

REFERENCE TITLE: ABOR; optional retirement programs

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2138

Introduced by
Representative Kavanagh

AN ACT

AMENDING SECTION 15-1628, ARIZONA REVISED STATUTES; RELATING TO THE
ARIZONA BOARD OF REGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1628, Arizona Revised Statutes, is amended to
3 read:

4 15-1628. Powers and procedures pertaining to optional
5 retirement programs

6 A. The Arizona board of regents may establish optional retirement
7 programs under which contracts providing retirement and death benefits may
8 be purchased for members of the faculty and ~~administrative officers~~
9 EMPLOYEES of the institutions under its jurisdiction. The benefits to be
10 provided for or on behalf of participants in the optional retirement
11 program shall be provided through annuity contracts, fixed or variable in
12 nature, or a combination thereof, or other retirement plans approved by
13 the Arizona board of regents.

14 B. Elections to participate in the optional retirement programs
15 shall be made as follows:

16 1. Eligible employees WHO ARE initially appointed on or after
17 August 9, 1974 shall elect to become members of the Arizona state
18 retirement system or to participate in an optional retirement program
19 established by the Arizona board of regents. The election shall be made
20 in writing and filed with the Arizona state retirement system and the
21 disbursing officer of the employing institution and shall be effective as
22 of the effective date of appointment. If an eligible employee fails to
23 make an election as provided in this paragraph, the eligible employee
24 shall be deemed to have elected membership in the Arizona state retirement
25 system.

26 2. Eligible employees WHO ARE initially appointed before August 9,
27 1974 may elect to participate in the optional retirement programs. The
28 election shall be made in writing and filed with the Arizona state
29 retirement system and the disbursing officer of the employing institution
30 on or before December 14, 1974, shall become effective as of January 1,
31 1975 and shall constitute a waiver of all benefits provided by the Arizona
32 state retirement system, except all such benefits as are expressly
33 provided by law.

34 3. Any employee who becomes eligible may elect an optional
35 retirement program. The election shall be made in writing and filed with
36 the Arizona state retirement system and the disbursing officer of the
37 employing institution within thirty days after notice in writing to the
38 employee of the employee's eligibility, and shall become effective on the
39 first day of the pay period following such election, and shall constitute
40 a waiver of all benefits provided by the Arizona state retirement system,
41 except all such benefits as are expressly provided by law.

42 4. Any eligible employee who is a member of the Arizona state
43 retirement system at the time the employee elects to participate in the
44 optional retirement program shall leave the ~~funds~~ MONIES in the employee's
45 retirement account on deposit with the Arizona state retirement system
46 during the continuance of employment. Additional contributions to the

1 employee's retirement account shall not be required, and continued service
2 with the Arizona board of regents or an institution under the jurisdiction
3 of the Arizona board of regents while under an optional retirement program
4 shall be deemed to be member service in the Arizona state retirement
5 system for the purpose of determining eligibility for any benefits under
6 such system. The amount of any such benefits under such system shall be
7 computed only on the basis of service otherwise creditable to a member of
8 the system and the employee's compensation during such service. For
9 purposes of subsection D of this section, years of member service in the
10 Arizona state retirement system shall count as years of service under the
11 optional retirement programs.

12 C. The Arizona board of regents shall contribute public ~~funds~~
13 ~~MONIES~~ appropriated or any other ~~funds~~ ~~MONIES~~ available for such purpose
14 on behalf of each participant in the optional retirement programs in an
15 amount equal to seven ~~per cent~~ ~~PERCENT~~ of the participant's
16 compensation. Each participant shall also contribute an amount equal to
17 seven ~~per cent~~ ~~PERCENT~~ of the participant's compensation. The
18 appropriation to each university for purposes of enabling the Arizona
19 board of regents to make the contribution provided in this subsection
20 shall not exceed the employer contribution required under the Arizona
21 state retirement system as prescribed by title 38, chapter 5, article
22 2. ~~Funds utilized~~ ~~MONIES USED~~ by the ~~ARIZONA~~ board of regents or by a
23 university to pay that portion of the contribution that represents the
24 difference between the employer contribution as prescribed by title 38,
25 chapter 5, article 2 and the contribution rate provided in this subsection
26 for an optional retirement program do not constitute a use of appropriated
27 monies for supplemental retirement.

