed by the board and
14 that is due to any cost of living adjustment announced by the United
15 States secretary of the treasury pursuant to section 415(d) of the
16 internal revenue code. The board shall increase the amount prescribed by
17 this subdivision as of the effective date of the increase announced by the
18 United States secretary of the treasury.

19 (b) One hundred percent of the member's compensation for the
20 limitation year. The compensation limit prescribed in this subdivision
21 does not apply to any contribution to ASRS for medical benefits after a
22 member's separation from service, within the meaning prescribed in section
23 401(h) or 419A(f)(2) of the internal revenue code, that is otherwise
24 treated as an annual addition.

25 2. Unless paragraph 4 of this subsection applies, for plan years
26 beginning on or after July 1, 1998, in any one limitation year, the annual
27 additions credited to ASRS for or on behalf of a member who makes
28 contributions to ASRS to purchase credited service pursuant to section
29 38-743, 38-744, 38-745 or 38-922 and with respect to which an irrevocable
30 election has not been made pursuant to subsection B of this section shall
31 not exceed the greater of either:

32 (a) The requirements of section 38-769. For the purposes of
33 applying the limits prescribed in section 38-769 under this subdivision,
34 the accrued benefit derived from the contributions shall be treated as an
35 annual benefit and the reduced limit for certain early retirement in
36 section 38-769, subsection C, paragraph 2 does not apply.

37 (b) Except as provided in paragraph 3 of this subsection, the
38 requirements of paragraph 1 of this subsection. The contributions shall
39 be treated as annual additions and any of the member's other annual
40 additions for the limitation year shall be taken into account. For the
41 purposes of applying the requirements of paragraph 1 of this subsection
42 under this subdivision, the percentage of compensation limit in
43 paragraph 1, subdivision (b) of this paragraph does not apply.

44 3. For plan years beginning on or after July 1, 1998, the
45 requirements of paragraph 1 of this subsection shall not be applied to
46 reduce the amount of credited service that may be purchased by an eligible

1 member pursuant to section 38-743, 38-744, 38-745 or 38-922 to an amount
2 that is less than the amount of credited service allowed to be purchased
3 pursuant to those sections on August 5, 1997 without the application of
4 any of the limits prescribed in this section or section 415 of the
5 internal revenue code. For the purposes of this paragraph, "eligible
6 member" means a person who first becomes a member of ASRS before July 1,
7 1999.

8 4. Member contributions to ASRS to purchase credited service
9 pursuant to section 38-743, 38-744 or 38-922 shall not be made by a member
10 if recognition of that service would cause a member to receive a
11 retirement benefit for the same service from ASRS and one or more other
12 retirement plans. This paragraph does not apply to either of the
13 following:

14 (a) Contributions made by an eligible member as defined in
15 paragraph 3 of this subsection, except that any service purchase by an
16 eligible member is subject to any other limitations, including limitations
17 on duplicative service purchase, otherwise provided in this article.

18 (b) Any member contributions with respect to which an irrevocable
19 election has been made by a member pursuant to subsection B of this
20 section, except that the service purchase is subject to any other
21 limitations, including limitations on duplicative service purchase,
22 otherwise provided in this article.

23 F. If a member's contributions are subject to the limitations of
24 subsection E of this section, the contributions shall be treated as being
25 made to a separate defined contribution plan. If the member's
26 contributions exceed the limits prescribed in subsection E of this section
27 when taking into account other member and employer contributions to ASRS
28 on behalf of the member for the limitation year, the amount to be paid by
29 the member shall be reduced to not exceed the limits prescribed in
30 subsection E of this section and the remaining amount shall be carried
31 forward to the next limitation year, unless the limits are exceeded in the
32 next limitation year. If the limits are exceeded in the next limitation
33 year, the procedure prescribed by this subsection shall be repeated until
34 all payments have been made.

35 G. If, after the application of subsection F of this section, the
36 annual additions on behalf of a member exceed the limitations prescribed
37 in subsection E of this section, ASRS shall dispose of excess amounts by
38 either of the following:

39 1. Returning to the member any contributions that are made by the
40 member and that are nondeductible under the internal revenue code.

41 2. Holding the amounts in a suspense account established pursuant
42 to subsection L of this section and allocating the amounts as either
43 member or employer contributions for the benefit of the member in the next
44 limitation year and before any further member or employer contributions
45 are made that would constitute annual additions made to a defined
46 contribution plan pursuant to section 415 of the internal revenue code.

