

REFERENCE TITLE: retirement savings; employees

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2063

Introduced by
Representatives Quezada, McCune Davis, Mendez, Senator Gallardo

AN ACT

AMENDING TITLE 23, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 10; RELATING
TO THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 23, Arizona Revised Statutes, is amended by adding
3 chapter 10, to read:

4 CHAPTER 10

5 ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST ACT

6 ARTICLE 1. GENERAL PROVISIONS

7 23-1601. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "ARIZONA SECURE CHOICE RETIREMENT SAVINGS PROGRAM" OR "PROGRAM"
10 MEANS A RETIREMENT SAVINGS PROGRAM THAT THE ARIZONA SECURE CHOICE RETIREMENT
11 SAVINGS TRUST OFFERS.

12 2. "BOARD" MEANS THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS BOARD.

13 3. "DEPARTMENT" MEANS THE LABOR DEPARTMENT OF THE INDUSTRIAL
14 COMMISSION OF ARIZONA.

15 4. "ELIGIBLE EMPLOYEE":

16 (a) MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN ELIGIBLE EMPLOYER.

17 (b) DOES NOT INCLUDE:

18 (i) ANY EMPLOYEE WHO IS COVERED UNDER THE RAILWAY LABOR ACT (45 UNITED
19 STATES CODE SECTION 151) OR ANY EMPLOYEE WHO IS ENGAGED IN INTERSTATE
20 COMMERCE AND WHO IS NOT SUBJECT TO THE LEGISLATIVE POWERS OF THIS STATE
21 EXCEPT AS AUTHORIZED UNDER THE UNITED STATES CONSTITUTION OR FEDERAL LAW.

22 (ii) ANY EMPLOYEE WHO IS ELIGIBLE TO PARTICIPATE IN A QUALIFYING
23 RETIREMENT PLAN OR ARRANGEMENT THAT IS DESCRIBED IN 26 UNITED STATES CODE
24 SECTION 219(g)(5) OR AN AUTOMATIC PAYROLL DEDUCTION IRA THAT THE EMPLOYEE'S
25 EMPLOYER MAINTAINS OR OFFERS.

26 (iii) ANY EMPLOYEE WHO WAS ELIGIBLE TO PARTICIPATE IN A PLAN OR
27 ARRANGEMENT UNDER ITEM (ii) OF THIS SUBDIVISION AT ANY TIME DURING THE
28 PRECEDING TWO CALENDAR YEARS BUT THE PLAN OR ARRANGEMENT WAS TERMINATED OR
29 FROZEN AT ANY TIME DURING THE PRECEDING TWO CALENDAR YEARS OR THE EMPLOYER
30 CEASED TO OFFER THE AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA AT ANY TIME
31 DURING THE PRECEDING TWO CALENDAR YEARS.

32 (iv) ANY EMPLOYEE WHO IS COVERED BY A COLLECTIVE BARGAINING AGREEMENT
33 THAT EXPRESSLY PROVIDES FOR THE EMPLOYER TO CONTRIBUTE TO A MULTIEMPLOYER
34 RETIREMENT PLAN DESCRIBED IN 26 UNITED STATES CODE SECTION 414(f).

35 (v) ANY EMPLOYEE WHO IS UNDER EIGHTEEN YEARS OF AGE BEFORE THE
36 BEGINNING OF THE CALENDAR YEAR.

37 5. "ELIGIBLE EMPLOYER" MEANS A PERSON OR ENTITY THAT IS ENGAGED IN A
38 BUSINESS, INDUSTRY, PROFESSION, TRADE OR OTHER ENTERPRISE IN THIS STATE,
39 WHETHER FOR PROFIT OR NONPROFIT, EXCLUDING THE FEDERAL GOVERNMENT, THIS
40 STATE, ANY COUNTY, ANY MUNICIPAL CORPORATION OR ANY OF THIS STATE'S UNITS OR
41 INSTRUMENTALITIES, THAT HAS FIVE OR MORE EMPLOYEES, BUT DOES NOT INCLUDE ANY
42 EMPLOYER THAT HAS NOT BEEN IN BUSINESS AT ALL TIMES DURING THE CALENDAR YEAR
43 AND THE PRECEDING CALENDAR YEAR.

1 6. "IRA" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL
2 RETIREMENT ANNUITY UNDER 26 UNITED STATES CODE SECTION 408(a) OR (b).

