

## Summary of 2011 Retirement Legislation

The 50<sup>th</sup> Legislature-First Regular Session adjourned April 20, 2011.

Below is a brief summary of new and revised laws that have significant impacts to ASRS members, both current and future. To view legislation in its entirety, visit the Arizona Legislature's website at [www.azleg.gov](http://www.azleg.gov).

The general effective date for legislation is July 20, 2011, unless otherwise noted.

### Senate Bill 1614 – State budget procedures; 2011-12 (Laws 2011, Chapter 26)

#### *Employer and employee contributions*

- Beginning July 1, 2011, employers shall contribute 47% of the total (Plan and LTD) ASRS contribution rate, and employees shall contribute 53% of the total contribution rate. This replaces the current 50/50 split for employer and employer contribution rates.
- Requires state and educational employers to transfer the difference between the current 50% and the proposed 47% employer contribution rate to the state general fund in fiscal year 2012.

Note: Under this new formula, the contribution rate for the ASRS Defined Benefit Plan and Long Term Disability Plan, take effect on the general effective date of July 20, 2011, but are retroactive to July 1, 2011 and are effective through June 30, 2012. The new rates are:

	<b>Pension Benefit</b>	<b>Long-Term Disability</b>	<b>Total</b>
<b>Employee</b>	11.13%	0.26%	<b>11.39%</b>
<b>Employer</b>	9.87%	0.23%	<b>10.10%</b>

### House Bill 2024 – ASRS; amendments (Laws 2011, Chapter 277)

#### *Eligibility for new state employees*

- States that a new state employee hired after the general effective date is not eligible for state benefits until the employee has worked regularly for at least 90 days.
- States that a new state employee hired after the effective date is not eligible for ASRS defined benefit plan or long term disability plan eligibility before the 27th week of employment.
- States that the new employee shall become an ASRS member on the 27th week of employment if membership criteria are met under ASRS statutes (engaged to work 20/20, covered under the Social Security 218 Agreement, and not otherwise in an excluded position).
- States that the 27-week waiting period does not apply to an employee who is already a member of the ASRS.
- Defines state employee as a person who is employed by a State agency, department, board, or commission; a State university; the judicial branch, the Arizona Corporation Commission; or the Legislature.

### ***Long-Term Disability Plan***

- Requires disability claims to be submitted within 12 months of the date of disability, unless the member can show good cause for filing late.
- Permits the ASRS to suspend benefits or terminate claims when a member refuses to provide requested information (such as social security wage statements or medical documents, etc.) to the ASRS.
- Requires the ASRS to retroactively reinstate the benefit or claim for which the member is entitled after the information is received.

## **Senate Bill 1609 – Retirement systems; plans; plan design (Laws 2011, Chapter 357)**

### ***Normal Retirement Definitions***

- Removes the 85 point-based (age + years of service) normal retirement age for members hired on or after July 1, 2011, and replaces it with two new normal retirement ages: Age 60 + 25 years of service and Age 55 + 30 years of service.
- Adjusts the Early Retirement Decrements to account for the removal of the 85 points normal retirement age.

Note: Members hired on or before June 30, 2011 are not affected by this change and remain eligible for normal retirement under current definitions: 80 points; 62 + 10 years of service, or age 65.

### ***Service Purchase***

- Limits the amount of Other Public Service, Leave of Absence Service and Military Service (except USERRA or Heart Act purchases) service credit that a member may purchase to 60 months for each type of purchase.
- Increases the amount of service credit a member must have with the ASRS prior to initiating a request to purchase Other Public Service, Leave of Absence Service and Military Service (except USERRA or Heart Act purchases) from 5 to 10 years.
- Requires a member who wishes to purchase Military Service (except USERRA or Heart Act purchases) to not be eligible for a military retirement benefit for the time the member wishes to purchase.

### ***ASRS Return to Work—Alternate Contribution Rate***

- Beginning July 1, 2012, requires employers to pay an Alternate Contribution Rate (ACR) for members who return to work in any capacity and in a position ordinarily filled by an employee of the employer.
- Charges the ACR starting the first day after retirement for a member who reached normal retirement and for a member who is an early retiree working less than 20/20 for as long as that member stays in service and for any future employment periods during which the member does not suspend their benefits and resume active membership.
- States that the retired member does not accrue credited service, member service (for UORP), account balances, retirement benefits or LTD Program benefits, and the time is not later eligible for service purchase.
- Requires employers to pay the ACR on behalf of any retiree that it employs regardless of 20/20 status, direct/leasing/contracting arrangement, or whether the retiree satisfied the 12-month break in service without working in a leased or contract arrangement.
- States that the ACR is calculated as the greater of 2% or the total “deficit” payment (the ASRS Past Service Funding Requirement Rate plus the employer LTD Past Service Funding Requirement Rate).

