

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 335

HOUSE BILL 2118

AN ACT

AMENDING SECTIONS 38-804, 38-842, 38-844.02, 38-844.04, 38-844.06, 38-845, 38-846, 38-881, 38-887 AND 38-888, ARIZONA REVISED STATUTES; REPEALING LAWS 2001, CHAPTER 324, SECTION 30 AND LAWS 2001, CHAPTER 349, SECTION 4; RELATING TO PUBLIC RETIREMENT.

(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.

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

30 1. If the member has less than five years of credited service with the
31 plan, the member may withdraw the member's accumulated contributions from the
32 plan.

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

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

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

42 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
43 member contributions deducted from the member's salary pursuant to section
44 38-810, subsection A.

1 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
2 member contributions deducted from the member's salary pursuant to section
3 38-810, subsection A.

4 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
5 member contributions deducted from the member's salary pursuant to section
6 38-810, subsection A.

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

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

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

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

34 F. Notwithstanding subsection E of this section, if an elected
35 official files a written election form with the fund manager within ninety
36 days after the day of the member's reemployment as an elected official and
37 repays the amount previously withdrawn pursuant to subsection B or C of this
38 section within one year after the date of the member's reemployment as an
39 elected official, with interest on that amount at the rate of nine per cent
40 for each year, compounded each year from the date of withdrawal to the date
41 of repayment, credited service shall be restored. Credited service shall not
42 be restored until complete repayment is made to the fund.

43 G. If a retired member subsequently becomes an elected official,
44 contributions shall not be made by the retired member or the retired member's

1 employer and credited service shall not accrue while the retired member is
2 holding office. ~~, except that~~

3 H. IN ADDITION TO THE PROVISIONS OF SUBSECTION G OF THIS SECTION, if
4 a retired member subsequently becomes, by reason of election or reelection,
5 an elected official of the same office from which the member retired WITHIN
6 A TIME PERIOD FOLLOWING THE MEMBER'S RETIREMENT THAT IS LESS THAN ONE FULL
7 TERM FOR THAT OFFICE, the member shall not receive a pension, ~~contributions~~
8 ~~shall not be made by the member or the member's employer and credited service~~
9 ~~shall not accrue while the member is holding office.~~ If the elected official
10 ceases to hold the same office, the elected official is entitled to receive
11 the same pension the elected official was receiving when the elected
12 official's pension was discontinued pursuant to this subsection. Nothing in
13 this subsection prohibits a retired judge called by the supreme court to
14 active duties of a judge pursuant to section 38-813 from receiving retirement
15 benefits.

16 Sec. 2. Section 38-842, Arizona Revised Statutes, is amended to read:
17 38-842. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Accidental disability" means a physical or mental condition which
20 the local board finds totally and permanently prevents an employee from
21 performing a reasonable range of duties within the employee's job
22 classification and was incurred in the performance of the employee's duty. A
23 finding of accidental disability shall be based on medical evidence by a
24 doctor or clinic appointed by the local board pursuant to section 38-847,
25 subsection D, paragraph 9 which establishes an accidental disability.
26 Material conflicts in medical evidence shall be resolved by the findings of
27 the local board.

28 2. "Accumulated contributions" means, for each member, the sum of the
29 amount of the member's aggregate contributions made to the fund and the
30 amount, if any, attributable to the employee's contributions prior to the
31 member's effective date under another public retirement system, other than
32 the federal social security act, and transferred to the fund minus the
33 benefits paid to or on behalf of the member.

34 3. "Actuarial equivalent" means equality in present value of the
35 aggregate amounts expected to be received under two different forms of
36 payment, based on mortality and interest assumptions adopted by the fund
37 manager. The fund manager may from time to time change the mortality and
38 interest assumptions.

39 4. "Average monthly benefit compensation" means the result obtained
40 by dividing the total compensation paid to an employee during a considered
41 period by the number of months, including fractional months, in which such
42 compensation was received. The considered period shall be the three
43 consecutive years within the last twenty completed years of credited service
44 which yield the highest average. In the computation under this paragraph a

1 period of nonpaid or partially paid industrial leave shall be considered
2 based on the compensation the employee would have received in the employee's
3 job classification if the employee was not on industrial leave.

4 5. "Certified peace officer" means a peace officer certified by the
5 Arizona peace officers standards and training board.

6 6. "Claimant" means any member or beneficiary who files an application
7 for benefits pursuant to this article.

