

House Engrossed

ASRS; contingent annuitants

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
Second Regular Session  
2024

# HOUSE BILL 2206

AN ACT

AMENDING SECTIONS 38-760 AND 38-783, 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 38-760, Arizona Revised Statutes, is amended to  
3 read:

4 38-760. Optional forms of retirement benefits

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

7 B. The optional retirement benefits available under this section  
8 include the following:

9 1. Joint and survivor life annuity in a reduced amount payable to  
10 the retiring member during life, with the provisions that after the  
11 member's death all, two-thirds or one-half of the retirement income, as  
12 the member elects, shall be continued during the lifetime of the  
13 contingent annuitant designated by the retiring member subject to the  
14 restrictions prescribed in section 38-764. The amount of retirement  
15 income shall be the actuarial equivalent of the retirement income to which  
16 the member would be entitled under normal or early retirement. The  
17 election in a manner prescribed by the board shall name the contingent  
18 annuitant. The election may be revoked at any time before the member's  
19 effective date of retirement. At any time after benefits have commenced,  
20 the member may name a different contingent annuitant or rescind the  
21 election by written notice to the board as follows:

22 (a) If a different contingent annuitant is named, the life annuity  
23 of the member under the same joint and survivor life annuity option  
24 previously elected shall be adjusted to the actuarial equivalent of the  
25 original annuity, based on the age of the new contingent annuitant. The  
26 adjustment shall include all postretirement increases in retirement income  
27 that are authorized by law after the member's date of retirement. Payment  
28 of this adjusted life annuity shall continue under the provisions of the  
29 option previously elected by the member.

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

37 (c) If a member whose original date of retirement is before July 1,  
38 2008 rescinds the joint and survivor life annuity option previously  
39 elected and receives the straight life annuity pursuant to subdivision (b)  
40 of this paragraph, the member may again elect the same joint and survivor  
41 life annuity option previously elected subject to the same restrictions  
42 prescribed in subdivision (a) of this paragraph.

43 (d) A member whose original date of retirement is on or after July  
44 1, 2008 may exercise a ~~one-time~~ ONETIME election to rescind the joint and  
45 survivor life annuity option elected by the member if the contingent

1 annuitant dies or ceases to be a contingent annuitant pursuant to the  
2 terms of a qualified domestic relations order.

3 (e) If the member's contingent annuitant is the member's current  
4 spouse, the member shall obtain the consent of the contingent annuitant  
5 pursuant to section 38-776 before the member names a new contingent  
6 annuitant or before the member rescinds the election, except that consent  
7 is not required if the rescission is pursuant to subdivision (d) of this  
8 paragraph.

9 2. A period certain and life annuity actuarially reduced with  
10 payments for five, ten or fifteen years that are not dependent on the  
11 continued lifetime of the member but whose payments continue for the  
12 member's lifetime beyond the five, ten or fifteen year period. At the  
13 time of electing this option, the member shall name ~~a~~ ONE OR MORE period  
14 certain ~~beneficiary or beneficiaries~~ CONTINGENT ANNUITANTS who are  
15 entitled to receive the payments for any portion of the period certain  
16 beyond the lifetime of the member. The member may name a different  
17 ~~beneficiary~~ CONTINGENT ANNUITANT at any time. If no ~~beneficiary~~  
18 CONTINGENT ANNUITANT survives the member, any remaining payments are the  
19 property of the member's estate. A member who retires after August 9,  
20 2001 and before July 1, 2008 may rescind the election of a period certain  
21 and life annuity. If the member rescinds the election of a period certain  
22 and life annuity, the member shall thereafter receive a straight life  
23 annuity equal to what the member would otherwise be entitled to receive if  
24 the member had not elected the period certain and life annuity option,  
25 including all postretirement increases in retirement income that are  
26 authorized by law after the date of retirement. The increased payment  
27 shall continue during the remainder of the member's lifetime. If the  
28 member reverts to a straight life annuity pursuant to this paragraph, the  
29 member may again elect a period certain and life annuity subject to the  
30 same provisions of the period certain and life annuity previously elected  
31 by the member. If the member's contingent annuitant is the member's  
32 current spouse, the member shall obtain the consent of the contingent  
33 annuitant pursuant to section 38-776 before the member rescinds the  
34 election of a period certain and life annuity or again elects a period  
35 certain and life annuity. A member whose original date of retirement is  
36 on or after July 1, 2008 may exercise a ~~one-time~~ ONETIME election to  
37 rescind the period certain and life annuity option elected by the member  
38 if the ~~beneficiary~~ CONTINGENT ANNUITANT dies or ceases to be a ~~beneficiary~~  
39 CONTINGENT ANNUITANT pursuant to the terms of a qualified domestic  
40 relations order or at the expiration of the member's period certain term.