3 7. "PARTICIPATING EMPLOYER" MEANS AN ELIGIBLE EMPLOYER OR ANY OTHER
4 EMPLOYER THAT PROVIDES A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT FOR
5 ELIGIBLE EMPLOYEES PURSUANT TO THIS CHAPTER.

6 8. "PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT" MEANS AN
7 ARRANGEMENT BY WHICH AN EMPLOYER ALLOWS EMPLOYEES TO REMIT PAYROLL DEDUCTION
8 CONTRIBUTIONS TO A RETIREMENT SAVINGS PROGRAM.

9 9. "TRUST" MEANS THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST
10 THAT IS ESTABLISHED BY THIS CHAPTER.

11 23-1602. Arizona secure choice retirement savings trust; funds;
12 investment

13 A. THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST IS ESTABLISHED.
14 THE BOARD SHALL ADMINISTER THE TRUST FOR THE PURPOSE OF PROMOTING GREATER
15 RETIREMENT SAVINGS FOR PRIVATE EMPLOYEES IN THIS STATE IN A CONVENIENT,
16 VOLUNTARY, LOW-COST AND PORTABLE MANNER.

17 B. THE BOARD SHALL SEGREGATE MONIES THAT THE TRUST RECEIVES INTO TWO
18 FUNDS THAT SHALL BE IDENTIFIED AS THE PROGRAM FUND AND THE ADMINISTRATIVE
19 FUND. MONIES IN THE TRUST ARE CONTINUOUSLY APPROPRIATED TO THE BOARD FOR THE
20 PURPOSES OF THIS CHAPTER.

21 C. MONIES IN THE TRUST MAY BE INVESTED OR REINVESTED BY THE TREASURER
22 PURSUANT TO SECTION 35-313 OR MAY BE INVESTED IN WHOLE OR IN PART UNDER A
23 CONTRACT WITH THE ARIZONA STATE RETIREMENT SYSTEM OR BY PRIVATE MONEY
24 MANAGERS, OR BOTH, AS THE BOARD DETERMINES.

25 D. ALL COSTS OF THE ADMINISTRATION OF THE TRUST SHALL BE PAID OUT OF
26 THE ADMINISTRATIVE FUND. THE BOARD MAY TRANSFER MONIES FROM THE PROGRAM FUND
27 TO THE ADMINISTRATIVE FUND FOR THE PURPOSE OF PAYING OPERATING COSTS THAT ARE
28 ASSOCIATED WITH THE ADMINISTRATION OF THE TRUST AND AS REQUIRED BY THIS
29 CHAPTER.

30 23-1603. Arizona secure choice retirement savings board;
31 members; compensation; fiduciary duty; investment
32 policy

33 A. THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS BOARD IS ESTABLISHED
34 AND SHALL CONSIST OF THE FOLLOWING SEVEN MEMBERS:

35 1. THE STATE TREASURER OR THE TREASURER'S DESIGNEE.

36 2. THE DIRECTOR OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS OR THE
37 DIRECTOR'S DESIGNEE.

38 3. AN INDIVIDUAL WITH RETIREMENT SAVINGS AND INVESTMENT EXPERTISE WHO
39 IS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

40 4. A SMALL BUSINESS REPRESENTATIVE WHO IS APPOINTED BY THE GOVERNOR.

41 5. TWO PUBLIC MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.

42 6. AN EMPLOYEE REPRESENTATIVE WHO IS APPOINTED BY THE PRESIDENT OF THE
43 SENATE.

44 B. THE STATE TREASURER SHALL SERVE AS THE CHAIRPERSON OF THE BOARD.

1 C. MEMBERS OF THE BOARD ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT
2 ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4,
3 ARTICLE 2.

4 D. BOARD MEMBERS, THE PROGRAM ADMINISTRATOR AND OTHER STAFF SHALL
5 DISCHARGE THEIR DUTIES WITH RESPECT TO THE TRUST SOLELY IN THE INTEREST OF
6 THE PROGRAM PARTICIPANTS AS FOLLOWS:

7 1. FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO THE PROGRAM
8 PARTICIPANTS AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE PROGRAM.

9 2. BY INVESTING WITH THE CARE, SKILL, PRUDENCE AND DILIGENCE UNDER THE
10 CIRCUMSTANCES THAT ARE THEN PREVAILING THAT A PRUDENT PERSON THAT ACTS IN A
11 LIKE CAPACITY AND THAT IS FAMILIAR WITH THOSE MATTERS WOULD USE IN THE
12 CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS.

