

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 309

SENATE BILL 1167

AN ACT

AMENDING SECTION 38-760, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION;
RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM; PROVIDING FOR CONDITIONAL
ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-760, Arizona Revised Statutes, is amended to
3 read:

4 38-760. Optional forms of retirement benefits

5 A. On retirement, members may elect an optional form of retirement
6 benefit as provided in this section.

7 B. The optional retirement benefits available under this section
8 include the following:

9 1. Joint and survivor annuity in a reduced amount payable to the
10 retiring member during life, with the provisions that after the member's
11 death all, two-thirds or one-half of the retirement income, as the member
12 elects, shall be continued during the lifetime of the contingent annuitant
13 designated by the retiring member subject to the restrictions prescribed in
14 section 38-764. The amount of retirement income shall be the actuarial
15 equivalent of the retirement income to which the member would be entitled
16 under normal or early retirement. The election in a manner prescribed by the
17 board shall name the contingent annuitant. The election may be revoked at
18 any time before the member's effective date of retirement. At any time after
19 benefits have commenced, the member may name a different contingent annuitant
20 or rescind the election by written notice to the board as follows:

21 (a) If a different contingent annuitant is named, the annuity of the
22 member under the same joint and survivor annuity option previously elected
23 shall be adjusted to the actuarial equivalent of the original annuity, based
24 on the age of the new contingent annuitant. The adjustment shall include all
25 ~~post-retirement~~ POSTRETIREMENT increases in retirement income that are
26 authorized by law after the member's date of retirement. Payment of this
27 adjusted annuity shall continue under the provisions of the option previously
28 elected by the member.

29 (b) If the member rescinds the election, the member shall thereafter
30 receive a straight life annuity equal to what the member would otherwise be
31 entitled to receive if the member had not elected the joint and survivor
32 annuity option, including all ~~post-retirement~~ POSTRETIREMENT increases in
33 retirement income that are authorized by law after the date of
34 retirement. The increased payment shall continue during the remainder of the
35 member's lifetime.

36 ~~(c) If the member reverts to a straight life annuity pursuant to~~
37 ~~subdivision (b), the member may name a new contingent annuitant subject to~~
38 ~~the same restrictions prescribed in subdivision (a).~~

39 (c) IF A MEMBER WHOSE ORIGINAL DATE OF RETIREMENT IS BEFORE THE
40 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION RESCINDS THE JOINT AND
41 SURVIVOR ANNUITY OPTION PREVIOUSLY ELECTED AND RECEIVES THE STRAIGHT LIFE
42 ANNUITY PURSUANT TO SUBDIVISION (b) OF THIS PARAGRAPH, THE MEMBER MAY AGAIN
43 ELECT THE SAME JOINT AND SURVIVOR ANNUITY OPTION PREVIOUSLY ELECTED SUBJECT
44 TO THE SAME RESTRICTIONS PRESCRIBED IN SUBDIVISION (a) OF THIS PARAGRAPH.

1 (d) A MEMBER WHOSE ORIGINAL DATE OF RETIREMENT IS ON OR AFTER THE
2 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY EXERCISE A ONE-TIME
3 ELECTION TO RESCIND THE JOINT AND SURVIVOR ANNUITY OPTION ELECTED BY THE
4 MEMBER IF THE CONTINGENT ANNUITANT DIES OR CEASES TO BE A CONTINGENT
5 ANNUITANT PURSUANT TO THE TERMS OF A QUALIFIED DOMESTIC RELATIONS ORDER.

