

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 241

HOUSE BILL 2482

AN ACT

AMENDING SECTION 38-884, ARIZONA REVISED STATUTES; AMENDING SECTION 38-884, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-885.01; PROVIDING FOR THE DELAYED REPEAL OF SECTION 38-885.01, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO THE CORRECTIONS OFFICER 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 38-884, Arizona Revised Statutes, is amended to
3 read:

4 38-884. Membership of retirement plan; termination; credited
5 service; redemption

6 A. Each employee of a participating employer is a member of the plan
7 UNLESS THE EMPLOYEE IS RECEIVING A PENSION FROM THE PLAN. A person employed
8 shall undergo a medical examination performed by a doctor or clinic appointed
9 by the local board or, in the case of a state correctional officer who is
10 employed by the state department of corrections, complete a physical
11 examination pursuant to section 41-1822, subsection B. For the purposes of
12 subsection B of this section, the doctor or clinic appointed by the local
13 board may be the employer's regular employee or contractor.

14 B. The purpose of the medical examination authorized by this section
15 is to identify a member's physical or mental condition or injury that existed
16 or occurred before the member's date of membership in the plan. Any employee
17 who fails or refuses to submit to the medical examination prescribed in this
18 section is deemed to waive all rights to disability benefits under this
19 article. Medical examinations conducted under this article shall not be
20 conducted or used for purposes of hiring, advancement, discharge, job
21 training or other terms, conditions and privileges of employment unrelated to
22 receipt or qualification for pension benefits or service credits from the
23 fund. This subsection does not affect or impair the right of an employer to
24 prescribe medical or physical standards for employees or prospective
25 employees.

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

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

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

37 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
38 member contributions deducted from the member's salary pursuant to section
39 38-891, subsection B.

40 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
41 contributions deducted from the member's salary pursuant to section 38-891,
42 subsection B.

43 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
44 member contributions deducted from the member's salary pursuant to section
45 38-891, subsection B.

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 38-891, subsection B.

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 38-891, subsection B.

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 38-891, subsection B.

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

17 E. If the refund includes monies that are an eligible rollover
18 distribution and the member elects to have the distribution paid directly to
19 an eligible retirement plan or individual retirement account or annuity and
20 specifies the eligible retirement plan or individual retirement account or
21 annuity to which the distribution is to be paid, the distribution shall be
22 made in the form of a direct trustee-to-trustee transfer to the specified
23 eligible retirement plan. The distribution shall be made in the form and at
24 the time prescribed by the fund manager.

25 F. Service shall be credited to a member's individual credited service
26 account in accordance with rules the local board prescribes. In no case
27 shall more than twelve months of credited service be credited on account of
28 all service rendered by a member in any one year. In no case shall service
29 be credited for any period during which the member is not employed in a
30 designated position, except as provided by sections 38-921 and 38-922.

31 G. Credited service is forfeited if the amounts prescribed in
32 subsection C or D of this section are paid or are transferred in accordance
33 with this section.

34 H. If a former member becomes reemployed with the same employer within
35 two years after the former member's termination date, a member may have
36 forfeited credited service attributable to service rendered during a prior
37 period of service as an employee restored on satisfaction of each of the
38 following conditions:

39 1. The member files with the plan a written application for
40 reinstatement of forfeited credited service within ninety days after again
41 becoming an employee.

42 2. The retirement fund is paid the total amount previously withdrawn
43 pursuant to subsection C or D of this section plus compound interest from the
44 date of withdrawal to the dates of repayment. Interest shall be computed at
45 the rate of nine per cent for each year compounded each year from the date of

1 withdrawal to the date of repayment. Forfeited credited service shall not be
2 restored until complete payment is received by the fund.

3 3. The required payment is completed within one year after returning
4 to employee status.

5 I. A present active member of the plan who received a refund of
6 accumulated contributions from the plan pursuant to subsection C OR D of this
7 section and forfeited credited service pursuant to subsection G of this
8 section may elect to redeem any part of that forfeited credited service by
9 paying into the plan any amounts required pursuant to this subsection. A
10 present active member who elects to redeem any part of forfeited credited
11 service for which the member is deemed eligible by the fund manager shall pay
12 into the plan the amounts previously paid or transferred as a refund of the
13 member's accumulated contributions plus an amount, computed by the plan's
14 actuary, that is necessary to equal the increase in the actuarial present
15 value of projected benefits resulting from the redemption calculated using
16 the actuarial methods and assumptions prescribed by the plan's actuary.

