

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 111
SENATE BILL 1174

AN ACT

AMENDING SECTIONS 38-801, 38-807, 38-810, 38-816.01, 38-817 AND 38-923,
ARIZONA REVISED STATUTES; RELATING TO THE ELECTED OFFICIALS' 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 38-801, Arizona Revised Statutes, is amended to
3 read:

4 38-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accumulated contributions" means the sum of all member
7 contributions deducted from the member's salary pursuant to section 38-810,
8 subsection A plus the amount transferred to the fund on behalf of the member
9 plus the amount deposited in the fund pursuant to section 38-816.

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

13 3. "Alternate payee" means the spouse or former spouse of a
14 participant as designated in a domestic relations order.

15 4. "Alternate payee's portion" means benefits that are payable to an
16 alternate payee pursuant to a plan approved domestic relations order.

17 5. "Average yearly salary" means the result obtained by dividing the
18 total salary paid to an employee during a considered period by the number of
19 years, including fractional years, in which the salary was received. The
20 considered period shall be:

21 (a) For an elected official who becomes a member of the plan before
22 January 1, 2012, the three consecutive years within the last ten completed
23 years of credited service as an elected official that yield the highest
24 average. If a member does not have three consecutive years of credited
25 service as an elected official, the considered period is the member's last
26 consecutive period of employment with a plan employer immediately before
27 retirement.

28 (b) For an elected official who becomes a member of the plan on or
29 after January 1, 2012, the five consecutive years within the last ten
30 completed years of credited service as an elected official that yield the
31 highest average. If a member does not have five consecutive years of
32 credited service as an elected official, the considered period is the
33 member's last consecutive period of employment with a plan employer
34 immediately before retirement.

35 6. "Board" means the board of trustees of the system.

36 7. "Credited service" means the number of whole and fractional years
37 of a member's service as an elected official after the elected official's
38 effective date of participation for which member and employer contributions
39 are on deposit with the fund, plus credited service transferred to the plan
40 from another retirement system or plan for public employees of this state,
41 plus service as an elected official before the elected official's effective
42 date of participation that is being funded pursuant to a joinder agreement
43 pursuant to section 38-810, subsection C and section 38-815 or service that
44 was redeemed pursuant to section 38-816. Credited service does not include
45 periods of service for which an active member is uncompensated by the
46 employer and for which no contributions to the plan are made.

1 8. "Cure period" means the ninety-day period in which a participant or
2 alternate payee may submit an amended domestic relations order and request a
3 determination, calculated from the time the plan issues a determination
4 finding that a previously submitted domestic relations order did not qualify
5 as a plan approved domestic relations order.

6 9. "Determination" means a written document that indicates to a
7 participant and alternate payee whether a domestic relations order qualifies
8 as a plan approved domestic relations order.

9 10. "Determination period" means the ninety-day period in which the
10 plan must review a domestic relations order that is submitted by a
11 participant or alternate payee to determine whether the domestic relations
12 order qualifies as a plan approved domestic relations order, calculated from
13 the time the plan mails a notice of receipt to the participant and alternate
14 payee.

15 11. "Direct rollover" means a payment by the plan to an eligible
16 retirement plan that is specified by the distributee.

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

20 13. "Domestic relations order" means an order of a court of this state
21 that is made pursuant to the domestic relations laws of this state and that
22 creates or recognizes the existence of an alternate payee's right to, or
23 assigns to an alternate payee the right to, receive a portion of the benefits
24 payable to a participant.

25 14. "Effective date of participation" means August 7, 1985, except with
26 respect to employers and their elected officials whose contributions to the
27 plan commence after that date, in which case the effective date of their
28 participation in the plan is specified in the applicable joinder agreement.

29 15. "Elected official" means:

30 (a) Every elected official of this state.

31 (b) Every elected official of each county of this state.

32 (c) Every justice of the supreme court.

33 (d) Every judge of the court of appeals.

34 (e) Every judge of the superior court.

35 (f) Every full-time superior court commissioner who is a member of the
36 plan before July 1 of the first fiscal year after the social security
37 administration approves the inclusion of superior court commissioners on this
38 state's section 218 agreement, except full-time superior court commissioners
39 who failed to make a timely election of membership under the judges'
40 retirement plan, repealed on August 7, 1985.

