

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2562

AN ACT

AMENDING TITLE 12, CHAPTER 7, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-824; AMENDING SECTIONS 38-797, 38-797.07 AND 38-842, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 38, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES, TO "DEFINED CONTRIBUTION PLANS"; AMENDING SECTION 38-951, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-955; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 12, chapter 7, article 2, Arizona Revised Statutes,
3 is amended by adding section 12-824, to read:

4 12-824. Arizona state retirement system; public safety
5 personnel retirement system; civil liability

6 THE ARIZONA STATE RETIREMENT SYSTEM AND THE PUBLIC SAFETY PERSONNEL
7 RETIREMENT SYSTEM ARE NOT LIABLE IN ANY CIVIL ACTION BY AN EMPLOYEE WHO WAS
8 ENROLLED IN EITHER THE ARIZONA STATE RETIREMENT SYSTEM OR THE PUBLIC SAFETY
9 PERSONNEL RETIREMENT SYSTEM AND WHO WAS PARTICIPATING IN THE RETIREMENT
10 SYSTEM BUT WHO WAS NOT ELIGIBLE BECAUSE EITHER THE EMPLOYEE WAS NOT INCLUDED
11 IN AGREEMENTS PROVIDING FOR THE EMPLOYEE'S COVERAGE UNDER THE FEDERAL OLD AGE
12 AND SURVIVORS INSURANCE SYSTEM OR DID NOT MEET THE DEFINITION OF MEMBER
13 PURSUANT TO SECTION 38-842.

14 Sec. 2. Section 38-797, Arizona Revised Statutes, is amended to read:
15 38-797. Definitions

16 In this article, unless the context otherwise requires:

17 1. "ASRS" means the Arizona state retirement system established by
18 article 2 of this chapter.

19 2. "Assets" means the accumulated resources of the LTD program.

20 3. "Board" means the ASRS board established pursuant to section
21 38-713.

22 4. "Compensation" has the same meaning prescribed in section 38-711.

23 5. "Depository" means a bank in which the monies of the LTD program
24 are deposited and collateralized as provided by law.

25 6. "Employer" has the same meaning prescribed in section 38-711.

26 7. "Employer contributions" means all amounts paid into the LTD
27 program by an employer.

28 8. "Fiscal year" has the same meaning prescribed in section 38-711.

29 9. "LTD program" means the long-term disability program established by
30 this article.

31 10. "Member":

32 (a) Has the same meaning prescribed in section 38-711.

33 (b) INCLUDES AN EMPLOYEE DESCRIBED IN SECTION 38-955.

34 11. "Monthly compensation" means one-twelfth of a member's annual
35 compensation paid and payable in the fiscal year during which a member
36 becomes disabled.

37 12. "Normal retirement date":

38 (a) Has the same meaning prescribed in section 38-711 FOR MEMBERS
39 ELIGIBLE PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

40 (b) MEANS SIXTY-FIVE YEARS OF AGE FOR MEMBERS ELIGIBLE PURSUANT TO
41 SECTION 38-955.

42 13. "Political subdivision" has the same meaning prescribed in section
43 38-711.

44 14. "State" has the same meaning prescribed in section 38-711.

1 Sec. 3. Section 38-797.07, Arizona Revised Statutes, is amended to
2 read:

3 38-797.07. LTD program benefits; limitations; definitions

4 A. The LTD program is subject to the following limitations:

5 1. Except as provided in paragraph 9 of this subsection, monthly LTD
6 program benefits shall not exceed two-thirds of a member's monthly
7 compensation at the time disability commences, reduced by:

8 (a) For a member whose disability commences before July 1, 2008,
9 sixty-four per cent of social security disability benefits that the member
10 and the member's dependents are eligible to receive.

11 (b) For a member whose disability commences on or after July 1, 2008,
12 eighty-five per cent of social security disability benefits that the member
13 and the member's dependents are eligible to receive, but not including:

14 (i) The amount of attorney fees approved pursuant to social security
15 administration rules and reasonable documented costs paid to an attorney to
16 secure that disability benefit.

17 (ii) Any cost-of-living adjustments that are granted after the member
18 commences benefits under this section.

19 (c) For a member whose disability commences before July 1, 2008,
20 eighty-three per cent of social security retirement benefits that the member
21 is eligible to receive.

22 (d) For a member whose disability commences on or after July 1, 2008,
23 eighty-five per cent of social security retirement benefits that the member
24 is eligible to receive, but not including any cost-of-living adjustments that
25 are granted after the member commences benefits under this section.