17 ~~J. The following conditions apply to a retired member who becomes an~~
18 ~~employee subsequent to retirement~~ A RETIRED MEMBER WHO RETIRES BEFORE JANUARY
19 1, 2006 MAY BECOME EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION AND STILL
20 CONTINUE TO RECEIVE A PENSION IF THE EMPLOYMENT OCCURS AT LEAST NINETY DAYS
21 AFTER RETIREMENT AND IF THE EMPLOYMENT INVOLVES SUBSTANTIAL DIRECT INMATE
22 CONTACT. THE RETIRED MEMBER SHALL NOT CONTRIBUTE TO THE FUND AND SHALL NOT
23 ACCRUE CREDITED SERVICE.

24 K. IF A RETIRED MEMBER RETIRES ON OR AFTER JANUARY 1, 2006, BECOMES
25 EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION BEFORE NINETY DAYS AFTER
26 RETIREMENT OR IF THE EMPLOYMENT DOES NOT INVOLVE SUBSTANTIAL DIRECT INMATE
27 CONTACT:

28 1. Payment of the retired member's pension shall be suspended until
29 the retired member again ceases to be an employee. The amount of pension
30 shall not be changed on account of service as an employee subsequent to
31 retirement.

32 2. The retired member shall not contribute to the fund and shall not
33 accrue credited service.

34 Sec. 2. Section 38-884, Arizona Revised Statutes, as amended by
35 section 1 of this act, is amended to read:

36 38-884. Membership of retirement plan; termination; credited
37 service; redemption

38 A. Each employee of a participating employer is a member of the plan
39 ~~unless the employee is receiving a pension from the plan.~~ A person employed
40 shall undergo a medical examination performed by a doctor or clinic appointed
41 by the local board or, in the case of a state correctional officer who is
42 employed by the state department of corrections, complete a physical
43 examination pursuant to section 41-1822, subsection B. For the purposes of
44 subsection B of this section, the doctor or clinic appointed by the local
45 board may be the employer's regular employee or contractor.

1 B. The purpose of the medical examination authorized by this section
2 is to identify a member's physical or mental condition or injury that existed
3 or occurred before the member's date of membership in the plan. Any employee
4 who fails or refuses to submit to the medical examination prescribed in this
5 section is deemed to waive all rights to disability benefits under this
6 article. Medical examinations conducted under this article shall not be
7 conducted or used for purposes of hiring, advancement, discharge, job
8 training or other terms, conditions and privileges of employment unrelated to
9 receipt or qualification for pension benefits or service credits from the
10 fund. This subsection does not affect or impair the right of an employer to
11 prescribe medical or physical standards for employees or prospective
12 employees.

13 C. If a member ceases to be an employee for any reason other than
14 death or retirement, within twenty days after filing a completed application
15 with the fund manager, the member is entitled to receive the following
16 amounts, less any benefit payments the member has received and any amount the
17 member may owe to the plan:

18 1. If the member has less than five years of credited service with the
19 plan, the member may withdraw the member's accumulated contributions from the
20 plan.

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

24 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
25 member contributions deducted from the member's salary pursuant to section
26 38-891, subsection B.

27 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
28 contributions deducted from the member's salary pursuant to section 38-891,
29 subsection B.

30 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
31 member contributions deducted from the member's salary pursuant to section
32 38-891, subsection B.

33 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
34 member contributions deducted from the member's salary pursuant to section
35 38-891, subsection B.

36 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
37 member contributions deducted from the member's salary pursuant to section
38 38-891, subsection B.

39 (f) 10.0 or more years of credited service, one hundred per cent of
40 all member contributions deducted from the member's salary pursuant to
41 section 38-891, subsection B.

1 D. If a member has more than ten years of credited service with the
2 plan, leaves the monies prescribed in subsection C of this section on account
3 with the plan for more than thirty days after termination of employment and
4 after that time period requests a refund of those monies, the member is
5 entitled to receive the amount prescribed in subsection C of this section
6 plus interest at a rate determined by the fund manager for each year computed
7 from and after the member's termination of employment.

8 E. If the refund includes monies that are an eligible rollover
9 distribution and the member elects to have the distribution paid directly to
10 an eligible retirement plan or individual retirement account or annuity and
11 specifies the eligible retirement plan or individual retirement account or
12 annuity to which the distribution is to be paid, the distribution shall be
13 made in the form of a direct trustee-to-trustee transfer to the specified
14 eligible retirement plan. The distribution shall be made in the form and at
15 the time prescribed by the fund manager.

16 F. Service shall be credited to a member's individual credited service
17 account in accordance with rules the local board prescribes. In no case
18 shall more than twelve months of credited service be credited on account of
19 all service rendered by a member in any one year. In no case shall service
20 be credited for any period during which the member is not employed in a
21 designated position, except as provided by sections 38-921 and 38-922.

22 G. Credited service is forfeited if the amounts prescribed in
23 subsection C or D of this section are paid or are transferred in accordance
24 with this section.