13 3. ANY CONTRIBUTIONS THAT EMPLOYEES AND EMPLOYERS PAY INTO THE TRUST
14 SHALL BE USED EXCLUSIVELY FOR THE PURPOSE OF PAYING BENEFITS TO THE
15 PARTICIPANTS OF THE PROGRAM, THE COST OF ADMINISTRATION OF THE PROGRAM AND
16 FOR MAKING INVESTMENTS FOR THE BENEFIT OF THE PROGRAM.

17 E. THE BOARD SHALL ANNUALLY PREPARE AND ADOPT A WRITTEN STATEMENT OF
18 INVESTMENT POLICY THAT INCLUDES A RISK MANAGEMENT AND OVERSIGHT PROGRAM. THE
19 REQUIREMENTS ARE AS FOLLOWS:

20 1. THE INVESTMENT POLICY MUST MITIGATE RISK BY MAINTAINING A BALANCED
21 INVESTMENT PORTFOLIO THAT PROVIDES ASSURANCE THAT NO SINGLE INVESTMENT OR
22 CLASS OF INVESTMENTS WILL HAVE A DISPROPORTIONATE IMPACT ON THE TOTAL
23 PORTFOLIO.

24 2. THE RISK MANAGEMENT AND OVERSIGHT PROGRAM MUST BE DESIGNED TO
25 ENSURE THAT AN EFFECTIVE RISK MANAGEMENT SYSTEM IS IN PLACE TO MONITOR THE
26 RISK LEVELS OF THE PROGRAM'S INVESTMENT PORTFOLIO AND THAT THE RISKS TAKEN
27 ARE PRUDENT AND PROPERLY MANAGED.

28 23-1604. Arizona secure choice retirement savings program:
29 allocations; benefit; implementation

30 A. THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS PROGRAM IS ESTABLISHED
31 AND INCLUDES, AS THE BOARD DETERMINES, ONE OR MORE PAYROLL DEPOSIT RETIREMENT
32 SAVINGS ARRANGEMENTS.

33 B. INTEREST, EARNINGS AND LOSSES MUST BE ALLOCATED TO PROGRAM ACCOUNTS
34 AS THE BOARD PRESCRIBES.

35 C. AN INDIVIDUAL'S RETIREMENT SAVINGS BENEFIT UNDER THE PROGRAM MUST
36 BE AN AMOUNT THAT IS EQUAL TO THE BALANCE IN THE INDIVIDUAL'S PROGRAM ACCOUNT
37 ON THE DATE THAT THE RETIREMENT SAVINGS BENEFIT BECOMES PAYABLE.

38 D. THE BOARD MAY NOT IMPLEMENT THE PROGRAM IF THE IRA ARRANGEMENTS
39 THAT ARE OFFERED FAIL TO QUALIFY FOR THE FAVORABLE FEDERAL INCOME TAX
40 TREATMENT THAT IS ORDINARILY ACCORDED TO IRAs UNDER THE INTERNAL REVENUE CODE
41 OR IF IT IS DETERMINED THAT THE PROGRAM IS AN EMPLOYEE BENEFIT PLAN UNDER THE
42 EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (29 UNITED STATES CODE
43 CHAPTER 18).

1 23-1605. State of Arizona: immunity from liability

2 THIS STATE IS NOT LIABLE FOR THE PAYMENT OF THE RETIREMENT SAVINGS
3 BENEFIT THAT THE PROGRAM PARTICIPANTS EARN PURSUANT TO THIS CHAPTER. ANY
4 FINANCIAL LIABILITY FOR THE PAYMENT OF BENEFITS IN EXCESS OF FUNDS THAT ARE
5 AVAILABLE UNDER THE PROGRAM IS BORNE BY THE ENTITIES WITH WHOM THE BOARD
6 CONTRACTS TO PROVIDE AN INSURANCE, ANNUITY OR OTHER FUNDING MECHANISM TO
7 PROTECT THE VALUE OF INDIVIDUALS' ACCOUNTS PURSUANT TO SECTION 23-1608. THIS
8 STATE, AND ANY OF THE FUNDS OF THIS STATE, HAVE NO OBLIGATION FOR PAYMENT OF
9 THE BENEFITS THAT ARISE FROM THIS CHAPTER.

