

House Engrossed

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 30

# **HOUSE BILL 2068**

AN ACT

AMENDING SECTIONS 38-801, 38-802, 38-804, 38-807, 38-809 AND 38-817, ARIZONA  
REVISED STATUTES; RELATING TO THE ELECTED OFFICIALS' 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 38-801, Arizona Revised Statutes, is amended to  
3 read:

4 38-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accumulated contributions" means the sum of all member  
7 contributions deducted from the member's salary pursuant to section 38-810,  
8 subsection A plus the amount transferred to the fund on behalf of the member  
9 plus the amount deposited in the fund pursuant to section 38-816.

10 2. "Actuarial equivalent" means equality in present value of the  
11 aggregate amounts expected to be received under two different forms of  
12 payment, based on mortality and interest assumptions adopted by the fund  
13 manager.

14 3. "Alternate payee" means the spouse or former spouse of a  
15 participant as designated in a domestic relations order.

16 4. "Alternate payee's portion" means benefits that are payable to an  
17 alternate payee pursuant to a plan approved domestic relations order.

18 5. "Average yearly salary" means the result obtained by dividing the  
19 total salary paid to an employee during a considered period by the number of  
20 years, including fractional years, in which the salary was received. The  
21 considered period shall be the three consecutive years within the last ten  
22 completed years of credited service as an elected official that yield the  
23 highest average. If an employee does not have three consecutive years of  
24 credited service as an elected official, the considered period is the  
25 employee's last consecutive period of employment with a plan employer  
26 immediately before retirement.

27 6. "Credited service" means the number of whole and fractional years  
28 of a member's service as an elected official after the elected official's  
29 effective date of participation for which member and employer contributions  
30 are on deposit with the fund, plus credited service transferred to the plan  
31 from another retirement system or plan for public employees of this state,  
32 plus service as an elected official before the elected official's effective  
33 date of participation that is being funded pursuant to a joinder agreement  
34 pursuant to section 38-810, subsection C and section 38-815 or service that  
35 was redeemed pursuant to section 38-816. CREDITED SERVICE DOES NOT INCLUDE  
36 PERIODS OF SERVICE FOR WHICH AN ACTIVE MEMBER IS UNCOMPENSATED BY THE  
37 EMPLOYER AND FOR WHICH NO CONTRIBUTIONS TO THE PLAN ARE MADE.

38 7. "Cure period" means the ninety-day period in which a participant or  
39 alternate payee may submit an amended domestic relations order and request a  
40 determination, calculated from the time the plan issues a determination  
41 finding that a previously submitted domestic relations order did not qualify  
42 as a plan approved domestic relations order.

43 8. "Determination" means a written document that indicates to a  
44 participant and alternate payee whether a domestic relations order qualifies  
45 as a plan approved domestic relations order.

1           9. "Determination period" means the ninety-day period in which the  
2 plan must review a domestic relations order that is submitted by a  
3 participant or alternate payee to determine whether the domestic relations  
4 order qualifies as a plan approved domestic relations order, calculated from  
5 the time the plan mails a notice of receipt to the participant and alternate  
6 payee.

7           10. "Direct rollover" means a payment by the plan to an eligible  
8 retirement plan that is specified by the distributee.

9           11. "Distributee" means a member, a member's surviving spouse or a  
10 member's spouse or former spouse who is the alternate payee under a plan  
11 approved domestic relations order.

12           12. "Domestic relations order" means an order of a court of this state  
13 that is made pursuant to the domestic relations laws of this state and that  
14 creates or recognizes the existence of an alternate payee's right to, or  
15 assigns to an alternate payee the right to, receive a portion of the benefits  
16 payable to a participant.

17           13. "Effective date of participation" means August 7, 1985, except with  
18 respect to employers and their elected officials whose contributions to the  
19 plan commence after that date, in which case the effective date of their  
20 participation in the plan is specified in the applicable joinder agreement.

21           14. "Elected official" means:

22           (a) Every elected official of this state.

23           (b) Every elected official of each county of this state.

