

REFERENCE TITLE: public safety employees; omnibus

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

HB 2074

Introduced by
Representative Borrelli

AN ACT

AMENDING SECTIONS 12-820.02, 38-641, 38-642, 38-644 AND 38-853.01, ARIZONA
REVISED STATUTES; RELATING TO PUBLIC SAFETY EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-820.02, Arizona Revised Statutes, is amended to
3 read:

4 12-820.02. Qualified immunity

5 A. Unless a public employee acting within the scope of the public
6 employee's employment intended to cause injury or was grossly negligent,
7 neither a public entity nor a public employee is liable for:

8 1. The failure to make an arrest or the failure to retain an arrested
9 person in custody.

10 2. An injury caused by an escaping or escaped prisoner or a youth
11 committed to the department of juvenile corrections.

12 3. An injury resulting from the probation, community supervision or
13 discharge of a prisoner or a youth committed to the department of juvenile
14 corrections, from the terms and conditions of the prisoner's or youth's
15 probation or community supervision or from the revocation of the prisoner's
16 or youth's probation, community supervision or conditional release under the
17 psychiatric security review board.

18 4. An injury caused by a prisoner to any other prisoner or an injury
19 caused by a youth committed to the department of juvenile corrections to any
20 other committed youth.

21 5. The issuance of or failure to revoke or suspend any permit,
22 license, certificate, approval, order or similar authorization for which
23 absolute immunity is not provided pursuant to section 12-820.01.

24 6. The failure to discover violations of any provision of law when
25 inspections are done of property other than property owned by the public
26 entity in question.

27 7. An injury to the driver of a motor vehicle that is attributable to
28 the violation by the driver of section 28-693, 28-1381 or 28-1382.

29 8. The failure to prevent the sale or transfer of a handgun to a
30 person whose receipt or possession of the handgun is unlawful under any
31 federal law or any law of this state.

32 9. Preventing the sale or transfer of a handgun to a person who may
33 lawfully receive or possess a handgun.

34 10. The failure to detain a juvenile taken into temporary custody or
35 arrested for a criminal offense or delinquent or incorrigible act in the
36 appropriate detention facility, jail or lockup described in section 8-305.

37 11. AN INJURY CAUSED BY A PEACE OFFICER IF THE INJURY WAS CAUSED BY ANY
38 ACT OR OMISSION WHILE RENDERING EMERGENCY CARE AT THE SCENE OF AN EMERGENCY
39 OCCURRENCE OR AS THE RESULT OF ANY ACT OR FAILURE TO ACT TO PROVIDE OR
40 ARRANGE FOR FURTHER MEDICAL TREATMENT OR CARE FOR THE INJURED PERSON.

41 B. The qualified immunity provided in this section applies to a public
42 entity or public employee if the injury or damage was caused by a
43 contractor's employee or a contractor of a public entity acting within the
44 scope of the contract. The qualified immunity provided in this section does
45 not apply to the contractor or the contractor's employee.

1 Sec. 2. Section 38-641, Arizona Revised Statutes, is amended to read:

2 38-641. Definitions

3 In this article, unless the context otherwise requires:

4 1. "Board" means the board of trustees of the public safety personnel
5 retirement system established by section 38-848, including its authorized
6 employees, administrators, attorneys and agents.

7 2. "Employer" means this state or any political subdivision of this
8 state, including cities, towns, fire districts and Indian tribes, that
9 employs firefighters, peace officers, corrections officers, ~~or~~ detention
10 officers OR OTHER MEMBERS AS DEFINED IN SECTION 38-881 and that participates
11 in the public safety personnel retirement system established by chapter 5,
12 article 4 of this title or the corrections officer retirement plan
13 established by chapter 5, article 6 of this title.

14 3. "Peace officer" means a certified peace officer as defined in
15 section 38-842.

16 4. "Program" means the firefighter, peace officer and corrections
17 officer cancer insurance policy program established by this article.

