

REFERENCE TITLE: ASRS; retirement application; changes

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

# HB 2009

Introduced by  
Representative Livingston

## 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).