26 (e) All of any workers' compensation benefits.

27 (f) All of any payments for a veteran's disability if both of the
28 following apply:

29 (i) The veteran's disability payment is for the same condition or a
30 condition related to the condition currently causing the member's total
31 disability.

32 (ii) The veteran's disability is due to, or a result of, service in
33 the armed forces of the United States.

34 (g) All of any other benefits by reason of employment that are
35 financed partly or wholly by an employer, including payments for sick leave.
36 This subdivision does not include any retirement benefit that is received by
37 the member pursuant to a state retirement system or plan other than ASRS.

38 (h) Fifty per cent of any salary, wages, commissions or other
39 employment related pay that the member receives or is entitled to receive
40 from any gainful employment in which the member actually engages.

41 2. For a member whose disability commences on or after ~~the effective~~
42 ~~date of this amendment to this section~~ AUGUST 2, 2012, a member's monthly
43 income from the monthly LTD program benefits and sources listed in paragraph
44 1 of this subsection shall not exceed one hundred per cent of the member's
45 monthly compensation at the time disability commences. ASRS shall offset the

1 member's monthly LTD program benefits by the amount necessary to reduce the
2 member's total monthly income to meet the limit prescribed in this paragraph.

3 3. Monthly LTD program benefits are not payable until a member has
4 been totally disabled for a period of six consecutive months.

5 4. Monthly LTD program benefits are not payable to a member who files
6 an initial claim for disability more than twelve months after the date of the
7 member's date of disability unless the member demonstrates to ASRS good cause
8 for not filing the initial claim within twelve months after the date of
9 disability.

10 5. Monthly LTD program benefits are not payable to a member who is
11 receiving retirement benefits from ASRS.

12 6. Monthly LTD program benefits are not payable to a member whose
13 disability is due to, or a result of, any of the following:

14 (a) An intentionally self-inflicted injury.

15 (b) War, whether declared or not.

16 (c) An injury incurred while engaged in a felonious criminal act or
17 enterprise.

18 (d) For a member whose most recent membership in the LTD program
19 commences before July 1, 2008, an injury or sickness for which the member
20 received medical treatment within three months before the date of the
21 member's coverage under the LTD program. This subdivision does not apply to
22 a member who either:

23 (i) Has been an active member of an employer for twelve continuous
24 months.

25 (ii) Is employed by an employer before July 1, 1988.

26 (e) For a member whose most recent membership in the LTD program
27 commences on or after July 1, 2008, an injury or sickness for which the
28 member received medical treatment within six months before the date of the
29 member's coverage under the LTD program. This subdivision does not apply to
30 a member who has been an active member of an employer for twelve continuous
31 months.

32 7. Monthly LTD program benefits cease to be payable to a member at the
33 earliest of the following:

34 (a) The date the member ceases to be totally disabled.

35 (b) The date the member:

36 (i) Ceases to be under the direct care of a doctor.

37 (ii) Refuses to undergo any medical examination or refuses to
38 participate in any work rehabilitation program for which the member is
39 reasonably qualified by education, training or experience and that is
40 requested by the insurance company or claims administrator that is selected
41 by the board to administer the LTD program.

42 (c) The date the member withdraws employee contributions with interest
43 and ceases to be a member.

44 (d) The later of the following:

45 (i) The member's normal retirement date.

1 (ii) The month following sixty months of payments if disability occurs
2 before sixty-five years of age.

3 (iii) The month following attainment of seventy years of age if
4 disability occurs at sixty-five years of age or after but before sixty-nine
5 years of age.

6 (iv) The month following twelve months of payments if disability
7 occurs at or after sixty-nine years of age.

8 (e) If the member is convicted of a criminal offense and sentenced to
9 more than six months in a jail, prison or other penal institution, the first
10 day of the month following the first thirty continuous days of the member's
11 confinement for the remainder of the confinement.

12 8. Monthly LTD program benefits are payable only for disabilities that
13 commence on or after July 1, 1988.

14 9. The minimum benefit for a member who is entitled to receive monthly
15 LTD program benefits is fifty dollars per month.

16 10. Members are eligible to receive the LTD program benefits and
17 payments described in paragraph 1 of this subsection, and the reductions
18 provided by paragraph 1 of this subsection apply even though the social
19 security benefits are not actually paid as follows:

20 (a) For primary and dependent social security benefits, the members
21 are eligible for the social security benefits until the social security
22 benefits are actually awarded, or if the social security benefits are denied,
23 until the member pursues the social security appeal process through a hearing
24 before a social security administrative law judge or until the insurance
25 company or claims administrator determines that the member is not eligible
26 for social security benefits.

