House Engrossed Senate Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 264

SENATE BILL 1407

AN ACT

AMENDING SECTIONS 38-711 AND 38-714, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-722; AMENDING SECTION 38-742, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-750; AMENDING SECTIONS 38-765 AND 38-797.02, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-711, Arizona Revised Statutes, is amended to read:

38-711. Definitions

In this article, unless the context otherwise requires:

1. "Active member" means a member as defined in paragraph 23, subdivision (b) of this section who satisfies the eligibility criteria prescribed in section 38-727 and who is currently making member contributions as prescribed in section 38-736.

2. "Actuarial equivalent" means equality in value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest rate assumptions approved from time to time by the board.

3. "ASRS" means the Arizona state retirement system established by this article.

4. "Assets" means the resources of ASRS including all cash, investments or securities.

5. "Average monthly compensation" means:

(a) For a member whose membership in ASRS commenced before January 1, 1984 and who left the member's contributions on deposit or reinstated forfeited credited service pursuant to section 38-742 for a period of employment that commenced before January 1, 1984, the monthly average of compensation on which contributions were remitted during a period of sixty consecutive months during which the member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The sixty consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than sixty consecutive months, the average monthly compensation is based on the total consecutive months worked. Payments for accumulated vacation or annual leave, sick leave, compensatory time or other forms of termination pay which, ~~prior to the effective date of the amendment to this section~~ BEFORE AUGUST 12, 2005, constitute compensation for members whose membership in ASRS commenced before January 1, 1984, do not cease to be included as compensation if paid in the form of nonelective employer contributions under a 26 United States Code section 403(b) plan ~~so long as~~ IF all payments of employer and employee contributions are made at the time of termination. Contributions shall be made to ASRS on these amounts pursuant to sections 38-735, 38-736 and 38-737.

(b) Effective July 1, 1985, the monthly average of compensation on which contributions were remitted during a period of thirty-six consecutive months during which a member receives the highest compensation within the last one hundred twenty months of credited service. Any month for which no contributions are reported to ASRS or that falls within a period of nonpaid

or partially paid leave of absence or sabbatical leave shall be excluded from the computation. The thirty-six consecutive months may entirely precede, may be both before and after or may be completely after any excluded months. If the member was employed for less than thirty-six consecutive months, the average monthly compensation shall be based on the total consecutive months worked. This subdivision applies only to members whose membership in ASRS was effective after December 31, 1983 or who agree in writing as a binding condition of eligibility for being granted the benefit advantages available under this subdivision to have their benefit computed on the basis of the definition of compensation.

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

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

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

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

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

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

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

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

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

(a) Annualized compensation of the ~~full~~ TYPICAL pay period AMOUNT immediately before the date of a request to ASRS to purchase credited service pursuant to section 38-743, 38-744 or 38-745. THE TYPICAL PAY PERIOD AMOUNT SHALL BE DETERMINED BY TAKING THE FIVE PAY PERIODS IMMEDIATELY BEFORE THE DATE OF A REQUEST, DISREGARDING THE HIGHEST AND LOWEST COMPENSATION AMOUNT PAY PERIODS AND AVERAGING THE THREE REMAINING PAY PERIODS.

(b) Annualized compensation of the partial year, DISREGARDING THE FIRST COMPENSATION AMOUNT PAY PERIOD, if the member has less than twelve months total credited service on the date of a request to purchase credited service pursuant to section 38-743, 38-744 or 38-745.

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

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

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

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

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

13. "Employer" means:

(a) This state.

(b) Participating political subdivisions.

(c) Participating political subdivision entities.

14. "Employer contributions" means all amounts paid into ASRS by an employer on behalf of a member.

15. "Fiscal year" means the period from July 1 of any year to June 30 of the following year.

16. "Inactive member" means a member who previously made contributions to ASRS and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in ASRS.

(c) Is not currently making contributions to ASRS.

(d) Has not withdrawn contributions from ASRS.

17. "Interest" means the assumed actuarial investment earnings rate approved by the board.

18. "Internal revenue code" means the United States internal revenue code of 1986, as amended.

19. "Investment management" means the persons, companies, banks, insurance company investment funds, mutual fund companies, management or any combinations of those entities that are appointed by ASRS and that have responsibility and authority for investment of the monies of ASRS.

20. "Late retirement" means retirement after normal retirement.

21. "Leave of absence" means any unpaid leave authorized by the employer, including leaves authorized for sickness or disability or to pursue education or training.

22. "Life annuity" means equal monthly installments payable during the member's lifetime after retirement.

23. "Member":

(a) Means any employee of an employer on the effective date.