8 7. "Compensation" means, for the purpose of computing retirement
9 benefits, base salary, overtime pay, shift differential pay and holiday pay
10 paid to an employee on a regular monthly, semimonthly or biweekly payroll
11 basis and longevity pay paid to an employee at least every six months for
12 which contributions are made to the system pursuant to section 38-843,
13 subsection D. Compensation does not include, for the purpose of computing
14 retirement benefits, payment for unused sick leave, payment in lieu of
15 vacation, payment for compensatory time or any other payment for fringe
16 benefits.

17 8. "Credited service" means the member's total period of service prior
18 to the member's effective date of participation, plus those compensated
19 periods of the member's service thereafter for which the member made
20 contributions to the fund.

21 9. "Depository" means a bank in which all monies of the system are
22 deposited and held and from which all expenditures for benefits, expenses and
23 investments are disbursed.

24 10. "Effective date of participation" means July 1, 1968, except with
25 respect to employers and their covered employees whose contributions to the
26 fund commence thereafter, the effective date of their participation in the
27 system is as specified in the applicable joinder agreement.

28 11. "Effective date of vesting" means the date a member's rights to
29 benefits vest pursuant to section 38-844.01.

30 12. "Eligible child" means the unmarried child of a deceased member who
31 is under the age of eighteen or a full-time student who is under the age of
32 twenty-three or under a disability which began before the child attained the
33 age of twenty-three and who remains a dependent of the surviving spouse or
34 guardian.

35 13. "Eligible groups" means only the following who are regularly
36 assigned to hazardous duty:

37 (a) Municipal police officers who are certified peace officers.

38 (b) Municipal fire fighters.

39 (c) Paid full-time fire fighters employed directly by a fire district
40 organized pursuant to section 48-803 or 48-804 with three or more full-time
41 fire fighters, but not including fire fighters employed by a fire district
42 pursuant to a contract with a corporation.

43 (d) State highway patrol officers who are certified peace officers.

44 (e) State fire fighters.

1 (f) County sheriffs and deputies who are certified peace officers.

2 (g) Fish and game wardens who are certified peace officers.

3 (h) Police officers who are certified peace officers and fire fighters
4 of a nonprofit corporation operating a public airport pursuant to sections
5 28-8423 and 28-8424. A police officer shall be designated pursuant to
6 section 28-8426 to aid and supplement state and local law enforcement
7 agencies and a fire fighter's sole duty shall be to perform fire fighting
8 services, including services required by federal regulations.

9 (i) Police officers who are certified peace officers and who are
10 appointed by the Arizona board of regents.

11 (j) Police officers who are certified peace officers and who are
12 appointed by a community college district governing board.

13 (k) State attorney general investigators who are certified peace
14 officers.

15 (l) County attorney investigators who are certified peace officers.

16 (m) Police officers who are certified peace officers and who are
17 employed by an Indian reservation police agency.

18 (n) Fire fighters who are employed by an Indian reservation fire
19 fighting agency.

20 (o) Police officers who are certified peace officers and who are
21 appointed by the department of administration.

22 (p) Department of liquor licenses and control investigators who are
23 certified peace officers.

24 (q) Arizona department of agriculture officers who are certified peace
25 officers.

26 (r) Arizona state parks board rangers and managers who are certified
27 peace officers.

28 (s) County park rangers who are certified peace officers.

29 14. "Employee" means any person who is employed by a participating
30 employer and who is a member of an eligible group but does not include any
31 persons compensated on a contractual or fee basis. If an eligible group
32 requires certified peace officer status and at the option of the local board,
33 employee may include a person who is training to become a certified peace
34 officer.

35 15. "Employers" means:

36 (a) Cities contributing to the fire fighters' relief and pension fund
37 as provided in sections 9-951 through 9-971 or statutes amended thereby and
38 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
39 fire fighters.

40 (b) Cities contributing under the state police pension laws as
41 provided in sections 9-911 through 9-934 or statutes amended thereby and
42 antecedent thereto, as of June 30, 1968 on behalf of their municipal
43 policemen.

1 (c) The state highway patrol covered under the state highway patrol
2 retirement system.

3 (d) The state, or any political subdivision thereof, including but not
4 limited to towns, cities, fire districts, counties and nonprofit corporations
5 operating public airports pursuant to sections 28-8423 and 28-8424, which has
6 elected to participate in the system on behalf of an eligible group of public
7 safety personnel pursuant to a joinder agreement entered into after July 1,
8 1968.