27 (b) For benefits and payments from any other source provided in
28 paragraph 1 of this subsection, the members are eligible for the benefits if
29 it is reasonable to believe that those benefits will be paid on proper
30 completion of the claim or would have been paid except for the failure of the
31 member to pursue the claim in time.

32 11. A member shall be considered totally disabled if based on objective
33 medical evidence:

34 (a) During the first thirty months of a period of disability, the
35 member is unable to perform all duties of the position held by the member
36 when the member became totally disabled.

37 (b) For a member who has received monthly LTD program benefits for
38 twenty-four months within a five-year period, the member is unable to perform
39 any work for compensation or gain for which the member is reasonably
40 qualified by education, training or experience in an amount at least equal to
41 the scheduled LTD program benefits prescribed in paragraph 1 of this
42 subsection.

43 B. A member WHO IS ELIGIBLE PURSUANT TO ARTICLE 2 OF THIS CHAPTER AND
44 who receives monthly LTD program benefits is entitled to receive service
45 credit pursuant to article 2 of this chapter from the time disability

1 commences until LTD program benefits cease to be payable, except that for a
2 member who receives monthly LTD program benefits on or after June 30, 1999
3 the number of years of service credited to the member's retirement account
4 during the period the member receives LTD program benefit payments shall not
5 cause the member's total credited service for retirement benefits to exceed
6 the greater of thirty years or the total years of service credited to the
7 member's retirement account on the commencement of disability.

8 C. This section does not prohibit a member whose disability has been
9 established to the satisfaction of the board from relying on treatment by
10 prayer through spiritual means in accordance with the tenets and practice of
11 a recognized church, religious denomination or Native American traditional
12 medicine by a duly accredited practitioner of the church, denomination or
13 Native American traditional medicine without suffering reduction or
14 suspension of the member's monthly LTD program benefits.

15 D. ASRS may suspend or terminate benefits under this article if a
16 member fails to provide information, data, paperwork or other materials that
17 are requested by ASRS or the insurance company or claims administrator that
18 is selected by the board to administer the LTD program. If the member
19 provides the information requested, ASRS shall retroactively reinstate the
20 benefits or claim for which the member qualifies under this article.

21 E. For the purposes of this section:

22 1. "Objective medical evidence" means evidence that established facts
23 and conditions, as perceived without distortion by personal feelings,
24 prejudices or interpretations, and includes x-rays, quantitative tests,
25 laboratory findings, data, records, reports from the attending physician and
26 reports from a consulting physician, as applicable.

27 2. "Received medical treatment" means that the member consulted with
28 or received the advice of a licensed medical or dental practitioner,
29 including advice given during a routine examination, and it includes
30 situations in which the member received medical or dental care, treatment or
31 services, including the taking of drugs, medication, insulin or similar
32 substances.

33 3. "Social security" and "social security disability" includes the
34 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
35 Code sections 231 through 231u).

36 Sec. 4. Section 38-842, Arizona Revised Statutes, is amended to read:

37 38-842. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Accidental disability" means a physical or mental condition that
40 the local board finds totally and permanently prevents an employee from
41 performing a reasonable range of duties within the employee's job
42 classification and that was incurred in the performance of the employee's
43 duty.

44 2. "Accumulated contributions" means, for each member, the sum of the
45 amount of the member's aggregate contributions made to the fund and the

1 amount, if any, attributable to the employee's contributions before the
2 member's effective date under another public retirement system, other than
3 the federal social security act, and transferred to the fund minus the
4 benefits paid to or on behalf of the member.

5 3. "Actuarial equivalent" means equality in present value of the
6 aggregate amounts expected to be received under two different forms of
7 payment, based on mortality and interest assumptions adopted by the board.

8 4. "Alternate payee" means the spouse or former spouse of a
9 participant as designated in a domestic relations order.

10 5. "Alternate payee's portion" means benefits that are payable to an
11 alternate payee pursuant to a plan approved domestic relations order.

12 6. "Annuitant" means a person who is receiving a benefit pursuant to
13 section 38-846.01.