41 (g) The administrator of the board if the administrator is a natural
42 person but only if the administrator is employed by the board before January
43 1, 2012.

44 (h) Each elected official of an incorporated city or town whose
45 employer has executed a proper joinder agreement for coverage of its elected
46 officials.

1 16. "Eligible child" means an unmarried child of a deceased active or
2 retired member who meets one of the following qualifications:

3 (a) Is under eighteen years of age.

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

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

9 17. "Eligible retirement plan" means any of the following that accepts
10 a distributee's eligible rollover distribution:

11 (a) An individual retirement account described in section 408(a) of
12 the internal revenue code.

13 (b) An individual retirement annuity described in section 408(b) of
14 the internal revenue code.

15 (c) An annuity plan described in section 403(a) of the internal
16 revenue code.

17 (d) A qualified trust described in section 401(a) of the internal
18 revenue code.

19 (e) An annuity contract described in section 403(b) of the internal
20 revenue code.

21 (f) An eligible deferred compensation plan described in section 457(b)
22 of the internal revenue code that is maintained by a state, a political
23 subdivision of a state or any agency or instrumentality of a state or a
24 political subdivision of a state and that agrees to separately account for
25 amounts transferred into the eligible deferred compensation plan from this
26 plan.

27 18. "Eligible rollover distribution" means a payment to a distributee,
28 but does not include any of the following:

29 (a) Any distribution that is one of a series of substantially equal
30 periodic payments made not less frequently than annually for the life or life
31 expectancy of the member or the joint lives or joint life expectancies of the
32 member and the member's beneficiary or for a specified period of ten years or
33 more.

34 (b) Any distribution to the extent the distribution is required under
35 section 401(a)(9) of the internal revenue code.

36 (c) The portion of any distribution that is not includable in gross
37 income.

38 19. "Employer" means a department, agency or political subdivision of
39 this state that makes employer contributions to the plan pursuant to section
40 38-810 on behalf of an elected official who participates in the plan.

41 20. "Fund" means the elected officials' retirement plan fund.

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

1 22. "Participant" means a member who is subject to a domestic relations
2 order.

3 23. "Participant's portion" means benefits that are payable to a
4 participant pursuant to a plan approved domestic relations order.

5 24. "Pension" means a series of monthly payments to a person who is
6 entitled to receive benefits under the plan.

7 25. "Personal representative" means the personal representative of a
8 deceased alternate payee.

9 26. "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32,
10 CHAPTER 13 OR 17.

11 ~~26-~~ 27. "Plan" means the elected officials' retirement plan.

12 ~~27-~~ 28. "Plan approved domestic relations order" means a domestic
13 relations order that the plan approves as meeting all the requirements for a
14 plan approved domestic relations order as otherwise prescribed in this
15 article.

16 ~~28-~~ 29. "Retired member" means a person who is being paid a pension
17 based on the person's credited service as a member of the plan.

18 ~~29-~~ 30. "Segregated funds" means the amount of benefits that would
19 currently be payable to an alternate payee pursuant to a domestic relations
20 order under review by the plan, or a domestic relations order submitted to
21 the plan that failed to qualify as a plan approved domestic relations order,
22 if the domestic relations order were determined to be a plan approved
23 domestic relations order.

24 ~~30-~~ 31. "System" means the public safety personnel retirement system.

25 Sec. 2. Section 38-807, Arizona Revised Statutes, is amended to read:

26 38-807. Survivor pensions

27 A. The surviving spouse of a deceased retired member shall be paid a
28 surviving spouse's pension if the spouse was married to the member for a
29 period of at least two consecutive years at the time of the member's
30 death. Payment of a surviving spouse's pension commences as of the last day
31 of the month following the retired member's date of death. The last payment
32 shall be made as of the last day of the month in which the surviving spouse's
33 death occurs. For a member who becomes a member of the plan before January
34 1, 2012, the amount of pension paid a surviving spouse is equal to
35 three-fourths of the amount of the deceased retired member's pension at the
36 time of death. For a member who becomes a member of the plan on or after
37 January 1, 2012, the amount of pension paid a surviving spouse is equal to
38 one-half of the amount of the deceased retired member's pension at the time
39 of death, except that at the time of retirement a member may elect an
40 optional form of retirement benefit, as determined by the board, that
41 provides for an actuarially reduced pension and an increased surviving
42 spouse's benefit. The surviving spouse shall file a written application with
43 the plan in order to receive the survivor benefit.