18 Sec. 3. Section 38-642, Arizona Revised Statutes, is amended to read:

19 38-642. Firefighter, peace officer and corrections officer
20 cancer insurance policy program

21 A. Except as provided in subsection D of this section, the board shall
22 establish and administer a firefighter, peace officer and corrections officer
23 cancer insurance policy program for participating employers that employ
24 firefighters, peace officers, corrections officers, ~~or~~ detention officers OR
25 OTHER MEMBERS AS DEFINED IN SECTION 38-881. For the purposes of the internal
26 revenue code, the program is an integral part of a political subdivision of
27 this state.

28 B. Except as provided in subsection D of this section, participating
29 employers that employ firefighters or peace officers shall participate in the
30 program.

31 C. The board shall contract for a group cancer insurance policy to
32 provide coverage as prescribed by section 38-645 or may self-insure the
33 program by establishing an insurance policy that is of its own design and
34 that is underwritten by the assets of the firefighter, peace officer and
35 corrections officer cancer insurance policy program account established by
36 section 38-643. When procuring, establishing or administering any cancer
37 insurance policy provided pursuant to this article the board is exempt from
38 the requirements of title 41, chapter 23.

39 D. The board shall administer a firefighter, peace officer and
40 corrections officer cancer insurance policy program for employers and their
41 employees who are corrections officers, ~~or~~ detention officers OR OTHER
42 MEMBERS AS DEFINED IN SECTION 38-881 and who join the program. The state
43 department of corrections, the ~~state~~ department of juvenile corrections, THE
44 DEPARTMENT OF PUBLIC SAFETY or a county, city or town may establish a
45 voluntary cancer insurance policy program for employees who are corrections

1 officers or detention officers. The state department of corrections, the
2 ~~state~~ department of juvenile corrections, **THE DEPARTMENT OF PUBLIC SAFETY** or
3 a county, city or town that, in its discretion, establishes a program shall
4 collect the payments for the program and submit the monies to the board on
5 behalf of the employees who voluntarily enroll in the program and make
6 payments for the cancer insurance. If a county, city or town establishes a
7 cancer insurance policy program, the county, city or town is not required to
8 make payments for the cancer insurance. If the state department of
9 corrections, ~~or state~~ **THE** department of juvenile corrections **OR THE**
10 **DEPARTMENT OF PUBLIC SAFETY** establishes a cancer insurance policy program,
11 the department shall not make payments for the cancer insurance. The board
12 may adopt policies that establish criteria for participation in the program
13 pursuant to this subsection.

14 E. On or before July 31 of each year, the board shall notify each
15 employer required to participate in the program of the total amount payable
16 to the board to pay for the costs of the program. The amount charged to each
17 employer shall not exceed one hundred eighty dollars for each employee of the
18 employer who is a firefighter, peace officer, corrections officer, ~~or~~
19 detention officer **OR ANY OTHER MEMBER AS DEFINED IN SECTION 38-881** on record
20 with the board as of June 30 of that year. Each employer shall pay this
21 amount to the board on or before August 31 of each year.

22 F. Employers that fail to pay the amount required by subsection E of
23 this section by August 31 shall pay a fifteen ~~per cent~~ **PERCENT** late charge to
24 the board on all delinquent amounts accrued monthly. If the amount due and
25 the late charge are not paid within thirty days, the board may recover the
26 amounts due from the employer by either:

27 1. Filing an action in a court of competent jurisdiction to recover
28 the amount due.

29 2. Requesting a deduction of any monies, including excise revenue
30 taxes, payable to the employer by any department or agency of this state.

31 G. If the board self-insures the program the board and the program are
32 exempt from title 20 and any rules adopted pursuant to title 20.

33 Sec. 4. Section 38-644. Arizona Revised Statutes, is amended to read:
34 **38-644. Eligibility**

35 A. Except as provided in subsections B, C and D of this section, to
36 qualify for covered benefits under the program, a person must satisfy all of
37 the following criteria:

38 1. Be an active or retired member of the public safety personnel
39 retirement system or the corrections officer retirement plan.

40 2. Be one of the following:

41 (a) A firefighter who is or was regularly assigned to hazardous duty
42 of the type normally expected of a firefighter.

43 (b) A peace officer.