14 7. "Average monthly benefit compensation" means the result obtained by
15 dividing the total compensation paid to an employee during a considered
16 period by the number of months, including fractional months, in which such
17 compensation was received. For an employee who becomes a member of the
18 system before January 1, 2012, the considered period shall be the three
19 consecutive years within the last twenty completed years of credited service
20 that yield the highest average. For an employee who becomes a member of the
21 system on or after January 1, 2012, the considered period is the five
22 consecutive years within the last twenty completed years of credited service
23 that yield the highest average. In the computation under this paragraph, a
24 period of nonpaid or partially paid industrial leave shall be considered
25 based on the compensation the employee would have received in the employee's
26 job classification if the employee was not on industrial leave.

27 8. "Board" means the board of trustees of the system, who are the
28 persons appointed to invest and operate the fund.

29 9. "Catastrophic disability" means a physical and not a psychological
30 condition that the local board determines prevents the employee from totally
31 and permanently engaging in any gainful employment and that results from a
32 physical injury incurred in the performance of the employee's duty.

33 10. "Certified peace officer" means a peace officer certified by the
34 Arizona peace ~~officers~~ OFFICER standards and training board.

35 11. "Claimant" means any member or beneficiary who files an application
36 for benefits pursuant to this article.

37 12. "Compensation" means, for the purpose of computing retirement
38 benefits, base salary, overtime pay, shift differential pay, military
39 differential wage pay, compensatory time used by an employee in lieu of
40 overtime not otherwise paid by an employer and holiday pay paid to an
41 employee by the employer on a regular monthly, semimonthly or biweekly
42 payroll basis and longevity pay paid to an employee at least every six months
43 for which contributions are made to the system pursuant to section 38-843,
44 subsection D. Compensation does not include, for the purpose of computing
45 retirement benefits, payment for unused sick leave, payment in lieu of

1 vacation, payment for unused compensatory time or payment for any fringe
2 benefits. In addition, compensation does not include, for the purpose of
3 computing retirement benefits, payments made directly or indirectly by the
4 employer to the employee for work performed for a third party on a contracted
5 basis or any other type of agreement under which the third party pays or
6 reimburses the employer for the work performed by the employee for that third
7 party, except for third party contracts between public agencies for law
8 enforcement, criminal, traffic and crime suppression activities training or
9 fire, wildfire, emergency medical or emergency management activities or where
10 the employer supervises the employee's performance of law enforcement,
11 criminal, traffic and crime suppression activities training or fire,
12 wildfire, emergency medical or emergency management activities. For the
13 purposes of this paragraph, "base salary" means the amount of compensation
14 each employee is regularly paid for personal services rendered to an employer
15 before the addition of any extra monies, including overtime pay, shift
16 differential pay, holiday pay, longevity pay, fringe benefit pay and similar
17 extra payments.

18 13. "Credited service" means the member's total period of service
19 before the member's effective date of participation, plus those compensated
20 periods of the member's service thereafter for which the member made
21 contributions to the fund.

22 14. "Cure period" means the ninety-day period in which a participant or
23 alternate payee may submit an amended domestic relations order and request a
24 determination, calculated from the time the system issues a determination
25 finding that a previously submitted domestic relations order did not qualify
26 as a plan approved domestic relations order.

27 15. "Depository" means a bank in which all monies of the system are
28 deposited and held and from which all expenditures for benefits, expenses and
29 investments are disbursed.

30 16. "Determination" means a written document that indicates to a
31 participant and alternate payee whether a domestic relations order qualifies
32 as a plan approved domestic relations order.

33 17. "Determination period" means the ninety-day period in which the
34 system must review a domestic relations order that is submitted by a
35 participant or alternate payee to determine whether the domestic relations
36 order qualifies as a plan approved domestic relations order, calculated from
37 the time the system mails a notice of receipt to the participant and
38 alternate payee.

39 18. "Direct rollover" means a payment by the system to an eligible
40 retirement plan that is specified by the distributee.

41 19. "Distributee" means a member, a member's surviving spouse or a
42 member's spouse or former spouse who is the alternate payee under a plan
43 approved domestic relations order.

44 20. "Domestic relations order" means an order of a court of this state
45 that is made pursuant to the domestic relations laws of this state and that

1 creates or recognizes the existence of an alternate payee's right to, or
2 assigns to an alternate payee the right to, receive a portion of the benefits
3 payable to a participant.

4 21. "Effective date of participation" means July 1, 1968, except with
5 respect to employers and their covered employees whose contributions to the
6 fund commence thereafter, the effective date of their participation in the
7 system is as specified in the applicable joinder agreement.

8 22. "Effective date of vesting" means the date a member's rights to
9 benefits vest pursuant to section 38-844.01.