44 B. The surviving spouse of a deceased active or inactive member shall
45 be paid a surviving spouse's pension if the spouse was married to the member
46 on the date of the member's death. Payment of a surviving spouse's pension

1 commences as of the last day of the month following the member's date of
2 death. The last payment shall be made as of the last day of the month in
3 which the surviving spouse's death occurs. For the purposes of this
4 subsection, for a member who becomes a member of the plan before January 1,
5 2012, the surviving spouse's pension shall be three-fourths of the amount
6 calculated in the same manner as a disability pension is calculated pursuant
7 to section 38-806. For a member who becomes a member of the plan on or after
8 January 1, 2012, the surviving spouse's pension shall be one-half of the
9 amount calculated in the same manner as a disability pension is calculated
10 pursuant to section 38-806. The surviving spouse shall file a written
11 application with the plan in order to receive the survivor benefit.

12 C. If the deceased retired or active or inactive member does not have
13 an eligible surviving spouse or the pension of the eligible surviving spouse
14 is terminated, each eligible child is entitled to receive a child's pension.
15 A child's pension terminates if the child is adopted. In the case of a
16 disabled child, the child's pension terminates if the child ceases to be
17 under a disability or ceases to be a dependent of the surviving spouse or
18 guardian. The amount of the pension of each eligible child is an equal share
19 of the amount of the surviving spouse's pension. The surviving minor or
20 disabled child's pension shall be paid to the person who is the legally
21 appointed guardian or custodian of the eligible child, UNTIL THE ELIGIBLE
22 CHILD REACHES EIGHTEEN YEARS OF AGE AT WHICH TIME THE ELIGIBLE CHILD'S
23 PENSION SHALL BE PAID DIRECTLY TO THE ELIGIBLE CHILD SO LONG AS THE PERSON
24 REMAINS ELIGIBLE TO RECEIVE THE PENSION AND IS NOT SUBJECT TO A GUARDIANSHIP
25 OR CONSERVATORSHIP DUE TO DISABILITY OR INCAPACITY. THE PENSION OF A
26 DISABLED CHILD WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS SUBJECT TO A
27 GUARDIANSHIP OR CONSERVATORSHIP DUE TO DISABILITY OR INCAPACITY SHALL
28 CONTINUE TO BE PAID TO THE GUARDIAN OR CONSERVATOR SO LONG AS THE CHILD
29 REMAINS ELIGIBLE FOR THE PENSION PAYMENT.

30 D. If a member dies and no pension is payable on account of the
31 member's death, the deceased member's accumulated contributions shall be paid
32 to the person or persons designated by the deceased member in writing and
33 filed with the board. If the designated person or persons do not survive the
34 deceased member, the accumulated contributions shall be paid to the estate of
35 the deceased member.

36 Sec. 3. Section 38-810, Arizona Revised Statutes, is amended to read:
37 38-810. Contributions

38 A. Each member shall contribute to the fund an amount equal to the
39 amount prescribed in subsection F of this section. Contributions of members
40 shall be made by payroll deductions. Every member is deemed to consent to
41 these deductions. Payment of a member's compensation, less these payroll
42 deductions, constitutes a full and complete discharge and satisfaction of all
43 claims and demands by the member relating to remuneration for the member's
44 services rendered during the period covered by the payment, except with
45 respect to the benefits provided under the plan. A MEMBER MAY NOT, UNDER ANY
46 CIRCUMSTANCE, BORROW FROM, TAKE A LOAN AGAINST OR REMOVE CONTRIBUTIONS FROM

1 THE MEMBER'S ACCOUNT BEFORE THE TERMINATION OF MEMBERSHIP IN THE PLAN OR THE
2 RECEIPT OF A PENSION.

3 B. The board's office shall be credited monthly with monies collected
4 pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31,
5 subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6,
6 section 22-281, subsection C, paragraph 3 and section 41-178. The monies
7 credited to the fund pursuant to this subsection shall be deposited in the
8 fund on a monthly basis, and there shall be a complete accounting of the
9 determination of these monies deposited in the fund.