24           (c) Every justice of the supreme court, every judge of the court of  
25 appeals, every judge of the superior court and every full-time superior court  
26 commissioner, except full-time superior court commissioners who failed to  
27 make a timely election of membership under the judges' retirement plan,  
28 repealed on August 7, 1985.

29           (d) The administrator of the fund manager if the administrator is a  
30 natural person.

31           (e) Each elected official of an incorporated city or town whose  
32 employer has executed a proper joinder agreement for coverage of its elected  
33 officials.

34           15. "ELIGIBLE CHILD" MEANS AN UNMARRIED CHILD OF A DECEASED ACTIVE OR  
35 RETIRED MEMBER WHO MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

36           (a) IS UNDER EIGHTEEN YEARS OF AGE.

37           (b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF  
38 AGE ONLY DURING ANY PERIOD THAT THE CHILD IS A FULL-TIME STUDENT.

39           (c) IS UNDER A DISABILITY THAT BEGAN BEFORE THE CHILD ATTAINED  
40 TWENTY-THREE YEARS OF AGE AND REMAINS A DEPENDENT OF THE SURVIVING SPOUSE OR  
41 GUARDIAN.

42           ~~15.~~ 16. "Eligible retirement plan" means any of the following that  
43 accepts a distributee's eligible rollover distribution:

44           (a) An individual retirement account described in section 408(a) of  
45 the internal revenue code.

- 1 (b) An individual retirement annuity described in section 408(b) of  
2 the internal revenue code.
- 3 (c) An annuity plan described in section 403(a) of the internal  
4 revenue code.
- 5 (d) A qualified trust described in section 401(a) of the internal  
6 revenue code.
- 7 (e) An annuity contract described in section 403(b) of the internal  
8 revenue code.
- 9 (f) An eligible deferred compensation plan described in section 457(b)  
10 of the internal revenue code that is maintained by a state, a political  
11 subdivision of a state or any agency or instrumentality of a state or a  
12 political subdivision of a state and that agrees to separately account for  
13 amounts transferred into the eligible deferred compensation plan from this  
14 plan.
- 15 ~~16-~~ 17. "Eligible rollover distribution" means a payment to a  
16 distributee, but does not include any of the following:
- 17 (a) Any distribution that is one of a series of substantially equal  
18 periodic payments made not less frequently than annually for the life or life  
19 expectancy of the member or the joint lives or joint life expectancies of the  
20 member and the member's beneficiary or for a specified period of ten years or  
21 more.
- 22 (b) Any distribution to the extent the distribution is required under  
23 section 401(a)(9) of the internal revenue code.
- 24 (c) The portion of any distribution that is not includable in gross  
25 income.
- 26 18. "EMPLOYER" MEANS A DEPARTMENT, AGENCY OR POLITICAL SUBDIVISION OF  
27 THIS STATE THAT MAKES EMPLOYER CONTRIBUTIONS TO THE PLAN PURSUANT TO SECTION  
28 38-810 ON BEHALF OF AN ELECTED OFFICIAL WHO PARTICIPATES IN THE PLAN.
- 29 ~~17-~~ 19. "Fund" means the elected officials' retirement plan fund.
- 30 ~~18-~~ 20. "Fund manager" means the fund manager of the system.
- 31 ~~19-~~ 21. "Notice of receipt" means a written document that is issued by  
32 the plan to a participant and alternate payee and that states that the plan  
33 has received a domestic relations order and a request for a determination  
34 that the domestic relations order is a plan approved domestic relations  
35 order.
- 36 ~~20-~~ 22. "Participant" means a member who is subject to a domestic  
37 relations order.
- 38 ~~21-~~ 23. "Participant's portion" means benefits that are payable to a  
39 participant pursuant to a plan approved domestic relations order.
- 40 ~~22-~~ 24. "Pension" means a series of monthly payments to a person who  
41 is entitled to receive benefits under the plan.
- 42 ~~23-~~ 25. "Personal representative" means the personal representative of  
43 a deceased alternate payee.
- 44 ~~24-~~ 26. "Plan" means the elected officials' retirement plan.