10 23. "Eligible child" means an unmarried child of a deceased member or
11 retired member who meets one of the following qualifications:

12 (a) Is under eighteen years of age.

13 (b) Is at least eighteen years of age and under twenty-three years of
14 age only during any period that the child is a full-time student.

15 (c) Is under a disability that began before the child attained
16 twenty-three years of age and remains a dependent of the surviving spouse or
17 guardian.

18 24. "Eligible groups" means only the following who are regularly
19 assigned to hazardous duty:

20 (a) Municipal police officers who are certified peace officers.

21 (b) Municipal fire fighters.

22 (c) Paid full-time fire fighters employed directly by a fire district
23 organized pursuant to section 48-803 or 48-804 with three or more full-time
24 fire fighters, but not including fire fighters employed by a fire district
25 pursuant to a contract with a corporation.

26 (d) State highway patrol officers who are certified peace officers.

27 (e) State fire fighters.

28 (f) County sheriffs and deputies who are certified peace officers.

29 (g) Game and fish wardens who are certified peace officers.

30 (h) Police officers who are certified peace officers and fire fighters
31 of a nonprofit corporation operating a public airport pursuant to sections
32 28-8423 and 28-8424. A police officer shall be designated pursuant to
33 section 28-8426 to aid and supplement state and local law enforcement
34 agencies and a fire fighter's sole duty shall be to perform fire fighting
35 services, including services required by federal regulations.

36 (i) Police officers who are certified peace officers and who are
37 appointed by the Arizona board of regents.

38 (j) Police officers who are certified peace officers and who are
39 appointed by a community college district governing board.

40 (k) State attorney general investigators who are certified peace
41 officers.

42 (l) County attorney investigators who are certified peace officers.

43 (m) Police officers who are certified peace officers and who are
44 employed by an Indian reservation police agency.

- 1 (n) Fire fighters who are employed by an Indian reservation fire
2 fighting agency.
- 3 (o) Department of liquor licenses and control investigators who are
4 certified peace officers.
- 5 (p) Arizona department of agriculture officers who are certified peace
6 officers.
- 7 (q) Arizona state parks board rangers and managers who are certified
8 peace officers.
- 9 (r) County park rangers who are certified peace officers.
- 10 25. "Eligible retirement plan" means any of the following that accepts
11 a distributee's eligible rollover distribution:
- 12 (a) An individual retirement account described in section 408(a) of
13 the internal revenue code.
- 14 (b) An individual retirement annuity described in section 408(b) of
15 the internal revenue code.
- 16 (c) An annuity plan described in section 403(a) of the internal
17 revenue code.
- 18 (d) A qualified trust described in section 401(a) of the internal
19 revenue code.
- 20 (e) An annuity contract described in section 403(b) of the internal
21 revenue code.
- 22 (f) An eligible deferred compensation plan described in section 457(b)
23 of the internal revenue code that is maintained by a state, a political
24 subdivision of a state or any agency or instrumentality of a state or a
25 political subdivision of a state and that agrees to separately account for
26 amounts transferred into the eligible deferred compensation plan from this
27 plan.
- 28 26. "Eligible rollover distribution" means a payment to a distributee,
29 but does not include any of the following:
- 30 (a) Any distribution that is one of a series of substantially equal
31 periodic payments made not less frequently than annually for the life or life
32 expectancy of the member or the joint lives or joint life expectancies of the
33 member and the member's beneficiary or for a specified period of ten years or
34 more.
- 35 (b) Any distribution to the extent the distribution is required under
36 section 401(a)(9) of the internal revenue code.
- 37 (c) The portion of any distribution that is not includable in gross
38 income.
- 39 27. "Employee" means any person who is employed by a participating
40 employer and who is a member of an eligible group but does not include any
41 persons compensated on a contractual or fee basis. If an eligible group
42 requires certified peace officer status or fire fighter certification and at
43 the option of the local board, employee may include a person who is training
44 to become a certified peace officer or fire fighter.

1 28. "Employers" means:

2 (a) Cities contributing to the fire fighters' relief and pension fund
3 as provided in sections 9-951 through 9-971 or statutes amended thereby and
4 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
5 fire fighters.

6 (b) Cities contributing under the state police pension laws as
7 provided in sections 9-911 through 9-934 or statutes amended thereby and
8 antecedent thereto, as of June 30, 1968 on behalf of their municipal
9 policemen.

10 (c) The state highway patrol covered under the state highway patrol
11 retirement system.

