

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 138

SENATE BILL 1155

AN ACT

AMENDING SECTION 15-1451, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGE OPTIONAL RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1451, Arizona Revised Statutes, is amended to
3 read:

4 15-1451. Optional retirement plans

5 A. Notwithstanding section 38-729, subsection I, and pursuant to
6 section 15-1444, subsection B, paragraph 5, a community college district
7 board may establish an optional retirement program under which contracts
8 providing retirement and death benefits may be purchased for employees of the
9 institutions under its jurisdiction as designated by the community college
10 district board.

11 B. An optional retirement program established pursuant to this section
12 shall:

13 1. Be designed to be a qualified governmental plan under section
14 401(a) of the internal revenue code.

15 2. Comply with all requirements of the internal revenue code
16 applicable to governmental plans.

17 3. Be a qualified plan under section 401(a) of the internal revenue
18 code.

19 4. Apply for and maintain a current letter of determination issued by
20 the United States internal revenue service.

21 5. Be a qualified pick-up plan as defined by section 414(h)(2) of the
22 internal revenue code as confirmed by a private letter ruling issued by the
23 United States internal revenue service.

24 6. Provide benefits through annuity contracts that are fixed or
25 variable in nature or that are a combination of fixed and variable.

26 C. Eligible employees may elect to participate in an optional
27 retirement plan established by the community college district board. The
28 eligible employee shall make the election in writing and file the election
29 with the Arizona state retirement system and the disbursing officer of the
30 employing institution. The eligible employee shall make the election EITHER:

31 1. Within thirty days of the employee's effective date of employment.
32 or,

33 2. If the employee is a member of the Arizona state retirement system
34 on the date the optional retirement program becomes effective, within ninety
35 days of the effective date of the optional retirement program.

36 3. BEGINNING ON OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001.

37 D. If an employee who is a member of the Arizona state retirement
38 system elects to participate in an optional retirement program ~~within thirty~~
39 ~~days of the employee's effective date of employment or within ninety days of~~
40 ~~the effective date of the optional retirement program~~ PURSUANT TO SUBSECTION
41 C OF THIS SECTION, the Arizona state retirement system shall transfer the
42 employee's contributions to the Arizona state retirement system and interest
43 as determined by the board of the Arizona state retirement system to the
44 optional retirement program within the later of ninety days after the
45 election or ninety days after receipt by the optional retirement program of

1 a favorable letter of determination issued by the United States internal
2 revenue service. If an eligible employee fails to make an election as
3 provided in this subsection C OF THIS SECTION, the employee is deemed to have
4 elected to participate in the Arizona state retirement system. The election
5 to participate in an optional retirement program is irrevocable and
6 constitutes a waiver of all benefits provided by the Arizona state retirement
7 system. All eligible employees who elect to participate in an optional
8 retirement program shall remain participants in the optional retirement
9 program during the continuance of employment with the community college
10 district.

11 ~~D~~. E. The community college district board shall make contributions
12 from public monies appropriated or any other monies available for this
13 purpose on behalf of each participant in the optional retirement program in
14 an amount THAT IS AT LEAST equal to the employer contribution prescribed in
15 title 38, chapter 5, article 2 BUT THAT IS NOT MORE THAN THE AMOUNT
16 PRESCRIBED IN SECTION 15-1628, SUBSECTION C.

17 ~~E~~. F. Subject to subsection ~~G~~ H of this section, each community
18 college district board that establishes an optional retirement program shall
19 establish program provisions including:

20 1. Categories of employees that are eligible to elect to participate
21 in the optional retirement program.

22 2. The employee contribution rate. This rate may be greater than the
23 employee contribution rate prescribed in title 38, chapter 5, article 2.

24 3. A vesting period for employer contributions, if any. All employee
25 contributions that are picked up by the employer are fully vested at all
26 times.

27 4. Restrictions on benefits, except that the optional retirement
28 program shall not allow a participant to withdraw employer contributions
29 except as retirement income payable for life or to provide for loans on
30 retirement income.

