

**FILED**

State of Arizona  
Senate  
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1996

**Jane Dee Hull  
Secretary of State**

CHAPTER 135

**SENATE BILL 1306**

AN ACT

AMENDING SECTION 38-771, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

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

2 Section 1. Section 38-771, Arizona Revised Statutes, is amended to  
3 read:

4 38-771. Benefit options for transferred defined contribution  
5 program members; definitions

6 A. On or before December 31, 1995 a nonretired ASRS member who was a  
7 member of the defined contribution program administered by ASRS and who was  
8 transferred to the defined benefit program established by this article on  
9 July 1, 1981 shall elect to receive either retirement benefits provided under  
10 this section or retirement benefits as otherwise provided by this article.  
11 An election under this subsection is irrevocable. A member who fails to make  
12 an election under this subsection is deemed to have elected to receive  
13 retirement benefits provided under this section.

14 B. A member who elects to receive retirement benefits provided under  
15 this section is eligible only for those benefits.

16 C. If a member elects to receive retirement benefits provided under  
17 this section, the member shall elect to receive retirement benefits based on  
18 either of the following:

19 1. The contributions paid by the member and member's employer, plus  
20 all earnings attributed to the member's retirement account, through the  
21 member's retirement date.

1           2. EXCEPT AS PROVIDED IN SUBSECTIONS E AND F OF THIS SECTION,  
2 contributions paid by the member and member's employer at the contribution  
3 rate in effect before July 1, 1975 and an employee and employer contribution  
4 rate of seven per cent calculated from July 1, 1975, plus all earnings  
5 attributed to the member's retirement account, through the member's  
6 retirement date.

7           D. Beginning January 1, 1996 and notwithstanding sections 38-736 and  
8 38-737, members who elect to receive retirement benefits provided under this  
9 section and their employers shall each make contributions at a rate of seven  
10 per cent of the member's compensation.

11           E. Subject to subsection F of this section, if a member elects to  
12 receive retirement benefits based on subsection C, paragraph 2 of this  
13 section, both the member and the member's employer shall pay to ASRS on or  
14 before ~~December 31, 1995~~ JUNE 30, 1999 or the member's retirement date,  
15 whichever is earlier, the difference between the contributions made and seven  
16 per cent of the member's gross compensation from July 1, 1984 through  
17 December 31, 1995 or the member's retirement date, whichever is earlier.  
18 Interest and supplemental credits for the additional contributions shall be  
19 credited to the member's retirement account and charged to the assets of ASRS  
20 at the time the additional contributions are paid. IF A MEMBER MAKES  
21 ADDITIONAL CONTRIBUTIONS FOR LESS THAN THE FULL AMOUNT REQUIRED BY THIS  
22 SUBSECTION:

23           1. THE MEMBER'S EMPLOYER SHALL PAY ONLY THE REDUCED AMOUNT.

24           2. THE MEMBER'S BENEFITS SHALL BE CALCULATED ONLY WITH REFERENCE TO  
25 THE CONTRIBUTIONS ACTUALLY MADE.

26           F. Contributions made to ASRS by a member and the member's employer  
27 pursuant to subsections D and E of this section shall not exceed, in any one  
28 limitation year, the limits of section 38-747. If for any reason, the member  
29 and employer contributions to ASRS made pursuant to subsections D and E of  
30 this section would, at the time such contributions are due, taking into  
31 account other employer and member contributions due to ASRS for the  
32 limitation year, exceed the limits of section 38-747, the amount to be paid  
33 by the member and the member's employer under subsection E of this section  
34 shall be proportionately reduced and such reduction SHALL BE carried into the  
35 succeeding limitation year and paid by the member and the member's employer  
36 within thirty days of the beginning of such limitation year, unless the  
37 limits of section 38-747 would again be exceeded, in which event this  
38 procedure will be repeated until all such contributions have been made. If  
39 more than one employer is contributing on behalf of a member, the reduction  
40 and contributions in succeeding years shall be proportionately allocated  
41 among the employers. If a member retires prior to making all contributions  
42 under subsections D and E of this section because of the limitations of  
43 section 38-747, the member's benefits under this section shall be calculated  
44 only with reference to the contributions actually made. If a retired member

1 is engaged to work and commences active membership in ASRS as provided in  
2 subsection G, paragraph 5 of this section, the member shall not be eligible  
3 to again make contributions under subsection D of this section. On the  
4 termination of employment of the member, the member's benefits under this  
5 section shall be reinstated as provided in subsection G, paragraph 6 of this  
6 section. For purposes of this subsection, ~~the term~~ "limitation year" has the  
7 same meaning prescribed in section 38-769.