12 (d) The state, or any political subdivision of this state, including
13 towns, cities, fire districts, counties and nonprofit corporations operating
14 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
15 participate in the system on behalf of an eligible group of public safety
16 personnel pursuant to a joinder agreement entered into after July 1, 1968.

17 (e) Indian tribes that have elected to participate in the system on
18 behalf of an eligible group of public safety personnel pursuant to a joinder
19 agreement entered into after July 1, 1968.

20 29. "Fund" means the public safety personnel retirement fund, which is
21 the fund established to receive and invest contributions accumulated under
22 the system and from which benefits are paid.

23 30. "Local board" means the retirement board of the employer, who are
24 the persons appointed to administer the system as it applies to their members
25 in the system.

26 31. "Member":

27 (a) Means any full-time employee who meets all of the following
28 qualifications:

29 ~~(a)~~ (i) Who is either a paid municipal police officer, a paid fire
30 fighter, a law enforcement officer who is employed by this state including
31 the director thereof, a state fire fighter who is primarily assigned to fire
32 fighting duties, a fire fighter or police officer of a nonprofit corporation
33 operating a public airport pursuant to sections 28-8423 and 28-8424, all
34 ranks designated by the Arizona law enforcement merit system council, a state
35 attorney general investigator who is a certified peace officer, a county
36 attorney investigator who is a certified peace officer, a department of
37 liquor licenses and control investigator who is a certified peace officer, an
38 Arizona department of agriculture officer who is a certified peace officer,
39 an Arizona state parks board ranger or manager who is a certified peace
40 officer, a county park ranger who is a certified peace officer, a person who
41 is a certified peace officer and who is employed by an Indian reservation
42 police agency, a fire fighter who is employed by an Indian reservation fire
43 fighting agency, ~~or~~ an employee included in a group designated as eligible
44 employees under a joinder agreement entered into by their employer after July
45 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning

1 retroactively to January 1, 2009, who is a police chief or a fire chief OR AN
2 EMPLOYEE OF AN ELIGIBLE GROUP WHOSE PRIMARY DUTIES INCLUDE THE PERFORMANCE OF
3 LAW ENFORCEMENT, CRIMINAL, TRAFFIC AND CRIME SUPPRESSION ACTIVITIES, FIRE
4 INVESTIGATION, FIRE SUPPRESSION AND PREVENTION OR EMERGENCY MANAGEMENT
5 ACTIVITIES.

6 ~~(b)~~ (ii) Who, on or after the employee's effective date of
7 participation, is receiving compensation for personal services rendered to an
8 employer or would be receiving compensation except for an authorized leave of
9 absence.

10 ~~(e)~~ (iii) Whose customary employment is at least forty hours per week
11 or, for those employees who customarily work fluctuating work weeks, whose
12 customary employment averages at least forty hours per week.

13 ~~(d)~~ (iv) Who is engaged to work for more than six months in a
14 calendar year.

15 ~~(e)~~ (v) Who, if economic conditions exist, is required to take
16 furlough days or reduce the hours of the employee's normal work week below
17 forty hours but not less than thirty hours per pay cycle, and maintain the
18 employee's active member status within the system as long as the hour change
19 does not extend beyond twelve consecutive months.

20 ~~(f)~~ (vi) Who has not attained age sixty-five before the employee's
21 effective date of participation or who was over age sixty-five with
22 twenty-five years or more of service prior to the employee's effective date
23 of participation.

24 (b) DOES NOT INCLUDE AN EMPLOYEE EMPLOYED BY AN ELIGIBLE GROUP WHOSE
25 POSITION CLASSIFICATION PROVIDES SOLELY FOR SUPPORT DUTIES, INCLUDING
26 SECRETARIES, CLERICAL PERSONNEL, MAINTENANCE PERSONNEL AND DISPATCHERS OR IS
27 ELIGIBLE TO PARTICIPATE IN THE CORRECTIONS OFFICER RETIREMENT PLAN PURSUANT
28 TO ARTICLE 6 OF THIS CHAPTER.

29 32. "Normal retirement date" means:

30 (a) For an employee who becomes a member of the system before January
31 1, 2012, the first day of the calendar month immediately following the
32 employee's completion of twenty years of service or the employee's
33 sixty-second birthday and the employee's completion of fifteen years of
34 service.

35 (b) For an employee who becomes a member of the system on or after
36 January 1, 2012, the first day of the calendar month immediately following
37 the employee's completion of twenty-five years of service if the employee is
38 at least fifty-two and one-half years of age.