1       ~~25-~~ 27. "Plan approved domestic relations order" means a domestic  
2 relations order that the plan approves as meeting all the requirements for a  
3 plan approved domestic relations order as otherwise prescribed in this  
4 article.

5       ~~26-~~ 28. "Retired member" means a person who is being paid a pension  
6 based on the person's credited service as a member of the plan.

7       ~~27-~~ 29. "Segregated funds" means the amount of benefits that would  
8 currently be payable to an alternate payee pursuant to a domestic relations  
9 order under review by the plan, or a domestic relations order submitted to  
10 the plan that failed to qualify as a plan approved domestic relations order,  
11 if the domestic relations order were determined to be a plan approved  
12 domestic relations order.

13       ~~28-~~ 30. "System" means the public safety personnel retirement system.

14       Sec. 2. Section 38-802, Arizona Revised Statutes, is amended to read:

15       38-802. Elected officials' retirement plan and fund;  
16                                   administration

17       A. The elected officials' retirement plan is established.

18       B. The elected officials' retirement plan fund is established. The  
19 fund shall be made up of the assets of the judges' retirement plan and the  
20 elected officials' retirement plan terminated on August 7, 1985 plus the  
21 assets generated by this plan and the assets of the administrator of the fund  
22 manager in the state employees retirement plan on the date of transfer plus  
23 any assets transferred to the fund in accordance with a joinder agreement.  
24 The fund shall be used exclusively for payment of benefits to retired members  
25 or their beneficiaries as provided in this article and for payment of the  
26 administration, operation and investment expenses of the plan. In no case  
27 shall any portion of the fund revert or otherwise be paid to an employer.

28       C. The fund manager shall administer, manage and operate the plan and  
29 fund.

30       D. THE ELECTED OFFICIALS' RETIREMENT PLAN IS A JURAL ENTITY THAT MAY  
31 SUE AND BE SUED.

32       Sec. 3. Section 38-804, Arizona Revised Statutes, is amended to read:

33       38-804. Membership; termination; reinstatement of credited  
34                                   service

35       A. All elected officials are members of the plan, except that a state  
36 elected official who is subject to term limits may elect not to participate  
37 in the plan. The state elected official who is subject to term limits shall  
38 make the election in writing and file the election with the fund manager  
39 within thirty days after the state elected official assumes office. The  
40 election is effective on the first day of the state elected official's  
41 eligibility for that term of office. The election not to participate is  
42 specific for that term of office. If a state elected official who is subject  
43 to term limits fails to make an election as provided in this subsection, the  
44 state elected official is deemed to have elected to participate in the plan.  
45 The election not to participate in the plan is irrevocable and constitutes a

1 waiver of all benefits provided by the plan for the state elected official's  
2 entire term, except for any benefits accrued by the state elected official in  
3 the plan for periods of participation prior to being elected to an office  
4 subject to term limits or any benefits expressly provided by law. The state  
5 elected official who elects not to participate in the plan shall participate  
6 in the Arizona state retirement system unless the state elected official  
7 makes an irrevocable election not to participate in the Arizona state  
8 retirement system as provided in section 38-727.

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

14 1. If the member has less than five years of credited service with the  
15 plan, the member may withdraw the member's accumulated contributions from the  
16 plan.

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

20 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
21 member contributions deducted from the member's salary pursuant to section  
22 38-810, subsection A.

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

26 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
27 member contributions deducted from the member's salary pursuant to section  
28 38-810, subsection A.

29 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
30 member contributions deducted from the member's salary pursuant to section  
31 38-810, subsection A.

32 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
33 member contributions deducted from the member's salary pursuant to section  
34 38-810, subsection A.

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

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

1           D. If the amount prescribed in subsection B or C of this section  
2 includes monies that are an eligible rollover distribution and the member  
3 elects to have the distribution paid directly to an eligible retirement plan  
4 or individual retirement account or annuity and specifies the eligible  
5 retirement plan or individual retirement account or annuity to which the  
6 distribution is to be paid, the distribution shall be made in the form of a  
7 direct trustee-to-trustee transfer to the specified eligible retirement plan.  
8 The distribution shall be made in the form and at the time prescribed by the  
9 fund manager. A member who receives the amount prescribed in subsection B or  
10 C of this section from the plan or who elects a transfer pursuant to this  
11 subsection forfeits the member's credited service, and all rights to benefits  
12 under the plan and membership in the plan terminate.

