

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

Senate Engrossed

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

SENATE BILL 1004

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; MAKING AN APPROPRIATION; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

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. Payment of accrued benefit; optional forms of
19 retirement benefits

20 A. A MEMBER WHO IS NOT MARRIED AT THE TIME OF RETIREMENT SHALL RECEIVE
21 A MONTHLY LIFE ANNUITY, UNLESS THE MEMBER ELECTS AN OPTIONAL FORM OF BENEFIT
22 PURSUANT TO SUBSECTION C OF THIS SECTION. A MEMBER WHO IS MARRIED AT THE
23 TIME OF RETIREMENT SHALL RECEIVE A MONTHLY BENEFIT IN THE FORM OF A JOINT AND
24 SURVIVOR ANNUITY PURSUANT TO SUBSECTION C, PARAGRAPH 1 OF THIS SECTION AND
25 THE MEMBER'S SPOUSE SHALL BE THE CONTINGENT ANNUITANT UNLESS THE MEMBER
26 ELECTS A LIFE ANNUITY OR ANOTHER OPTIONAL FORM OF BENEFIT PURSUANT TO
27 SUBSECTION C OF THIS SECTION AND THE MEMBER'S SPOUSE WAIVES THE REQUIREMENT
28 TO CHOOSE THE JOINT AND SURVIVOR ANNUITY WITH THE SPOUSE AS THE CONTINGENT
29 ANNUITANT AND CONSENTS TO THE MEMBER'S ELECTION PURSUANT TO SECTION
30 38-775. IF THE MARRIED MEMBER DOES NOT MAKE AN ELECTION AS TO THE TYPE OF
31 JOINT AND SURVIVOR ANNUITY FOR THE MEMBER'S SPOUSE, THE SPOUSE'S CONTINGENT
32 AMOUNT IS ONE-HALF OF THE RETIREMENT INCOME.

33 ~~A.~~ B. On retirement, members may elect an optional form of retirement
34 benefit as provided in this section.

35 ~~B.~~ C. The optional retirement benefits available under this section
36 include the following:

37 1. Joint and survivor annuity in a reduced amount payable to the
38 retiring member during life, with the provisions that after the member's
39 death all, two-thirds or one-half of the retirement income, as the member
40 elects, shall be continued during the lifetime of the contingent annuitant
41 designated by the retiring member subject to the restrictions prescribed in
42 section 38-764. The amount of retirement income shall be the actuarial
43 equivalent of the retirement income to which the member would be entitled
44 under normal or early retirement. The election in a manner prescribed by the
45 board shall name the contingent annuitant. The election may be revoked at

1 any time before the member's effective date of retirement. At any time after
2 benefits have commenced, the member may name a different contingent annuitant
3 or rescind the election by written notice to the board as follows:

4 (a) If a different contingent annuitant is named, the annuity of the
5 member under the same joint and survivor annuity option previously elected
6 shall be adjusted to the actuarial equivalent of the original annuity, based
7 on the age of the new contingent annuitant. The adjustment shall include all
8 ~~post-retirement~~ POSTRETIREMENT increases in retirement income that are
9 authorized by law after the member's date of retirement. Payment of this
10 adjusted annuity shall continue under the provisions of the option previously
11 elected by the member.

12 (b) If the member rescinds the election, the member shall thereafter
13 receive a straight life annuity equal to what the member would otherwise be
14 entitled to receive if the member had not elected the joint and survivor
15 annuity option, including all ~~post-retirement~~ POSTRETIREMENT increases in
16 retirement income that are authorized by law after the date of retirement.
17 The increased payment shall continue during the remainder of the member's
18 lifetime.

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

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

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

1 3. Beginning on July 1, 2002, a lump sum payment equal to not more
2 than thirty-six months of the member's retirement benefits under the benefit
3 option elected by the member. The member's benefit shall be actuarially
4 reduced to provide for the lump sum payment. The lump sum payment shall be
5 made at the time of retirement. 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 member's
9 retirement benefit, the increase shall be based on the actuarially reduced
10 retirement benefit of the member.

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

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

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

18 38-775. Spousal waiver and consent

19 A. A MEMBER'S ENROLLMENT FORM, APPLICATION FOR REFUND FORM, RETIREMENT
20 APPLICATION, CHANGE OF BENEFICIARY FORM OR CHANGE OF CONTINGENT ANNUITANT OR
21 PERIOD CERTAIN FORM SHALL CONTAIN THE SIGNATURE OF THE CURRENT SPOUSE OF THE
22 MEMBER, IF ANY, TO ACKNOWLEDGE THAT THE SPOUSE CONSENTS TO OR WAIVES THE
23 RETIREMENT OPTION ELECTED OR BENEFICIARY DESIGNATION MADE BY THE MEMBER,
24 UNLESS THE MEMBER AFFIRMS IN WRITING UNDER PENALTY OF PERJURY ONE OF THE
25 FOLLOWING REASONS:

26 1. THE MEMBER IS NOT MARRIED.

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

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

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

33 B. THIS SECTION DOES NOT ABROGATE ANY COMMUNITY PROPERTY LAWS OF THIS
34 STATE.

35 C. PAYMENTS OR DISTRIBUTIONS MADE BY ASRS IN GOOD FAITH RELIANCE ON
36 THE CONSENT OR WAIVER OF A MEMBER'S SPOUSE OR THE AFFIRMATIONS OF A MEMBER
37 CONTAINED IN DOCUMENTS SUBMITTED TO ASRS PURSUANT TO THIS SECTION CONSTITUTE
38 A FULL AND COMPLETE DISCHARGE AND RELEASE OF ALL LIABILITY OF THE BOARD OR
39 ASRS, OR BOTH, RESPECTING THESE PAYMENTS OR DISTRIBUTIONS.

40 Sec. 4. Applicability

41 Sections 38-755 and 38-760, Arizona Revised Statutes, as amended by
42 this act, and section 38-775, Arizona Revised Statutes, as added by this act,
43 apply to Arizona state retirement system members who retire or name or change
44 their beneficiary or contingent annuitant on or after July 1, 2003.

1 Sec. 5. Appropriation; purpose

2 The sum of \$125,558 is appropriated from the Arizona state retirement
3 system administration account in fiscal year 2002-2003 to the Arizona state
4 retirement system for the administrative implementation of this act including
5 1.5 FTEs and employee related expenditures.