1 ASRS shall allocate contributions as prescribed in this section, and the
2 amount allocated shall reduce the amount of the member or employer
3 contributions for the limitation year in which the allocation is made.

4 H. To the extent that a payment under this subsection does not
5 alter, amend or revoke any one or more currently effective irrevocable
6 elections made by the member pursuant to subsection B or D of this
7 section, the board may accept contributions made pursuant to section
8 38-771 or member contributions for the payment for credited service
9 purchases pursuant to section 38-738, 38-742, 38-743, 38-744, 38-745 or
10 38-922 or contributions made pursuant to section 38-771.01, subsection F,
11 paragraph 4, in whole or in part, by any one or a combination of the
12 following methods:

13 1. In lump sum payments.

14 2. Subject to the limitations prescribed in sections 401(a)(31) and
15 402(c) of the internal revenue code and subsection J of this section,
16 accepting a direct transfer of any eligible rollover distribution from one
17 or more:

18 (a) Retirement programs that are qualified under section 401(a) or
19 403(a) of the internal revenue code.

20 (b) Annuity contracts described in section 403(b) of the internal
21 revenue code.

22 (c) Eligible deferred compensation plans described in section
23 457(b) of the internal revenue code that are maintained by a state, a
24 political subdivision of a state or any agency or instrumentality of a
25 state or a political subdivision of a state.

26 3. Accepting from a member a direct transfer from an individual
27 retirement account or individual retirement annuity described in section
28 408(a) or 408(b) of the internal revenue code of an amount that would
29 otherwise be eligible to be rolled over to ASRS under the provisions of
30 section 408(d)(3)(A)(ii) of the internal revenue code if the amount had
31 been received by the member and would have otherwise been includible in
32 the member's gross income but for the direct transfer.

33 4. Providing by rule that the contributions may be made in
34 installment payments over a period of time.

35 I. To the extent that a payment under this subsection does not
36 alter, amend or revoke any one or more currently effective irrevocable
37 elections made by a member pursuant to subsection B or D of this section,
38 the board may accept a direct trustee-to-trustee transfer from retirement
39 programs that are qualified under section 401(a) or 403(a) of the internal
40 revenue code, an annuity contract described in section 403(b) of the
41 internal revenue code or an eligible deferred compensation plan described
42 in section 457(b) of the internal revenue code for the payment for
43 credited service purchases pursuant to section 38-742, 38-743, 38-744,
44 38-745 or 38-922. If a direct trustee-to-trustee transfer is from a
45 retirement program that is qualified under section 401(a) of the internal
46 revenue code and that includes a cash or deferred arrangement described in

1 section 401(k) of the internal revenue code, the member on whose behalf
2 the transfer was made is not eligible to retire under section 38-764,
3 subsection ~~H~~ I before the date the member attains fifty-nine and one-half
4 years of age.

5 J. ASRS shall separately account for all amounts rolled over or
6 directly transferred to ASRS. Subject to the limitations contained in the
7 internal revenue code applicable to the type of plan from which an
8 eligible rollover distribution is transferred, to the extent any eligible
9 rollover distribution that is directly transferred to ASRS consists wholly
10 or partially of amounts that would otherwise not be included in the
11 member's gross income if not so transferred, ASRS shall separately account
12 for the amounts so transferred, and earnings on those amounts, including
13 separately accounting for the portion of the amount that is includable in
14 gross income and the portion of the amount that is not includable in gross
15 income.

16 K. ASRS shall not grant credited service under section 38-738,
17 38-742, 38-743, 38-744 or 38-922 for contributions made pursuant to
18 subsection H of this section until the contributions are received by ASRS.
19 ASRS may assess interest or administrative charges attributable to any
20 installment payment made pursuant to subsection H, paragraph 4 of this
21 section to purchase credited service pursuant to section 38-738, 38-742,
22 38-743, 38-744 or 38-922. The interest or administrative charges shall be
23 added to the amount of contributions made to ASRS by the member. The
24 interest or administrative charges shall not be treated as member
25 contributions for any purposes under this article, and a member or a
26 member's beneficiary does not have a right to the return of the interest
27 or administrative charges pursuant to any other provision of this article.
28 Interest assessed pursuant to this subsection shall be at the rate
29 specified by the board pursuant to section 38-711, paragraph 2.