- Caps the ACR at the employer's portion of the Total ASRS Contribution Rate (DB + LTD).
- Requires the ASRS actuary to calculate the ACR annually.
- States that the ACR shall be payable on the compensation (for direct hire), gross salary (for leased employee), or contract fee (for independent contractor), as defined in the bill.
- Requires the ASRS to determine how frequently the ACR is paid and how the monies are submitted to the ASRS.
- States that late contributions are subject to interest (8%) and may be recovered in court or by state revenue offsets.
- Requires employers to submit any reports, data, paperwork, or materials required by the ASRS to determine the function, utilization, efficacy or operation of the return to work program.
- Includes a Legislative Intent clause that states the purpose of the legislation is to mitigate the potential actuarial impact that retired members who return to work might have on the Trust Fund.

### ***ASRS Return to Work—Violations***

- Clarifies the period for which a member shall repay suspended pensions to the ASRS starts with the date the ASRS notifies the member in writing that their employment violated the statute, the date the ASRS determines the member knew or should have known that their employment violated the statute, or any other time period that approximates the duration of the violation, as determined by the ASRS.
- Requires an employer that employed a member whose pension was suspended to pay the ASRS the ACR starting with the date the member returned to employment. The ER is required to make the ACR payment through the earlier of:
  - The date the member terminates employment,
  - The date the employer begins making the ACR payment required by the new Return to Work statute, or
  - The date the member resumes active membership in the ASRS.

### ***Felony Forfeitures***

- Requires a court to order the forfeiture of retirement benefits if a member is convicted or pleads no contest to a Class 1, 2, 3, 4, or 5 felony that was committed in the course of employment.
- States that the member will receive a return of the member's contributions, plus interest, in a lump sum upon the ordered forfeiture.
- States that during an appeal of a conviction an order of forfeiture is not stayed and, for an active member, the member and employer must continue making contributions, and for a retired member, the benefit is suspended and the assets held in trust by the retirement system.
- States that if the member is successful on appeal, no rights are forfeited and benefits are reinstated.
- Permits a court to award some or all of the member's forfeited benefits to a spouse, dependent, or former spouse taking into consideration:
  - The role, if any, the person had in the illegal conduct.
  - The degree of knowledge, if any, the person had about the illegal conduct.
  - The community property nature of the benefits involved.
  - The extent to which the person was relying on the forfeited benefits.
- States that a person subject to the forfeiture order is not eligible for membership in a public retirement plan in the future.

- States that the member forfeits benefits in the retirement system in which the member was contributing at the time of the illegal conduct.
- Requires the court to provide a copy of the order to the appropriate retirement system.
- States that the forfeiture provision does not apply to a member whose most recent retirement is before the effective date, unless the member has resumed making contributions.
- Prohibits the court from ordering the forfeiture of rights and benefits earned or for felonies committed before the effective date.

***Defined Contribution and Retirement Study Committee***

- Establishes a Defined Contribution and Retirement Study Committee made up of the State Board of Investment, three Senators, three Representatives, one ASRS Trustee, and one PSPRS Trustee.
- Requires the Committee to study and make recommendations regarding:
  - The feasibility and cost of transferring existing members of defined benefit plans to a new defined contribution plans, as well as implementing a defined contribution plan for new hires.
  - The advantages and disadvantages of ASRS- and PSPRS-sponsored supplemental retirement plans and the feasibility of merging the plans.
  - The definitions of compensation, average yearly salary and salary of all four plans, especially salary “spiking.”
  - The advantages and disadvantages of the local board system within PSRPS and CORP and the feasibility of establishing a single employer model.
  - The procedures for granting disability by the local boards of PSPRS and CORP.
- Requires the Committee to meet twice and issue an interim report before December 31, 2011, and submit a final report with recommendations by December 31, 2012.
- Appropriates \$50,000 from the ASRS Administration Account and \$50,000 from PSPRS to fund the Study Committee.