(b) Means all employees of an employer who are eligible for membership pursuant to section 38-727 and who are engaged to work at least twenty weeks in each fiscal year and at least twenty hours each week.

(c) Means any person receiving a benefit under ASRS.

(d) Means any person who is a former active member of ASRS and who has not withdrawn contributions from ASRS pursuant to section 38-740.

(e) Does not include any employee of an employer who is otherwise eligible pursuant to this article and who begins service in a limited appointment for not more than eighteen months on or after July 1, 1979. If the employment exceeds eighteen months, the employee shall be covered by ASRS as of the beginning of the nineteenth month of employment. In order to be excluded under this subdivision, classifications of employees designated by employers as limited appointments must be approved by the director.

(f) Does not include any leased employee. For the purposes of section 414(n) of the internal revenue code, "leased employee" means an individual who:

(i) Is not otherwise an employee of an employer.

(ii) Pursuant to a leasing agreement between the employer and another person, performs services for the employer on a substantially full-time basis for at least one year.

(iii) Performs services under the primary direction or control of the employer.

24. "Member contributions" means all amounts paid to ASRS by a member.

25. "Normal costs" means the sum of the individual normal costs for all active members for each fiscal year. The normal cost for an individual active member is the cost that is assigned to the fiscal year using the projected unit credit method.

26. "Normal retirement age" means the age at which a member reaches the member's normal retirement date.

27. "Normal retirement date" means the earliest of the following:

(a) A member's sixty-fifth birthday.

(b) A member's sixty-second birthday and completion of at least ten years of credited service.

(c) The first day that the sum of a member's age and years of total credited service equals eighty.

28. "Political subdivision" means any political subdivision of this state and includes a political subdivision entity.

29. "Political subdivision entity" means an entity:

(a) That is located in this state.

(b) That is created in whole or in part by political subdivisions, including instrumentalities of political subdivisions.

(c) Where a majority of the membership of the entity is composed of political subdivisions.

(d) Whose primary purpose is the performance of a government related service.

30. "Retired member" means a member who is receiving retirement benefits pursuant to this article.

31. "Service year" means fiscal year, except that:

(a) If the normal work year required of a member is less than the full fiscal year but is for a period of at least nine months, the service year is the normal work year.

(b) For a salaried member employed on a contract basis under one contract, or two or more consecutive contracts, for a total period of at least nine months, the service year is the total period of the contract or consecutive contracts.

(c) In determining average monthly compensation pursuant to paragraph 5 of this section, the service year is considered to be twelve months of compensation.

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

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

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

38-714. Powers and duties of ASRS and board

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

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

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

D. The board shall:

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

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

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

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

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

F. The board may:

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

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

3. Assign, transfer and deliver all stocks, bonds and other investments owned by ASRS if it is not inconsistent with or does not in any way contravene the authority of investment management for investing, reinvesting, purchasing and selling stocks, bonds and other investments.

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

5. Adopt, amend or repeal rules for the administration of THE PLAN, this article AND ARTICLES 2.1 AND 7 OF THIS CHAPTER.

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

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

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

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

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

H. The board shall:

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

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

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

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

Sec. 3. Title 38, chapter 5, article 2, Arizona Revised Statutes, is amended by adding section 38-722 effective from and after June 30, 2009, to read:

38-722. Abandoned monies; disposition

A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE TRUST FUND ESTABLISHED BY SECTION 38-712 IS EXEMPT FROM TITLE 44, CHAPTER 3.

B. MONIES IN THE ASRS TRUST FUND AND THE LTD TRUST FUND ESTABLISHED BY SECTION 38-797.02 ARE PRESUMED ABANDONED IF THE APPARENT OWNER, AS DEFINED IN SECTION 44-301, HAS NOT COMMUNICATED IN WRITING WITH ASRS AND HAS NOT OTHERWISE INDICATED AN INTEREST IN THE MONIES FOR THE THREE YEAR PERIOD FOLLOWING THE REQUIRED BEGINNING DATE OF DISTRIBUTIONS PURSUANT TO SECTION 38-775.

C. AT THE TIME MONIES ARE PRESUMED ABANDONED PURSUANT TO SUBSECTION B OF THIS SECTION, ANY OTHER PROPERTY RIGHT ACCRUED OR ACCRUING TO THE OWNER AS A RESULT OF THE INTEREST IN THOSE MONIES, AND NOT PREVIOUSLY PRESUMED ABANDONED, IS ALSO PRESUMED ABANDONED.

