

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# HOUSE BILL 2482

## AN ACT

AMENDING SECTION 38-884, ARIZONA REVISED STATUTES; AMENDING SECTION 38-884, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-885.01; PROVIDING FOR THE DELAYED REPEAL OF SECTION 38-885.01, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-884, Arizona Revised Statutes, is amended to  
3 read:

4 38-884. Membership of retirement plan; termination; credited  
5 service; redemption

6 A. Each employee of a participating employer is a member of the plan  
7 **UNLESS THE EMPLOYEE IS RECEIVING A PENSION FROM THE PLAN.** A person employed  
8 shall undergo a medical examination performed by a doctor or clinic appointed  
9 by the local board or, in the case of a state correctional officer who is  
10 employed by the state department of corrections, complete a physical  
11 examination pursuant to section 41-1822, subsection B. For the purposes of  
12 subsection B of this section, the doctor or clinic appointed by the local  
13 board may be the employer's regular employee or contractor.

14 B. The purpose of the medical examination authorized by this section  
15 is to identify a member's physical or mental condition or injury that existed  
16 or occurred before the member's date of membership in the plan. Any employee  
17 who fails or refuses to submit to the medical examination prescribed in this  
18 section is deemed to waive all rights to disability benefits under this  
19 article. Medical examinations conducted under this article shall not be  
20 conducted or used for purposes of hiring, advancement, discharge, job  
21 training or other terms, conditions and privileges of employment unrelated to  
22 receipt or qualification for pension benefits or service credits from the  
23 fund. This subsection does not affect or impair the right of an employer to  
24 prescribe medical or physical standards for employees or prospective  
25 employees.

26 C. If a member ceases to be an employee for any reason other than  
27 death or retirement, within twenty days after filing a completed application  
28 with the fund manager, the member is entitled to receive the following  
29 amounts, less any benefit payments the member has received and any amount the  
30 member may owe to the plan:

31 1. If the member has less than five years of credited service with the  
32 plan, the member may withdraw the member's accumulated contributions from the  
33 plan.

34 2. If the member has five or more years of credited service with the  
35 plan, the member may withdraw the member's accumulated contributions plus an  
36 amount equal to the amount determined as follows:

37 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
38 member contributions deducted from the member's salary pursuant to section  
39 38-891, subsection B.

40 (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
41 contributions deducted from the member's salary pursuant to section 38-891,  
42 subsection B.

43 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
44 member contributions deducted from the member's salary pursuant to section  
45 38-891, subsection B.

1 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
2 member contributions deducted from the member's salary pursuant to section  
3 38-891, subsection B.

4 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
5 member contributions deducted from the member's salary pursuant to section  
6 38-891, subsection B.

7 (f) 10.0 or more years of credited service, one hundred per cent of  
8 all member contributions deducted from the member's salary pursuant to  
9 section 38-891, subsection B.

10 D. If a member has more than ten years of credited service with the  
11 plan, ~~and~~ leaves the monies prescribed in subsection C of this section on  
12 account with the plan for more than thirty days after termination of  
13 employment and after that time period requests a refund of those monies, the  
14 member is entitled to receive the amount prescribed in subsection C of this  
15 section plus interest at a rate determined by the fund manager for each year  
16 computed from and after the member's termination of employment.

17 E. If the refund includes monies that are an eligible rollover  
18 distribution and the member elects to have the distribution paid directly to  
19 an eligible retirement plan or individual retirement account or annuity and  
20 specifies the eligible retirement plan or individual retirement account or  
21 annuity to which the distribution is to be paid, the distribution shall be  
22 made in the form of a direct trustee-to-trustee transfer to the specified  
23 eligible retirement plan. The distribution shall be made in the form and at  
24 the time prescribed by the fund manager.

25 F. Service shall be credited to a member's individual credited service  
26 account in accordance with rules the local board prescribes. In no case  
27 shall more than twelve months of credited service be credited on account of  
28 all service rendered by a member in any one year. In no case shall service  
29 be credited for any period during which the member is not employed in a  
30 designated position, except as provided by sections 38-921 and 38-922.