28 D. In the case of an electing employee initially appointed on or
29 after August 9, 1974, contributions pursuant to subsection C of this
30 section shall not be made by the Arizona board of regents until the
31 employee's completion of five years of service. Employee contributions
32 required during this initial ~~five-year~~ ~~FIVE-YEAR~~ period and during
33 continued service with an institution under the jurisdiction of the
34 Arizona board of regents shall be promptly remitted to the optional
35 retirement programs approved by the Arizona board of regents. At the end
36 of an electing employee's completion of five years of service, a single
37 contribution in an amount determined pursuant to subsection C of this
38 section, with interest, shall be made by the chief financial officer of
39 the employing institution to the approved company or companies on behalf
40 of ~~such~~ ~~THAT~~ employee. In the case of an electing employee who does not
41 continue in service with an institution under the jurisdiction of the
42 Arizona board of regents for at least five years, the amount of employer
43 contributions, with interest, shall be ~~refunded to this state~~ ~~FORFEITED TO~~
44 ~~THE INSTITUTION AND USED TO MAKE FUTURE EMPLOYER CONTRIBUTIONS AS REQUIRED~~
45 ~~BY SUBSECTION C OF THIS SECTION.~~

1 E. If an employee's service is terminated by death ~~prior to~~ BEFORE
 2 the completion of five years of service, a death benefit equal to the sums
 3 appropriated for ~~such~~ THAT employee, plus interest, shall be paid to the
 4 beneficiary designated by the participant under the participant's optional
 5 retirement program.

6 F. ~~The provisions of~~ Subsection D of this section ~~shall~~ DOES not
 7 apply to any electing employee who, at the time of initial appointment,
 8 owns a contract determined by the Arizona board of regents to be
 9 acceptable for use in the optional retirement program.

10 G. The Arizona board of regents may provide for the administration
 11 of such optional retirement programs and perform or authorize the
 12 performance of such functions as may be necessary for such purposes. The
 13 Arizona board of regents shall approve the company or companies from which
 14 benefits may be purchased under the optional retirement programs. Such
 15 optional retirement programs shall not ~~permit~~ ALLOW loans. In giving its
 16 approval, the board shall consider:

17 1. The nature and extent of the rights and benefits to be provided
 18 for participants and their beneficiaries.

19 2. The relation of such rights and benefits to the amount of
 20 contributions to be made.

21 3. The suitability of such rights and benefits to the needs of the
 22 participants and the interests of the institutions under ~~its~~ THE BOARD'S
 23 jurisdiction in ~~the recruitment~~ RECRUITING and ~~retention of~~ RETAINING
 24 faculty and ~~administrative officers~~ EMPLOYEES.

25 4. The ability of the approved company or companies to provide such
 26 suitable rights and benefits.

27 H. Any eligible employee WHO IS initially appointed after August 9,
 28 1974, ~~electing~~ AND WHO ELECTS to participate in the optional retirement
 29 programs, ~~shall be~~ IS ineligible for membership in the Arizona state
 30 retirement system as long as the employee remains continuously employed in
 31 any position by the Arizona board of regents or by an institution under
 32 its jurisdiction, except as expressly provided by law.

33 I. The benefits, annuities and employee and employer contributions
 34 provided for in this section, and all interest, earnings and other credits
 35 pertaining to such benefits, annuities and contributions, shall not be
 36 subject to execution or attachment and shall be nonassignable. The
 37 employee and employer contributions provided for in this section and all
 38 interest, earnings and other credits pertaining to such contributions are
 39 exempt from state, county and municipal taxes. The benefits and annuities
 40 received by an employee under this section after December 31, 1988 are
 41 subject to tax pursuant to title 43.

42 J. Subject to amendment of the federal-state agreement provided for
 43 in section 38-702, every eligible employee electing to participate in the
 44 optional retirement programs shall have old age, survivors and disability
 45 insurance coverage provided by the federal social security act in
 46 accordance with ~~the provisions of~~ title 38, chapter 5, article 1.