

Summary of 2008 Retirement Legislation

The 48th Legislature, Second Regular Session adjourned *sine die* June 27, 2008.

Below is a brief summary of bills that have been passed into law than may affect ASRS members and employers. To view legislation in its entirety, visit the Arizona State Legislature's website at www.azleg.gov

All bills listed below are effective on the general effective date (September 26, 2008) unless otherwise noted.

House Bill 2061 – ASRS; global security risk report (Laws 2008, Chapter 133)

Signed by the Governor on April 29, 2008, this bill:

- Requires ASRS to submit its annual report on Global Security Risk to the Senate and House of Representatives standing committees on retirement issues, rather than the Senate Finance and House Government and Ways and Means standing committees.

[Note: the section of law modified by this bill (§38-716) is repealed by SB 1489.]

House Bill 2116 – CORP; joinders; credited service (Laws 2008, Chapter 242)

Signed by the Governor May 27, 2008, this bill:

- Allows all prior dispatcher credited service with ASRS to transfer to CORP under a group transfer.
- Expands the timeframe for the ASRS to transfer assets to the new retirement system from 60 to 90 days.

House Bill 2120 – CORP; DPS detention officers (Laws 2008, Chapter 144)

Signed by the Governor May 1, 2008, this bill:

- Expands the definition of designated position to include State detention officers.
- Requires the Department of Public Safety (DPS) to have a local board and to enter into a joinder agreement with the Fund Manager to provide for membership.
- Provides that all prior ASRS service will transfer to CORP unless the employee irrevocably elects to remain in the ASRS.

House Bill 2151 – NOW: Iran; public fund divestment (Laws 2008, Chapter 235)

Signed by the Governor May 23, 2008, this bill:

- Provides for mandatory engagement with and potential divestment from companies that have invested, since August 5, 1996, \$20 million or more in any year in Iran's petroleum energy sector.
- Allows a fund to cease divestment from or reinvest in scrutinized companies if the value of the impacted account is 0.5% less than without divestment.
- Requires State contractors to certify they have no prohibited business operations in Iran and prohibits the state or political subdivisions from purchasing goods or services from a scrutinized company.
- Specifies engagement, divestment, and reporting timelines.
- *Emergency measure effective May 23, 2008.*

House Bill 2705 – Sudan; investments; business operations; prohibition (Laws 2008, Chapter 1)

Signed by the Governor March 10, 2008, this bill:

- Provides for mandatory engagement with and potential divestment from companies meeting specific Sudan-related business operations criteria.
- Requires State contractors to certify they have no prohibited business operations in Sudan.
- Specifies engagement, divestment, and reporting timelines.

Senate Bill 1043 – NOW: CORP; judiciary; other designated positions (Laws 2008, Chapter 185)

Signed by the Governor May 12, 2008, this bill:

- Allows the local board of the judiciary to designate positions within the Administrative Office of the Courts (AOC) for membership in CORP that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers, if the employee is currently a member of CORP employed as a probation, surveillance or juvenile detention officer and has 5 years of service under CORP. The employee may request the determination within 90 days of taking the position, and when the employee terminates, the position reverts back to ASRS membership.

Senate Bill 1225 – ASRS; federal conforming changes (Laws 2008, Chapter 29)

Signed by the Governor April 14, 2008, this bill:

- Makes changes to comply with new IRS laws and regulations, most notably the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).
- Clarifies the description of a direct rollover.
- Allows the ASRS to accept direct rollovers of after-tax contributions.
- Requires the ASRS to separately account for any transferred after-tax amounts.

- Changes the assumed interest rate and mortality tables used in calculating the maximum annual dollar limitation applicable to forms of distributions other than a straight life annuity.
- Provides references to the new interest factor and mortality tables required by EGTRRA.
- Excludes qualified transportation fringe benefits and certain cash benefits payable under a cafeteria plan from the definition of “compensation.”
- Updates the definition of “eligible rollover distribution” to allow direct rollovers of after-tax employee contributions held in ASRS to an IRA, a qualified 401(a) plan, or a 403(b) annuity contract.
- Allows non-spouse beneficiaries to make a direct, tax-free transfer of any death benefits to an IRA maintained in the name of the deceased member for the benefit of the non-spouse beneficiary (applicable to distributions made on or after January 1, 2007).