10 23-1606. Board: powers: rules

11 A. THE BOARD, IN THE CAPACITY OF TRUSTEE, MAY DO ALL OF THE FOLLOWING:

12 1. ESTABLISH ONE OR MORE PAYROLL DEPOSIT IRA ARRANGEMENTS.

13 2. MAKE AND ENTER INTO CONTRACTS THAT ARE NECESSARY FOR THE
14 ADMINISTRATION OF THE TRUST.

15 3. ADOPT A SEAL AND CHANGE AND AMEND IT FROM TIME TO TIME.

16 4. CAUSE MONIES IN THE TRUST TO BE HELD, INVESTED AND REINVESTED.

17 5. ACCEPT ANY GRANTS, GIFTS, LEGISLATIVE APPROPRIATIONS AND OTHER
18 MONIES FROM THIS STATE, ANY UNIT OF FEDERAL, STATE OR LOCAL GOVERNMENT OR ANY
19 OTHER PERSON, FIRM, PARTNERSHIP OR CORPORATION FOR DEPOSIT IN THE TRUST.

20 6. EMPLOY STAFF, APPOINT A PROGRAM ADMINISTRATOR, DETERMINE THE DUTIES
21 OF THE PROGRAM ADMINISTRATOR AND OTHER STAFF AS NECESSARY AND SET THEIR
22 COMPENSATION.

23 7. MAKE PROVISIONS FOR THE PAYMENT OF COSTS OF ADMINISTRATION AND
24 OPERATION OF THE TRUST.

25 8. EVALUATE AND ESTABLISH THE PROCESS BY WHICH AN ELIGIBLE EMPLOYEE OF
26 AN ELIGIBLE EMPLOYER IS ABLE TO CONTRIBUTE A PORTION OF THE EMPLOYEE'S SALARY
27 TO THE PROGRAM FOR AUTOMATIC DEPOSIT OF THOSE CONTRIBUTIONS AND THE
28 PARTICIPATING EMPLOYER PROVIDES A PAYROLL DEPOSIT RETIREMENT SAVINGS
29 ARRANGEMENT TO FORWARD THE EMPLOYEE CONTRIBUTION AND RELATED INFORMATION TO
30 THE PROGRAM OR ITS AGENTS.

31 9. EVALUATE AND CONSIDER EXISTING PROCESSES AND ARRANGEMENTS FOR THE
32 DEPOSIT AND ADMINISTRATION OF TAX THAT IS REQUIRED TO BE DEDUCTED AND
33 WITHHELD THAT RELATE TO THE COLLECTION OF INCOME TAX AT SOURCE ON WAGES OR
34 FOR THE DEPOSIT OF TAX THAT IS REQUIRED TO BE PAID UNDER THE UNEMPLOYMENT
35 INSURANCE SYSTEM.

36 10. RETAIN AND CONTRACT WITH THE ASRS BOARD THAT IS ESTABLISHED BY
37 SECTION 38-713, PRIVATE FINANCIAL INSTITUTIONS, OTHER FINANCIAL AND SERVICE
38 PROVIDERS, CONSULTANTS, ACTUARIES, COUNSEL, AUDITORS, THIRD-PARTY
39 ADMINISTRATORS AND OTHER PROFESSIONALS AS NECESSARY.

40 11. DESIGN AND ESTABLISH THE PROCESS FOR THE ENROLLMENT OF PROGRAM
41 PARTICIPANTS.

42 12. ALLOW PARTICIPATING EMPLOYERS TO USE THE PROGRAM TO REMIT
43 EMPLOYEES' CONTRIBUTIONS TO THEIR INDIVIDUAL RETIREMENT ACCOUNTS ON THEIR
44 EMPLOYEES' BEHALF.