41 3. Beginning on July 1, 2002, a lump sum payment equal to not more  
42 than thirty-six months of the member's retirement benefits based on the  
43 actuarial equivalent of the retirement income to which the member would be  
44 entitled under normal or early retirement. The member's benefit shall be  
45 actuarially reduced to provide for the lump sum payment. The lump sum

1 payment shall be made at the time of retirement. If a member has received  
2 an overpayment pursuant to section 38-765 or 38-797.08, ASRS shall  
3 withhold the overpayment amount plus any required income tax withholding  
4 from the partial lump sum. Any benefit increase granted to a member who  
5 elects a lump sum payment pursuant to this paragraph is subject to the  
6 following conditions:

7 (a) If the benefit increase is a percentage increase of the  
8 member's retirement benefit, the increase shall be based on the  
9 actuarially reduced retirement benefit of the member.

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

13 4. Other forms of actuarially reduced optional benefits prescribed  
14 by the board.

15 C. A member who is married at the time of retirement shall elect a  
16 joint and survivor life annuity pursuant to subsection B, paragraph 1 of  
17 this section, and the member's current spouse shall be the contingent  
18 annuitant unless the member's current spouse consents to a waiver of this  
19 requirement pursuant to section 38-776 or the election would violate  
20 another law, an existing contract or a court order. If the married member  
21 does not elect a type of joint and survivor life annuity for the member's  
22 current spouse and the member's current spouse has not waived the  
23 requirements of this subsection, ASRS shall cancel the member's  
24 retirement. The member may reapply for retirement at any time in a manner  
25 established by ASRS.

26 Sec. 2. Section 38-783, Arizona Revised Statutes, is amended to  
27 read:

28 38-783. Retired members; dependents; health insurance;  
29 premium payment; separate account; definitions

30 A. Subject to subsections G, H and I of this section, the board  
31 shall pay from ASRS assets part of the single coverage premium of any  
32 health and accident insurance for each retired member, contingent  
33 annuitant or member with a disability of ASRS if the member elects to  
34 participate in the coverage provided by ASRS or section 38-651.01 or  
35 elects to participate in a health and accident insurance program provided  
36 or administered by an employer or paid for, in whole or in part, by an  
37 employer to an insurer. A contingent annuitant must be receiving a  
38 monthly retirement benefit from ASRS in order to obtain any premium  
39 payment provided by this section. The board shall pay:

40 1. Up to \$150 per month for a member of ASRS who is not eligible  
41 for medicare if the retired member or member with a disability has ten or  
42 more years of credited service.

43 2. Up to \$100 per month for each member of ASRS who is eligible for  
44 medicare if the retired member or member with a disability has ten or more  
45 years of credited service.

1           B. Subject to subsections G, H and I of this section, the board  
2 shall pay from ASRS assets part of the family coverage premium of any  
3 health and accident insurance for a retired member, contingent annuitant  
4 or member with a disability of ASRS who elects family coverage and who  
5 otherwise qualifies for payment pursuant to subsection A of this section.  
6 If a member of ASRS and the member's spouse are both either retired or  
7 have disabilities under ASRS and apply for family coverage, the member who  
8 elects family coverage is entitled to receive the payments under this  
9 section as if they were both applying under a single coverage premium  
10 unless the payment under this section for family coverage is greater.  
11 Payment under this subsection is in the following amounts:

12           1. Up to \$260 per month if the member of ASRS and one or more  
13 dependents are not eligible for medicare.

14           2. Up to \$170 per month if the member of ASRS and one or more  
15 dependents are eligible for medicare.

