



Bill Number: S.B. 1034

Livingston Floor Amendment

Reference to: printed bill

Amendment drafted by: Molly Graver

FLOOR AMENDMENT EXPLANATION

- 1. Removes the requirement for the Arizona State Retirement System (ASRS) to establish a separate fund for a nonparticipating employer that:
 - a) is considered to employ a minimum of 50 employees one year before their nonparticipation date; and**
 - b) reduces the number of actively contributing employees by a specified amount.****
- 2. Removes the restriction on a nonparticipating employer's participation in ASRS after their nonparticipation date.**
- 3. Makes technical and conforming changes.**

Amendment explanation prepared by Molly Graver

01/31/20

LIVINGSTON FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1034
(Reference to printed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 38-751, Arizona Revised Statutes, is amended to
3 read:

4 38-751. Nonparticipatory employer liability allocation;
5 exemption; definitions

6 A. ASRS shall establish a separate fund for an employer other than a
7 charter school that is:

8 ~~1.~~ No longer participating in ASRS as a result of any of the
9 following:

10 ~~(a)~~ 1. The character of the employer changes from a public entity
11 to a private entity.

12 ~~(b)~~ 2. An employer, other than this state, dissolves.

13 ~~(c)~~ 3. Through legislative action, the employer is no longer
14 enrolling new employees in ASRS or no longer contributing to ASRS on behalf
15 of current employees or groups of employees who otherwise would be eligible
16 for ASRS membership.

17 ~~2. Based on the number of contributing employees as of August 3,~~
18 ~~2018 both of the following apply:~~

19 ~~(a) Considered to employ a minimum of fifty employees as of one year~~
20 ~~preceding the employer's nonparticipation date.~~

21 ~~(b) Is no longer participating in ASRS as a result of reducing the~~
22 ~~number of actively contributing employees by thirty percent or more over a~~
23 ~~three-year period or by fifty percent or more over any period of time by~~
24 ~~filling a position ordinarily filled by an employee of the employer with an~~
25 ~~employee who is not otherwise actively contributing, unless the employee~~
26 ~~participates in another Arizona retirement plan specified in article 3, 4~~

1 ~~or 6 of this chapter, or an optional retirement plan specified in title 15,~~
2 ~~chapter 12, article 3.~~

3 ~~B. Subsection A, paragraph 2 of this section does not apply to this~~
4 ~~state unless the reduction of actively contributing employees is the result~~
5 ~~of hiring one or more leased employees.~~

6 ~~€.~~ B. For a nonparticipating employer described in subsection A of
7 this section, ASRS shall allocate an actuarial accrued liability and a
8 designated asset amount to the nonparticipating employer's separate fund as
9 of the nonparticipation date, which shall be calculated as follows:

10 1. The actuarial accrued liability shall equal the sum of the plan
11 employer actuarial accrued liability and the LTD program employer actuarial
12 accrued liability. Actuarial accrued liability shall be calculated based
13 on the same actuarial assumptions and methods as the actuarial valuation
14 performed immediately preceding the nonparticipating employer's
15 nonparticipation date.

16 2. The designated asset amount shall equal the sum of the following:

17 (a) The plan employer actuarial accrued liability multiplied by the
18 plan funded percentage.

19 (b) The LTD program employer actuarial accrued liability multiplied
20 by the LTD program funded percentage.

21 ~~€.~~ C. All monies and securities transferred to the nonparticipating
22 employer's separate fund shall be credited to that fund. A record of the
23 market value and the cost value of such transferred contributions shall be
24 maintained for actuarial and investment purposes. ASRS shall make all
25 decisions regarding the nonparticipating employer's separate fund.

26 ~~€.~~ D. After establishing the nonparticipating employer's separate
27 fund, the fund shall be adjusted for all of the following:

28 1. All contributions made by employees of the nonparticipating
29 employer.

30 2. All contributions made by the nonparticipating employer.

1 3. All plan, ALL LTD program and any other benefits paid to the
2 nonparticipating employer's members who are active, inactive, retired or on
3 long-term disability.

4 4. All plan, ALL LTD program and any other benefits paid to the
5 survivors of the nonparticipating employer's members.

6 5. The applicable share of the investment gains and losses.

