

**FILED**

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House of Representatives  
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Second Regular Session  
1996

**Jane Dee Hull  
Secretary of State**

CHAPTER 282

**HOUSE BILL 2075**

AN ACT

AMENDING SECTIONS 38-881 AND 38-891, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

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

2 Section 1. Section 38-881, Arizona Revised Statutes, is amended to  
3 read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that  
7 the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's department, was  
9 incurred in the performance of the employee's duties and was the result of  
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on  
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,  
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business  
16 for the employee's employer. A job related motor vehicle accident does not  
17 include an accident that occurs on the way to or from work. Persons found  
18 guilty of violating a personnel rule, a rule established by the employee's  
19 employer or a state or federal law in connection with a job related motor  
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member  
22 contributions deducted from a member's salary and paid to the fund, plus  
23 member contributions transferred to the fund by another retirement plan

1 covering public employees of this state, plus previously withdrawn  
2 accumulated member contributions which are repaid to the fund in accordance  
3 with this article, minus any benefits paid to or on behalf of a member.

4 3. "Average monthly salary" means one-thirty-sixth of the aggregate  
5 amount of salary paid a member by a participating employer during a period  
6 of thirty-six consecutive months of service in which the member received the  
7 highest salary within the last one hundred twenty months of service.  
8 Average monthly salary means the aggregate amount of compensation paid a  
9 member divided by the member's months of service if the member has less than  
10 thirty-six months of service. In the computation under this paragraph, a  
11 period of nonpaid or partially paid industrial leave shall be considered  
12 based on the salary the employee would have received in the employee's job  
13 classification if the employee was not on industrial leave.

14 4. "Beneficiary" means an individual who is being paid or who has  
15 entitlement to the future payment of a pension on account of a reason other  
16 than the individual's membership in the retirement plan.

17 5. "Claimant" means a member, beneficiary or estate that files an  
18 application for benefits with the retirement plan.

19 6. "Credited service" means credited service transferred to the  
20 retirement plan from another retirement system or plan for public employees  
21 of this state, plus those compensated periods of service as a member of the  
22 retirement plan for which member contributions are on deposit in the fund.

23 7. "Designated position" means:

24 (a) For a county:

25 (i) A county detention officer.

26 (ii) A nonuniformed employee of a sheriff's department whose primary  
27 duties require direct contact with inmates.

28 (b) For the state department of corrections and the department of  
29 juvenile corrections, only the following specifically designated positions:

30 (i) Food service.

31 (ii) Nursing personnel.

32 (iii) Corrections physician assistant.

33 (iv) Therapist.

34 (v) Corrections dental assistant.

35 (vi) Hygienist.

36 (vii) Corrections medical assistant.

37 (viii) Correctional service officer, including assistant deputy  
38 warden, deputy warden, warden and superintendent.

39 (ix) State correctional program officer.

40 (x) Parole or community supervision officers.

41 (xi) Investigators.

42 (xii) Teachers.

43 (xiii) Institutional maintenance workers.

44 (xiv) Youth corrections officer.

1 (xv) Youth program officer.

2 (xvi) Behavioral health treatment unit managers.

3 (xvii) The director and assistant directors of the department of  
4 juvenile corrections and the superintendent of the state educational system  
5 for committed youth, only if hired after July 1, 1992.

6 (xviii) Other positions designated by the ~~director~~ LOCAL BOARD of the  
7 state department of corrections or the ~~director~~ LOCAL BOARD of the department  
8 of juvenile corrections pursuant to section 38-891, subsection ~~D~~ E.

9 (c) For a city or town, a city or town detention officer.

10 8. "Employee" means a person determined by the local board to be  
11 employed by a participating employer in a designated position.

12 9. "Employer" means an agency or department of this state or a  
13 political subdivision of this state which has one or more employees in a  
14 designated position.

15 10. "Fund" means the corrections officer retirement plan fund.

16 11. "Fund manager" means the fund manager of the public safety  
17 personnel retirement system.

18 12. "Local ~~boards~~ BOARD" means the retirement board of the employer  
19 that consists of persons appointed or elected to administer the plan as it  
20 applies to the employer's members in the plan.

21 13. "Member" means any employee who meets all of the following  
22 qualifications:

23 (a) Who is a full-time paid person employed by a participating  
24 employer in a designated position.