Senate Bill 1407 – NOW: ASRS; administration procedures (Laws 2008, Chapter 264)

Signed by the Governor June 10, 2008, this bill makes numerous changes to the administration of the ASRS, including:

PLAN ADMINISTRATION (ALL PROVISIONS EFFECTIVE JUNE 10, 2008)

- Modifies one of the salary calculations used for service purchases from the last full pay period prior to the request to a calculation that requires the ASRS to take the five pay periods prior to the request, drop the high and low, and average the remaining three.
- Clarifies that the salary calculations used for military and other public service purchases are also used for leave of absence purchases.
- Grants the Board rulemaking authority over the Plan, the LTD Program, and Transfers.
- Clarifies that a member who purchases previously forfeited service credit is subject to the benefit structure and duties in place when the person again becomes a member.
- Requires the ASRS to recover overpaid money by reducing a benefit owed to any member, beneficiary, or alternate payee.

UNCLAIMED PROPERTY (ALL PROVISIONS EFFECTIVE JULY 1, 2009)

- Exempts the ASRS from statutory unclaimed property procedures.
- Assumes that property is abandoned if the apparent owner has not communicated or shown an interest in the property within three years of the IRS’s minimum distribution date (age 70.5).
- Clarifies the definitions of “Apparent Owner” and “Owner” to match with the Unclaimed Property statutes.
- States that interest stops accruing on property when it becomes abandoned, but includes interest (if appropriate) for a member who is subsequently found.

- Requires the ASRS to annually send a notice to a member-apparent owner beginning 5 years before the IRS minimum distribution date and for three years thereafter. Requires the ASRS to annually send a notice to a survivor-apparent owner beginning in the year of the 5th anniversary of the member's death and for three years thereafter. If a notice is returned, requires the ASRS to make a good faith effort to locate the apparent owner by utilizing beneficiaries, public databases, third party address verification services, or a people search service (if the base amount is more than \$300).
- Allows the ASRS to pay for the people search service fee from the administration account, and prevents the fee from being paid from the benefit paid.
- Requires the ASRS to pay the money or a benefit to a person who returns to claim previously abandoned money plus interest, if applicable.
- Appropriates \$137,607 from the ASRS administration account to the ASRS in FY2008-09. The appropriation is non-lapsing.

TRANSFERS PROCEDURES (ALL PROVISIONS EFFECTIVE JUNE 10, 2008)

Voluntary Transfers

Long-term Disability (LTD) Recipients

- Member elects whether to remain with ASRS or transfer to new retirement system. If the member transfers, their LTD payments terminate.

ASRS Retirement Recipients

- Member elects whether to remain with ASRS or transfer to new retirement system. If the member transfers, their retirement payments terminate (remaining assets would transfer).

Payroll Deduction Agreements (PDAs)

- ASRS transfers assets and service credits already accrued up to the date of the joinder agreement within 90 days of the effective date of the joinder agreement.
- PDA payments continue to ASRS.
- At termination and at the employee's election, either:
 - Transfer all assets and service credit (APV at market value to the extent funded), unitized to the other retirement system. Employee makes up the difference (unless employer is specified in joinder statute). Employee has 30 days from termination to elect this option.
 - Refund the assets to the employee. Employee has 60 days from termination to submit refund application, otherwise they receive a direct payment.

Mandatory Transfers

Long-term Disability (LTD) Recipients

- Member remains with ASRS.

ASRS Retirement Recipients

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Payroll Deduction Agreements (PDAs)

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- PDA payments continue to ASRS.
- At termination and at the employee's election, either:
 - Transfer all assets and service credit (APV at market value to the extent funded), unitized to the other retirement system. Employee makes up the difference (unless employer is specified in joinder statute). Employee has 30 days from termination to elect this option.
 - Inactive membership in ASRS (member can at any time apply for a refund or a monthly retirement benefit, if eligible).

Senate Bill 1489 – NOW: divestments; terrorism countries; contract prohibition (Laws 2008, Chapter 201)

Signed by the Governor May 12, 2008, this bill:

- Requires ASRS, PSPRS, and the State Treasurer to adopt a policy regarding countries designated by the US State Department as “State Sponsors of Terrorism” that includes procedures for identifying US companies that are in violation of 6(j) of the Export Administration Act, processes for communicating with the companies, and processes for divestment from those companies.
- Requires divestment from the companies identified by the Funds.
- Requires ADOA to send a notice to companies from which the funds divest notifying them that the State cannot purchase products or services from the company.
- Appropriates \$60,000 and ½ FTE from the ASRS Administration Account for the implementation of the Act.
- Repeals the Global Security Risk reporting requirements.