25 H. If a former member becomes reemployed with the same employer within
26 two years after the former member's termination date, a member may have
27 forfeited credited service attributable to service rendered during a prior
28 period of service as an employee restored on satisfaction of each of the
29 following conditions:

30 1. The member files with the plan a written application for
31 reinstatement of forfeited credited service within ninety days after again
32 becoming an employee.

33 2. The retirement fund is paid the total amount previously withdrawn
34 pursuant to subsection C or D of this section plus compound interest from the
35 date of withdrawal to the dates of repayment. Interest shall be computed at
36 the rate of nine per cent for each year compounded each year from the date of
37 withdrawal to the date of repayment. Forfeited credited service shall not be
38 restored until complete payment is received by the fund.

39 3. The required payment is completed within one year after returning
40 to employee status.

41 I. A present active member of the plan who received a refund of
42 accumulated contributions from the plan pursuant to subsection C or D of this
43 section and forfeited credited service pursuant to subsection G of this
44 section may elect to redeem any part of that forfeited credited service by
45 paying into the plan any amounts required pursuant to this subsection. A

1 present active member who elects to redeem any part of forfeited credited
2 service for which the member is deemed eligible by the fund manager shall pay
3 into the plan the amounts previously paid or transferred as a refund of the
4 member's accumulated contributions plus an amount, computed by the plan's
5 actuary that is necessary to equal the increase in the actuarial present
6 value of projected benefits resulting from the redemption calculated using
7 the actuarial methods and assumptions prescribed by the plan's actuary.

8 ~~J. A retired member who retires before January 1, 2006 may become~~
9 ~~employed by an employer in a designated position and still continue to~~
10 ~~receive a pension if the employment occurs at least ninety days after~~
11 ~~retirement and if the employment involves substantial direct inmate contact.~~
12 ~~The retired member shall not contribute to the fund and shall not accrue~~
13 ~~credited service.~~

14 ~~K. If a retired member retires on or after January 1, 2006, becomes~~
15 ~~employed by an employer in a designated position before ninety days after~~
16 ~~retirement or if the employment does not involve substantial direct inmate~~
17 ~~contact.~~

18 J. THE FOLLOWING CONDITIONS APPLY TO A RETIRED MEMBER WHO BECOMES AN
19 EMPLOYEE SUBSEQUENT TO RETIREMENT:

20 1. Payment of the retired member's pension shall be suspended until
21 the retired member again ceases to be an employee. The amount of pension
22 shall not be changed on account of service as an employee subsequent to
23 retirement.

24 2. The retired member shall not contribute to the fund and shall not
25 accrue credited service.

26 Sec. 3. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
27 amended by adding section 38-885.01, to read:

28 38-885.01. Reverse deferred retirement option plan; purpose

29 A. A REVERSE DEFERRED RETIREMENT OPTION PLAN IS ESTABLISHED. THE
30 PURPOSE OF THE REVERSE DEFERRED RETIREMENT OPTION PLAN IS TO ADD FLEXIBILITY
31 TO THE PLAN AND TO PROVIDE MEMBERS WHO ELECT TO PARTICIPATE IN THE REVERSE
32 DEFERRED RETIREMENT OPTION PLAN ACCESS TO A LUMP SUM BENEFIT IN ADDITION TO
33 THEIR NORMAL MONTHLY RETIREMENT BENEFIT ON ACTUAL RETIREMENT.

34 B. BEGINNING ON JULY 1, 2006 THROUGH JUNE 30, 2011, THE FUND MANAGER
35 SHALL OFFER THE REVERSE DEFERRED RETIREMENT OPTION PLAN TO MEMBERS ON A
36 VOLUNTARY BASIS AS AN ALTERNATIVE METHOD OF BENEFIT ACCRUAL UNDER THE PLAN.

37 C. ANY MEMBER WHO IS ELIGIBLE FOR A NORMAL PENSION PURSUANT TO SECTION
38 38-885 AND WHO HAS AT LEAST TWENTY-FOUR YEARS OF CREDITED SERVICE IS ELIGIBLE
39 TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

40 D. A MEMBER WHO ELECTS TO PARTICIPATE IN THE REVERSE DEFERRED
41 RETIREMENT OPTION PLAN SHALL VOLUNTARILY AND IRREVOCABLY:

42 1. DESIGNATE A REVERSE DEFERRED RETIREMENT OPTION PLAN DATE THAT IS
43 THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING A MEMBER'S
44 COMPLETION OF TWENTY-FOUR YEARS OF CREDITED SERVICE OR A DATE NOT MORE THAN

1 SIXTY CONSECUTIVE MONTHS BEFORE THE DATE THE MEMBER ELECTS TO PARTICIPATE IN
2 THE REVERSE DEFERRED RETIREMENT OPTION PLAN, WHICHEVER IS LATER.