25 (b) Who is receiving salary for personal services rendered to a  
26 participating employer or would be receiving salary except for an authorized  
27 leave of absence.

28 (c) Whose customary employment is for more than twenty hours each week  
29 and for more than six months in a calendar year.

30 14. "Normal retirement date" means the first day of the calendar month  
31 immediately following an employee's completion of twenty-five years of  
32 service, the employee's sixty-second birthday and completion of ten years of  
33 service or the month in which the sum of the employee's age and years of  
34 credited service equals eighty.

35 15. "Participating employer" means an employer which the fund manager  
36 has determined to have one or more employees in a designated position or a  
37 county, city or town which has entered into a joinder agreement pursuant to  
38 section 38-902.

39 16. "Pension" means a series of monthly payments by the retirement  
40 plan.

1           17. "Retired member" means an individual who is being paid a pension  
2 on account of the individual's membership in the retirement plan.

3           18. "Retirement" means termination of employment after a member has  
4 fulfilled all requirements for a pension.

5           19. "Retirement plan" or "plan" means the corrections officer  
6 retirement plan established by this article.

7           20. "Salary" means the base salary, shift differential pay, holiday pay  
8 or wages paid a member in a designated position for personal services  
9 rendered to a participating employer on a regular monthly, semimonthly or  
10 biweekly payroll basis. Salary includes amounts that are subject to  
11 deferred compensation or tax shelter agreements. Salary does not include any  
12 remuneration or reimbursement other than as prescribed by this paragraph.

13           21. "Service" means employment rendered to a participating employer as  
14 an employee in a designated position. Any absence that is authorized by an  
15 employer, including any periods during which the employee is on an employer  
16 sponsored long-term disability program, is considered as service if the  
17 employee returns or is deemed by the employer to have returned to a  
18 designated position within the period of the authorized absence.

19           22. "Total and permanent disability" means a physical or mental  
20 condition that is not an accidental disability, that the local board finds  
21 totally and permanently prevents a member from engaging in any gainful  
22 employment and that is the direct and proximate result of the member's  
23 performance of the member's duty as an employee of a participating employer.

24           Sec. 2. Section 38-891, Arizona Revised Statutes, is amended to read:  
25           38-891. Employer and member contributions

26           A. As determined by actuarial valuations reported to the employers and  
27 the local boards by the fund manager, each employer shall make level per cent  
28 of compensation contributions sufficient under the actuarial valuations to  
29 meet both the normal cost plus the actuarially determined amount required to  
30 amortize the unfunded accrued liability over a period of forty years  
31 commencing July 1, 1990. An employer may pay a higher level per cent of  
32 compensation thereby reducing its unfunded past service liability. All  
33 contributions made by the employers and all state taxes allocated to the fund  
34 shall be irrevocable and shall be used to pay benefits under the plan or to  
35 pay expenses of the plan and fund. Forfeitures arising because of severance  
36 of employment before a member becomes eligible for a pension or for any other  
37 reason shall be applied to reduce the cost to the employer, not to increase  
38 the benefits otherwise payable to members.

39           B. Each member shall contribute 6.65 per cent of the member's salary  
40 to the retirement plan. Member contributions shall be made by payroll  
41 deduction. Continuation of employment by the member constitutes consent and  
42 agreement to the deduction of the applicable member contribution. Payment  
43 of the member's compensation less the deducted contributions constitutes full  
44 and complete discharge and satisfaction of all claims and demands of the

1 member relating to compensation for services rendered during the period  
2 covered by the payment.

3 C. Each participating employer shall cause the member contributions  
4 to be deducted from the compensation of each member. The deducted member  
5 contributions shall be paid to the retirement plan within five working days  
6 and shall be credited to the member's individual account.

7 D. During a period when an employee is on industrial leave and the  
8 employee elects to continue contributions during the period of industrial  
9 leave, the employer and employee shall make contributions based on the  
10 compensation the employee would have received in the employee's job  
11 classification if the employee was in normal employment status.