9 (e) Indian tribes which have elected to participate in the system on
10 behalf of an eligible group of public safety personnel pursuant to a joinder
11 agreement entered into after July 1, 1968.

12 16. "Fund" means the public safety personnel retirement fund, which is
13 the fund established to receive and invest contributions accumulated under
14 the system and from which benefits are paid.

15 17. "Fund manager" means the fund manager of the system, who are the
16 persons appointed to invest and operate the fund.

17 18. "Local board" means the retirement board of the employer, who are
18 the persons appointed to administer the system as it applies to their members
19 in the system.

20 19. "Member" means any employee who meets all of the following
21 qualifications:

22 (a) Who is either a full-time paid municipal police officer, a
23 full-time paid fire fighter, a law enforcement officer who is employed by the
24 state including the director thereof, a state fire fighter who is primarily
25 assigned to fire fighting duties, a fire fighter or police officer of a
26 nonprofit corporation operating a public airport pursuant to sections 28-8423
27 and 28-8424, all ranks designated by the Arizona law enforcement merit system
28 council, a state attorney general investigator who is a certified peace
29 officer, a county attorney investigator who is a certified peace officer, a
30 police officer who is appointed by the department of administration and who
31 is a certified peace officer, a department of liquor licenses and control
32 investigator who is a certified peace officer, an Arizona department of
33 agriculture officer who is a certified peace officer, an Arizona state parks
34 board ranger or manager who is a certified peace officer, a county park
35 ranger who is a certified peace officer, a person who is a certified peace
36 officer and who is employed by an Indian reservation police agency, a fire
37 fighter who is employed by an Indian reservation fire fighting agency or an
38 employee included in a group designated as eligible employees under a joinder
39 agreement entered into by their employer after July 1, 1968 and who is or was
40 regularly assigned to hazardous duty.

41 (b) Who, on or after the employee's effective date of participation,
42 is receiving compensation for personal services rendered to an employer or
43 would be receiving compensation except for an authorized leave of absence.

1 (c) Whose employment with an employer commenced prior to attainment
2 of age fifty.

3 (d) Whose customary employment is ~~for more than twenty~~ AT LEAST FORTY
4 hours per week and for more than six months in a calendar year.

5 (e) Who has not attained age sixty-five prior to the employee's
6 effective date of participation or who was over age sixty-five with
7 twenty-five years or more of service prior to the employee's effective date
8 of participation.

9 20. "Normal retirement date" means the first day of the calendar month
10 immediately following an employee's completion of twenty years of service or
11 the employee's sixty-second birthday and the employee's completion of fifteen
12 years of service.

13 21. "Ordinary disability" means a physical condition which the local
14 board determines will prevent an employee totally and permanently from
15 performing a reasonable range of duties within the employee's department or
16 a mental condition which the local board determines will prevent an employee
17 totally and permanently from engaging in any substantial gainful activity. A
18 finding of ordinary disability shall be based on medical evidence by a doctor
19 or clinic appointed by the local board pursuant to section 38-847, subsection
20 D, paragraph 9 satisfactory to the local board which establishes an ordinary
21 disability. Material conflicts in medical evidence shall be resolved by the
22 findings of the local board.

23 22. "Pension" means a series of monthly amounts which are payable to
24 a person who is entitled to receive benefits under the plan.

25 23. "Regularly assigned to hazardous duty" means regularly assigned to
26 duties of the type normally expected of municipal police officers, municipal
27 or state fire fighters, eligible fire district fire fighters, state highway
28 patrol officers, county sheriffs and deputies, fish and game wardens, fire
29 fighters and police officers of a nonprofit corporation operating a public
30 airport pursuant to sections 28-8423 and 28-8424, police officers who are
31 appointed by the Arizona board of regents or a community college district
32 governing board, state attorney general investigators who are certified peace
33 officers, county attorney investigators who are certified peace officers,
34 police officers who are appointed by the department of administration and who
35 are certified peace officers, department of liquor licenses and control
36 investigators who are certified peace officers, Arizona department of
37 agriculture officers who are certified peace officers, Arizona state parks
38 board rangers and managers who are certified peace officers, county park
39 rangers who are certified peace officers, police officers who are certified
40 peace officers and are employed by an Indian reservation police agency or
41 fire fighters who are employed by an Indian reservation fire fighting
42 agency. Those individuals who are assigned solely to support duties such as
43 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
44 personnel, mechanics and dispatchers are not assigned to hazardous duty