31 ~~F~~. G. A community college district board may elect to provide health
32 or long-term disability coverage to optional retirement program participants
33 under separate benefit plans. The community college district board may
34 allocate a portion of its employer contribution that would otherwise be made
35 to the optional retirement program under subsection ~~D~~ E of this section to
36 the separate benefit plans to provide health or long-term disability
37 coverage.

38 ~~G~~. H. Community college district boards that establish an optional
39 retirement program under this section may enter into intergovernmental
40 agreements appointing a single administrator or designating a single
41 community college district board to administer the optional retirement
42 program. A community college district board may satisfy the requirements of
43 this section by entering into an intergovernmental agreement with another
44 community college district board to participate in that community college
45 district's optional retirement program. The administration shall include,

1 without limitation, the design and implementation of the plan document
2 establishing the optional retirement program, compliance with the
3 qualification requirements prescribed in subsection B of this section and
4 such other duties that are not inconsistent with this section as may be
5 delegated to the administrator pursuant to the intergovernmental agreements
6 entered into among the community college district boards.

7 H. I. Although designated as employee contributions, all employee
8 contributions made to an optional retirement program shall be picked up and
9 paid by the community college district in lieu of contributions by the
10 employee. The contributions picked up by a community college district may
11 be made through a reduction in the employees' salary or an offset against
12 future salary increases, or a combination of both. The employees
13 participating in the optional retirement program do not have the option of
14 choosing to receive the contributed amounts directly instead of the community
15 college district paying the amounts to the optional retirement program. It
16 is intended that all employee contributions that are picked up by the
17 community college district as provided in this subsection shall be treated
18 as employer contributions under section 414(h) of the internal revenue code
19 and shall be excluded from the employees' gross income for federal and state
20 income tax purposes and are includable in the gross income of the employees
21 or their beneficiaries only in the taxable year in which they are
22 distributed.

23 I. J. A community college district board shall not be liable to any
24 employee, retiree or other person for any reason relating to the community
25 college district board's provision of or failure to provide for an optional
26 retirement program or health or long-term disability coverage.

APPROVED BY THE GOVERNOR APRIL 17, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2001.

Passed the House April 10, 20 01,

by the following vote: 56 Ayes,

1 Nays, 3 Not Voting


Speaker of the House

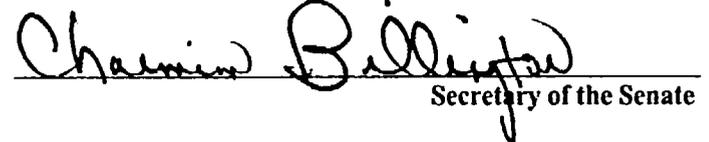

Chief Clerk of the House

Passed the Senate February 5, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting


President of the Senate

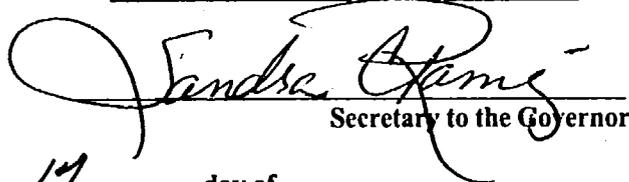

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2001,

at 10:52 o'clock A M.


Secretary to the Governor

Approved this 17 day of

April, 2001,

at 11:11 o'clock A M.


Governor of Arizona

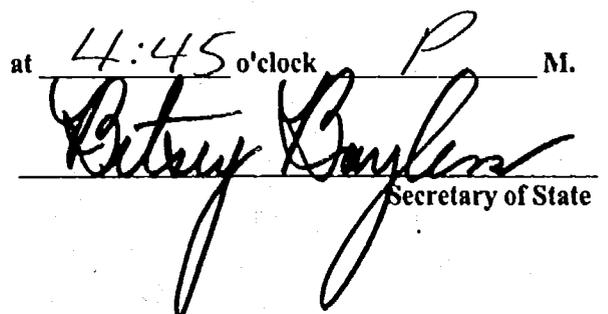
S.B. 1155

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 17 day of April, 2001,

at 4:45 o'clock P M.


Secretary of State