31 G. Credited service is forfeited if the amounts prescribed in  
32 subsection C or D of this section are paid or are transferred in accordance  
33 with this section.

34 H. If a former member becomes reemployed with the same employer within  
35 two years after the former member's termination date, a member may have  
36 forfeited credited service attributable to service rendered during a prior  
37 period of service as an employee restored on satisfaction of each of the  
38 following conditions:

39 1. The member files with the plan a written application for  
40 reinstatement of forfeited credited service within ninety days after again  
41 becoming an employee.

42 2. The retirement fund is paid the total amount previously withdrawn  
43 pursuant to subsection C or D of this section plus compound interest from the  
44 date of withdrawal to the dates of repayment. Interest shall be computed at  
45 the rate of nine per cent for each year compounded each year from the date of

1 withdrawal to the date of repayment. Forfeited credited service shall not be  
2 restored until complete payment is received by the fund.

3 3. The required payment is completed within one year after returning  
4 to employee status.

5 I. A present active member of the plan who received a refund of  
6 accumulated contributions from the plan pursuant to subsection C OR D of this  
7 section and forfeited credited service pursuant to subsection G of this  
8 section may elect to redeem any part of that forfeited credited service by  
9 paying into the plan any amounts required pursuant to this subsection. A  
10 present active member who elects to redeem any part of forfeited credited  
11 service for which the member is deemed eligible by the fund manager shall pay  
12 into the plan the amounts previously paid or transferred as a refund of the  
13 member's accumulated contributions plus an amount, computed by the plan's  
14 actuary, that is necessary to equal the increase in the actuarial present  
15 value of projected benefits resulting from the redemption calculated using  
16 the actuarial methods and assumptions prescribed by the plan's actuary.

17 J. ~~The following conditions apply to a retired member who becomes an~~  
18 ~~employee subsequent to retirement~~ A RETIRED MEMBER WHO RETIRES BEFORE JANUARY  
19 1, 2006 MAY BECOME EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION AND STILL  
20 CONTINUE TO RECEIVE A PENSION IF THE EMPLOYMENT OCCURS AT LEAST NINETY DAYS  
21 AFTER RETIREMENT AND IF THE EMPLOYMENT INVOLVES SUBSTANTIAL DIRECT INMATE  
22 CONTACT. THE RETIRED MEMBER SHALL NOT CONTRIBUTE TO THE FUND AND SHALL NOT  
23 ACCRUE CREDITED SERVICE.

24 K. IF A RETIRED MEMBER RETIRES ON OR AFTER JANUARY 1, 2006, BECOMES  
25 EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION BEFORE NINETY DAYS AFTER  
26 RETIREMENT OR IF THE EMPLOYMENT DOES NOT INVOLVE SUBSTANTIAL DIRECT INMATE  
27 CONTACT:

28 1. Payment of the retired member's pension shall be suspended until  
29 the retired member again ceases to be an employee. The amount of pension  
30 shall not be changed on account of service as an employee subsequent to  
31 retirement.

32 2. The retired member shall not contribute to the fund and shall not  
33 accrue credited service.

34 Sec. 2. Section 38-884, Arizona Revised Statutes, as amended by  
35 section 1 of this act, is amended to read:

36 38-884. Membership of retirement plan; termination; credited  
37 service; redemption

38 A. Each employee of a participating employer is a member of the plan  
39 ~~unless the employee is receiving a pension from the plan~~. A person employed  
40 shall undergo a medical examination performed by a doctor or clinic appointed  
41 by the local board or, in the case of a state correctional officer who is  
42 employed by the state department of corrections, complete a physical  
43 examination pursuant to section 41-1822, subsection B. For the purposes of  
44 subsection B of this section, the doctor or clinic appointed by the local  
45 board may be the employer's regular employee or contractor.

1           B. The purpose of the medical examination authorized by this section  
2 is to identify a member's physical or mental condition or injury that existed  
3 or occurred before the member's date of membership in the plan. Any employee  
4 who fails or refuses to submit to the medical examination prescribed in this  
5 section is deemed to waive all rights to disability benefits under this  
6 article. Medical examinations conducted under this article shall not be  
7 conducted or used for purposes of hiring, advancement, discharge, job  
8 training or other terms, conditions and privileges of employment unrelated to  
9 receipt or qualification for pension benefits or service credits from the  
10 fund. This subsection does not affect or impair the right of an employer to  
11 prescribe medical or physical standards for employees or prospective  
12 employees.