1 regardless of their position classification title. Since the normal duties
2 of municipal police officers, municipal or state fire fighters, eligible fire
3 district fire fighters, state highway patrol officers, county sheriffs and
4 deputies, fish and game wardens, fire fighters and police officers of a
5 nonprofit corporation operating a public airport pursuant to sections 28-8423
6 and 28-8424, police officers who are appointed by the Arizona board of
7 regents or a community college district governing board, state attorney
8 general investigators who are certified peace officers, county attorney
9 investigators who are certified peace officers, police officers who are
10 appointed by the department of administration and who are certified peace
11 officers, department of liquor licenses and control investigators who are
12 certified peace officers, Arizona department of agriculture officers who are
13 certified peace officers, Arizona state parks board rangers and managers who
14 are certified peace officers, county park rangers who are certified peace
15 officers, police officers who are certified peace officers and are employed
16 by an Indian reservation police agency and fire fighters who are employed by
17 an Indian reservation fire fighting agency are constantly changing, questions
18 as to whether a person is or was previously regularly assigned to hazardous
19 duty shall be resolved by the local board on a case-by-case basis.
20 Resolutions by local boards are subject to rehearing and appeal.

21 24. "Retirement" means termination of employment after a member has
22 fulfilled all requirements for a pension. Retirement shall be considered as
23 commencing on the first day of the month immediately following a member's
24 last day of employment or authorized leave of absence, if later.

25 25. "Service" means the last period of continuous employment of an
26 employee by the employers prior to the employee's retirement or the
27 employee's sixty-fifth birthday, whichever first occurs, except that if such
28 period includes employment during which the employee would not have qualified
29 as a member had the system then been effective, such as employment as a
30 volunteer fire fighter, then only twenty-five per cent of such noncovered
31 employment shall be considered as service. Any absence which is authorized
32 by an employer shall not be considered as interrupting continuity of
33 employment if the employee returns within the period of authorized absence.
34 Transfers between employers also shall not be considered as interrupting
35 continuity of employment. Any period during which a member is receiving sick
36 leave payments or a temporary disability pension shall be considered as
37 service. Any period during which a person was employed as a full-time paid
38 fire fighter by a fire district pursuant to a contract with a corporation
39 within that fire district shall be considered as service if it is part of the
40 person's last period of continuous employment with that corporation in that
41 fire district and the fire district has elected to treat the period as
42 service in its applicable joinder agreement. Any reference in this system
43 to the number of years of service of an employee shall be deemed to include
44 fractional portions of a year.

1 26. "State" means the state of Arizona, including any department,
2 office, board, commission, agency or other instrumentality of the state.

3 27. "System" means the public safety personnel retirement system
4 established by this article.

5 28. "Temporary disability" means a physical or mental condition which
6 the local board finds totally and temporarily prevents an employee from
7 performing a reasonable range of duties within the employee's department and
8 which was incurred in the performance of the employee's duty. A finding of
9 disability shall be based on medical evidence by a doctor or clinic appointed
10 by the local board pursuant to section 38-847, subsection D, paragraph 9
11 which establishes a temporary disability. Material conflicts in medical
12 evidence shall be resolved by the findings of the local board.

13 Sec. 3. Section 38-844.02, Arizona Revised Statutes, is amended to
14 read:

15 38-844.02. Deferred retirement option plan; purpose

16 A. A deferred retirement option plan is established. The purpose of
17 the deferred retirement option plan is to add flexibility to the system and
18 to provide members who elect to participate in the deferred retirement option
19 plan access to a lump sum benefit in addition to their normal monthly
20 retirement benefit on actual retirement.

21 ~~B. The fund manager shall prepare for the administration and offering
22 of the deferred retirement option plan.~~

23 ~~C. B. Beginning on July 1, 2001 through June 30, 2006, The fund
24 manager shall offer the deferred retirement option plan to members on a
25 voluntary basis as an alternative method of benefit accrual under the system.~~

26 Sec. 4. Section 38-844.04, Arizona Revised Statutes, is amended to
27 read:

28 38-844.04. Termination of deferred retirement option plan
29 participation

30 A. A member may terminate participation in the deferred retirement
31 option plan by voluntarily terminating employment at any time before the
32 completion of the deferred retirement option plan participation period
33 designated by the member on the appropriate deferred retirement option plan
34 participation form.

35 B. Participation in the deferred retirement option plan terminates on
36 the first occurrence of any of the following:

37 1. Completion of the deferred retirement option plan participation
38 period designated by the member on the appropriate deferred retirement option
39 plan participation form.