D. INTEREST CEASES TO ACCRUE ON THE MONIES ON THE DATE THE MONIES ARE PRESUMED ABANDONED.

E. BEFORE MONIES ARE PRESUMED ABANDONED, ASRS SHALL ATTEMPT TO CONTACT THE APPARENT OWNER IN WRITING. IF THE APPARENT OWNER IS A MEMBER, BEGINNING FIVE YEARS BEFORE THE APPARENT OWNER'S REQUIRED BEGINNING DATE OF DISTRIBUTIONS PURSUANT TO SECTION 38-775 AND FOR THREE YEARS AFTER THAT DATE, ASRS SHALL ANNUALLY SEND A NOTICE TO THE APPARENT OWNER NOTIFYING THE APPARENT OWNER OF THE OWNER'S ELIGIBILITY FOR A RETIREMENT BENEFIT. IF THE APPARENT OWNER IS A BENEFICIARY, BEGINNING IN THE CALENDAR YEAR CONTAINING THE FIFTH ANNIVERSARY OF THE MEMBER'S DEATH AND FOR THREE YEARS, ASRS SHALL ANNUALLY SEND A NOTICE TO THE APPARENT OWNER NOTIFYING THE APPARENT OWNER OF THE OWNER'S ELIGIBILITY FOR A SURVIVOR BENEFIT. IF THIS NOTICE IS RETURNED BY THE POSTAL AUTHORITY AS UNDELIVERABLE, ASRS SHALL MAKE A GOOD FAITH ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN BENEFICIARY ON RECORD WITH ASRS, SEARCHING PUBLIC DATABASES TO IDENTIFY THE ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY ADDRESS VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE APPARENT OWNER FAILS AND THE BASE AMOUNT OF THE UNCLAIMED MONIES IS THREE HUNDRED DOLLARS OR MORE, ASRS MAY USE THE SERVICES OF A PEOPLE SEARCH SERVICE. A FEE IMPOSED BY

THE PEOPLE SEARCH SERVICE SHALL NOT BE DEDUCTED FROM THE MEMBER'S BENEFIT AND THESE EXPENDITURES ARE CONTINUOUSLY APPROPRIATED AND SHALL BE PAID FROM THE ADMINISTRATION ACCOUNT ESTABLISHED PURSUANT TO SECTION 38-721 IN THE AMOUNT DEEMED NECESSARY BY THE BOARD.

F. IF AT ANY TIME AN OWNER, AS DEFINED IN SECTION 44-301, ESTABLISHES AN ENTITLEMENT IN THE MONIES, ASRS SHALL WITHDRAW THE MONIES FROM EITHER THE ASRS TRUST FUND OR THE LTD TRUST FUND, WHICHEVER IS APPLICABLE, AND PAY THE OWNER THE MONIES OR BENEFIT TO WHICH THE OWNER IS ENTITLED PURSUANT TO THIS ARTICLE OR ARTICLE 2.1 OF THIS CHAPTER, INCLUDING INTEREST AT A RATE DETERMINED BY ASRS, IF APPLICABLE.

Sec. 4. Section 38-742, Arizona Revised Statutes, is amended to read:

38-742. Reinstatement

A. If an active member who received a return of contributions on termination of employment and by receipt of those contributions forfeited credited service earned on that employment, as provided in section 38-740, subsection A, is subsequently reemployed by an employer, the member's service shall be credited only from the date the member's most recent reemployment period commenced.

B. Notwithstanding subsection A of this section, the member may redeposit the amount of the contributions the member received at the time of the member's separation from service, with interest on that amount to the date of redeposit at the interest rate assumption approved by the board for actuarial equivalency. On satisfaction of this obligation, the member's service credits acquired by the previous employment shall be reinstated. THE MEMBER IS SUBJECT TO THE BENEFITS AND DUTIES IN EFFECT AT THE TIME OF THE MEMBER'S MOST RECENT REEMPLOYMENT EXCEPT AS PROVIDED IN SECTION 38-711, PARAGRAPH 5, SUBDIVISION (a). If a member redeposits less than the amount required under this subsection, ASRS shall proportionately reduce the member's reinstated service credits.

C. A member who is receiving benefits pursuant to section 38-797.07 and who received a return of contributions on termination of employment and by receipt of those contributions forfeited credited service earned on that employment, as provided in section 38-740, subsection A, may redeposit the amount of the contributions the member received at the time of the member's previous separation from service, with interest on that amount to the date of redeposit at the interest rate assumption approved by the board for actuarial equivalency. On redeposit of the contributions and interest, the member's service ~~credit~~ CREDITS acquired by the previous employment shall be reinstated. THE MEMBER IS SUBJECT TO THE BENEFITS AND DUTIES IN EFFECT AT THE TIME OF THE MEMBER'S MOST RECENT REEMPLOYMENT EXCEPT AS PROVIDED IN SECTION 38-711, PARAGRAPH 5, SUBDIVISION (a). If a member redeposits less than the amount required under this subsection, ASRS shall proportionately reduce the member's reinstated service credits.