- 1 13. PROCURE INSURANCE AGAINST ANY LOSS IN CONNECTION WITH THE PROPERTY,
2 ASSETS OR ACTIVITIES OF THE TRUST AND SECURE PRIVATE UNDERWRITING AND
3 REINSURANCE TO MANAGE RISK AND INSURE THE RETIREMENT SAVINGS RATE OF RETURN.
- 4 14. PROCURE INSURANCE THAT INDEMNIFIES EACH MEMBER OF THE BOARD FROM
5 PERSONAL LOSS OR LIABILITY THAT RESULTS FROM A MEMBER'S ACTION OR INACTION AS
6 A MEMBER OF THE BOARD.
- 7 15. SET MINIMUM AND MAXIMUM INVESTMENT LEVELS IN ACCORDANCE WITH
8 CONTRIBUTION LIMITS THAT ARE SET FOR IRAs BY THE INTERNAL REVENUE CODE.
- 9 16. ARRANGE FOR COLLECTIVE, COMMON AND POOLED INVESTMENT OF ASSETS OF
10 THE RETIREMENT SAVINGS PROGRAM OR ARRANGEMENTS, INCLUDING INVESTMENTS IN
11 CONJUNCTION WITH OTHER FUNDS WITH WHICH THOSE ASSETS ARE PERMITTED TO BE
12 COLLECTIVELY INVESTED, TO ACHIEVE COST SAVINGS THROUGH EFFICIENCIES AND
13 ECONOMIES OF SCALE.
- 14 17. ALLOCATE ADMINISTRATIVE FEES TO EACH INDIVIDUAL RETIREMENT ACCOUNT
15 ON A PRO RATA BASIS.
- 16 18. EXPLORE AND ESTABLISH INVESTMENT OPTIONS THAT OFFER EMPLOYEES
17 RETURNS ON CONTRIBUTIONS AND THE CONVERSION OF INDIVIDUAL RETIREMENT SAVINGS
18 ACCOUNT BALANCES TO SECURE RETIREMENT INCOME WITHOUT INCURRING DEBT OR
19 LIABILITIES TO THIS STATE.
- 20 19. IF NECESSARY, DETERMINE THE ELIGIBILITY OF AN EMPLOYER, EMPLOYEE OR
21 OTHER INDIVIDUAL TO PARTICIPATE IN THE PROGRAM.
- 22 20. EVALUATE AND ESTABLISH THE PROCESS BY WHICH AN INDIVIDUAL OR AN
23 EMPLOYEE OF A NONPARTICIPATING EMPLOYER MAY ENROLL IN AND MAKE CONTRIBUTIONS
24 TO THE PROGRAM.
- 25 21. EXPLORE AND ESTABLISH SEPARATE INVESTMENT OPTIONS AS PRESCRIBED BY
26 THE BOARD THAT COMPLY WITH THE INTERNAL REVENUE CODE AND EMPLOYEE RETIREMENT
27 INCOME SECURITY ACT OF 1974 PROVISIONS THAT ENABLE VOLUNTARY EMPLOYER
28 CONTRIBUTIONS ON BEHALF OF EMPLOYEES INTO ACCOUNTS TO BE MANAGED ALONGSIDE
29 THE PROGRAM'S IRA ACCOUNTS UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE.
- 30 22. CARRY OUT THE DUTIES AND OBLIGATIONS OF THE ARIZONA SECURE CHOICE
31 RETIREMENT SAVINGS TRUST PURSUANT TO THIS CHAPTER AND EXERCISE ALL OTHER
32 POWERS THAT ARE REASONABLY NECESSARY TO MEET THE PURPOSES, OBJECTIVES AND
33 PROVISIONS OF THIS CHAPTER THAT PERTAIN TO THE TRUST.
- 34 B. THE BOARD SHALL ADOPT RULES THAT IT DEEMS NECESSARY TO IMPLEMENT
35 THIS CHAPTER AND THAT ARE CONSISTENT WITH THE INTERNAL REVENUE CODE AND
36 REGULATIONS THAT ARE ISSUED PURSUANT TO THAT CODE AND TO ENSURE THAT THE
37 PROGRAM MEETS ALL CRITERIA FOR FEDERAL TAX-DEFERRAL OR TAX-EXEMPT BENEFITS,
38 OR BOTH.
- 39 23-1607. Annual audited financial report
- 40 THE BOARD SHALL PUBLISH AN ANNUAL AUDITED FINANCIAL REPORT, PREPARED IN
41 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, ON THE OPERATIONS
42 OF THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST. THE ANNUAL AUDIT
43 SHALL BE MADE BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT AND SHALL INCLUDE
44 DIRECT AND INDIRECT COSTS THAT ARE ATTRIBUTABLE TO THE USE OF OUTSIDE