40 2. Termination of employment. If termination of employment for cause
41 is reversed, a member's participation in the deferred retirement option plan,
42 minus any benefits previously distributed pursuant to this article, shall be
43 reinstated for the duration of the original deferred retirement option plan

1 participation period designated by the member on the appropriate deferred
2 retirement option plan participation form.

3 3. Death of a THE member.

4 4. Approval of disability retirement benefits pursuant to section
5 38-844, subsection B, ~~but only if the injury occurred during the deferred~~
6 ~~retirement option plan participation period.~~

7 Sec. 5. Section 38-844.06, Arizona Revised Statutes, is amended to
8 read:

9 38-844.06. Additional deferred retirement option plan
10 provisions

11 A. Beginning on the DAY AFTER THE date the member elects to
12 participate in the deferred retirement option plan, employee and employer
13 contributions pursuant to section 38-843 cease with respect to that member.

14 B. A member who elects to participate in the deferred retirement
15 option plan and who becomes disabled during the period of deferred retirement
16 option plan participation is eligible to apply for disability retirement
17 benefits, ~~but only if the injury occurred during the deferred retirement~~
18 ~~option plan participation period.~~ If the application for disability
19 retirement benefits is approved by the local board:

20 1. The disability retirement benefits shall be computed using the
21 factors of credited service and average monthly benefit compensation in
22 effect the day before the effective date of the member's deferred retirement
23 option plan participation.

24 2. All amounts in the member's deferred retirement option plan
25 participation account shall be distributed pursuant to section 38-844.08.

26 C. If a member dies during the period of the member's deferred
27 retirement option plan participation, the designated beneficiary of the
28 member is entitled to receive all amounts in the member's deferred retirement
29 option plan participation account.

30 Sec. 6. Section 38-845, Arizona Revised Statutes, is amended to read:

31 38-845. Amount of retirement benefit; purchase of firearm

32 A. A member who meets the requirements for a normal pension and has
33 twenty years of credited service shall receive a monthly amount which equals
34 fifty per cent of the member's average monthly benefit compensation. If the
35 member retires with other than twenty years of credited service, the
36 foregoing amount shall be:

37 1. Reduced by four per cent for each year of credited service under
38 twenty years, with pro rata reduction for any fractional year.

39 2. Increased by a monthly amount equal to two per cent of the member's
40 average monthly benefit compensation multiplied by the number of the member's
41 years of credited service in excess of twenty years, with pro rata increase
42 for any fractional year, except that if a member retires with twenty-five or
43 more years of credited service the amount shall be increased by a monthly
44 amount equal to two and one-half per cent of the member's average monthly

1 benefit compensation multiplied by the number of the member's years of
2 credited service in excess of twenty years, with pro rata increase for any
3 fractional year. Notwithstanding the provisions of this subsection, the
4 maximum amount payable as a normal pension shall be eighty per cent of the
5 average monthly benefit compensation.

6 B. A member who meets the requirements for an accidental disability
7 pension shall receive a monthly amount which shall be computed in the same
8 manner as a normal pension, using the member's average monthly benefit
9 compensation before termination of employment and the member's actual
10 credited service or twenty years of credited service, whichever is greater.

11 C. A member who meets the requirements for an ordinary disability
12 pension shall receive a monthly amount THAT IS equal to the percentage of A
13 FRACTION TIMES the member's normal pension specified in paragraphs 1 through
14 3 of this subsection which shall be computed in the same manner as a normal
15 pension, using the member's average monthly benefit compensation before
16 termination of employment and a maximum of twenty years of credited service:

17 1. If the member has less than seven years of credited service,
18 twenty-five per cent.

19 2. If the member has seven or more years but less than fourteen years
20 of credited service, fifty per cent.

21 3. If the member has fourteen or more years but less than twenty years
22 of credited service, seventy-five per cent THAT IS COMPUTED ACCORDING TO
23 SUBSECTION A IF THE MEMBER HAD TWENTY YEARS OF CREDITED SERVICE. THE
24 FRACTION IS THE RESULT OBTAINED BY DIVIDING THE MEMBER'S ACTUAL YEARS OF
25 CREDITED SERVICE, NOT TO EXCEED TWENTY YEARS OF CREDITED SERVICE, BY TWENTY.

26 D. A member who meets the requirements for a temporary disability
27 pension shall receive a monthly amount which shall be equal to one-twelfth
28 of fifty per cent of the member's annual compensation received immediately
29 prior to the date on which the member's disability was incurred.