1 Sec. 5. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
2 amended by adding section 38-750, to read:
3 38-750. Transfers out of the system
4 A. IF AN EMPLOYEE HAS MADE AN IRREVOCABLE ELECTION PURSUANT TO SECTION
5 38-747, SUBSECTION B OR D AND TRANSFERS PARTICIPATION TO ANOTHER DEFINED
6 BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE WITHOUT A TERMINATION OF
7 EMPLOYMENT, WITHIN NINETY DAYS AFTER THE DATE OF THE TRANSFER, ASRS SHALL
8 TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN THE
9 AMOUNT THE EMPLOYEE PAID FOR THE PURCHASE OF THE CREDITED SERVICE PLUS
10 INTEREST AS DETERMINED BY ASRS.
11 B. IF THE ASSETS TRANSFERRED FROM ASRS ARE LESS THAN THE COST OF THE
12 BENEFITS ACCRUED RELATIVE TO THE CREDITED SERVICE AS CALCULATED PURSUANT TO
13 SECTION 38-922, SUBSECTION B, PARAGRAPH 2, AND UNLESS A LAW OTHERWISE
14 PROVIDES, THE EMPLOYEE SHALL ELECT EITHER TO PAY THE DIFFERENCE TO THE
15 SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OR ACCEPT A REDUCED
16 AMOUNT OF SERVICE CREDITS. IF THE EMPLOYEE ELECTS TO PAY THE DIFFERENCE, THE
17 AMOUNT PAID SHALL BE ADDED TO THE EMPLOYEE'S ACCUMULATED CONTRIBUTION ACCOUNT
18 BALANCE. IF THE EMPLOYEE ELECTS TO ACCEPT A REDUCED AMOUNT OF SERVICE
19 CREDITS, THE AMOUNT OF SERVICE CREDITS GRANTED SHALL BE EQUAL TO THE AMOUNT
20 OF SERVICE CREDITS PURCHASED MULTIPLIED BY THE RATIO OF THE AMOUNT OF ASSETS
21 TRANSFERRED TO THE AMOUNT CALCULATED PURSUANT TO SECTION 38-922, SUBSECTION
22 B, PARAGRAPH 2.
23 C. THE TRANSFERRED EMPLOYEE AND THE EMPLOYER SHALL COMPLETE THE TERMS
24 OF THE IRREVOCABLE ELECTION BY MAKING PAYMENTS TO ASRS.
25 D. IF THE EMPLOYEE IS GIVEN AN ELECTION TO TRANSFER TO ANOTHER DEFINED
26 BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
27 EMPLOYEE'S CURRENT RETIREMENT SYSTEM, ON TERMINATION OF EMPLOYMENT THE
28 EMPLOYEE SHALL ELECT TO HAVE ASRS:
29 1. PROMPTLY TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT
30 SYSTEM OR PLAN THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED
31 SERVICE PLUS INTEREST AS DETERMINED BY ASRS. IF AN UNFUNDED LIABILITY IS
32 CREATED, SUBSECTION B OF THIS SECTION APPLIES. IF THE EMPLOYEE FAILS TO
33 ELECT TO HAVE THE ASSETS TRANSFERRED WITHIN THIRTY DAYS AFTER TERMINATION OF
34 EMPLOYMENT, THE EMPLOYEE IS DEEMED TO HAVE MADE AN ELECTION AS PRESCRIBED IN
35 PARAGRAPH 2.
36 2. ON WRITTEN REQUEST BY THE EMPLOYEE, PROMPTLY RETURN TO THE EMPLOYEE
37 THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED SERVICE PLUS
38 INTEREST AS DETERMINED BY ASRS. IF NO APPLICATION IS RECEIVED BY ASRS WITHIN
39 SIXTY DAYS AFTER TERMINATION OF EMPLOYMENT, ASRS SHALL ISSUE THE PAYMENT
40 DIRECTLY TO THE EMPLOYEE.
41 E. IF THE EMPLOYEE IS NOT GIVEN AN ELECTION TO TRANSFER TO ANOTHER
42 DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE
43 EMPLOYEE'S CURRENT RETIREMENT SYSTEM, AFTER TERMINATION OF EMPLOYMENT THE
44 EMPLOYEE MAY ELECT, WITHIN THIRTY DAYS OF TERMINATION OF EMPLOYMENT TO HAVE
45 ASRS PROMPTLY TRANSFER TO THE SUBSEQUENT DEFINED BENEFIT RETIREMENT SYSTEM OR