44 (c) A corrections officer employed by the state department of
45 corrections or the ~~state~~ department of juvenile corrections, ~~or~~ a detention

1 officer employed by a county, city or town OR ANY OTHER MEMBER AS DEFINED IN
2 SECTION 38-881 if the department, county, city, ~~or~~ town OR PARTICIPATING
3 EMPLOYER AS DEFINED IN SECTION 38-881 has voluntarily established a program
4 and the corrections officer, ~~or~~ detention officer OR OTHER MEMBER AS DEFINED
5 IN SECTION 38-881 voluntarily enrolled in the program and made the payments
6 pursuant to section 38-642, subsection D.

7 3. Have cancer that was first diagnosed after the person's date of
8 membership in the public safety personnel retirement system or corrections
9 officer retirement plan.

10 B. Persons who terminate employment with a participating employer are
11 not eligible for benefits under the program unless the person has made a
12 valid claim for payment of expenses under the program before termination of
13 employment.

14 C. On retirement, persons who were either receiving benefits under the
15 program before retirement or who are diagnosed with cancer subsequent to
16 retirement remain eligible for coverage under the program for five months for
17 each year of credited service accumulated toward retirement under the public
18 safety personnel retirement system or corrections officer retirement plan.

19 D. A person whose eligibility to receive benefits under subsection C
20 of this section is expiring may continue to remain eligible for coverage
21 under the program if the person makes an election with the board and pays to
22 the board the cost of the premium as determined by the board at the time
23 determined by the board.

24 E. A person is not eligible for benefits under the program if there is
25 any evidence that the cancer that forms the basis for a benefit claim under
26 the program existed before the person's membership in the public safety
27 personnel retirement system or corrections officer retirement plan.

28 Sec. 5. Section 38-853.01, Arizona Revised Statutes, is amended to
29 read:

30 38-853.01. Redemption of prior service; calculation

31 A. Each present active member of the system who has at least five
32 years of service with the system may elect to redeem up to sixty months of
33 any part of the following prior service or employment by paying into the
34 system any amounts required under subsection B of this section if the prior
35 service or employment is not on account with any other retirement system:

36 1. Prior service in this state as an employee with an employer now
37 covered by the system or prior service with an agency of the United States
38 government, a state of the United States or a political subdivision of this
39 state or of a state of the United States as a full-time paid firefighter,
40 full-time paid certified peace officer or full-time paid corrections officer
41 engaged in law enforcement duties.

42 2. Subject to any limitations prescribed by federal law, prior
43 employment as an employee of a corporation that contracted with an employer
44 now covered by the system to provide firefighting services on behalf of that

1 employer as a full-time paid firefighter or that provided firefighting
2 services for a political subdivision of this state.

3 B. Any present active member who elects to redeem any part of the
4 prior service or employment for which the employee is deemed eligible by the
5 board under this section shall pay into the system the amounts previously
6 withdrawn by the member, if any, as a refund of the member's accumulated
7 contributions plus accumulated interest as determined by the board and the
8 additional amount, if any, computed by the system's actuary that is necessary
9 to equal the increase in the actuarial present value of projected benefits
10 resulting from the redemption calculated using the actuarial methods and
11 assumptions prescribed by the system's actuary. BEGINNING JANUARY 1, 2018,
12 the discount rate used by the actuary for the redemption calculation pursuant
13 to this subsection is an amount equal to the lesser of the assumed rate of
14 return that is prescribed by the board or an amount equal to the yield on a
15 ten-year treasury note as of March 1 that is published by the federal reserve
16 board plus two ~~per-cent~~ PERCENT. The discount rate is effective beginning in
17 the next fiscal year, and the board shall recalculate the rate each year.

18 C. A member electing to redeem service pursuant to this section may
19 pay for service being redeemed in the form of a lump sum payment to the
20 system, a trustee-to-trustee transfer or a direct rollover of an eligible
21 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
22 (vi) of the internal revenue code or a rollover of an eligible distribution
23 from an individual retirement account or annuity described in section 408(a)
24 or (b) of the internal revenue code.

25 Sec. 6. Retroactivity

26 Section 38-853.01, Arizona Revised Statutes, as amended by this act,
27 applies retroactively to from and after August 1, 2012.