30 E. A MEMBER WHO WAS EMPLOYED BEFORE SEPTEMBER 15, 1989 BY AN EMPLOYER
31 PARTICIPATING IN THE SYSTEM AND WHO RETIRES ON OR AFTER NOVEMBER 1, 2001 IS
32 ENTITLED TO RECEIVE A TAX EQUITY BENEFIT ALLOWANCE CONSISTING OF A PERMANENT
33 INCREASE OF TWO PER CENT OF THE MEMBER'S BASE BENEFIT RETROACTIVE TO THE DAY
34 OF RETIREMENT.

35 F. In addition to the amounts received under subsection A, B, C
36 or D and subject to the approval of the employer, the pension includes the
37 ability of a member to purchase the handgun or shotgun issued by the employer
38 to the member at less than fair market value.

39 Sec. 7. Section 38-846, Arizona Revised Statutes, is amended to read:
40 38-846. Death benefits

41 A. If the spouse of a member or retired member is surviving at such
42 member's death, the spouse shall be eligible for a surviving spouse's
43 pension, provided that such spouse had been married to the decedent either
44 for a period of at least two years prior to such member's date of death or

1 during such member's service. Payment of a surviving spouse's pension shall
2 commence as of the last day of the month following the member's or retired
3 member's date of death. The last payment shall be made as of the last day
4 of the month in which the surviving spouse's death occurs.

5 B. The surviving spouse of a deceased retired member shall receive a
6 monthly amount equal to ~~three-fourths~~ FOUR-FIFTHS of the monthly amount of
7 pension which the decedent would have received immediately before death. The
8 surviving spouse of a deceased member who was not killed in the line of duty
9 or did not die from injuries suffered in the line of duty shall receive a
10 monthly amount computed as for the surviving spouse of a deceased retired
11 member, under the assumption that the member had retired for reason of
12 accidental disability immediately before death. The surviving spouse of a
13 deceased member who is killed in the line of duty or dies from injuries
14 suffered in the line of duty is entitled to receive a monthly amount computed
15 ~~as for the surviving spouse of a deceased retired member under the assumption~~
16 ~~that the member had retired for reason of accidental disability immediately~~
17 ~~before death, except that the monthly amount equals one hundred per cent of~~
18 ~~the monthly amount of pension that the decedent would have received EQUAL TO~~
19 ~~THE DECEASED MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION less any amount~~
20 payable for an eligible child under this section. A member who was eligible
21 for or receiving a temporary disability pension at the time of the member's
22 death is not deemed to be retired for the purposes of this subsection.

23 C. If at least one eligible child is surviving at the death of a
24 member or retired member, but no surviving spouse's pension then becomes
25 payable, a guardian's or conservator's pension shall be payable to the person
26 who is serving, or who is deemed by the local board to be serving, as the
27 legally appointed guardian or custodian of the eligible child. If an
28 eligible child of a member or retired member is surviving at the member's or
29 retired member's death, the eligible child is entitled to receive a child's
30 pension payable to the person who is serving or who is deemed by the local
31 board to be serving as the legally appointed guardian or custodian of the
32 eligible child. The member may also direct by designation to the local board
33 that the guardian or conservator pension or child's pension be paid to the
34 trustee of a trust created for the benefit of the eligible child. A
35 guardian's or conservator's pension shall also become payable if at least one
36 eligible child is surviving when a surviving spouse's pension terminates.

37 D. The fund manager shall pay a guardian's or conservator's pension
38 during the same period in which a pension is payable to at least one eligible
39 child. The guardian, conservator or designated trustee is entitled to
40 receive the same monthly amount as would have been payable to the decedent's
41 surviving spouse had a surviving spouse's pension become payable upon the
42 decedent's death.

43 E. Each eligible child is entitled to a monthly amount equal
44 ~~to one-eighth~~ ONE-TENTH of the monthly amount of pension which the deceased

1 member or retired member would have received immediately prior to death. A
2 deceased member shall be assumed to be retired for reasons of accidental
3 disability immediately before the member's death. If there are three or more
4 children eligible for a child's pension, a maximum of two shares of the
5 child's pension shall be payable, the aggregate of such shares to be
6 apportioned in equal measure to each eligible child.

7 F. If a member has accumulated contributions remaining in the system
8 at the date of death of the last beneficiary, a lump sum refund of such
9 accumulated contributions shall be payable to the person whom the member has
10 designated as the member's refund beneficiary, or if the member's refund
11 beneficiary is not then surviving, to the designated contingent refund
12 beneficiary, or if the designated contingent refund beneficiary is not then
13 surviving, to such person nearest of kin as selected by the local board. The
14 amount of the lump sum refund shall be the remaining accumulated
15 contributions.