13           E. IN NO CASE SHALL MORE THAN TWELVE MONTHS OF CREDITED SERVICE BE  
14 CREDITED ON ACCOUNT OF ALL SERVICE RENDERED BY A MEMBER IN ANY ONE YEAR.

15           ~~E~~ F. If an elected official who has terminated the member's  
16 membership in the plan pursuant to subsection B of this section is  
17 subsequently elected or otherwise becomes eligible for membership in the plan  
18 pursuant to subsection A of this section, credited service only accrues from  
19 the date of the member's most recent eligibility as an elected official.

20           ~~F~~ G. Notwithstanding subsection ~~E~~ F of this section, if an elected  
21 official files a written election form with the fund manager within ninety  
22 days after the day of the member's reemployment as an elected official and  
23 repays the amount previously withdrawn pursuant to subsection B or C of this  
24 section within one year after the date of the member's reemployment as an  
25 elected official, with interest on that amount at the rate of nine per cent  
26 for each year, compounded each year from the date of withdrawal to the date  
27 of repayment, credited service shall be restored. Credited service shall not  
28 be restored until complete repayment is made to the fund.

29           ~~G~~ H. If a retired member subsequently becomes an elected official,  
30 contributions shall not be made by the retired member or the retired member's  
31 employer and credited service shall not accrue while the retired member is  
32 holding office.

33           ~~H~~ I. In addition to the ~~provisions of~~ subsection ~~G~~ H of this  
34 section, if a retired member subsequently becomes, by reason of election or  
35 reelection, an elected official of the same office from which the member  
36 retired within a time period following the member's retirement that is less  
37 than one full term for that office, the member shall not receive a pension.  
38 If the elected official ceases to hold the same office, the elected official  
39 is entitled to receive the same pension the elected official was receiving  
40 when the elected official's pension was discontinued pursuant to this  
41 subsection. Nothing in this subsection prohibits a retired judge called by  
42 the supreme court to active duties of a judge pursuant to section 38-813 from  
43 receiving retirement benefits.

1           Sec. 4. Section 38-807, Arizona Revised Statutes, is amended to read:  
2           38-807. Survivor pensions

3           A. ~~The surviving spouse of a DECEASED retired member shall be paid a~~  
4 ~~SURVIVING SPOUSE'S pension which terminates on the death of the surviving~~  
5 ~~spouse if the retired member was married to the surviving spouse for at least~~  
6 ~~two years. The surviving spouse's pension under this subsection is~~  
7 ~~three fourths of the amount the retired member was receiving at the time of~~  
8 ~~the member's death.~~

9           ~~B. The surviving spouse of an active or inactive member who dies~~  
10 ~~before retirement shall be paid a pension which terminates on the death of~~  
11 ~~the surviving spouse if the active or inactive member was married to the~~  
12 ~~surviving spouse for at least two years.~~

13           ~~C. The surviving spouse's pension under subsection B of this section~~  
14 ~~is three fourths of the amount of pension computed according to section~~  
15 ~~38-808, subsection B, paragraph 2 under the assumption that the member had~~  
16 ~~retired for reason of disability immediately before death. IF THE SPOUSE WAS~~  
17 ~~MARRIED TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE~~  
18 ~~TIME OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION~~  
19 ~~COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE RETIRED MEMBER'S DATE~~  
20 ~~OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN~~  
21 ~~WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. THE AMOUNT OF PENSION PAID A~~  
22 ~~SURVIVING SPOUSE IS EQUAL TO THREE-FOURTHS OF THE AMOUNT OF THE DECEASED~~  
23 ~~RETIRED MEMBER'S PENSION AT THE TIME OF DEATH. THE SURVIVING SPOUSE SHALL~~  
24 ~~FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR~~  
25 ~~BENEFIT.~~