13           C. If a member ceases to be an employee for any reason other than  
14 death or retirement, within twenty days after filing a completed application  
15 with the fund manager, the member is entitled to receive the following  
16 amounts, less any benefit payments the member has received and any amount the  
17 member may owe to the plan:

18           1. If the member has less than five years of credited service with the  
19 plan, the member may withdraw the member's accumulated contributions from the  
20 plan.

21           2. If the member has five or more years of credited service with the  
22 plan, the member may withdraw the member's accumulated contributions plus an  
23 amount equal to the amount determined as follows:

24           (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
25 member contributions deducted from the member's salary pursuant to section  
26 38-891, subsection B.

27           (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
28 contributions deducted from the member's salary pursuant to section 38-891,  
29 subsection B.

30           (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
31 member contributions deducted from the member's salary pursuant to section  
32 38-891, subsection B.

33           (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
34 member contributions deducted from the member's salary pursuant to section  
35 38-891, subsection B.

36           (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
37 member contributions deducted from the member's salary pursuant to section  
38 38-891, subsection B.

39           (f) 10.0 or more years of credited service, one hundred per cent of  
40 all member contributions deducted from the member's salary pursuant to  
41 section 38-891, subsection B.

1 D. If a member has more than ten years of credited service with the  
2 plan, leaves the monies prescribed in subsection C of this section on account  
3 with the plan for more than thirty days after termination of employment and  
4 after that time period requests a refund of those monies, the member is  
5 entitled to receive the amount prescribed in subsection C of this section  
6 plus interest at a rate determined by the fund manager for each year computed  
7 from and after the member's termination of employment.

8 E. If the refund includes monies that are an eligible rollover  
9 distribution and the member elects to have the distribution paid directly to  
10 an eligible retirement plan or individual retirement account or annuity and  
11 specifies the eligible retirement plan or individual retirement account or  
12 annuity to which the distribution is to be paid, the distribution shall be  
13 made in the form of a direct trustee-to-trustee transfer to the specified  
14 eligible retirement plan. The distribution shall be made in the form and at  
15 the time prescribed by the fund manager.

16 F. Service shall be credited to a member's individual credited service  
17 account in accordance with rules the local board prescribes. In no case  
18 shall more than twelve months of credited service be credited on account of  
19 all service rendered by a member in any one year. In no case shall service  
20 be credited for any period during which the member is not employed in a  
21 designated position, except as provided by sections 38-921 and 38-922.

22 G. Credited service is forfeited if the amounts prescribed in  
23 subsection C or D of this section are paid or are transferred in accordance  
24 with this section.

25 H. If a former member becomes reemployed with the same employer within  
26 two years after the former member's termination date, a member may have  
27 forfeited credited service attributable to service rendered during a prior  
28 period of service as an employee restored on satisfaction of each of the  
29 following conditions:

30 1. The member files with the plan a written application for  
31 reinstatement of forfeited credited service within ninety days after again  
32 becoming an employee.

33 2. The retirement fund is paid the total amount previously withdrawn  
34 pursuant to subsection C or D of this section plus compound interest from the  
35 date of withdrawal to the dates of repayment. Interest shall be computed at  
36 the rate of nine per cent for each year compounded each year from the date of  
37 withdrawal to the date of repayment. Forfeited credited service shall not be  
38 restored until complete payment is received by the fund.

39 3. The required payment is completed within one year after returning  
40 to employee status.