16 G. In calculating the right to and the amount of the surviving
17 spouse's pension, the law in effect on the date of the death of the member
18 or retired member controls, unless the law under which the member retired
19 provides for a greater benefit amount for a surviving spouse.

20 Sec. 8. Section 38-881, Arizona Revised Statutes, is amended to read:

21 38-881. Definitions

22 In this article, unless the context otherwise requires:

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

28 (a) Physical contact with inmates, prisoners, parolees or persons on
29 probation.

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

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

38 2. "Accumulated member contributions" means the sum of all member
39 contributions deducted from a member's salary and paid to the fund, plus
40 member contributions transferred to the fund by another retirement plan
41 covering public employees of this state, plus previously withdrawn
42 accumulated member contributions which are repaid to the fund in accordance
43 with this article, minus any benefits paid to or on behalf of a member.

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

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

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

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

20 7. "Designated position" means:

21 (a) For a county:

22 (i) A county detention officer.

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

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

27 (i) Food service.

28 (ii) Nursing personnel.

29 (iii) Corrections physician assistant.

30 (iv) Therapist.

31 (v) Corrections dental assistant.

32 (vi) Hygienist.

33 (vii) Corrections medical assistant.

34 (viii) Correctional service officer, including assistant deputy
35 warden, deputy warden, warden and superintendent.

36 (ix) State correctional program officer.

37 (x) Parole or community supervision officers.

38 (xi) Investigators.

39 (xii) Teachers.

40 (xiii) Institutional maintenance workers.

41 (xiv) Youth corrections officer.

42 (xv) Youth program officer.

43 (xvi) Behavioral health treatment unit managers.

1 (xvii) The director and assistant directors of the department of
2 juvenile corrections and the superintendent of the state educational system
3 for committed youth.

4 (xviii) The director, deputy directors and assistant directors of the
5 state department of corrections.

6 (xix) Other positions designated by the local board of the state
7 department of corrections or the local board of the department of juvenile
8 corrections pursuant to section 38-891, subsection E.

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

10 (d) For an employer of an eligible group as defined in section 38-842,
11 full-time dispatchers.

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

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

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

18 11. "Fund manager" means the fund manager of the public safety
19 personnel retirement system.

20 12. "Local board" means the retirement board of the employer that
21 consists of persons appointed or elected to administer the plan as it applies
22 to the employer's members in the plan.

23 13. "Member" means any employee who meets all of the following
24 qualifications:

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

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

30 (c) Whose customary employment is for ~~more than twenty~~ AT LEAST FORTY
31 hours each week and for more than six months in a calendar year.

32 14. "Normal retirement date" means the first day of the calendar month
33 immediately following an employee's completion of twenty years of service OR,
34 IN THE CASE OF A DISPATCHER, TWENTY-FIVE YEARS OF SERVICE, the employee's
35 sixty-second birthday and completion of ten years of service or the month in
36 which the sum of the employee's age and years of credited service equals
37 eighty.

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

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

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

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

25 Sec. 9. Section 38-887, Arizona Revised Statutes, is amended to read:

26 38-887. Pension to surviving spouse of deceased retired member

27 A. The surviving spouse of a deceased retired member is entitled to
28 receive a pension for life if each of the following conditions is met:

29 1. The retired member was married to the surviving spouse for at least
30 two years at the time of death.

31 2. The surviving spouse files with the retirement plan a written
32 application for the survivor pension.

33 B. The amount of pension paid a surviving spouse is equal
34 to ~~three-fourths~~ FOUR-FIFTHS of the amount of the retired member's pension
35 at the time of death.

36 Sec. 10. Section 38-888, Arizona Revised Statutes, is amended to read:

37 38-888. Pension to the surviving spouse of a member who dies
38 before retirement

39 A. The surviving spouse of a deceased active member is entitled to
40 receive a pension for life if each of the following conditions is met:

41 1. The member was married to the surviving spouse for at least two
42 years at the time of death.

43 2. The surviving spouse files a written application with the
44 retirement plan for the survivor benefit.

1 B. The amount of a surviving spouse's pension is ~~thirty-seven and~~
2 ~~one-half~~ FORTY per cent of the deceased member's average monthly salary.