1 CONSULTANTS, INDEPENDENT CONTRACTORS AND ANY OTHER INDIVIDUALS WHO ARE NOT
2 STATE EMPLOYEES.

3 23-1608. Funding mechanism; indemnification

4 THE BOARD SHALL ENSURE THAT AN INSURANCE, ANNUITY OR OTHER FUNDING
5 MECHANISM IS IN PLACE AT ALL TIMES THAT PROTECTS THE VALUE OF INDIVIDUALS'
6 ACCOUNTS. THE FUNDING MECHANISM MUST PROTECT, INDEMNIFY AND HOLD THIS STATE
7 HARMLESS AT ALL TIMES AGAINST ANY AND ALL LIABILITY THAT IS IN CONNECTION
8 WITH FUNDING RETIREMENT BENEFITS PURSUANT TO THIS CHAPTER. THE COSTS OF THE
9 FUNDING MECHANISM MUST BE PAID OUT OF THE FUNDS THAT ARE HELD IN THE TRUST
10 AND MAY NOT BE ATTRIBUTED TO THE ADMINISTRATIVE COSTS OF THE BOARD IN
11 OPERATING THE TRUST.

12 23-1609. Employee information packet; disclosure form; opt-out
13 form

14 A. BEFORE OPENING THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS PROGRAM
15 FOR ENROLLMENT, THE BOARD SHALL DESIGN AND DISSEMINATE AN EMPLOYEE
16 INFORMATION PACKET TO EMPLOYERS THROUGH THE DEPARTMENT. THE PACKET MUST
17 INCLUDE BACKGROUND INFORMATION ON THE PROGRAM AND APPROPRIATE DISCLOSURES FOR
18 EMPLOYEES.

19 B. THE DISCLOSURE FORM MUST INCLUDE ALL OF THE FOLLOWING:

20 1. THE BENEFITS AND RISKS THAT ARE ASSOCIATED WITH MAKING
21 CONTRIBUTIONS TO THE PROGRAM.

22 2. HOW TO MAKE CONTRIBUTIONS TO THE PROGRAM.

23 3. HOW TO OPT OUT OF THE PROGRAM.

24 4. THE PROCESS FOR WITHDRAWAL OF RETIREMENT SAVINGS.

25 5. HOW TO OBTAIN ADDITIONAL INFORMATION ON THE PROGRAM.

26 C. IN ADDITION, THE DISCLOSURE FORM MUST CLEARLY ARTICULATE THAT:

27 1. EMPLOYEES SEEKING FINANCIAL ADVICE SHOULD CONTACT FINANCIAL
28 ADVISERS, THAT EMPLOYERS ARE NOT IN A POSITION TO PROVIDE FINANCIAL ADVICE
29 AND THAT EMPLOYERS ARE NOT LIABLE FOR DECISIONS EMPLOYEES MAKE PURSUANT TO
30 SECTION 23-1606, SUBSECTION A, PARAGRAPH 21.

31 2. THE PROGRAM IS NOT AN EMPLOYER-SPONSORED RETIREMENT PLAN.

32 3. THE PROGRAM FUND IS PRIVATELY INSURED AND IS NOT GUARANTEED BY THIS
33 STATE.

34 23-1610. Arizona secure choice retirement savings program:
35 enrollment; contribution

36 A. AFTER THE BOARD OPENS THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS
37 PROGRAM FOR ENROLLMENT, ANY EMPLOYER MAY CHOOSE TO HAVE A PAYROLL DEPOSIT
38 RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE PARTICIPATION IN THE
39 PROGRAM.

40 B. BEGINNING THREE MONTHS AFTER THE BOARD OPENS THE PROGRAM FOR
41 ENROLLMENT, ELIGIBLE EMPLOYERS THAT HAVE MORE THAN ONE HUNDRED ELIGIBLE
42 EMPLOYEES AND THAT DO NOT OFFER AN EMPLOYER-SPONSORED RETIREMENT PLAN OR
43 AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA SHALL HAVE A PAYROLL DEPOSIT
44 RETIREMENT SAVINGS ARRANGEMENT TO ALLOW ELIGIBLE EMPLOYEE PARTICIPATION IN
45 THE PROGRAM.

1 C. BEGINNING SIX MONTHS AFTER THE BOARD OPENS THE PROGRAM FOR
2 ENROLLMENT, ELIGIBLE EMPLOYERS THAT HAVE MORE THAN FIFTY ELIGIBLE EMPLOYEES
3 AND THAT DO NOT OFFER AN EMPLOYER-SPONSORED RETIREMENT PLAN OR AUTOMATIC
4 ENROLLMENT PAYROLL DEDUCTION IRA SHALL HAVE A PAYROLL DEPOSIT RETIREMENT
5 SAVINGS ARRANGEMENT TO ALLOW ELIGIBLE EMPLOYEE PARTICIPATION IN THE PROGRAM.

