

Conference Engrossed

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 250

SENATE BILL 1224

AN ACT

AMENDING SECTIONS 38-952 AND 38-953, ARIZONA REVISED STATUTES; RELATING TO
THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-952, Arizona Revised Statutes, is amended to
3 read:

4 38-952. Supplemental defined contribution plan; establishment;
5 administration

6 A. The board, employer or fund manager of an eligible group may
7 establish, administer, manage and operate a supplemental defined contribution
8 plan. The fund manager may establish a single supplemental defined
9 contribution plan for all contributing members of the retirement system and
10 plans it administers.

11 B. If a board, employer or fund manager establishes a supplemental
12 defined contribution plan:

13 1. The board may delegate authority to implement the plan to its
14 director appointed pursuant to section 38-715.

15 2. The employer may delegate authority to implement the plan to its
16 internal benefits administrator or designee.

17 3. The fund manager may delegate authority to implement the plan to
18 the administrator employed pursuant to section 38-848, subsection K,
19 paragraph 6.

20 4. The board, employer or fund manager may:

21 (a) Employ services it deems necessary, including legal services, for
22 the operation and administration of the plan.

23 (b) Administer the plan through contracts with multiple vendors.

24 (c) Perform all acts, whether or not expressly authorized, that it
25 deems necessary and proper for the operation and protection of the plan.

26 (d) For the purposes of this article, enter into intergovernmental
27 agreements pursuant to title 11, chapter 7, article 3.

28 C. A supplemental defined contribution plan shall be designed to be
29 a qualified governmental plan under section 401(a) of the internal revenue
30 code. The legislature intends that a supplemental defined contribution plan
31 is a qualified plan under section 401 of the internal revenue code, as
32 amended, or successor provisions of law, and that a plan is exempt from
33 taxation under section 501 of the internal revenue code. The board, employer
34 or fund manager may adopt any additional provisions to a plan that are
35 necessary to fulfill this intent.

36 D. Although designated as employee contributions, all employee
37 contributions made to a plan shall be picked up and paid by the employer in
38 lieu of contributions by the employee. The contributions picked up by an
39 employer may be made through a reduction in the employee's salary
40 COMPENSATION or an offset against future salary COMPENSATION increases, or
41 a combination of both. An employee participating in a plan does not have the
42 option of choosing to receive the contributed amounts directly instead of the
43 employer paying the amounts to the plan. It is intended that all employee
44 contributions that are picked up by the employer as provided in this
45 subsection shall be treated as employer contributions under section 414(h)

1 of the internal revenue code, shall be excluded from employees' gross income
2 for federal and state income tax purposes and are includable in the gross
3 income of the employees or their beneficiaries only in the taxable year in
4 which they are distributed. The specified effective date of the pickup
5 pursuant to this subsection shall not be before the date the plan receives
6 notification from the internal revenue service that ALL EMPLOYEE
7 CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN THIS
8 SUBSECTION SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS pursuant to section
9 414(h) of the internal revenue code ~~the employee contributions picked up~~
10 ~~shall not be included in gross income for income tax purposes until the time~~
11 ~~that the picked up contributions are distributed by pension payments.~~ Until
12 notification is received, any EMPLOYEE contributions made under section
13 38-953, ~~subsection D~~ are made with after-tax contributions.

14 Sec. 2. Section 38-953, Arizona Revised Statutes, is amended to read:
15 38-953. Supplemental option

16 A. A supplemental defined contribution plan is in addition to and does
17 not replace an employee's existing state defined benefit retirement plan.

18 B. Except as provided in subsection C, any contributing member of an
19 eligible group that establishes a supplemental defined contribution plan as
20 authorized by this article may participate in the supplemental defined
21 contribution plan. Participation in the ANY plan ESTABLISHED BY AN ELIGIBLE
22 GROUP authorizes the member's employer to make reductions or deductions in
23 the member's salary COMPENSATION. The employer ~~shall initiate salary~~
24 ~~reductions or deductions for the plan as directed by each employee~~
25 ~~participating in the plan and shall submit any reports required by the plan.~~
26 Any salary COMPENSATION deferred under the plan shall be included as regular
27 compensation or salary COMPENSATION for the purpose of computing the
28 retirement and pension benefits earned by any employee participating in the
29 plan.

30 C. If the Arizona state retirement system establishes a supplemental
31 defined contribution plan and an employer member of the Arizona state
32 retirement system elects to participate in the supplemental defined
33 contribution plan, any employee member of the employer WHO MEETS THE
34 ELIGIBILITY REQUIREMENTS THAT ARE PRESCRIBED BY THE BOARD FOR PARTICIPATION
35 IN THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN AND THAT ARE SELECTED BY THE
36 MEMBER'S EMPLOYER may participate in the supplemental defined contribution
37 plan.