3 C. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO IS KILLED IN THE LINE
4 OF DUTY OR DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY IS ENTITLED TO
5 RECEIVE A MONTHLY AMOUNT EQUAL TO THE DECEASED MEMBER'S AVERAGE MONTHLY
6 BENEFIT COMPENSATION.

7 Sec. 11. Repeal

8 Laws 2001, chapter 324, section 30 and Laws 2001, chapter 349, section
9 4 are repealed.

10 Sec. 12. Current line of duty death survivors; benefit increase

11 The surviving spouse of a deceased member who is killed in the line of
12 duty or dies from injuries suffered in the line of duty before the effective
13 date of this act is entitled to receive an increase in the monthly pension
14 received pursuant to section 38-846 or 38-888, Arizona Revised Statutes, as
15 amended by this act, equal to the difference between the original pension
16 granted and the average monthly benefit compensation used to calculate the
17 original pension granted. The increase prescribed in this section is
18 effective on the first day of the month after the effective date of this
19 section.

20 Sec. 13. Current nonline of duty death survivors; benefit
21 increase

22 All survivors who are receiving a monthly survivors pension under
23 section 38-846 or 38-887, Arizona Revised Statutes, as amended by this act,
24 on the effective date of this act are entitled to receive a one-time
25 permanent benefit increase in their monthly pension equal to two-thirtieths
26 of their monthly pension. This section does not apply to a survivor who is
27 eligible for an increase under section 11 of this act, relating to current
28 line of duty death survivors.

29 Sec. 14. Retroactivity

30 Section 38-804, Arizona Revised Statutes, as amended by this act,
31 applies retroactively to from and after December 31, 1996.

APPROVED BY THE GOVERNOR JUNE 4, 2002.

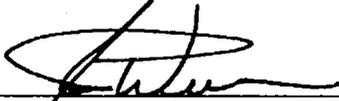
FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 4, 2002.



Passed the House April 8, 20 02,

by the following vote: 51 Ayes,

0 Nays, 9 Not Voting

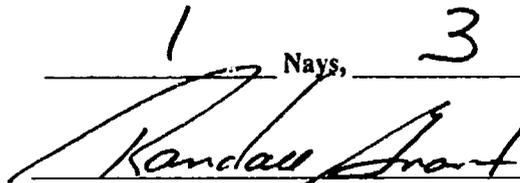

Speaker of the House

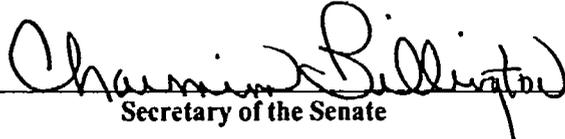

Chief Clerk of the House

Passed the Senate May 13, 20 02

by the following vote: 26 Ayes,

1 Nays, 3 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

_____ day of _____, 20 _____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20 _____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20 _____,

at _____ o'clock _____ M.

Secretary of State

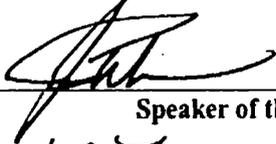
H.B. 2118

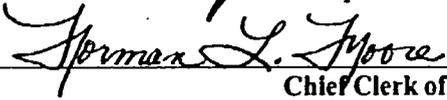
HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 20, 2002,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting



Speaker of the House


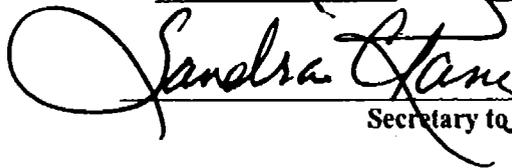
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

21 day of May, 2002

at 8:13 o'clock A M.



Secretary to the Governor

Approved this 4th day of

June, 2002,

at 10:29 o'clock A M.



Governor of Arizona

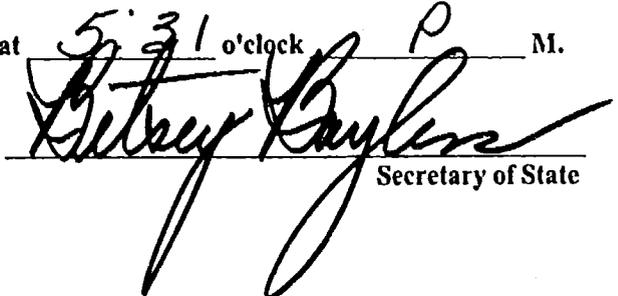
H.B. 2118

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of June, 2002

at 5:31 o'clock P M.



Secretary of State