30 L. Notwithstanding any provision of this article to the contrary,
31 if the annual additions credited on behalf of an ASRS member during any
32 limitation year exceed the limits of section 415(c) of the internal
33 revenue code and subsection E of this section, ASRS may only correct the
34 excess pursuant to the employee plans compliance resolution system
35 prescribed in internal revenue service revenue procedure 2008-50 or any
36 future guidance issued by the internal revenue service, including the
37 preamble of the final treasury regulations issued under section 415 of the
38 internal revenue code.

39 M. If the member retires before all payments are made pursuant to
40 this section, ASRS shall calculate the member's benefits based only on the
41 payments actually made.

42 N. On satisfaction of the requirements of this section, ASRS shall
43 adjust the member's credited service history and add any additional
44 service credits acquired.

1 0. Annual additions on behalf of a member in any limitation year
2 shall be the sum of:

3 1. The amount of the member contributions made to ASRS to purchase
4 credited service pursuant to section 38-738, 38-743, 38-744, 38-745 or
5 38-922 and with respect to which an irrevocable election made pursuant to
6 subsection B of this section is not in effect.

7 2. The amount of member and employer contributions made to ASRS on
8 behalf of a member who elected or was deemed to have elected to receive
9 retirement benefits pursuant to section 38-771 or who is entitled to
10 benefits pursuant to section 38-771.01, except that, other than as
11 provided in subsection P of this section, corrective contributions shall
12 be considered annual additions for the limitation years to which the
13 contributions relate and interest and gains shall not be considered as
14 annual additions for the purpose of any limitation prescribed in this
15 article or in section 415 of the internal revenue code. If the corrective
16 contributions exceed the limit on annual additions for a limitation year
17 prior to the limitation year in which the corrective contributions are
18 contributed by the employer to ASRS, the retirement benefit attributable
19 to the excess corrective contributions shall be treated as an excess
20 benefit and shall be payable to the member as any other excess benefit is
21 payable pursuant to section 38-774, and the employer shall pay the excess
22 corrective contributions to the separate unfunded governmental excess
23 benefit arrangement administered by the board pursuant to section 38-774.

24 3. Any member or employer contributions made to ASRS or any other
25 plan that are treated as being made to a defined contribution plan
26 maintained by an employer of the member.

27 4. Any forfeitures, including any income attributable to
28 forfeitures, allocated for or on behalf of a member of ASRS or any other
29 plan that are treated as being allocated under a defined contribution plan
30 maintained by an employer of the member.

31 P. To the extent any portion of the subject benefits, if treated as
32 subject to the benefit limitations of section 415(b) of the internal
33 revenue code, exceed the applicable limitation on benefits pursuant to
34 section 38-769 for the form of distribution, a percentage of corrective
35 contributions and interest and gains shall be treated as annual additions
36 for the limitation year in which contributed by the employer to
37 ASRS. This percentage of corrective contributions and interest and gains
38 shall be equal to the percentage determined by dividing the subject
39 benefits that exceed the limitation on benefits pursuant to section 38-769
40 by the subject benefits. If the corrective contributions and interest and
41 gains that are treated as annual additions for the limitation year in
42 which the corrective contributions and interest and gains are contributed
43 by the employer to ASRS exceed the limit on annual additions for the
44 limitation year, the retirement benefit attributable to the excess shall
45 be treated as an excess benefit and shall be payable to the member as any
46 other excess benefit is payable pursuant to section 38-774, and the

1 employer shall pay the excess to the separate unfunded governmental excess
2 benefit arrangement administered by the board pursuant to section 38-774.

3 Q. Subsection 0 of this section shall be construed and interpreted
4 in accordance with section 415 of the internal revenue code and the final
5 treasury regulations issued under that section.

6 R. For the purposes of this section:

7 1. "Compensation" has the same meaning prescribed in section
8 38-769.

9 2. "Corrective contributions" means any contributions that are paid
10 by an employer pursuant to section 38-771.01, subsection C, paragraph 3
11 and that are attributable to employer contributions that should have been
12 made for prior limitation years.

13 3. "Defined contribution plan" has the same meaning prescribed in
14 section 38-769.

