

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 273

HOUSE BILL 2662

AN ACT

AMENDING SECTION 38-727, 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 38-727, Arizona Revised Statutes, is amended to
3 read:

4 38-727. Eligibility; options

5 The following provisions apply to all employees hired on or after the
6 effective date:

7 1. All employees and officers of this state and all officers and
8 employees of political subdivisions establishing a retirement plan
9 administered by the board pursuant to this article who as a result of state
10 service or service for the political subdivision are included in agreements
11 providing for their coverage under the federal old age and survivors
12 insurance system are subject to this article, except that membership is not
13 mandatory:

14 (a) On the part of any employee who is eligible and who elects to
15 participate in the optional retirement programs established by the Arizona
16 board of regents pursuant to the authority conferred by section 15-1628 or by
17 a community college district board pursuant to authority conferred by section
18 15-1451.

19 (b) For a state elected official who is subject to term limits, who is
20 eligible for participation in ASRS because the state elected official elected
21 not to participate in the elected officials' retirement plan as provided in
22 section 38-804, subsection A and who elects not to participate in ASRS as
23 provided in paragraph 7 of this section.

24 (c) On the part of any employee or officer who is eligible to
25 participate and who participates in the elected officials' retirement plan
26 pursuant to article 3 of this chapter, the public safety personnel retirement
27 system pursuant to article 4 of this chapter or the corrections officer
28 retirement plan pursuant to article 6 of this chapter.

29 2. All employees and officers of political subdivisions whose
30 compensation is provided wholly or in part from state monies and who are
31 declared to be state employees and officers by the legislature for retirement
32 purposes are subject, on legislative enactment, to this article and are
33 members of ASRS.

34 3. Any member whose service terminates other than by death or
35 withdrawal from membership is deemed to be a member of ASRS until the
36 member's death benefit is paid.

37 4. Employees and officers shall not become members of ASRS and, if
38 they are members immediately before becoming employed as provided by this
39 section, shall have their membership status suspended while they are employed
40 by state departments paying the salaries of their officers and employees
41 wholly or in part from monies received from sources other than appropriations
42 from the state general fund for the period or periods payment of the employer
43 contributions is not made by or on behalf of the departments.

44 5. Notwithstanding other provisions of this section, a temporary
45 employee of the legislature whose projected term of employment is for not

1 more than six months is ineligible for membership in ASRS. If the employment
2 continues beyond six successive months, the employee may elect to either:

3 (a) Receive credit for service for the first six months of employment
4 and establish membership in ASRS as of the beginning of the current term of
5 employment if, within forty-five days after the first six months of
6 employment, both the employer and the employee contribute to ASRS the amount
7 that would have been required to be contributed to ASRS during the first six
8 months of employment as if the employee had been a member of ASRS during
9 those six months.

10 (b) Establish membership in ASRS as of the day following the
11 completion of six months of employment.

12 6. A person who is employed in postgraduate training in an approved
13 medical residency training program of an employer or a postdoctoral scholar
14 who is employed by a university under the jurisdiction of the Arizona board
15 of regents is ineligible for membership in ASRS.

16 7. A state elected official who is subject to term limits and who is
17 eligible for participation in ASRS because the state elected official elected
18 not to participate in the elected officials' retirement plan as provided in
19 section 38-804, subsection A may elect not to participate in ASRS. The
20 election not to participate is specific for that term of office. The state
21 elected official who is subject to term limits shall make the election in
22 writing and file the election with ASRS within thirty days after the elected
23 official's retirement plan mails the notice to the state elected official of
24 the state elected official's eligibility to participate in ASRS. The
25 election is effective on the first day of the state elected official's
26 eligibility. If a state elected official who is subject to term limits fails
27 to make an election as provided in this paragraph, the state elected official
28 is deemed to have elected to participate in ASRS. The election not to
29 participate in ASRS is irrevocable and constitutes a waiver of all benefits
30 provided by ASRS for the state elected official's entire term, except for any
31 benefits accrued by the state elected official in ASRS for periods of
32 participation before being elected to an office subject to term limits or any
33 benefits expressly provided by law.

34 8. Every full-time superior court commissioner who is appointed on or
35 after July 1 of the first fiscal year after the social security
36 administration approves the inclusion of superior court commissioners on this
37 state's section 218 agreement is a member of ASRS and is subject to this
38 article.

39 9. BEFORE JULY 1, 2015, A PERSON MAY ELECT NOT TO PARTICIPATE IN ASRS
40 IF THE PERSON BECOMES EMPLOYED BY AN EMPLOYER AFTER THE PERSON HAS ATTAINED
41 AT LEAST SIXTY-FIVE YEARS OF AGE, IS NOT AN ACTIVE MEMBER, INACTIVE MEMBER,
42 RETIRED MEMBER OR RECEIVING BENEFITS PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER
43 AND DOES NOT HAVE ANY CREDITED SERVICE OR PRIOR SERVICE IN ASRS. THE
44 EMPLOYEE SHALL MAKE THE ELECTION NOT TO PARTICIPATE IN WRITING AND FILE THE
45 ELECTION WITH ASRS WITHIN THIRTY DAYS OF EMPLOYMENT. THE ELECTION NOT TO

1 PARTICIPATE IS IRREVOCABLE FOR THE REMAINDER OF THE PERSON'S EMPLOYMENT FOR
2 WHICH THE PERSON MADE THE ELECTION AND CONSTITUTES A WAIVER OF ALL BENEFITS
3 PROVIDED BY THE ARIZONA STATE RETIREMENT SYSTEM. THE PERIOD THE PERSON WORKS
4 IS NOT ELIGIBLE FOR PURCHASE UNDER SECTION 38-743 OR 38-744.

5 Sec. 2. Report; contents; delayed repeal

6 A. On or before December 31, 2014, the Arizona state retirement system
7 shall provide a report to the president of the senate, the speaker of the
8 house of representatives and the senate and house of representatives
9 committees that are responsible for retirement issues regarding this act that
10 includes:

11 1. The number of employees who have elected not to participate in the
12 Arizona state retirement system pursuant to this act.

13 2. The actuarial impact to the Arizona state retirement system.

14 3. The administrative impact to the Arizona state retirement system.

15 4. Recommendations from the Arizona state retirement system and
16 employers subject to the Arizona state retirement system about the
17 feasibility of continuing the election by employees not to enroll in the
18 Arizona state retirement system pursuant to this act.

19 B. This section is repealed from and after December 31, 2014.

APPROVED BY THE GOVERNOR APRIL 17, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2012.

Passed the House February 23, 2012

Passed the Senate April 10, 2012

by the following vote: 40 Ayes,

by the following vote: 30 Ayes,

16 Nays, 3 Not Voting
1 vacant

0 Nays, 0 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

11th day of April, 2012

at 9:48 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 17th day of

April

at 11:05 o'clock A M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 17th day of April, 2012

at 3:36 o'clock M.

[Signature]
Secretary of State

H.B. 2662