10 C. As determined by actuarial valuations performed by the plan's
11 actuary, each employer shall make level per cent compensation contributions
12 sufficient under the actuarial valuation to meet both the normal cost plus
13 the actuarially determined amount required to amortize the unfunded accrued
14 liability over, beginning July 1, 2005, a rolling period of at least twenty
15 and not more than thirty years that is established by the board taking into
16 account the recommendation of the plan's actuary, except that, beginning with
17 fiscal year 2006-2007, the employer contribution rate shall not be less than
18 ten per cent of salary. The monies deposited in the fund pursuant to
19 subsection B of this section shall be used to reduce the contributions
20 required of state and county employers only. Employers that entered the plan
21 under a joinder agreement shall also contribute an amount equal to the
22 unfunded accrued liability for that employer. The unfunded liability for
23 each new employer shall be actuarially determined by the plan's actuary as of
24 the effective date of participation of each employer and shall be payable on
25 the effective date of participation. The minimum employer contribution that
26 is paid and that is in excess of the normal cost plus the actuarially
27 determined amount required to amortize the unfunded accrued liability as
28 calculated pursuant to this subsection shall be used to reduce future
29 employer contribution increases and shall not be used to pay for an increase
30 in benefits that are otherwise payable to members. The board shall
31 separately account for these monies in the fund. After the close of any
32 fiscal year, if the plan's actuary determines that the actuarial valuation of
33 the fund contains excess valuation assets and is more than one hundred per
34 cent funded, the board shall account for fifty per cent of the excess
35 valuation assets in a stabilization reserve account. After the close of any
36 fiscal year, if the plan's actuary determines that the actuarial valuation of
37 the fund has a valuation asset deficiency and an unfunded actuarial accrued
38 liability, the board shall use any valuation assets in the stabilization
39 reserve account, to the extent available, to limit the decline in the fund's
40 funding ratio to not more than two per cent.

41 D. The department of administration and the treasurer of each county
42 and participating city and town shall transfer to the board the contributions
43 provided for in subsections A and C of this section within ten working days
44 after each payroll date. The state, county treasurers and clerks of the
45 superior court shall transfer the monies credited under subsection B of this
46 section to the board on or before the fifteenth day of each calendar month

1 that follows the month in which the court fees were collected. Contributions
2 and monies credited under subsection B of this section and transferred after
3 these dates shall include a penalty equal to ten per cent a year, compounded
4 annually, for each day that the contributions or monies credited under
5 subsection B of this section are late. Delinquent payments due under this
6 subsection, together with interest charges as provided in this subsection and
7 court costs, may be recovered by action in a court of competent jurisdiction
8 against the person or persons responsible for the payments or, at the request
9 of the board, may be deducted from any other monies, including excise revenue
10 taxes, payable to a political subdivision by any department or agency of this
11 state. If requested by the board, the state, county treasurers or clerks of
12 the superior court shall transfer the monies credited under subsection B of
13 this section, in an amount determined by the board, directly to the qualified
14 governmental excess benefit arrangement established pursuant to section
15 38-803.01.

16 E. The employer shall pay the member contributions required of members
17 on account of compensation earned after August 7, 1985. The paid
18 contributions shall be treated as employer contributions for the purpose of
19 determining tax treatment under the United States internal revenue code. The
20 effective date of the employer payment shall not be before the date the
21 retirement plan has received notification from the United States internal
22 revenue service that pursuant to section 414(h) of the United States internal
23 revenue code the member contributions paid will not be included in gross
24 income for income tax purposes until the paid contributions are distributed
25 by refund or pension payments. The employer shall pay the member
26 contributions from monies established and available in the retirement
27 deduction account, which monies would otherwise have been designated as
28 member contributions and paid to the retirement plan. Member contributions
29 paid pursuant to this subsection shall be treated for all other purposes, in
30 the same manner and to the same extent, as member contributions made before
31 August 7, 1985.