12 E. The ~~director~~ LOCAL BOARD of the state department of corrections or  
13 the ~~director~~ LOCAL BOARD of the department of juvenile corrections may  
14 ~~designate~~ SPECIFY a position within that department as a designated position  
15 if the position is filled by an employee who has at least ~~ten~~ FIVE years of  
16 credited service under the plan, ~~and~~ who is transferred to temporarily fill  
17 the position AND WHO MAKES A WRITTEN REQUEST TO THE LOCAL BOARD TO SPECIFY  
18 THE POSITION AS A DESIGNATED POSITION WITHIN NINETY DAYS OF BEING  
19 TRANSFERRED. On the employee leaving the position, the position is no longer  
20 a designated position.

21 F. THE LOCAL BOARD OF THE STATE DEPARTMENT OF CORRECTIONS OR THE LOCAL  
22 BOARD OF THE DEPARTMENT OF JUVENILE CORRECTIONS MAY SPECIFY A DESIGNATED  
23 POSITION WITHIN THE DEPARTMENT AS A NONDESIGNATED POSITION IF THE POSITION  
24 IS FILLED BY AN EMPLOYEE WHO HAS AT LEAST FIVE YEARS OF CREDITED SERVICE  
25 UNDER THE ARIZONA STATE RETIREMENT SYSTEM AND WHO MAKES A WRITTEN REQUEST TO  
26 THE LOCAL BOARD TO SPECIFY THE POSITION AS A NONDESIGNATED POSITION WITHIN  
27 NINETY DAYS OF ACCEPTING THE POSITION. ON THE EMPLOYEE LEAVING THE POSITION,  
28 THE POSITION REVERTS TO A DESIGNATED POSITION.

29 Sec. 3. Transfer of assets: employees in designated position:  
30 ASRS to CORP

31 A. Notwithstanding sections 38-921 and 38-922, Arizona Revised  
32 Statutes, an employee in a designated position may transfer credited service  
33 from the Arizona state retirement system to the corrections officer  
34 retirement plan if all of the following conditions are met:

35 1. The employee is currently a member of the corrections officer  
36 retirement plan as an employee of an employer member of the plan in a  
37 designated position as defined in section 38-881, Arizona Revised Statutes.

38 2. The employee has credited service on account with the Arizona state  
39 retirement system that represents employment with the employee's current  
40 employer in a designated position as defined in section 38-881, Arizona  
41 Revised Statutes.

42 3. The local board determines the credited service to be transferred  
43 is eligible credited service under the corrections officer retirement plan.

1           4. The employee files a written election to have the credited service  
2 under the Arizona state retirement system transferred to the corrections  
3 officer retirement plan within thirty days after the effective date of this  
4 section.

5           B. Notwithstanding section 38-884, subsection D and sections 38-921  
6 and 38-922, Arizona Revised Statutes, an employee in a designated position  
7 may transfer credited service from the Arizona state retirement system to the  
8 corrections officer retirement plan if all of the following conditions are  
9 met:

10           1. The employee is currently a member of the corrections officer  
11 retirement plan as an employee of an employer member of the plan in a  
12 designated position as defined in section 38-881, Arizona Revised Statutes.

13           2. The employee has credited service on account with the Arizona state  
14 retirement system that represents employment with the employee's current  
15 employer.

16           3. The employee is currently occupying a position that is not covered  
17 under the Arizona state personnel rules or the applicable employer personnel  
18 rules.

19           4. The local board determines that the employee is eligible for a  
20 transfer pursuant to this subsection.

21           5. The employee files a written election to have the credited service  
22 under the Arizona state retirement system transferred to the corrections  
23 officer retirement plan within thirty days after the effective date of this  
24 section.

25           C. For the period of service that the member elects to have  
26 transferred, the Arizona state retirement system shall transfer to the  
27 corrections officer retirement plan an amount equal to the actuarial present  
28 value of the member's projected benefits under the Arizona state retirement  
29 system as calculated by the Arizona state retirement system's actuary based  
30 on the transferring member's service credits at the time of the transfer or  
31 the member's account balance, whichever is greater.

32           Sec. 4. Repeal

33           Section 3 of this act is repealed ninety days after the effective date  
34 of this act.

35           Sec. 5. Retroactivity

36           Section 38-891, Arizona Revised Statutes, as amended by this act,  
37 applies retroactively to from and after December 31, 1994.

APPROVED BY THE GOVERNOR APRIL 23, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 1996