PLAN THE AMOUNT PAID BY THE EMPLOYEE FOR THE PURCHASE OF CREDITED SERVICE PLUS INTEREST AS DETERMINED BY ASRS. IF AN UNFUNDED LIABILITY IS CREATED, SUBSECTION B OF THIS SECTION APPLIES. IF THE EMPLOYEE FAILS TO MAKE THE ELECTION UNDER THIS SUBSECTION, ASRS SHALL DEEM THE EMPLOYEE AS AN INACTIVE MEMBER OF ASRS.

F. IF AN EMPLOYEE IS GIVEN AN ELECTION TO TRANSFER TO ANOTHER DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE EMPLOYEE'S CURRENT RETIREMENT SYSTEM AND THE EMPLOYEE IS RECEIVING A BENEFIT PURSUANT TO THIS ARTICLE BASED ON THE EMPLOYEE'S OWN SERVICE OR ARTICLE 2.1 OF THIS CHAPTER, THE EMPLOYEE IS ELIGIBLE TO TRANSFER TO THE RETIREMENT SYSTEM OR PLAN, BUT THE ELECTION TO TRANSFER TERMINATES THE BENEFIT FROM ASRS ON THE EFFECTIVE DATE OF THE TRANSFER.

G. IF AN EMPLOYEE IS NOT GIVEN AN ELECTION TO TRANSFER TO ANOTHER DEFINED BENEFIT RETIREMENT SYSTEM OR PLAN OF THIS STATE OR TO REMAIN WITH THE EMPLOYEE'S CURRENT RETIREMENT SYSTEM AND THE EMPLOYEE IS RECEIVING A BENEFIT PURSUANT TO THIS ARTICLE BASED ON THE EMPLOYEE'S OWN SERVICE OR ARTICLE 2.1 OF THIS CHAPTER, THE EMPLOYEE IS NOT ELIGIBLE TO TRANSFER TO ANOTHER RETIREMENT SYSTEM OR PLAN.

Sec. 6. Section 38-765, Arizona Revised Statutes, is amended to read:

38-765. Errors; benefit recomputation

If any change or error in the records results in any member or beneficiary receiving from ASRS more or less than the member or beneficiary would have been entitled to receive if the records had been correct, ~~the board~~ ASRS shall correct the error and as far as practicable shall adjust the payments in a manner so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled is paid. ~~The board~~ ASRS shall correct any change or error and shall pay the appropriate monies to a member or beneficiary or shall recover monies from the member or beneficiary if the member or beneficiary is overpaid. ASRS SHALL RECOVER MONIES BY REDUCING ANY BENEFIT OTHERWISE PAYABLE BY ASRS OR THE LTD PROGRAM ESTABLISHED BY ARTICLE 2.1 OF THIS CHAPTER TO AN ACTIVE, INACTIVE, DISABLED OR RETIRED MEMBER, SURVIVOR, CONTINGENT ANNUITANT, BENEFICIARY OR ALTERNATE PAYEE.

Sec. 7. Section 38-797.02, Arizona Revised Statutes, is amended effective from and after June 30, 2009, to read:

38-797.02. LTD trust fund

A. ~~A~~ THE LTD trust fund is established for the purpose of paying benefits under and costs of administering the LTD program.

B. The LTD TRUST fund consists of all monies paid into it in accordance with this article, whether in the form of cash, securities or other assets, and all monies received from any other source. THE LTD TRUST FUND IS EXEMPT FROM TITLE 44, CHAPTER 3. ABANDONED MONIES SHALL BE DISPOSED OF PURSUANT TO SECTION 38-722.

C. Custody, management and investment of the LTD TRUST fund are as prescribed by this article and article 2 of this chapter.

1 Sec. 8. Appropriation; ASRS; exemption
2 A. The sum of $137,607 is appropriated from the Arizona state
3 retirement system administration account in fiscal year 2008-2009 to the
4 Arizona state retirement system for the administrative implementation of this
5 act.
6 B. The appropriation made in subsection A of this section is exempt
7 from the provisions of section 35-190, Arizona Revised Statutes, relating to
8 lapsing of appropriations.
9 Sec. 9. Emergency
10 This act is an emergency measure that is necessary to preserve the
11 public peace, health or safety and is operative immediately as provided by
12 law.

APPROVED BY THE GOVERNOR JUNE 10, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 10, 2008.