38 D. AN EMPLOYEE SHALL MAKE AN ELECTION TO PARTICIPATE IN A SUPPLEMENTAL
39 DEFINED CONTRIBUTION PLAN WITHIN TWO YEARS AFTER THE EMPLOYEE FIRST MEETS THE
40 ELIGIBILITY REQUIREMENTS TO PARTICIPATE IN THE PLAN. AN ELECTION TO
41 PARTICIPATE IN A PLAN IS IRREVOCABLE AND CONTINUES FOR THE REMAINDER OF THE
42 EMPLOYEE'S EMPLOYMENT WITH THE EMPLOYER.

1 D. E. If an employee elects to participate in a plan pursuant to this
2 subsection SECTION, the employee shall contribute an amount equal to at least
3 one per cent of the employee's gross salary COMPENSATION. ~~An election to~~
4 ~~participate in a plan is irrevocable and shall be for a period of at least~~
5 ~~one year.~~ AS THE PLAN PRESCRIBES, an employee EMPLOYER may annually increase
6 or decrease the employee contributions in increments of one per cent up to
7 the maximum allowed by law OR THE EMPLOYEE MAY MAKE A ONE-TIME IRREVOCABLE
8 ELECTION OF THE EMPLOYEE'S CONTRIBUTION AMOUNT. An employee is not required
9 to contribute under this subsection in order to qualify for an employer match
10 under subsection ~~E~~ F OR G. The employer match may accrue from any program
11 established by the employer.

12 ~~E~~. F. An employer may elect to match the contributions made by the
13 employee pursuant to subsection ~~D~~ or TO THE SUPPLEMENTAL DEFINED CONTRIBUTION
14 PLAN AT A RATE DETERMINED BY THE EMPLOYER. THE EMPLOYER SHALL PAY THIS
15 AMOUNT TO THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEE
16 PARTICIPATES. THE RATE OF THE EMPLOYER MATCH SHALL BE DETERMINED AT THE
17 BEGINNING OF THAT EMPLOYER'S BUDGET CYCLE AND SHALL TERMINATE AT THE END OF
18 THAT BUDGET CYCLE.

19 G. AN EMPLOYER MAY ELECT TO MATCH THE CONTRIBUTIONS MADE BY THE
20 EMPLOYEE TO any other program established by the employer under the internal
21 revenue code, including any plan established under internal revenue code
22 section 401(a), 403(b) or 457, at a rate determined by the employer. THE
23 EMPLOYER SHALL PAY THIS AMOUNT TO THE 401(a), 403(b) OR 457 PLAN IN WHICH THE
24 EMPLOYEE PARTICIPATES. IF EITHER THE EMPLOYEE'S, THE EMPLOYER'S OR THEIR
25 COMBINED CONTRIBUTIONS EXCEED THE LIMITS, INCLUDING A LIMIT OF ZERO,
26 PRESCRIBED BY THE INTERNAL REVENUE CODE FOR THE 401(a), 403(b) OR 457 PLAN,
27 THE AMOUNT IN EXCESS OF THE LIMITS MAY BE CONTRIBUTED TO THE SUPPLEMENTAL
28 DEFINED CONTRIBUTION PLAN IN WHICH THE EMPLOYEE PARTICIPATES. The rate of
29 the employer match shall be determined at the beginning of that employer's
30 budget cycle and shall terminate at the end of that budget cycle.

APPROVED BY THE GOVERNOR MAY 22, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2003.

Passed the House April 14, 20 03

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

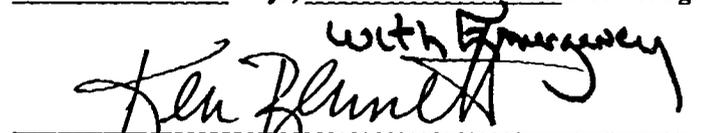
Passed the Senate February 25, 20 03

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting


Speaker of the House
Pro Tempore


Chief Clerk of the House

with Emergency

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

S.B. 1224

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House July 15, 20 03,

by the following vote: 48 Ayes,

0 Nays, 12 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 6, 20 03

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Blumett
President of the Senate

Charmion Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 16 day of May, 20 03

at 8:17 o'clock A M.

Sandra Ramirez
Secretary to the Governor

Approved this 22 day of

May, 20 03,

at 3¹⁰ o'clock P. M.

Jan Noyes
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 20 03,

at 4:17 o'clock P M.

Janice K. Brewer
Secretary of State

S.B. 1224