16           3. Up to \$215 per month if either:

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

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

21           C. In addition each retired member, contingent annuitant or member  
22 with a disability of ASRS with less than ten years of credited service and  
23 a dependent of such a retired member, contingent annuitant or member with  
24 a disability who elects to participate in the coverage provided by ASRS or  
25 section 38-651.01 or who elects to participate in a health and accident  
26 insurance program provided or administered by an employer or paid for, in  
27 whole or in part, by an employer to an insurer is entitled to receive a  
28 proportion of the full benefit prescribed by subsection A or B of this  
29 section according to the following schedule:

30           1. 9.0 to 9.9 years of credited service, ninety percent.

31           2. 8.0 to 8.9 years of credited service, eighty percent.

32           3. 7.0 to 7.9 years of credited service, seventy percent.

33           4. 6.0 to 6.9 years of credited service, sixty percent.

34           5. 5.0 to 5.9 years of credited service, fifty percent.

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

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

39           E. Notwithstanding subsections A, B and C of this section, for a  
40 member who retires on or after August 2, 2012, the board shall not make a  
41 payment under this section to a retired member, contingent annuitant or  
42 member with a disability who is enrolled in an employer's active employee  
43 group health and accident insurance program either as the insured or as a  
44 dependent, except that if the retired member, contingent annuitant or  
45 member with a disability is enrolled as a dependent and the premium paid

1 to the employer's active employee group health and accident insurance  
2 program is not subsidized by the employer, the retired member, contingent  
3 annuitant or member with a disability is entitled to receive the amount  
4 provided in subsection A of this section.

5 F. The board shall establish a separate account that consists of  
6 the benefits provided by this section. The board shall not use or divert  
7 any part of the corpus or income of the account for any purpose other than  
8 the provision of and the cost of administering the benefits under this  
9 section or the self-insurance program pursuant to section 38-782 unless  
10 the liabilities of ASRS to provide the benefits are satisfied. If the  
11 liabilities of ASRS to provide the benefits described in this section and  
12 section 38-782 are satisfied, the board shall return any amount remaining  
13 in the account to the employer.

14 G. Payment of the benefits provided by this section is subject to  
15 the following conditions:

16 1. The payment of the benefits is subordinate to the payment of  
17 retirement benefits payable by ASRS.

18 2. The total of contributions for the benefits and actual  
19 contributions for life insurance protection, if any, shall not exceed  
20 twenty-five percent of the total actual employer and employee  
21 contributions to ASRS, less contributions to fund past service credits,  
22 after the day the account is established.

23 3. The board shall deposit the benefits provided by this section in  
24 the account.

25 4. The contributions by the employer to the account shall be  
26 reasonable and ascertainable.

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

31 1. The optional premium benefit payment shall be an amount  
32 prescribed by subsection A, B or C of this section that is actuarially  
33 reduced to the retiring member for life. The amount of the optional  
34 premium benefit payment shall be the actuarial equivalent of the premium  
35 benefit payment to which the retired member would otherwise be entitled.  
36 The election in a manner prescribed by the board shall name the contingent  
37 annuitant and may be revoked at any time before the retiring member's  
38 effective date of retirement. At any time after benefits have commenced,  
39 the member may name a different contingent annuitant or rescind the  
40 election by written notice to the board as follows:

41 (a) If the retired member names a different contingent annuitant,  
42 the optional premium benefit payment shall be adjusted to the actuarial  
43 equivalent of the original premium benefit payment based on the age of the  
44 new contingent annuitant. The adjustment shall include all postretirement  
45 increases or decreases in amounts prescribed by subsection A, B or C of

1 this section that are authorized by law after the retired member's date of  
2 retirement. Payment of this adjusted premium benefit payment shall  
3 continue under the provisions of the optional premium benefit payment  
4 previously elected by the retired member. A retired member cannot name a  
5 different contingent annuitant if the retired member has at any time  
6 rescinded the optional form of health and accident insurance premium  
7 benefit payment.

8 (b) If the retired member rescinds the election, the retired member  
9 shall thereafter receive the premium benefit payment that the retired  
10 member would otherwise be entitled to receive if the retired member had  
11 not elected the optional premium benefit payment, including all  
12 postretirement increases or decreases in amounts prescribed by subsection  
13 A, B or C of this section that are authorized by law after the member's  
14 date of retirement. The increased benefit payment shall continue during  
15 the remainder of the retired member's lifetime. The decision to rescind  
16 shall be irrevocable.