39 33. "Notice of receipt" means a written document that is issued by the
40 system to a participant and alternate payee and that states that the system
41 has received a domestic relations order and a request for a determination
42 that the domestic relations order is a plan approved domestic relations
43 order.

44 34. "Ordinary disability" means a physical condition that the local
45 board determines will prevent an employee totally and permanently from

1 performing a reasonable range of duties within the employee's department or a
2 mental condition that the local board determines will prevent an employee
3 totally and permanently from engaging in any substantial gainful activity.

4 35. "Participant" means a member who is subject to a domestic relations
5 order.

6 36. "Participant's portion" means benefits that are payable to a
7 participant pursuant to a plan approved domestic relations order.

8 37. "Pension" means a series of monthly amounts that are payable to a
9 person who is entitled to receive benefits under the plan but does not
10 include an annuity that is payable pursuant to section 38-846.01.

11 38. "Personal representative" means the personal representative of a
12 deceased alternate payee.

13 39. "Plan approved domestic relations order" means a domestic relations
14 order that the system approves as meeting all the requirements for a plan
15 approved domestic relations order as otherwise prescribed in this article.

16 40. "Regularly assigned to hazardous duty" means regularly assigned to
17 duties of the type normally expected of municipal police officers, municipal
18 or state fire fighters, eligible fire district fire fighters, state highway
19 patrol officers, county sheriffs and deputies, fish and game wardens, fire
20 fighters and police officers of a nonprofit corporation operating a public
21 airport pursuant to sections 28-8423 and 28-8424, police officers who are
22 appointed by the Arizona board of regents or a community college district
23 governing board, state attorney general investigators who are certified peace
24 officers, county attorney investigators who are certified peace officers,
25 department of liquor licenses and control investigators who are certified
26 peace officers, Arizona department of agriculture officers who are certified
27 peace officers, Arizona state parks board rangers and managers who are
28 certified peace officers, county park rangers who are certified peace
29 officers, police officers who are certified peace officers and who are
30 employed by an Indian reservation police agency or fire fighters who are
31 employed by an Indian reservation fire fighting agency. Those individuals
32 who are assigned solely to support duties such as secretaries, stenographers,
33 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
34 dispatchers are not assigned to hazardous duty regardless of their position
35 classification title. Since the normal duties of those jobs described in this
36 paragraph are constantly changing, questions as to whether a person is or was
37 previously regularly assigned to hazardous duty shall be resolved by the
38 local board on a case-by-case basis. Resolutions by local boards are subject
39 to rehearing and appeal.

40 41. "Retirement" or "retired" means termination of employment after a
41 member has fulfilled all requirements for a pension or, for an employee who
42 becomes a member of the system on or after January 1, 2012, attains the age
43 and service requirements for a normal retirement date. Retirement shall be
44 considered as commencing on the first day of the month immediately following
45 a member's last day of employment or authorized leave of absence, if later.

1 42. "Segregated funds" means the amount of benefits that would
2 currently be payable to an alternate payee pursuant to a domestic relations
3 order under review by the system, or a domestic relations order submitted to
4 the system that failed to qualify as a plan approved domestic relations
5 order, if the domestic relations order were determined to be a plan approved
6 domestic relations order.

7 43. "Service" means the last period of continuous employment of an
8 employee by the employers before the employee's retirement, except that if
9 such period includes employment during which the employee would not have
10 qualified as a member had the system then been effective, such as employment
11 as a volunteer fire fighter, then only twenty-five per cent of such
12 noncovered employment shall be considered as service. Any absence that is
13 authorized by an employer shall not be considered as interrupting continuity
14 of employment if the employee returns within the period of authorized
15 absence. Transfers between employers also shall not be considered as
16 interrupting continuity of employment. Any period during which a member is
17 receiving sick leave payments or a temporary disability pension shall be
18 considered as service. Notwithstanding any other provision of this
19 paragraph, any period during which a person was employed as a full-time paid
20 fire fighter for a corporation that contracted with an employer to provide
21 firefighting services on behalf of the employer shall be considered as
22 service if the employer has elected at its option to treat part or all of the
23 period the firefighter worked for the company as service in its applicable
24 joinder agreement. Any reference in this system to the number of years of
25 service of an employee shall be deemed to include fractional portions of a
26 year.

27 44. "State" means the state of Arizona, including any department,
28 office, board, commission, agency or other instrumentality of the state.

29 45. "System" means the public safety personnel retirement system
30 established by this article.

31 46. "Temporary disability" means a physical or mental condition that
32 the local board finds totally and temporarily prevents an employee from
33 performing a reasonable range of duties within the employee's department and
34 that was incurred in the performance of the employee's duty.