41 I. A present active member of the plan who received a refund of  
42 accumulated contributions from the plan pursuant to subsection C or D of this  
43 section and forfeited credited service pursuant to subsection G of this  
44 section may elect to redeem any part of that forfeited credited service by  
45 paying into the plan any amounts required pursuant to this subsection. A

1 present active member who elects to redeem any part of forfeited credited  
2 service for which the member is deemed eligible by the fund manager shall pay  
3 into the plan the amounts previously paid or transferred as a refund of the  
4 member's accumulated contributions plus an amount, computed by the plan's  
5 actuary that is necessary to equal the increase in the actuarial present  
6 value of projected benefits resulting from the redemption calculated using  
7 the actuarial methods and assumptions prescribed by the plan's actuary.

8 ~~J. A retired member who retires before January 1, 2006 may become  
9 employed by an employer in a designated position and still continue to  
10 receive a pension if the employment occurs at least ninety days after  
11 retirement and if the employment involves substantial direct inmate contact.  
12 The retired member shall not contribute to the fund and shall not accrue  
13 credited service.~~

14 ~~K. If a retired member retires on or after January 1, 2006, becomes  
15 employed by an employer in a designated position before ninety days after  
16 retirement or if the employment does not involve substantial direct inmate  
17 contact.~~

18 J. THE FOLLOWING CONDITIONS APPLY TO A RETIRED MEMBER WHO BECOMES AN  
19 EMPLOYEE SUBSEQUENT TO RETIREMENT:

20 1. Payment of the retired member's pension shall be suspended until  
21 the retired member again ceases to be an employee. The amount of pension  
22 shall not be changed on account of service as an employee subsequent to  
23 retirement.

24 2. The retired member shall not contribute to the fund and shall not  
25 accrue credited service.

26 Sec. 3. Title 38, chapter 5, article 6, Arizona Revised Statutes, is  
27 amended by adding section 38-885.01, to read:

28 38-885.01. Reverse deferred retirement option plan; purpose

29 A. A REVERSE DEFERRED RETIREMENT OPTION PLAN IS ESTABLISHED. THE  
30 PURPOSE OF THE REVERSE DEFERRED RETIREMENT OPTION PLAN IS TO ADD FLEXIBILITY  
31 TO THE PLAN AND TO PROVIDE MEMBERS WHO ELECT TO PARTICIPATE IN THE REVERSE  
32 DEFERRED RETIREMENT OPTION PLAN ACCESS TO A LUMP SUM BENEFIT IN ADDITION TO  
33 THEIR NORMAL MONTHLY RETIREMENT BENEFIT ON ACTUAL RETIREMENT.

34 B. BEGINNING ON JULY 1, 2006 THROUGH JUNE 30, 2011, THE FUND MANAGER  
35 SHALL OFFER THE REVERSE DEFERRED RETIREMENT OPTION PLAN TO MEMBERS ON A  
36 VOLUNTARY BASIS AS AN ALTERNATIVE METHOD OF BENEFIT ACCRUAL UNDER THE PLAN.

37 C. ANY MEMBER WHO IS ELIGIBLE FOR A NORMAL PENSION PURSUANT TO SECTION  
38 38-885 AND WHO HAS AT LEAST TWENTY-FOUR YEARS OF CREDITED SERVICE IS ELIGIBLE  
39 TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

40 D. A MEMBER WHO ELECTS TO PARTICIPATE IN THE REVERSE DEFERRED  
41 RETIREMENT OPTION PLAN SHALL VOLUNTARILY AND IRREVOCABLY:

42 1. DESIGNATE A REVERSE DEFERRED RETIREMENT OPTION PLAN DATE THAT IS  
43 THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING A MEMBER'S  
44 COMPLETION OF TWENTY-FOUR YEARS OF CREDITED SERVICE OR A DATE NOT MORE THAN

1 SIXTY CONSECUTIVE MONTHS BEFORE THE DATE THE MEMBER ELECTS TO PARTICIPATE IN  
2 THE REVERSE DEFERRED RETIREMENT OPTION PLAN, WHICHEVER IS LATER.

3 2. AGREE TO TERMINATE EMPLOYMENT ON THE DATE THE MEMBER ELECTS TO  
4 PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

5 3. RECEIVE BENEFITS FROM THE PLAN ON TERMINATION OF EMPLOYMENT AT THE  
6 SAME TIME AND IN THE SAME MANNER AS OTHERWISE PRESCRIBED IN THIS ARTICLE  
7 USING THE FACTORS OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON  
8 THE REVERSE DEFERRED RETIREMENT OPTION PLAN DATE.