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

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

27 (b) The retired member was receiving a reduced premium benefit  
28 payment based on an amount prescribed in subsection A or C of this section  
29 and the contingent annuitant is eligible for single health and accident  
30 insurance coverage, the contingent annuitant is entitled to receive a  
31 premium benefit payment based on an amount prescribed in subsection A or C  
32 of this section times the reduction factor applied to the retired member's  
33 premium benefit payment times the joint and survivor option reduction  
34 factor elected by the retired member at the time of retirement pursuant to  
35 section 38-760, subsection B, paragraph 1.

36 (c) The retired member was receiving a reduced premium benefit  
37 payment based on an amount prescribed in subsection B or C of this section  
38 and the contingent annuitant is not eligible for family health and  
39 accident insurance coverage, the contingent annuitant is entitled to  
40 receive a premium benefit payment based on an amount prescribed in  
41 subsection A or C of this section times the reduction factor applied to  
42 the retired member's premium benefit payment times the joint and survivor  
43 option reduction factor elected by the retired member at the time of  
44 retirement pursuant to section 38-760, subsection B, paragraph 1.

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

5 1. The optional premium benefit payment shall be an amount  
6 prescribed by subsection A, B or C of this section that is actuarially  
7 reduced with payments for five, ten or fifteen years that are not  
8 dependent on the continued lifetime of the retired member but whose  
9 payments continue for the retired member's lifetime beyond the five, ten  
10 or fifteen year period. The election in a manner prescribed by the board  
11 shall name ~~the~~ ONE contingent annuitant TO RECEIVE THE OPTIONAL PREMIUM  
12 BENEFIT PAYMENT and may be revoked at any time before the retiring  
13 member's effective date of retirement. At any time after benefits have  
14 commenced, the member may name a different contingent annuitant or rescind  
15 the election by written notice to the board. If the retired member  
16 rescinds the election, the retired member shall thereafter receive the  
17 premium benefit payment that the retired member would otherwise be  
18 entitled to receive if the retired member had not elected the optional  
19 premium benefit payment, including all postretirement increases or  
20 decreases in amounts prescribed by subsection A, B or C of this section  
21 that are authorized by law after the member's date of retirement. The  
22 increased benefit payment shall continue during the remainder of the  
23 retired member's lifetime. The decision to rescind shall be irrevocable.

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

25 (a) The retired member was receiving a reduced premium benefit  
26 payment based on an amount prescribed in subsection B or C of this section  
27 and the contingent annuitant is eligible for family health and accident  
28 insurance coverage, the contingent annuitant is entitled to receive a  
29 premium benefit payment based on an amount prescribed in subsection B or C  
30 of this section times the period certain and life option reduction factor  
31 elected by the retired member at the time of retirement pursuant to  
32 section 38-760, subsection B, paragraph 2.

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

41 (c) The retired member was receiving a reduced premium benefit  
42 payment based on an amount prescribed in subsection B or C of this section  
43 and the contingent annuitant is not eligible for family health and  
44 accident insurance coverage, the contingent annuitant is entitled to  
45 receive a premium benefit payment based on an amount prescribed in



1 subsection A or C of this section times the period certain and life option  
2 reduction factor elected by the retired member at the time of retirement  
3 pursuant to section 38-760, subsection B, paragraph 2.

4 J. If, at the time of retirement, a retiring member does not elect  
5 to receive a reduced premium benefit payment pursuant to subsection H or I  
6 of this section, the retired member's contingent annuitant is not eligible  
7 at any time for the optional premium benefit payment.

8 K. If a member who is eligible for benefits pursuant to this  
9 section forfeits the member's interest in the account before the  
10 termination of ASRS, an amount equal to the amount of the forfeiture shall  
11 be applied as soon as possible to reduce employer contributions to fund  
12 the benefits provided by this section.

13 L. A contingent annuitant is not eligible for any premium benefit  
14 payment if the contingent annuitant was not enrolled in an eligible health  
15 and accident insurance plan at the time of the retired member's death or  
16 if the contingent annuitant is not the dependent beneficiary or insured  
17 surviving dependent as provided in section 38-782.

18 M. For the purposes of this section:

19 1. "Account" means the separate account established pursuant to  
20 subsection F of this section.

21 2. "Credited service" includes prior service.

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

25 4. "Subsidized" means a portion of the total premium is paid by the  
26 employer, but does not necessarily mean a plan in which the employer uses  
27 blended rates to determine the total premium.