35 Sec. 5. Heading change

36 The article heading of title 38, chapter 5, article 8, Arizona Revised
37 Statutes, is changed from "SUPPLEMENTAL DEFINED CONTRIBUTION PLANS" to
38 "DEFINED CONTRIBUTION PLANS".

39 Sec. 6. Section 38-951, Arizona Revised Statutes, is amended to read:

40 38-951. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Board" means the Arizona state retirement system board established
43 by section 38-713 or the board of trustees established by section 38-848.

1 2. "Eligible group" means any of the following:

2 (a) The Arizona state retirement system established by article 2 of
3 this chapter.

4 (b) The elected officials' retirement plan established by article 3 of
5 this chapter.

6 (c) The public safety personnel retirement system established by
7 article 4 of this chapter.

8 (d) The corrections officer retirement plan established by article 6
9 of this chapter.

10 (e) An optional retirement program established pursuant to section
11 15-1451 or 15-1628.

12 3. "Employer" means an agency or department of this state or an agency
13 or department of a political subdivision of this state that has employees in
14 an eligible group.

15 4. "Plan" means a ~~supplemental~~ defined contribution plan authorized by
16 this article.

17 Sec. 7. Title 38, chapter 5, article 8, Arizona Revised Statutes, is
18 amended by adding section 38-955, to read:

19 38-955. Defined contribution plan; eligibility; contribution;
20 vesting

21 A. AN EMPLOYEE OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE
22 WHO IS NOT ELIGIBLE FOR THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO
23 ARTICLE 2 OF THIS CHAPTER BECAUSE THE EMPLOYEE IS NOT INCLUDED IN AGREEMENTS
24 PROVIDING FOR THE EMPLOYEE'S COVERAGE UNDER THE FEDERAL OLD AGE AND SURVIVORS
25 INSURANCE SYSTEM AND WHO IS NOT ELIGIBLE FOR A STATEWIDE RETIREMENT SYSTEM OR
26 PLAN PURSUANT TO ARTICLE 3, 4 OR 6 OF THIS CHAPTER BECAUSE THE EMPLOYEE DOES
27 NOT MEET THE DEFINITION OF A MEMBER IN THOSE SYSTEMS OR PLANS, BUT WHO IS
28 ENGAGED TO WORK AT LEAST TWENTY WEEKS IN EACH FISCAL YEAR AND AT LEAST TWENTY
29 HOURS EACH WEEK SHALL BE ENROLLED IN THE PLAN ESTABLISHED BY ASRS PURSUANT TO
30 SECTION 38-952.

31 B. EACH EMPLOYEE SHALL CONTRIBUTE ONE-HALF OF THE TOTAL ASRS NORMAL
32 COST PLUS ONE AND ONE-HALF PER CENT OF THE EMPLOYEE'S COMPENSATION, AS
33 DEFINED IN SECTION 38-711, BY SALARY REDUCTION THAT SHALL BE DEPOSITED IN THE
34 EMPLOYEE'S ANNUITY ACCOUNT. EACH EMPLOYER SHALL CONTRIBUTE ONE-HALF OF THE
35 TOTAL ASRS NORMAL COST PLUS ONE AND ONE-HALF PER CENT OF THE EMPLOYEE'S
36 COMPENSATION, AS DEFINED IN SECTION 38-711, THAT SHALL BE DEPOSITED IN THE
37 EMPLOYEE'S ANNUITY ACCOUNT. EMPLOYEE AND EMPLOYER CONTRIBUTIONS AND EARNINGS
38 ON THOSE CONTRIBUTIONS ARE IMMEDIATELY VESTED.

39 C. EACH EMPLOYEE AND EMPLOYER SHALL ALSO CONTRIBUTE TO THE LONG-TERM
40 DISABILITY PROGRAM PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER. AN EMPLOYEE MAY
41 RECEIVE BENEFITS PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER IF THE EMPLOYEE
42 BECOMES TOTALLY DISABLED.

1 Sec. 8. Disenrollment of ineligible employees

2 Beginning on the effective date of this act, the director of the
3 Arizona state retirement system and the administrator of the public safety
4 personnel retirement system shall begin the disenrollment of ineligible
5 employees and the enrollment of those employees in the appropriate state
6 retirement system or plan.

7 Sec. 9. Emergency

8 This act is an emergency measure that is necessary to preserve the
9 public peace, health or safety and is operative immediately as provided by
10 law.