

Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 91

HOUSE BILL 2081

AN ACT

AMENDING SECTION 38-844, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL 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 38-844, Arizona Revised Statutes, is amended to
3 read:

4 38-844. Requirements for retirement benefits and disability
5 pensions

6 A. A member shall be eligible for a normal pension upon retirement on
7 or after the member's normal retirement date. Payment of a normal pension
8 shall commence as of the first day of the month following the date of
9 retirement, and the last payment shall be made as of the last day of the
10 month in which the death of the retired member occurs.

11 B. A member is eligible for an accidental disability pension if the
12 member's employment is terminated by reason of accidental disability. A
13 member is eligible for an ordinary disability pension if the member's
14 employment is terminated before the member's normal retirement date by reason
15 of ordinary disability. A member shall file an application for a disability
16 pension after the disabling incident or within one year after the date the
17 member ceases to be an employee. Timely application for an accidental or
18 ordinary disability pension is a prerequisite to receipt of the
19 pension. Payment of an accidental or ordinary disability pension shall
20 commence as of the first day of the month following the date of retirement
21 or the expiration of a period during which the member is receiving sick leave
22 payments or a temporary disability pension, whichever is later. The last
23 payment shall be made as of the last day of the month in which the death of
24 the retired member occurs, or if disability ceases prior to the member's
25 normal retirement date, the first day of the month in which disability
26 ceases.

27 C. Notwithstanding any other provision of this section, no member
28 shall qualify for an accidental or ordinary disability pension if the local
29 board determines that the member's disability results from the following:

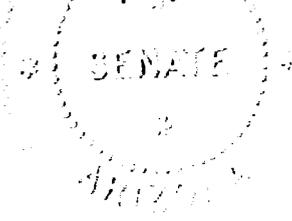
30 1. An injury suffered while engaged in a felonious criminal act or
31 enterprise.

32 2. Service in the armed forces of the United States which entitles the
33 member to a veteran's disability pension.

34 3. A physical or mental condition or injury that existed or occurred
35 prior to the member's date of membership in the system.

36 D. Accidental or ordinary disability shall be considered to have
37 ceased and an accidental or ordinary disability pension terminates if the
38 member:

39 1. Has sufficiently recovered, in the opinion of the local board,
40 based on a medical examination by a doctor or clinic appointed by the local
41 board, to be able to engage in a reasonable range of duties within the
42 member's department and the member refuses an offer of employment by an
43 employer in the system.



1 2. Refuses to undergo any medical examination requested by the board,
2 provided that a medical examination shall not be required more frequently
3 than once in any calendar year.

4 E. Subsection D of this section does not apply after a disability
5 pensioner's normal retirement date. The amount of a disability pension shall
6 not be recomputed at a disability pensioner's normal retirement date.

7 F. An ~~accidental~~ or ordinary disability pension shall be reduced in
8 the period prior to the member's normal retirement date if the member engages
9 in any employment and if the member's income from this employment is greater
10 than the member's pension unreduced by this subsection. The amount of the
11 reduction shall be equal to the difference between the member's income from
12 employment and the member's unreduced pension. The local board shall have
13 the right to suspend payments of an ~~accidental~~ or ordinary disability pension
14 if the disabled member fails to report earned income. Such suspension shall
15 be for the period there is no satisfactory report with restoration of
16 benefits upon acceptance of such report or until the member's normal
17 retirement date, whichever occurs earlier. If, in the opinion of the local
18 board, the reduction provided in this subsection is insufficient to recover
19 monies previously paid to a member, each local board may, in its sole
20 discretion, bring an action to recover any outstanding balance due,
21 notwithstanding any other rights the local board possesses.

22 G. If accidental or ordinary disability ceases before a retired member
23 attains the member's normal retirement date and the member is reemployed by
24 an employer, the pension payable upon the member's subsequent retirement
25 shall be determined as provided in section 38-849, subsection D.

26 H. A member shall be eligible for a temporary disability pension if
27 the member's employment is terminated prior to the member's normal retirement
28 date by reason of temporary disability. Payment of a temporary disability
29 pension shall commence as of the first day of the month following the date
30 of disability or the expiration of a period during which the member is
31 receiving compensation and sick leave payments, whichever is later. The last
32 payment shall be made as of the first day of the month in which either the
33 death of the member occurs or the local board deems the member is no longer
34 under temporary disability, whichever first occurs, provided that no more
35 than twelve monthly temporary disability payments shall be made in total to
36 the member.

37 I. If upon the expiration of a temporary disability pension the local
38 board finds upon application that the member has an accidental or ordinary
39 disability, the member shall be eligible for an accidental or ordinary
40 disability pension, as provided in this section.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.

Passed the House February 9, 2004

Passed the Senate April 1, 2004

by the following vote: 58 Ayes,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Ken Bennett
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine B. Winters
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. 2081

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 12, 2004

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Jake Flake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
12th day of April, 2004

at 2:40 o'clock P. M.

Wendee L. Harris
Secretary to the Governor

Approved this 16 day of

April, 2004

at 12⁰⁵ o'clock P. M.

Jt. Boyd
Governor of Arizona

H.B. 2081

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 16 day of April, 2004

at 4:33 o'clock P. M.

Janice K. Brewer
Secretary of State