8 G. A member who elects to receive retirement benefits provided under  
9 this section is subject to conditions that are equivalent to those imposed  
10 before the member's transfer from the defined contribution program  
11 administered by ASRS to the defined benefit program established by this  
12 article. Those conditions include the following:

13 1. A member who attains sixty-five years of age may retire and, on  
14 application, shall receive a life pension payable in equal installments  
15 derived from the member's prior service credit, if any, together with a life  
16 annuity derived from the member's retirement account. The annuity is payable  
17 in equal monthly installments. The amount of the installments is based on  
18 the age of the member at the date of commencement of retirement and is  
19 determined by the interest and life expectancy tables applicable at the date  
20 of the commencement of retirement. If a retired member who is receiving  
21 retirement benefits provided under this section dies before receipt of  
22 annuity payments in an amount equal to the member's retirement account  
23 balance immediately before retirement, ASRS shall pay the member's designated  
24 beneficiary or estate in a lump sum the difference between the retirement  
25 account balance and the total amount of annuity payments received.

26 2. A member who attains sixty-five years of age with at least five  
27 years of creditable service may retire and, on application, may elect to  
28 receive in lieu of the member's prior service pension, if any, and the  
29 annuity payments from the member's retirement account as provided in  
30 paragraph 1 of this subsection the actuarial equivalent of those retirement  
31 benefits under one of the options established by the board.

32 3. A member who attains sixty years of age with at least five years  
33 of creditable service may retire and, on application, receive a life annuity  
34 derived from the member's retirement account and the actuarial equivalent of  
35 the member's prior service pension payable concurrently with the life  
36 annuity. The pension and annuity shall be determined and paid in the manner  
37 set forth in this subsection.

38 4. In lieu of the retirement benefits provided under this subsection,  
39 on application, a member may elect to receive the actuarial equivalent of  
40 those retirement benefits under one of the options established by the board.

41 5. If a retired member who is receiving retirement benefits provided  
42 under this section is engaged to work by an employer for twenty or more weeks  
43 in a fiscal year and twenty hours or more per week and is required or elects  
44 to be covered by the defined benefit program established by this article, the

1 retired member commences active membership in the defined benefit program and  
2 the member's retirement benefit payments under this section are suspended  
3 until the member terminates employment.

4 6. On termination of employment of a retired member previously  
5 receiving retirement benefits provided under this section, ASRS shall  
6 reinstate the member's retirement benefits provided under this section and  
7 the member is entitled to receive retirement benefits as provided in section  
8 38-760 for the credited service earned by the member after the member's  
9 active membership in the defined benefit program established pursuant to this  
10 article commenced.

11 H. ASRS shall handle all retirement accounts of members who elect  
12 retirement benefits provided under this section and all member and employer  
13 contributions attributable to those members in the same manner as retirement  
14 accounts and contributions that are part of the defined contribution program  
15 administered by ASRS. Retirement accounts of members who elect to receive  
16 retirement benefits provided under this section are eligible for interest and  
17 supplemental credits on the same basis as members who retired under the  
18 defined contribution program administered by ASRS.

19 I. The election of retirement benefits by a member pursuant to this  
20 section is a waiver of all claims and demands by the member that the  
21 retirement benefits are less than the amount of retirement benefits payable  
22 to the member under the defined contribution program administered by ASRS if  
23 the member had remained a member of the defined contribution program  
24 administered by ASRS.

25 J. For purposes of this section:

26 1. "Creditable service" means service after April 8, 1953 in a  
27 position not subject to the defined contribution program administered by  
28 ASRS, prior service and membership service.

29 2. "Member's employer" means an employer who compensated the member  
30 during a period when the member's contributions were less than seven per  
31 cent.

32 3. "Pension" means equal monthly installments that are derived from  
33 a member's prior service credits and that are payable during the member's  
34 lifetime after retirement.

35 4. "Prior service" means service for this state or a political  
36 subdivision before membership in the defined contribution program  
37 administered by ASRS.

38 5. "Prior service credits" means the amount that is allowed for  
39 services before membership in the defined contribution program administered  
40 by ASRS and that is payable as a pension on retirement.

41 6. "Retirement account" means the combined member and employer  
42 contributions with interest or earnings on the contributions including any  
43 allocations credited as employer contributions.

1           7. "Service" means any compensated employment by the state or a  
2 political subdivision and includes periods of nonpaid leave, including  
3 military leave, provided employment has not been terminated at the  
4 commencement of the leave period, and employment is state service for  
5 retirement purposes, or service for any political subdivision establishing  
6 a defined contribution program administered by the ASRS.

7           Sec. 2. Retroactivity

8           This act applies retroactively to April 17, 1995.

APPROVED BY THE GOVERNOR APRIL 9, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 1996