15 4. "Eligible rollover distribution" has the same meaning prescribed
16 in section 38-770.

17 5. "Interest and gains" means employer contributions to ASRS
18 pursuant to section 38-771.01, subsection C, paragraphs 3, 5 and 6 that
19 are attributable to earnings and supplemental credits that would have been
20 earned or added to a member's annuity payment.

21 6. "Limitation year" has the same meaning prescribed in section
22 38-769.

23 7. "Participating employer" means an employer that participates in
24 ASRS.

25 8. "Subject benefits" means the retirement benefit received by a
26 member pursuant to section 38-771.01 minus the sum of the portion of such
27 retirement benefit attributable to contributions that were made by or on
28 behalf of the member to the defined contribution program administered by
29 ASRS for periods before July 1, 1981 and contributions that were made by
30 the member after June 30, 1981 and that were not picked up as provided in
31 section 414(h)(2) of the internal revenue code.

32 Sec. 2. Section 38-764, Arizona Revised Statutes, is amended to
33 read:

34 38-764. Commencement of retirement; payment of retirement
35 benefits; lump sum payments

36 A. Retirement is deemed to commence on a date elected by the
37 member. That date shall not be earlier than the day following the date of
38 termination of employment, the date ASRS receives the member's completed
39 retirement application or the date specified by the member pursuant to
40 subsection ~~H~~ I of this section.

41 B. All retirement benefits:

42 1. Are normally payable in monthly installments beginning on the
43 commencement of retirement as prescribed in subsection A of this section.

44 2. Continue to and include the first day of the month in which
45 death occurs or continue until the date of their cessation in accordance
46 with any optional method of payment that may have been elected.

1 C. Except as provided in subsection D of this section, at the
2 request of a retired member, a retired member's guardian or a court
3 appointed conservator, the board may pay any increase in retirement
4 benefits or the entire retirement benefit in a lump sum payment based on
5 the actuarial present value of the benefit or the increase in the benefit
6 if the payment of the benefits would result in ineligibility, reduction or
7 elimination of social service programs provided to the member by this
8 state, its political subdivisions or the federal government.

9 D. The board may pay the entire retirement benefit in a lump sum
10 pursuant to subsection C of this section only if continued membership in
11 ASRS will result in additional requests for lump sum payments based on
12 cost of living adjustments or the establishment of minimum benefit awards.

13 E. If any benefit that is payable as a series of periodic payments
14 amounts to less than a threshold amount determined by the board, the
15 board, in its sole discretion and based on uniform rules it establishes,
16 may order the amount to be paid in a lump sum. A member who receives a
17 lump sum payment pursuant to this subsection remains a member of ASRS and
18 is eligible for the coverage provided pursuant to section 38-782 and the
19 payment pursuant to section 38-783 but is not eligible for a benefit
20 increase pursuant to section 38-767.

21 F. All distributions of retirement benefits to a member shall be
22 distributed within the required distribution provisions of section
23 401(a)(9) of the internal revenue code and the regulations that are issued
24 under that section by the United States secretary of the treasury as
25 prescribed in section 38-775.

26 G. **NOTWITHSTANDING SUBSECTION H OF THIS SECTION**, a member may elect
27 to cancel the effective date of retirement within thirty days of
28 retirement or before the member's receipt of retirement benefits,
29 whichever is later.

30 **H. A MEMBER MAY ELECT TO MAKE CHANGES TO A RETIREMENT APPLICATION**
31 **BEFORE THE MEMBER'S RETIREMENT DATE. A MEMBER MAY EXERCISE A ONETIME**
32 **ELECTION TO MAKE CHANGES TO THE RETIREMENT APPLICATION WITHIN SIXTY DAYS**
33 **AFTER THE MEMBER'S RETIREMENT DATE. THE MEMBER MAY NOT CHANGE THE**
34 **MEMBER'S RETIREMENT DATE, AND ANY CHANGES MADE TO THE RETIREMENT**
35 **APPLICATION ARE RETROACTIVE TO THE MEMBER'S RETIREMENT DATE.**

36 ~~H.~~ I. A member who attains a normal retirement date may retire at
37 any time without terminating employment if the member is employed for less
38 than the hours required for active membership pursuant to section 38-711,
39 paragraph 23, subdivision (b).

APPROVED BY THE GOVERNOR APRIL 13, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2023.