6 D. BEGINNING NINE MONTHS AFTER THE BOARD OPENS THE PROGRAM FOR
7 ENROLLMENT, ALL OTHER ELIGIBLE EMPLOYERS THAT DO NOT OFFER AN
8 EMPLOYER-SPONSORED RETIREMENT PLAN OR AUTOMATIC ENROLLMENT PAYROLL DEDUCTION
9 IRA SHALL HAVE A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW
10 ELIGIBLE EMPLOYEE PARTICIPATION IN THE PROGRAM.

11 E. EACH ELIGIBLE EMPLOYEE SHALL BE ENROLLED IN THE PROGRAM UNLESS THE
12 EMPLOYEE ELECTS NOT TO PARTICIPATE IN THE PROGRAM. AN ELIGIBLE EMPLOYEE MAY
13 ELECT TO OPT OUT OF THE PROGRAM BY MAKING A NOTATION ON THE OPT-OUT FORM
14 PRESCRIBED BY SECTION 23-1609.

15 F. FOLLOWING INITIAL IMPLEMENTATION OF THE PROGRAM PURSUANT TO THIS
16 SECTION, AT LEAST ONCE EVERY YEAR, PARTICIPATING EMPLOYERS SHALL DESIGNATE AN
17 OPEN ENROLLMENT PERIOD DURING WHICH ELIGIBLE EMPLOYEES THAT PREVIOUSLY OPTED
18 OUT OF THE PROGRAM SHALL BE ENROLLED IN THE PROGRAM UNLESS THE EMPLOYEE AGAIN
19 ELECTS TO OPT OUT PURSUANT TO SUBSECTION E OF THIS SECTION.

20 G. AN EMPLOYEE WHO ELECTS TO OPT OUT OF THE PROGRAM AND WHO
21 SUBSEQUENTLY CHOOSES TO PARTICIPATE THROUGH THE EMPLOYER'S PAYROLL DEPOSIT
22 RETIREMENT SAVINGS ARRANGEMENT MAY ENROLL ONLY DURING THE EMPLOYER'S
23 DESIGNATED OPEN ENROLLMENT PERIOD OR, IF THE EMPLOYER PERMITS, AT AN EARLIER
24 TIME.

25 H. EMPLOYERS SHALL RETAIN THE OPTION AT ALL TIMES TO SET UP ANY TYPE
26 OF EMPLOYER-SPONSORED RETIREMENT PLAN, INCLUDING A DEFINED BENEFIT PLAN OR
27 401(k), SIMPLIFIED EMPLOYEE PENSION PLAN OR SAVINGS INCENTIVE MATCH PLAN FOR
28 EMPLOYEES, OR OFFER AN AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA INSTEAD OF
29 HAVING A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EMPLOYEE
30 PARTICIPATION IN THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS PROGRAM.

31 I. AN ELIGIBLE EMPLOYEE MAY TERMINATE THE EMPLOYEE'S PARTICIPATION IN
32 THE PROGRAM AT ANY TIME IN A MANNER THAT IS PRESCRIBED BY THE BOARD AND
33 THEREAFTER BY MAKING A NOTATION ON THE OPT-OUT FORM PRESCRIBED BY SECTION
34 23-1609.

35 J. UNLESS OTHERWISE SPECIFIED BY THE EMPLOYEE, A PARTICIPATING
36 EMPLOYEE SHALL CONTRIBUTE THREE PER CENT OF THE EMPLOYEE'S ANNUAL SALARY OR
37 WAGES TO THE PROGRAM.

38 K. BY RULE, THE BOARD MAY ADJUST THE CONTRIBUTION AMOUNT SET IN
39 SUBSECTION J OF THIS SECTION TO NO LESS THAN TWO PER CENT AND NO MORE THAN
40 FOUR PER CENT AND MAY VARY THAT AMOUNT WITHIN THAT RANGE FOR PARTICIPATING
41 EMPLOYEES ACCORDING TO THE LENGTH OF TIME THE EMPLOYEE HAS CONTRIBUTED TO THE
42 PROGRAM.

