

Senate Engrossed

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

CHAPTER 62

# SENATE BILL 1232

AN ACT

AMENDING SECTION 38-804, ARIZONA REVISED STATUTES; RELATING TO THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-804, Arizona Revised Statutes, is amended to  
3 read:

4 38-804. Membership; termination; reinstatement of credited  
5 service

6 A. All elected officials are members of the plan, except that a state  
7 elected official who is subject to term limits may elect not to participate  
8 in the plan. The state elected official who is subject to term limits shall  
9 make the election in writing and file the election with the fund manager  
10 within thirty days after the state elected official assumes office. The  
11 election is effective on the first day of the state elected official's  
12 eligibility for that term of office. The election not to participate is  
13 specific for that term of office. If a state elected official who is subject  
14 to term limits fails to make an election as provided in this subsection, the  
15 state elected official is deemed to have elected to participate in the  
16 plan. The election not to participate in the plan is irrevocable and  
17 constitutes a waiver of all benefits provided by the plan for the state  
18 elected official's entire term, except for any benefits accrued by the state  
19 elected official in the plan for periods of participation prior to being  
20 elected to an office subject to term limits or any benefits expressly  
21 provided by law. The state elected official who elects not to participate  
22 in the plan shall participate in the Arizona state retirement system unless  
23 the state elected official makes an irrevocable election not to participate  
24 in the Arizona state retirement system as provided in section 38-727. If the  
25 state elected official elects not to participate in the plan, the Arizona  
26 state retirement system or the defined contribution retirement plan option  
27 pursuant to article 8 of this chapter, the state elected official may  
28 participate in a tax deferred annuity and deferred compensation program  
29 established pursuant to article 5 of this chapter. If the state elected  
30 official chooses to participate in such a program, the state elected  
31 official's employer shall pay an amount equal to five per cent of the state  
32 elected official's base salary directly to the program in lieu of employer  
33 contributions to a public retirement system.

34 B. If a member ceases to hold office for any reason other than death  
35 or retirement, within twenty days after filing a completed application with  
36 the fund manager, the member is entitled to receive the following amounts,  
37 less any benefit payments the member has received and any amount the member  
38 may owe to the plan:

39 1. If the member has less than five years of credited service with the  
40 plan, the member may withdraw the member's accumulated contributions from the  
41 plan.

42 2. If the member has five or more years of credited service with the  
43 plan, the member may withdraw the member's accumulated contributions plus an  
44 amount equal to the amount determined as follows:

1 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
2 member contributions deducted from the member's salary pursuant to section  
3 38-810, subsection A.

4 (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
5 contributions deducted from the member's salary pursuant to section 38-810,  
6 subsection A.

7 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
8 member contributions deducted from the member's salary pursuant to section  
9 38-810, subsection A.

10 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
11 member contributions deducted from the member's salary pursuant to section  
12 38-810, subsection A.

13 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
14 member contributions deducted from the member's salary pursuant to section  
15 38-810, subsection A.

16 (f) 10.0 or more years of credited service, one hundred per cent of  
17 all member contributions deducted from the member's salary pursuant to  
18 section 38-810, subsection A.

19 C. If a member has more than ten years of credited service with the  
20 plan, leaves the monies prescribed in subsection B of this section on account  
21 with the plan for more than thirty days after termination of employment and  
22 after that time period requests a refund of those monies, the member is  
23 entitled to receive the amount prescribed in subsection B of this section  
24 plus interest at a rate determined by the fund manager for each year computed  
25 from and after the member's termination of employment.

26 D. If the amount prescribed in subsection B or C of this section  
27 includes monies that are an eligible rollover distribution and the member  
28 elects to have the distribution paid directly to an eligible retirement plan  
29 or individual retirement account or annuity and specifies the eligible  
30 retirement plan or individual retirement account or annuity to which the  
31 distribution is to be paid, the distribution shall be made in the form of a  
32 direct trustee-to-trustee transfer to the specified eligible retirement  
33 plan. The distribution shall be made in the form and at the time prescribed  
34 by the fund manager. A member who receives the amount prescribed in  
35 subsection B or C of this section from the plan or who elects a transfer  
36 pursuant to this subsection forfeits the member's credited service, and all  
37 rights to benefits under the plan and membership in the plan terminate.

38 E. If an elected official who has terminated the member's membership  
39 in the plan pursuant to subsection B of this section is subsequently elected  
40 or otherwise becomes eligible for membership in the plan pursuant to  
41 subsection A of this section, credited service only accrues from the date of  
42 the member's most recent eligibility as an elected official.

43 F. Notwithstanding subsection E of this section, if an elected  
44 official files a written election form with the fund manager within ninety  
45 days after the day of the member's reemployment as an elected official and

1 repays the amount previously withdrawn pursuant to subsection B or C of this  
2 section within one year after the date of the member's reemployment as an  
3 elected official, with interest on that amount at the rate of nine per cent  
4 for each year, compounded each year from the date of withdrawal to the date  
5 of repayment, credited service shall be restored. Credited service shall not  
6 be restored until complete repayment is made to the fund.

7 G. If a retired member subsequently becomes an elected official,  
8 contributions shall not be made by the retired member or the retired member's  
9 employer and credited service shall not accrue while the retired member is  
10 holding office, except that if a retired member subsequently becomes, BY  
11 REASON OF ELECTION OR REELECTION, an elected official of the same office from  
12 which the member retired, the member shall not receive a pension,  
13 contributions shall not be made by the member or the member's employer and  
14 credited service shall not accrue while the member is holding office. If the  
15 elected official ceases to hold the same office, the elected official is  
16 entitled to receive the same pension the elected official was receiving when  
17 the elected official's pension was discontinued pursuant to this  
18 subsection. Nothing in this subsection prohibits a retired judge called by  
19 the supreme court to active duties of a judge pursuant to section 38-813 from  
20 receiving retirement benefits.

21 Sec. 2. Retroactivity

22 Section 38-804, Arizona Revised Statutes, as amended by this act,  
23 applies retroactively to from and after August 30, 1999.

APPROVED BY THE GOVERNOR APRIL 6, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2001.

Passed the House April 02, 20 01,

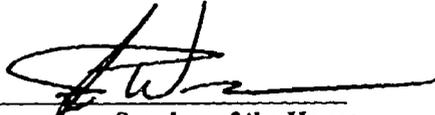
Passed the Senate February 19, 20 01,

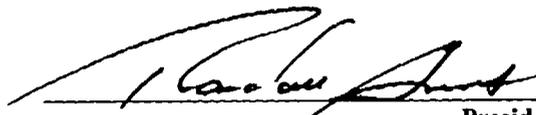
by the following vote: 56 Ayes,

by the following vote: 24 Ayes,

2 Nays, 2 Not Voting

4 Nays, 2 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

3 day of April, 20 01,

at 12:35 o'clock P M.

  
Secretary to the Governor

Approved this 6<sup>th</sup> day of

April, 2001,

at 11:05 o'clock A M.

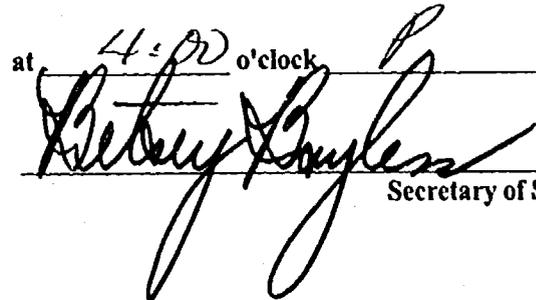
  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 6 day of April, 20 01,

at 4:00 o'clock P M.

  
Secretary of State

S.B. 1232