32 F. The amount contributed by a member pursuant to subsection A of this
33 section is:

- 34 1. Through June 30, 2011, seven per cent of the member's gross salary.
- 35 2. For fiscal year 2011-2012, ten per cent of the member's gross
36 salary.
- 37 3. For fiscal year 2012-2013, eleven and one-half per cent of the
38 member's gross salary.
- 39 4. For fiscal year 2013-2014 and each fiscal year thereafter, thirteen
40 per cent of the member's gross salary or 33.3 per cent of the sum of the
41 member's contribution rate from the preceding fiscal year and the normal cost
42 plus the actuarially determined amount required to amortize the unfunded
43 accrued liability for the employer as calculated pursuant to subsection C of
44 this section, whichever is lower, except that the member contribution rate
45 shall not be less than seven per cent of the member's compensation and the

1 employer contribution rate shall not be less than the rate prescribed in
2 subsection C of this section.

3 G. For fiscal year 2011-2012 and each fiscal year thereafter, the
4 amount of the member's contribution that exceeds seven per cent of the
5 member's compensation shall not be used to reduce the employer's
6 contributions that are calculated pursuant to subsection C of this section.

7 Sec. 4. Section 38-816.01, Arizona Revised Statutes, is amended to
8 read:

9 38-816.01. Purchase of service; payment

10 A member who purchases service pursuant to this article or section
11 38-922 OR 38-924 shall make payments directly to the plan in whole or in part
12 by any one or a combination of the following methods:

13 1. In lump sum payments.

14 2. Through an arrangement with the plan that the payments be made in
15 installment payments over a period of time.

16 3. Subject to the limitations prescribed in sections 401(a)(31) and
17 402(c) of the internal revenue code, accepting a direct transfer of any
18 eligible rollover distribution or a contribution by a member of an eligible
19 rollover distribution from one or more:

20 (a) Retirement programs that are qualified under section 401(a) or
21 403(a) of the internal revenue code.

22 (b) Annuity contracts described in section 403(b) of the internal
23 revenue code.

24 (c) Eligible deferred compensation plans described in section 457(b)
25 of the internal revenue code that are maintained by a state, a political
26 subdivision of a state or any agency or instrumentality of a state or a
27 political subdivision of a state.

28 4. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
29 of the internal revenue code, accepting from a member a rollover contribution
30 of that portion of a distribution from an individual retirement account or
31 individual retirement annuity described in section 408(a) or 408(b) of the
32 internal revenue code that is eligible to be rolled over and would otherwise
33 be includable as gross income.

1 Sec. 5. Section 38-817, Arizona Revised Statutes, is amended to read:

2 38-817. Group health and accident coverage for retired members:
3 payment; applicability

4 A. Upon notification, the board shall pay from the assets of the ~~fund~~
5 SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of
6 the single coverage premium of any group health and accident insurance for
7 each retired member or survivor of the plan who receives a pension if the
8 retired member had eight or more years of credited service under the plan.
9 In order to qualify for payment pursuant to this subsection, the retired
10 member or survivor shall elect single coverage and must have elected to
11 participate in the coverage provided in section 38-651.01 or 38-782 or any
12 other RETIREE health and accident insurance coverage provided or administered
13 by an employer. The board shall pay up to:

14 1. One hundred fifty dollars per month for each retired member or
15 survivor of the plan who is not eligible for medicare.

16 2. One hundred dollars per month for each retired member or survivor
17 of the plan who is eligible for medicare.

18 B. Upon notification, the board shall pay from the assets of the ~~fund~~
19 SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of
20 the family coverage premium of any group health and accident insurance each
21 month for a retired member or survivor who elects family coverage and who
22 otherwise qualifies for payment pursuant to subsection A of this section.
23 The board shall pay up to:

24 1. Two hundred sixty dollars per month if the retired member or
25 survivor of the plan and one or more dependents are not eligible for
26 medicare.

27 2. One hundred seventy dollars per month if the retired member or
28 survivor of the plan and one or more dependents are eligible for medicare.

