

Senate Engrossed

**FILED**

**MICHELE REAGAN  
SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 104  
SENATE BILL 1052**

AN ACT

AMENDING SECTIONS 38-740 AND 38-760, 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 38-740, Arizona Revised Statutes, is amended to  
3 read:

4 38-740. Return of contributions

5 A. A member whose membership commenced before July 1, 2011 and who  
6 leaves employment other than by retirement or death may elect to receive a  
7 return of the contributions as follows:

8 1. If the member has less than five years of credited service, the  
9 member shall receive all of the member's contributions.

10 2. If a member has five or more years of credited service, the  
11 member shall receive the member's contributions and an amount equal to a  
12 percentage of the employer contributions paid on behalf of the member.  
13 This amount excludes payments made by an employer pursuant to section  
14 38-738, subsection B, paragraph 3, unless the member has made the payment  
15 required by section 38-738, subsection B, paragraph 1. The percentage of  
16 employer contributions paid on behalf of the member shall be as follows:

17 (a) 5.0 to 5.9 years of credited service, twenty-five per cent.

18 (b) 6.0 to 6.9 years of credited service, forty per cent.

19 (c) 7.0 to 7.9 years of credited service, fifty-five per cent.

20 (d) 8.0 to 8.9 years of credited service, seventy per cent.

21 (e) 9.0 to 9.9 years of credited service, eighty-five per cent.

22 (f) 10.0 or more years of credited service, one hundred per cent.

23 3. Interest on the returned contributions as determined by the  
24 board.

25 B. A member whose membership commenced on or after July 1, 2011 and  
26 who leaves employment other than by retirement or death may elect to  
27 receive a return of all of the member's contributions with interest as  
28 determined by the board.

29 C. Notwithstanding subsection B of this section, if a member has  
30 five or more years of credited service and the member is terminated solely  
31 because of an employer reduction in force by reason of a lack of monies or  
32 elimination of the member's position, the member is entitled to receive  
33 the amounts prescribed in subsection A of this section.

34 D. Withdrawal of contributions with interest constitutes a  
35 withdrawal from membership in ASRS and results in a forfeiture of all  
36 other benefits under ASRS.

37 E. IF A MEMBER HAS RECEIVED AN OVERPAYMENT PURSUANT TO SECTION  
38 38-765 OR 38-797.08, ASRS SHALL WITHHOLD THE OVERPAYMENT AMOUNT PLUS ANY  
39 REQUIRED INCOME TAX WITHHOLDING FROM THE RETURN OF CONTRIBUTIONS.

40 ~~F.~~ F. Notwithstanding any other provision of this article, a  
41 member who has not received a return of contributions pursuant to this  
42 section may combine any two or more periods of service for purposes of  
43 determining the member's benefits.

44 ~~F.~~ G. If a member receives more than the amount due to a member  
45 pursuant to this section, the member shall repay the amount of the

1 overpayment together with interest at the interest rate earned on ASRS  
2 investments as reported on a quarterly basis, but not less than the  
3 valuation rate established by the board, from the time of overpayment to  
4 the settlement of the debt.

5 Sec. 2. Section 38-760, Arizona Revised Statutes, is amended to  
6 read:

7 38-760. Optional forms of retirement benefits

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

10 B. The optional retirement benefits available under this section  
11 include the following:

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

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

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

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

1 (d) A member whose original date of retirement is on or after July  
2 1, 2008 may exercise a one-time election to rescind the joint and survivor  
3 annuity option elected by the member if the contingent annuitant dies or  
4 ceases to be a contingent annuitant pursuant to the terms of a qualified  
5 domestic relations order.

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

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

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

1 actuarially reduced to provide for the lump sum payment. The lump sum  
2 payment shall be made at the time of retirement. IF A MEMBER HAS RECEIVED  
3 AN OVERPAYMENT PURSUANT TO SECTION 38-765 OR 38-797.08, ASRS SHALL  
4 WITHHOLD THE OVERPAYMENT AMOUNT PLUS ANY REQUIRED INCOME TAX WITHHOLDING  
5 FROM THE PARTIAL LUMP SUM. Any benefit increase granted to a member who  
6 elects a lump sum payment pursuant to this paragraph is subject to the  
7 following conditions:

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

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

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

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

**APPROVED BY THE GOVERNOR MARCH 29, 2017.**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2017.**

Passed the House March 23, 2017,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 22, 2017,

by the following vote: 29 Ayes,

1 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

27 day of March, 2017,

at 1:51 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 29<sup>th</sup> day of

March, 2017,

at 2:57 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 29 day of March, 2017,

at 4:59 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1052