7 6. Expenses associated with the administration of the
8 nonparticipating employer's separate fund, including any administrative,
9 development, actuarial, legal, custodial and investment management costs
10 associated with the fund. These expenses shall be paid directly by the
11 nonparticipating employer or included in the employer's liability for the
12 purposes of determining the employer's contribution rate.

13 ~~F.~~ E. After establishing the nonparticipating employer's separate
14 fund, the nonparticipating employer and any employees of that employer who
15 are enrolled in ASRS shall continue to have contribution requirements to
16 the nonparticipating employer's separate fund. The contribution
17 requirements shall be calculated as follows:

18 1. All employees of the nonparticipating employer who are enrolled
19 in ASRS shall continue to make contributions through payroll deductions
20 based on the contribution rate determined for the employees of
21 participating employers of ASRS pursuant to section 38-736.

22 2. The nonparticipating employer shall continue to make
23 contributions through lump sum payments in accordance with section 38-735,
24 equal to the sum of:

25 (a) Contributions owed through payroll deductions based on the
26 contribution rate determined for participating employers pursuant to
27 section 38-737.

28 (b) The amount required to amortize the past service funding
29 requirement in the nonparticipating employer's separate fund over a period
30 that is determined by the board and THAT IS consistent with generally
31 accepted actuarial standards. In determining the past service funding
32 period, the board shall seek to improve the funded status whenever the

1 nonparticipating employer's separate fund is less than one hundred percent
2 funded.

3 ~~F.~~ F. The ASRS actuary shall determine the actuarial assumptions
4 used to determine the contribution requirements for the nonparticipating
5 employer under subsection F of this section. Notwithstanding section
6 38-737, the contribution for the nonparticipating employer may not be
7 determined as a percentage of compensation due to the anticipated decline
8 of compensation for employees of the nonparticipating employer
9 participating in ASRS. The nonparticipating employer shall certify on each
10 payroll the amount to be contributed and shall remit that amount to ASRS at
11 a rate that is consistent with the rate paid by the participating
12 employers. Each fiscal year, amounts that are not remitted through payroll
13 contributions pursuant to this section shall be invoiced to the employer
14 and shall be paid within the same fiscal year the nonparticipating employer
15 is invoiced.

16 ~~G.~~ G. This section does not permit an employer to alter the
17 irrevocable agreement approved by the board under section 38-729.

18 ~~H.~~ H. For the purposes of calculating an employer's liability under
19 this section, members who are active, inactive, retired or on long-term
20 disability are considered employees of the nonparticipating employer if the
21 member's most recent employer was the nonparticipating employer as of the
22 nonparticipation date.

23 ~~J. An employer that is no longer participating pursuant to this~~
24 ~~section is not eligible to participate in ASRS after the employer's~~
25 ~~nonparticipation date.~~

26 ~~I.~~ I. This section does not apply to an employer whose existence
27 was terminated by legislative action or otherwise became a nonparticipating
28 employer as described in subsection A of this section on or before
29 January 1, 2013.

30 ~~J.~~ J. For the purposes of this section:

31 1. "LTD program" means the program established by article 2.1 of
32 this chapter.

1 2. "LTD program employer actuarial accrued liability" means the
2 actuarial accrued liability for the employer's active and inactive members
3 and the open LTD program claims for the employees of the employer as of the
4 nonparticipation date.

5 3. "LTD program funded percentage" means the total market value of
6 LTD program assets divided by the total LTD program actuarial accrued
7 liabilities, as of the actuarial valuation performed immediately preceding
8 the nonparticipation date. If the percentage is greater than one hundred
9 percent, the LTD program funded percentage is one hundred percent.

10 4. "Nonparticipation date" means the date on which the employer is
11 no longer participating in ASRS.

12 5. "Plan" means the retirement plan established by this article.

13 6. "Plan employer actuarial accrued liability" means the plan's
14 actuarial accrued liability for all benefits provided under this article,
15 including benefits established in section 38-783, for the employer's
16 active, inactive or retired members as of the actuarial valuation performed
17 immediately preceding the nonparticipation date.

18 7. "Plan funded percentage" means the plan's total market value of
19 assets divided by the plan's actuarial accrued liability for all benefits
20 provided under this article, including benefits established in section
21 38-783, for all active, inactive or retired members as of the actuarial
22 valuation performed immediately preceding the nonparticipation date. If
23 the percentage is greater than one hundred percent, the plan funded
24 percentage is one hundred percent."

25 Renumber to conform

26 Amend title to conform

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