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REFERENCE TITLE: ASRS; spousal consent

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

SB 1004

Introduced by
Senators Smith, Cirillo

AN ACT

AMENDING SECTIONS 38-755 AND 38-760, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-775; 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 38-755, Arizona Revised Statutes, is amended to
3 read:

4 38-755. Information as to member's status; beneficiary changes

5 A. Subject to rules prescribed by the board, on application of a
6 member, the board shall furnish information concerning the member's status.
7 In addition, the board shall annually furnish to each member an account
8 statement showing the status of the member's account including the name of
9 the member's beneficiary as last listed with the board.

10 B. The member may change the member's beneficiary at any time pursuant
11 to rules adopted by the board and on forms furnished by the board.

12 C. PURSUANT TO SECTION 38-775, A MEMBER SHALL OBTAIN THE CONSENT OF
13 THE MEMBER'S CURRENT SPOUSE BEFORE THE MEMBER NAMES A BENEFICIARY OTHER THAN
14 THE MEMBER'S CURRENT SPOUSE OR BEFORE THE MEMBER CHANGES THE MEMBER'S
15 BENEFICIARY IF THE MEMBER'S CURRENT SPOUSE IS THE BENEFICIARY AT THE TIME OF
16 THE CHANGE.

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

18 38-760. Optional forms of retirement benefits

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

21 B. The optional retirement benefits available under this section
22 include the following:

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

35 (a) If a different contingent annuitant is named, the annuity of the
36 member under the same joint and survivor annuity option previously elected
37 shall be adjusted to the actuarial equivalent of the original annuity, based
38 on the age of the new contingent annuitant. The adjustment shall include all
39 ~~post-retirement~~ POSTRETIREMENT increases in retirement income that are
40 authorized by law after the member's date of retirement. Payment of this
41 adjusted annuity shall continue under the provisions of the option previously
42 elected by the member.

43 (b) If the member rescinds the election, the member shall thereafter
44 receive a straight life annuity equal to what the member would otherwise be
45 entitled to receive if the member had not elected the joint and survivor

1 annuity option, including all ~~post-retirement~~ POSTRETIREMENT increases in
2 retirement income that are authorized by law after the date of retirement.
3 The increased payment shall continue during the remainder of the member's
4 lifetime.

5 (c) If the member reverts to a straight life annuity pursuant to
6 subdivision (b), the member may name a new contingent annuitant subject to
7 the same restrictions prescribed in subdivision (a).

8 (d) IF THE MEMBER'S CONTINGENT ANNUITANT IS THE MEMBER'S CURRENT
9 SPOUSE, THE MEMBER SHALL OBTAIN THE CONSENT OF THE CONTINGENT ANNUITANT
10 PURSUANT TO SECTION 38-775 BEFORE THE MEMBER NAMES A NEW CONTINGENT ANNUITANT
11 OR BEFORE THE MEMBER RESCINDS THE ELECTION.

12 2. A period certain and life annuity actuarially reduced with payments
13 for five, ten or fifteen years that are not dependent on the continued
14 lifetime of the member but whose payments continue for the member's lifetime
15 beyond the five, ten or fifteen year period. At any time, a member who
16 retires after ~~the effective date of this amendment to this section~~ AUGUST 9,
17 2001 may rescind the election of a period certain and life annuity. If the
18 member rescinds the election of a period certain and life annuity, the member
19 shall thereafter receive a straight life annuity equal to what the member
20 would otherwise be entitled to receive if the member had not elected the
21 period certain and life annuity option, including all postretirement
22 increases in retirement income that are authorized by law after the date of
23 retirement. The increased payment shall continue during the remainder of the
24 member's lifetime. If the member reverts to a straight life annuity pursuant
25 to this paragraph, the member may again elect a period certain and life
26 annuity subject to the same provisions of the period certain and life annuity
27 previously elected by the member. IF THE MEMBER'S CONTINGENT ANNUITANT IS
28 THE MEMBER'S CURRENT SPOUSE, THE MEMBER SHALL OBTAIN THE CONSENT OF THE
29 CONTINGENT ANNUITANT PURSUANT TO SECTION 38-775 BEFORE THE MEMBER RESCINDS
30 THE ELECTION OF A PERIOD CERTAIN AND LIFE ANNUITY OR AGAIN ELECTS A PERIOD
31 CERTAIN AND LIFE ANNUITY PURSUANT TO THIS PARAGRAPH.

32 3. Beginning on July 1, 2002, a lump sum payment equal to not more
33 than thirty-six months of the member's retirement benefits under the benefit
34 option elected by the member. The member's benefit shall be actuarially
35 reduced to provide for the lump sum payment. The lump sum payment shall be
36 made at the time of retirement. Any benefit increase granted to a member who
37 elects a lump sum payment pursuant to this paragraph is subject to the
38 following conditions:

39 (a) If the benefit increase is a percentage increase of the member's
40 retirement benefit, the increase shall be based on the actuarially reduced
41 retirement benefit of the member.

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

1 4. Other forms of actuarially reduced optional benefits prescribed by
2 the board.

3 Sec. 3. Title 38, chapter 5, article 2, Arizona Revised Statutes, is
4 amended by adding section 38-775, to read:

5 38-775. Spousal consent

6 A. A MEMBER'S RETIREMENT APPLICATION SHALL CONTAIN THE SIGNATURE OF
7 THE CURRENT SPOUSE OF THE MEMBER, IF ANY, TO ACKNOWLEDGE THAT THE SPOUSE
8 CONSENTS TO THE RETIREMENT OPTION ELECTED BY THE MEMBER, UNLESS THE MEMBER
9 AFFIRMS IN WRITING UNDER PENALTY OF PERJURY ONE OF THE FOLLOWING REASONS:

10 1. THE MEMBER IS NOT MARRIED.

11 2. THE MEMBER'S CURRENT SPOUSE HAS NO IDENTIFIABLE COMMUNITY PROPERTY
12 INTEREST IN THE MEMBER'S BENEFITS.

13 3. THE MEMBER DOES NOT KNOW, AND HAS TAKEN ALL REASONABLE STEPS TO
14 DETERMINE, THE LOCATION OF THE MEMBER'S CURRENT SPOUSE.

15 4. THE MEMBER'S CURRENT SPOUSE IS NOT CAPABLE OF EXECUTING THE
16 ACKNOWLEDGEMENT BECAUSE OF AN INCAPACITATING MENTAL OR PHYSICAL CONDITION.

17 B. ASRS IS NOT LIABLE FOR DISTRIBUTION OF BENEFITS BASED ON ANY ACT OR
18 OMISSION OF A MEMBER WHO VIOLATES THIS SECTION.

19 Sec. 4. Applicability

20 Sections 38-755 and 38-760, Arizona Revised Statutes, as amended by
21 this act, and section 38-775, Arizona Revised Statutes, as added by this act,
22 apply to Arizona state retirement system members who name or change their
23 beneficiary or contingent annuitant on or after August 1, 2002.