29 3. Two hundred fifteen dollars per month if either:

30 (a) The retired member or survivor of the plan is not eligible for
31 medicare and one or more dependents are eligible for medicare.

32 (b) The retired member or survivor of the plan is eligible for
33 medicare and one or more dependents are not eligible for medicare.

34 C. Each retired member or survivor of the plan with less than eight
35 years of credited service and a dependent of such a retired member or
36 survivor who participates in the coverage provided by section 38-651.01 or
37 38-782 or who participates in any other RETIREE health and accident insurance
38 coverage provided or administered by an employer is entitled to receive a
39 proportion of the full benefit prescribed by subsection A or B of this
40 section according to the following schedule:

41 1. 7.0 to 7.9 years of credited service, ninety per cent.

42 2. 6.0 to 6.9 years of credited service, seventy-five per cent.

43 3. 5.0 to 5.9 years of credited service, sixty per cent.

44 4. Those with less than five years of credited service do not qualify
45 for the benefit.

1 D. The board shall not pay more than the amount prescribed in this
2 section for a benefit recipient as a member or survivor of the plan.

3 E. A retired member or survivor of the plan may elect to purchase
4 individual health care coverage and receive a payment pursuant to this
5 section through the retired member's former employer if that former employer
6 assumes the administrative functions associated with the payment, including
7 verification that the payment is used to pay for health insurance coverage if
8 the payment is made to the retired member or survivor of the plan. ~~This
9 provision does not apply to a retired member or survivor of the system who is
10 reemployed and who participates in health care coverage provided by the
11 member's or survivor's new employer.~~

12 F. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE
13 PLAN WHO BECOMES A RETIRED MEMBER OR SURVIVOR ON OR AFTER THE EFFECTIVE DATE
14 OF THIS AMENDMENT TO THIS SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN
15 HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

16 G. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT THAT CONSISTS OF THE
17 BENEFITS PROVIDED IN THIS SECTION. THE BOARD SHALL DEPOSIT THE BENEFITS
18 PROVIDED BY THIS SECTION IN THE ACCOUNT. THE BOARD SHALL NOT USE OR DIVERT
19 ANY PART OF THE CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN
20 THE PROVISION OF BENEFITS PURSUANT TO THIS SECTION UNLESS THE LIABILITIES TO
21 PROVIDE THE BENEFITS PURSUANT TO THIS SECTION ARE SATISFIED. IF THE
22 LIABILITIES TO PROVIDE THE BENEFITS DESCRIBED IN THIS SECTION ARE SATISFIED,
23 THE BOARD SHALL RETURN ANY AMOUNT REMAINING IN THE ACCOUNT TO THE EMPLOYER.

24 H. PAYMENT OF THE BENEFITS PROVIDED BY THIS SECTION IS SUBJECT TO THE
25 FOLLOWING CONDITIONS:

26 1. THE PAYMENT OF THE BENEFITS IS SUBORDINATE TO THE PAYMENT OF
27 RETIREMENT BENEFITS PAYABLE BY THE PLAN.

28 2. THE TOTAL OF CONTRIBUTIONS FOR THE BENEFITS AND ACTUAL
29 CONTRIBUTIONS FOR LIFE INSURANCE PROTECTION, IF ANY, SHALL NOT EXCEED
30 TWENTY-FIVE PER CENT OF THE TOTAL ACTUAL EMPLOYER AND EMPLOYEE CONTRIBUTIONS
31 TO THE PLAN, MINUS THE CONTRIBUTIONS TO FUND PAST SERVICE CREDITS, AFTER THE
32 DAY THE ACCOUNT IS ESTABLISHED.

33 3. THE CONTRIBUTIONS BY THE EMPLOYER TO THE ACCOUNT SHALL BE
34 REASONABLE AND ASCERTAINABLE.