3 2. AGREE TO TERMINATE EMPLOYMENT ON THE DATE THE MEMBER ELECTS TO
4 PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

5 3. RECEIVE BENEFITS FROM THE PLAN ON TERMINATION OF EMPLOYMENT AT THE
6 SAME TIME AND IN THE SAME MANNER AS OTHERWISE PRESCRIBED IN THIS ARTICLE
7 USING THE FACTORS OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON
8 THE REVERSE DEFERRED RETIREMENT OPTION PLAN DATE.

9 E. ON ELECTION, A REVERSE DEFERRED RETIREMENT OPTION PLAN
10 PARTICIPATION ACCOUNT IS ESTABLISHED WITHIN THE PLAN ON BEHALF OF EACH
11 REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPANT. ALL BENEFITS ACCRUED
12 PURSUANT TO THIS ARTICLE SHALL BE ACCOUNTED FOR IN THE REVERSE DEFERRED
13 RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT. A REVERSE DEFERRED RETIREMENT
14 OPTION PLAN PARTICIPANT DOES NOT HAVE A CLAIM ON THE ASSETS OF THE PLAN WITH
15 RESPECT TO THE MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION
16 ACCOUNT AND ASSETS SHALL NOT BE SET ASIDE FOR ANY REVERSE DEFERRED RETIREMENT
17 OPTION PLAN PARTICIPANT THAT ARE SEPARATE FROM ALL OTHER SYSTEM ASSETS.

18 F. ALL AMOUNTS CREDITED TO A MEMBER'S REVERSE DEFERRED RETIREMENT
19 OPTION PLAN PARTICIPATION ACCOUNT ARE FULLY VESTED.

20 G. A MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION
21 ACCOUNT SHALL BE CREDITED WITH THE FOLLOWING:

22 1. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY FROM THE
23 REVERSE DEFERRED RETIREMENT OPTION PLAN DATE TO THE DATE THE MEMBER ELECTED
24 TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN AND THAT IS
25 COMPUTED IN THE SAME MANNER AS A NORMAL RETIREMENT BENEFIT USING THE FACTORS
26 OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON THE REVERSE
27 DEFERRED RETIREMENT OPTION PLAN DATE.

28 2. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY AND THAT
29 REPRESENTS INTEREST AT A RATE EQUAL TO THE YIELD ON A FIVE YEAR TREASURY NOTE
30 AS OF THE FIRST DAY OF THE MONTH AS PUBLISHED BY THE FEDERAL RESERVE BOARD.

31 H. EMPLOYEE AND EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 38-891 THAT
32 ARE DEPOSITED DURING THE PERIOD OF THE REVERSE DEFERRED RETIREMENT OPTION
33 PLAN ARE NOT ELIGIBLE TO BE REFUNDED TO THE EMPLOYER OR MEMBER.

34 I. THE PARTICIPANT IS NOT ENTITLED TO RECEIVE ANY AMOUNT PRESCRIBED BY
35 SECTION 38-905 OR 38-906 DURING THE REVERSE DEFERRED RETIREMENT OPTION PLAN
36 PARTICIPATION PERIOD.

37 J. THE FORM OF PAYMENT SHALL BE A LUMP SUM DISTRIBUTION. IF ALLOWED
38 BY THE INTERNAL REVENUE SERVICE, THE PARTICIPANT MAY ELECT TO TRANSFER THE
39 LUMP SUM DISTRIBUTION TO AN ELIGIBLE RETIREMENT PLAN OR INDIVIDUAL RETIREMENT
40 ACCOUNT.

41 K. THE REVERSE DEFERRED RETIREMENT OPTION PLAN SHALL NOT JEOPARDIZE IN
42 ANY WAY THE TAX QUALIFIED STATUS OF THE PLAN UNDER THE RULES OF THE INTERNAL
43 REVENUE SERVICE. THE FUND MANAGER MAY ADOPT ADDITIONAL PROVISIONS TO THE
44 EXTENT NECESSARY OR APPROPRIATE FOR THE REVERSE DEFERRED RETIREMENT OPTION
45 PLAN TO COMPLY WITH APPLICABLE FEDERAL LAWS OR RULES.

1 Sec. 4. Effective date

2 Section 38-884, Arizona Revised Statutes, as amended by section 2 of
3 this act, is effective from and after June 30, 2008.

4 Sec. 5. Delayed repeal

5 Section 38-885.01, Arizona Revised Statutes, as added by this act, is
6 repealed from and after June 30, 2011.

APPROVED BY THE GOVERNOR MAY 2, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2006.