9 E. ON ELECTION, A REVERSE DEFERRED RETIREMENT OPTION PLAN  
10 PARTICIPATION ACCOUNT IS ESTABLISHED WITHIN THE PLAN ON BEHALF OF EACH  
11 REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPANT. ALL BENEFITS ACCRUED  
12 PURSUANT TO THIS ARTICLE SHALL BE ACCOUNTED FOR IN THE REVERSE DEFERRED  
13 RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT. A REVERSE DEFERRED RETIREMENT  
14 OPTION PLAN PARTICIPANT DOES NOT HAVE A CLAIM ON THE ASSETS OF THE PLAN WITH  
15 RESPECT TO THE MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION  
16 ACCOUNT AND ASSETS SHALL NOT BE SET ASIDE FOR ANY REVERSE DEFERRED RETIREMENT  
17 OPTION PLAN PARTICIPANT THAT ARE SEPARATE FROM ALL OTHER SYSTEM ASSETS.

18 F. ALL AMOUNTS CREDITED TO A MEMBER'S REVERSE DEFERRED RETIREMENT  
19 OPTION PLAN PARTICIPATION ACCOUNT ARE FULLY VESTED.

20 G. A MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION  
21 ACCOUNT SHALL BE CREDITED WITH THE FOLLOWING:

22 1. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY FROM THE  
23 REVERSE DEFERRED RETIREMENT OPTION PLAN DATE TO THE DATE THE MEMBER ELECTED  
24 TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN AND THAT IS  
25 COMPUTED IN THE SAME MANNER AS A NORMAL RETIREMENT BENEFIT USING THE FACTORS  
26 OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON THE REVERSE  
27 DEFERRED RETIREMENT OPTION PLAN DATE.

28 2. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY AND THAT  
29 REPRESENTS INTEREST AT A RATE EQUAL TO THE YIELD ON A FIVE YEAR TREASURY NOTE  
30 AS OF THE FIRST DAY OF THE MONTH AS PUBLISHED BY THE FEDERAL RESERVE BOARD.

31 H. EMPLOYEE AND EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 38-891 THAT  
32 ARE DEPOSITED DURING THE PERIOD OF THE REVERSE DEFERRED RETIREMENT OPTION  
33 PLAN ARE NOT ELIGIBLE TO BE REFUNDED TO THE EMPLOYER OR MEMBER.

34 I. THE PARTICIPANT IS NOT ENTITLED TO RECEIVE ANY AMOUNT PRESCRIBED BY  
35 SECTION 38-905 OR 38-906 DURING THE REVERSE DEFERRED RETIREMENT OPTION PLAN  
36 PARTICIPATION PERIOD.

37 J. THE FORM OF PAYMENT SHALL BE A LUMP SUM DISTRIBUTION. IF ALLOWED  
38 BY THE INTERNAL REVENUE SERVICE, THE PARTICIPANT MAY ELECT TO TRANSFER THE  
39 LUMP SUM DISTRIBUTION TO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT  
40 ACCOUNT.

41 K. THE REVERSE DEFERRED RETIREMENT OPTION PLAN SHALL NOT JEOPARDIZE IN  
42 ANY WAY THE TAX QUALIFIED STATUS OF THE PLAN UNDER THE RULES OF THE INTERNAL  
43 REVENUE SERVICE. THE FUND MANAGER MAY ADOPT ADDITIONAL PROVISIONS TO THE  
44 EXTENT NECESSARY OR APPROPRIATE FOR THE REVERSE DEFERRED RETIREMENT OPTION  
45 PLAN TO COMPLY WITH APPLICABLE FEDERAL LAWS OR RULES.

1           Sec. 4. Effective date

2           Section 38-884, Arizona Revised Statutes, as amended by section 2 of  
3 this act, is effective from and after June 30, 2008.

4           Sec. 5. Delayed repeal

5           Section 38-885.01, Arizona Revised Statutes, as added by this act, is  
6 repealed from and after June 30, 2011.