35 Sec. 6. Section 38-923, Arizona Revised Statutes, is amended to read:

36 38-923. Transfer of service credits between municipal
37 retirement systems and special retirement plans;
38 definitions

39 A. An active or inactive member of a retirement system or plan of a
40 municipality of this state or the public safety personnel retirement system
41 who becomes a member of one or the other of these retirement systems or plans
42 may transfer service credits from the member's prior retirement system or
43 plan to the member's current retirement system or plan pursuant to section
44 38-924 if all of the following conditions are met:

45 1. The board governing the retirement system or plan from which the
46 service credits are being transferred ~~mutually agrees with~~ AND the board

1 governing the retirement system or plan to which the service credits are
2 being transferred ~~regarding~~ APPROVE the terms of the transfer.

3 2. The transfer does not cause either the retirement system or plan to
4 which the transfer is made or the retirement system or plan from which the
5 transfer is made to incur any unfunded accrued liabilities as a result of the
6 transfer.

7 3. The member initiates the transfer by making written application to
8 the governing board of the retirement system or plan to which the member is
9 contributing.

10 B. An active or inactive member of a retirement system or plan of a
11 municipality of this state or the corrections officer retirement plan who
12 becomes a member of one or the other of these retirement systems or plans may
13 transfer service credits from the member's prior retirement system or plan to
14 the member's current retirement system or plan pursuant to section 38-924 if
15 all of the following conditions are met:

16 1. The board governing the retirement system or plan from which the
17 service credits are being transferred ~~mutually agrees with~~ AND the board
18 governing the retirement system or plan to which the service credits are
19 being transferred ~~regarding~~ APPROVE the terms of the transfer.

20 2. The transfer does not cause either the retirement system or plan to
21 which the transfer is made or the retirement system or plan from which the
22 transfer is made to incur any unfunded accrued liabilities as a result of the
23 transfer.

24 3. The member initiates the transfer by making written application to
25 the governing board of the retirement system or plan to which the member is
26 contributing.

27 C. AN ACTIVE OR INACTIVE MEMBER OF A RETIREMENT SYSTEM OR PLAN OF A
28 MUNICIPALITY OF THIS STATE OR OF THE ELECTED OFFICIALS' RETIREMENT PLAN WHO
29 BECOMES A MEMBER OF ONE OR THE OTHER OF THESE RETIREMENT SYSTEMS OR PLANS MAY
30 TRANSFER SERVICE CREDITS FROM THE MEMBER'S PRIOR RETIREMENT SYSTEM OR PLAN TO
31 THE MEMBER'S CURRENT RETIREMENT SYSTEM OR PLAN PURSUANT TO SECTION 38-924 IF
32 ALL OF THE FOLLOWING CONDITIONS ARE MET:

33 1. THE BOARD GOVERNING THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE
34 SERVICE CREDITS ARE BEING TRANSFERRED AND THE BOARD GOVERNING THE RETIREMENT
35 SYSTEM OR PLAN TO WHICH THE SERVICE CREDITS ARE BEING TRANSFERRED APPROVE THE
36 TERMS OF THE TRANSFER.

37 2. THE TRANSFER DOES NOT CAUSE EITHER THE RETIREMENT SYSTEM OR PLAN TO
38 WHICH THE TRANSFER IS MADE OR THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE
39 TRANSFER IS MADE TO INCUR ANY UNFUNDED ACCRUED LIABILITIES AS A RESULT OF THE
40 TRANSFER.

41 3. THE MEMBER INITIATES THE TRANSFER BY MAKING WRITTEN APPLICATION TO
42 THE GOVERNING BOARD OF THE RETIREMENT SYSTEM OR PLAN TO WHICH THE MEMBER IS
43 CONTRIBUTING.

44 ~~C.~~ D. For the purposes of this section:

45 1. "Active member" means a member who satisfies the eligibility
46 criteria of the retirement system or plan and who is currently making member

1 contributions to or receiving credited service from the retirement system or
2 plan.

3 2. "Inactive member" means a member of the retirement system or plan
4 who previously made contributions to the retirement system or plan and who
5 satisfies each of the following:

6 (a) Has not retired.

7 (b) Is not eligible for active membership in the retirement system or
8 plan.

9 (c) Is not currently making contributions to the retirement system or
10 plan.

11 (d) Has not withdrawn contributions from the retirement system or
12 plan.

13 3. "Municipality" means a city in this state with a population of more
14 than five hundred thousand persons.

APPROVED BY THE GOVERNOR APRIL 16, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.