

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 148

Senate Engrossed  
**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

# **SENATE BILL 1121**

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 A. The following provisions apply to all employees hired on or after  
6 the 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 are subject to this  
10 article, except that membership is not mandatory:

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

16 (b) For a state elected official who is subject to term limits, who is  
17 elected or appointed before January 1, 2014, who is eligible for  
18 participation in ASRS because the state elected official elected not to  
19 participate in the elected officials' retirement plan as provided in section  
20 38-804, subsection A and who elects not to participate in ASRS as provided in  
21 paragraph 7 of this ~~section~~ SUBSECTION.

22 (c) On the part of any employee or officer who is eligible to  
23 participate and who participates in the elected officials' retirement plan  
24 pursuant to article 3 of this chapter, the elected officials' defined  
25 contribution retirement system pursuant to article 3.1 of this chapter, the  
26 public safety personnel retirement system pursuant to article 4 of this  
27 chapter or the corrections officer retirement plan pursuant to article 6 of  
28 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, who is  
17 elected or appointed before January 1, 2014 and who is eligible for  
18 participation in ASRS because the state elected official elected not to  
19 participate in the elected officials' retirement plan as provided in section  
20 38-804, subsection A may elect not to participate in ASRS. The election not  
21 to participate is specific for that term of office. The state elected  
22 official who is subject to term limits shall make the election in writing and  
23 file the election with ASRS within thirty days after the elected official's  
24 retirement plan mails the notice to the state elected official of the state  
25 elected official's eligibility to participate in ASRS. The election is  
26 effective on the first day of the state elected official's eligibility. If a  
27 state elected official who is subject to term limits fails to make an  
28 election as provided in this paragraph, the state elected official is deemed  
29 to have elected to participate in ASRS. The election not to participate in  
30 ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS  
31 for the state elected official's entire term, except for any benefits accrued  
32 by the state elected official in ASRS for periods of participation before  
33 being elected to an office subject to term limits or any benefits expressly  
34 provided by law.

35 8. ~~Before July 1, 2015,~~ A person may elect not to participate in ASRS  
36 if the person becomes employed by an employer after the person has attained  
37 at least sixty-five years of age, is not an active member, inactive member,  
38 retired member or receiving benefits pursuant to article 2.1 of this chapter  
39 and does not have any credited service or prior service in ASRS. The  
40 employee shall make the election not to participate in writing and file the  
41 election with ASRS within thirty days ~~of~~ AFTER employment. The election not  
42 to participate is irrevocable for the remainder of the person's employment  
43 for which the person made the election and constitutes a waiver of all  
44 benefits provided by the Arizona state retirement system. The period the  
45 person works is not eligible for purchase under section 38-743 or 38-744.

1           9. The following are ineligible for membership in ASRS:  
2           (a) A person who performs services in a hospital, home or other  
3 institution as an inmate or patient at the hospital, home or other  
4 institution.  
5           (b) A person who performs agricultural labor services, as defined in  
6 section 210 of the social security act.  
7           (c) A person who is a nonresident alien temporarily residing in the  
8 United States and who holds an F-1, J-1, M-1 or Q-1 visa when services are  
9 performed.  
10           (d) A person who Performs services for a school, college or university  
11 in this state at which the person is enrolled as a student, as defined by the  
12 employing institution. The employing institution shall maintain an appeal  
13 process for a person who disagrees with the employing institution's  
14 determination that the person is a student and not eligible for membership in  
15 ASRS.  
16           (e) A person who performs services under a program designed to relieve  
17 the person from unemployment.  
18           B. The following elected officials are subject to this article if the  
19 member's employer is an employer under article 3 of this chapter:  
20           1. A state elected official who is subject to term limits, who is  
21 elected or appointed on or before December 31, 2013 and who is an active, an  
22 inactive, ~~OR~~ a retired MEMBER OF ASRS or a ~~disabled~~ member of ASRS WITH A  
23 DISABILITY because the state elected official had previously elected not to  
24 participate in the elected officials' retirement plan as provided in section  
25 38-804, subsection A.  
26           2. An elected official, as defined in section 38-831, who is an  
27 active, an inactive, ~~OR~~ a retired MEMBER OF ASRS or a ~~disabled~~ member of  
28 ASRS WITH A DISABILITY, if the elected official's employer is a participating  
29 employer under this article.  
30           Sec. 2. Emergency  
31           This act is an emergency measure that is necessary to preserve the  
32 public peace, health or safety and is operative immediately as provided by  
33 law.

APPROVED BY THE GOVERNOR APRIL 1, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 2015.

Passed the House March 24, 20 15,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting  
with emergency

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 9, 20 15,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature] with Emergency  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

26<sup>th</sup> day of March, 2015,

at 3:28 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 1<sup>st</sup> day of

April, 2015,

at 2:35 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 2 day of April, 2015,

at 9:00 o'clock A M.

[Signature]  
Secretary of State

S.B. 1121