6 2. A period certain and life annuity actuarially reduced with payments
7 for five, ten or fifteen years that are not dependent on the continued
8 lifetime of the member but whose payments continue for the member's lifetime
9 beyond the five, ten or fifteen year period. AT THE TIME OF ELECTING THIS
10 OPTION THE MEMBER SHALL NAME A PERIOD CERTAIN BENEFICIARY OR BENEFICIARIES
11 WHO ARE ENTITLED TO RECEIVE THE PAYMENTS FOR ANY PORTION OF THE PERIOD
12 CERTAIN BEYOND THE LIFETIME OF THE MEMBER. THE MEMBER MAY NAME A DIFFERENT
13 BENEFICIARY AT ANY TIME. IF NO BENEFICIARY SURVIVES THE MEMBER, ANY
14 REMAINING PAYMENTS ARE THE PROPERTY OF THE MEMBER'S ESTATE. ~~At any time, A~~
15 ~~member who retires after the effective date of this amendment to this section~~
16 AUGUST 9, 2001 AND BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
17 SECTION may rescind the election of a period certain and life annuity. If
18 the member rescinds the election of a period certain and life annuity, the
19 member shall thereafter receive a straight life annuity equal to what the
20 member would otherwise be entitled to receive if the member had not elected
21 the period certain and life annuity option, including all postretirement
22 increases in retirement income that are authorized by law after the date of
23 retirement. The increased payment shall continue during the remainder of the
24 member's lifetime. If the member reverts to a straight life annuity pursuant
25 to this paragraph, the member may again elect a period certain and life
26 annuity subject to the same provisions of the period certain and life annuity
27 previously elected by the member. A MEMBER WHOSE ORIGINAL DATE OF RETIREMENT
28 IS ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION MAY
29 EXERCISE A ONE-TIME ELECTION TO RESCIND THE PERIOD CERTAIN AND LIFE ANNUITY
30 OPTION ELECTED BY THE MEMBER IF THE BENEFICIARY DIES OR CEASES TO BE A
31 BENEFICIARY PURSUANT TO THE TERMS OF A QUALIFIED DOMESTIC RELATIONS ORDER OR
32 AT THE EXPIRATION OF THE MEMBER'S PERIOD CERTAIN TERM.

33 3. Beginning on July 1, 2002, a lump sum payment equal to not more
34 than thirty-six months of the member's retirement benefits under the benefit
35 option elected by the member. The member's benefit shall be actuarially
36 reduced to provide for the lump sum payment. The lump sum payment shall be
37 made at the time of retirement. Any benefit increase granted to a member who
38 elects a lump sum payment pursuant to this paragraph is subject to the
39 following conditions:

40 (a) If the benefit increase is a percentage increase of the member's
41 retirement benefit, the increase shall be based on the actuarially reduced
42 retirement benefit of the member.

43 (b) If the benefit increase is pursuant to section 38-767, the amount
44 of the member's benefit increase shall be calculated without regard to the
45 lump sum payment pursuant to this paragraph.

1 4. Other forms of actuarially reduced optional benefits prescribed by
2 the board.

3 Sec. 2. Appropriation; purpose

4 The sum of \$50,000 is appropriated from the Arizona state retirement
5 system administration account in fiscal year 2006-2007 to the Arizona state
6 retirement system for the administrative implementation of this act.

7 Sec. 3. Exemption from lapsing; reversion

8 The appropriation made in section 2 of this act is exempt from the
9 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
10 of appropriations, except that all monies remaining unexpended and
11 unencumbered on July 1, 2009 from the appropriation made in section 2 of this
12 act revert to the Arizona state retirement system administration account.

13 Sec. 4. Conditional enactment; notice

14 A. Section 38-760, Arizona Revised Statutes, as amended by this act,
15 does not become effective unless the Arizona state retirement system obtains
16 a private letter ruling or letter of determination from the internal revenue
17 service by July 1, 2009 that determines that section 38-760, Arizona Revised
18 Statutes, as amended by this act, does not result in the optional forms of
19 benefits under section 38-760, Arizona Revised Statutes, or any other form of
20 benefit under the Arizona state retirement system losing the grandfather
21 exemption from the final regulations published by the internal revenue
22 service governing minimum distribution rules that are contained in section
23 401(a)(9) of the United States internal revenue code.

24 B. The director of the Arizona state retirement system shall notify in
25 writing the director of the Arizona legislative council of the date on which
26 the condition is met or if the condition is not met.

APPROVED BY THE GOVERNOR JUNE 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2006.