

Summary of 2009 Retirement Legislation

The 49th Legislature, First Regular Session adjourned July 1, 2009.

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 30, 2009) unless otherwise noted.

House Bill 2118 – ASRS; LTD amendments (Laws 2009, Chapter 36)

Signed by the Governor on July 10, 2009, this bill:

Plan Design

- Eliminates the 80% cap on monthly benefits.

Service Purchase

- Requires, beginning July 1, 2010, a member to have five years of service credit in ASRS before initiating a service purchase.
- Allows a member to purchase time worked for the government of a US commonwealth, insular area or overseas possession.
- Repeals Laws 2007, chapter 244, section 2 which provided for a sunset of the military call-up disability service purchase, and extends the purchase provisions indefinitely.

Return to Work

- Permits a member who returns to work with a suspension of benefits to choose a different annuity option from their first retirement if the member resumed work for at least 60 consecutive months.
- Allows a retiree to immediately return to work in a non-ASRS position (i.e., not suspend retirement benefits) if the retiree returns to work in a position that is:
 1. a true change from their pre-retirement position,
 2. does not require participation in ASRS, and
 3. either:
 - a. requires participation in another retirement plan and the member makes those contributions (or if EORP, waives coverage) or
 - b. permits the member to contribute to another plan and the member actually does participate.
- Requires an election to continue receiving benefits while working to be irrevocable for the remainder of employment.
- Eliminates the requirement that a returning teacher must be working as a certificated teacher.
- Requires a member to submit an application for re-retirement after terminating RTW employment.
- Requires a retiree who RTW without a resumption of membership to acknowledge the provisions of the RTW program in writing and file it with the ER within 30 days.

Administration

- Exempts ASRS employees from State Personnel Management and Personnel Board provisions and the State classification and compensation statute.

Employer Administration

- Limits exceptions to “employer termination incentive program” (ERTIP) definition to increases due to promotion only by eliminating reclassifications and merit or cost of living increases.
- Removes the requirement that in order to qualify as an ERTIP an agreement to terminate must be in writing and instead broadens to include anything of value provided by an employer that are conditioned on the member's termination.
- Clarifies that enhanced payments of vacation, sick, or compensatory leave will count as incentive payments.

- Requires an employer that employs and makes contributions for a person who works for a third-party organization (and doesn't meet ASRS membership)—if the ASRS or a court determines that ASRS must pay a benefit to the person—to pay any unfunded liability resulting to ASRS after ASRS subtracts the person's account balance from the present value of the benefit.

Dual Employment

- Permits contributions from a second employer only if membership criteria (20/20) is met for that employer beginning January 1, 2010, unless:
 1. the employee had been employed by the second employer between January 1, 2005 and December 31, 2009,
 2. the employee continues or resumes employment for the same employer before January 1, 2012, and
 3. the employee does not leave the second employment for more than 30 consecutive days during the employee's service year.
- Clarifies that compensation from a second employer for which contributions are not made is not counted towards a member's retirement benefit.

Long Term Disability Program

- Cross-references the LTD Program definitions with the ASRS Defined Benefit (DB) Plan statutes to ensure conformity between the programs.
- Clarifies the LTD contribution rate calculation statute to provide consistency between the DB Plan and LTD Program rates.
- Clarifies LTD Program offset statute to ASRS practice, custom, and legally upheld interpretation to include amounts paid to the member *and* the member's dependents (members continue to challenge our interpretation of the current word "or").
- Clarifies the use of the word "benefit" throughout the statute.

Charter City Transfers

- Clarifies that when employee of a charter city who later becomes an ASRS member elects to have the employee's service transferred, the service is not credited in the new retirement system until full payment is made for the service credit.
- Clarifies that once a transfer is completed, the member's rights in the former retirement system are terminated.

Retiree Accumulated Sick Leave (RASL) Program (Department of Administration)

- Requires an employee, in order to be eligible for a RASL payment from ADOA, to:
 1. Establish an effective retirement date that is within 31 days after termination of employment.
 2. Elect defined retirement benefits within 31 days after termination of employment.
 3. Have non-forfeited sick leave time available for use at the time of termination.
- Enables an employee or officer to receive a RASL payment in a lump sum.

Miscellaneous, Technical and Federal Conforming Changes

- Clarifies that non-retired survivor benefits are triggered by a member's death regardless of whether the member was employed at the time of death.
- Eliminates extraneous statutory language relating to the Rural Health Insurance Subsidy that expires on June 30, 2009.
- Makes other technical and conforming changes.

Senate Bill 1196 – NOW: education omnibus (Laws 2009, Chapter 95)

Signed by the Governor on July 10, 2009, with respect to ASRS this bill:

- Allows ASRS to establish a supplemental employee deferral plan (403(b) or 457) ("Plan") for public employees, other than State employees, to save additional tax-deferred money for retirement.
- Allows ASRS to:
 1. Employ services for the operation and administration of the Plan.
 2. Administer the Plan through contracts with multiple vendors.

3. Perform all acts necessary and proper for the operation and protection of the Plan.

4. Enter into intergovernmental agreements.

- Clarifies that the Plan is in addition to the DB Plan provided by ASRS.
- Allows any employee of a participating employer to join the Plan.
- Provides that employee participation allows the employer to make payroll deductions.
- Requires the employer to submit reports required by the Plan.
- Clarifies that compensation deferred under the Plan is compensation for the purposes of retirement benefits.
- States that employee contributions and earnings are immediately vested; employer contributions are vested according to the Plan.
- Provides an immunity clause for the State, the Board, and the ASRS.