43 23-1611. Employers; immunity

44 A. EMPLOYERS ARE NOT LIABLE FOR AN EMPLOYEE'S DECISION TO PARTICIPATE
45 IN, OR OPT OUT OF, THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS PROGRAM OR

1 FOR THE INVESTMENT DECISIONS OF EMPLOYEES WHO HAVE ASSETS THAT ARE DEPOSITED
2 IN THE PROGRAM.

3 B. AN EMPLOYER IS NOT A FIDUCIARY OR CONSIDERED TO BE A FIDUCIARY OVER
4 THE ARIZONA SECURE CHOICE RETIREMENT SAVINGS TRUST OR THE PROGRAM. AN
5 EMPLOYER IS NOT RESPONSIBLE FOR THE ADMINISTRATION, INVESTMENT OR INVESTMENT
6 PERFORMANCE OF THE PROGRAM. AN EMPLOYER IS NOT LIABLE WITH REGARD TO
7 INVESTMENT RETURNS, PROGRAM DESIGN AND BENEFITS THAT ARE PAID TO THE PROGRAM
8 PARTICIPANTS.

9 C. AN EMPLOYER'S VOLUNTARY CONTRIBUTION UNDER SECTION 23-1606,
10 SUBSECTION A, PARAGRAPH 21 DOES NOT IN ANY WAY CONTRADICT THIS SECTION OR
11 CHANGE THE EMPLOYER'S RELATIONSHIP TO THE PROGRAM OR AN EMPLOYER'S
12 OBLIGATIONS TO EMPLOYEES.

13 23-1612. Employers; payments

14 THE EMPLOYER SHALL PAY EMPLOYEE CONTRIBUTIONS THAT THE EMPLOYER DEDUCTS
15 THROUGH PAYROLL DEDUCTION TO THE TRUST USING A PROCESS THAT IS ESTABLISHED BY
16 THE BOARD AS FOLLOWS:

17 1. ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH
18 THE COMPENSATION OTHERWISE WOULD HAVE BEEN PAYABLE TO THE EMPLOYEE IN CASH.

19 2. BEFORE A DEADLINE SET BY THE BOARD THAT IS LATER THAN THE DATE THAT
20 IS PROVIDED IN PARAGRAPH 1 OF THIS SECTION BUT NOT LATER THAN THE DUE DATE
21 FOR THE DEPOSIT OF TAX THAT IS REQUIRED TO BE DEDUCTED AND WITHHELD FOR THE
22 COLLECTION OF INCOME TAX AT SOURCE ON WAGES OR FOR THE DEPOSIT OF TAX THAT IS
23 REQUIRED TO BE PAID UNDER THE UNEMPLOYMENT INSURANCE SYSTEM FOR THAT PAYROLL
24 PERIOD.

25 23-1613. Enforcement; civil penalties

26 A. THE DEPARTMENT MAY ENFORCE EMPLOYER COMPLIANCE WITH THIS ACT.

27 B. AFTER DUE PROCESS, THE DEPARTMENT MAY IMPOSE PENALTIES AGAINST
28 ELIGIBLE EMPLOYERS FOR FAILURE TO COMPLY WITH SECTION 23-1610, SUBSECTIONS B,
29 C AND D AS DETERMINED BY THE BOARD. PROCEEDS OF PENALTIES AFTER DEDUCTING
30 THE DEPARTMENT'S ENFORCEMENT EXPENSES SHALL BE DEPOSITED FOR THE BENEFIT OF
31 THE TRUST.

32 C. AFTER DUE PROCESS, THE DEPARTMENT MAY IMPOSE PENALTIES AGAINST
33 EMPLOYERS THAT ARE EQUAL TO LOST EARNINGS AND INTEREST ON CONTRIBUTIONS MADE
34 LATER THAN THE DEADLINES PRESCRIBED IN SECTION 23-1612. THE DEPARTMENT SHALL
35 ABIDE BY THE FOLLOWING:

36 1. THE DEPARTMENT SHALL PRESCRIBE A METHODOLOGY FOR CALCULATING LOST
37 EARNINGS AND INTEREST.

38 2. PROCEEDS OF THE PENALTIES MUST BE DEPOSITED FOR THE BENEFIT OF THE
39 TRUST AND CREDITED TO THE IRAs OF THE AFFECTED EMPLOYEES ON A PRO RATA BASIS.

40 23-1614. Program termination

41 THE PROGRAM THAT IS ESTABLISHED BY THIS CHAPTER ENDS ON JULY 1, 2024
42 PURSUANT TO SECTION 41-3102.