26           B. THE SURVIVING SPOUSE OF A DECEASED ACTIVE OR INACTIVE MEMBER SHALL  
27 BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER  
28 ON THE DATE OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION  
29 COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF  
30 DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN  
31 WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. FOR THE PURPOSES OF THIS  
32 SUBSECTION, THE SURVIVING SPOUSE'S PENSION SHALL BE THREE-FOURTHS OF THE  
33 AMOUNT CALCULATED IN THE SAME MANNER AS A DISABILITY PENSION IS CALCULATED  
34 PURSUANT TO SECTION 38-806. THE SURVIVING SPOUSE SHALL FILE A WRITTEN  
35 APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

36           ~~D. C. If the deceased retired or active or inactive member does not~~  
37 ~~have an eligible surviving spouse or the pension of the eligible surviving~~  
38 ~~spouse is terminated, each surviving unmarried child of the deceased retired~~  
39 ~~or active or inactive member shall be paid a ELIGIBLE CHILD IS ENTITLED TO~~  
40 ~~RECEIVE A CHILD'S pension which terminates on adoption or the attainment of~~  
41 ~~age eighteen unless the child is a full time student under the age of~~  
42 ~~twenty three or the child is under a disability which began before the child~~  
43 ~~attained the age of twenty three. A CHILD'S PENSION TERMINATES IF THE CHILD~~  
44 ~~IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE CHILD'S PENSION TERMINATES~~  
45 ~~IF THE CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF~~

1 THE SURVIVING SPOUSE OR GUARDIAN. The amount of the pension of each  
2 ~~surviving minor child of a deceased retired or active or inactive member~~  
3 ELIGIBLE CHILD is an equal share of the amount of the surviving spouse's  
4 pension. The surviving minor OR DISABLED child's pension shall be paid to  
5 the person who is the legally appointed guardian or custodian of the eligible  
6 child.

7 E. D. If a member dies and no pension is payable on account of the  
8 member's death, the deceased member's accumulated contributions shall be paid  
9 to the person or persons designated by the deceased member in writing and  
10 filed with the fund manager. If the designated person or persons do not  
11 survive the deceased member, the accumulated contributions shall be paid to  
12 the estate of the deceased member.

13 Sec. 5. Section 38-809, Arizona Revised Statutes, is amended to read:

14 38-809. Correction of pension payment errors; assignments  
15 prohibited; civil liability; restitution or payment  
16 of fine; violation; classification; offset of  
17 benefits

18 A. If the plan has made pension payments based on incorrect  
19 information and a person or an estate has been paid more or less than the  
20 person or estate ~~would~~ SHOULD have been paid ~~if the information had been~~  
21 ~~correct~~, the fund manager shall adjust future payments so that the proper  
22 amount is paid. The adjustment may be made in such a manner that the  
23 equivalent actuarial present value of the benefit to which the person or  
24 estate is correctly entitled is paid.

25 B. Notwithstanding any other statute, benefits, member contributions  
26 or court fees including interest earnings and all other credits payable under  
27 the plan are not subject in any manner to anticipation, alienation, sale,  
28 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or  
29 levy of any kind, either voluntary or involuntary, before actually being  
30 received by the person entitled to the benefit, contribution, earning or  
31 credit under the terms of the plan, and any attempt to dispose of any right  
32 under the terms of the plan as proscribed in this subsection is void. The  
33 fund is not liable for or subject to the debts, contracts, liabilities,  
34 enlargements or torts of any person entitled to a benefit, contribution,  
35 earning or credit under the terms of the plan.

36 C. Nothing in this section exempts employee benefits of any kind from  
37 a writ of attachment, a writ of execution, a writ of garnishment and orders  
38 of assignment issued by a court of record as the result of a judgment for  
39 arrearages of child support or for child support debt.

40 D. A person who defrauds the plan or who takes, converts, steals or  
41 embezzles monies owned by or from the plan and who fails or refuses to return  
42 the monies to the plan on the fund manager's written request is subject to a  
43 civil suit by the plan in the superior court of IN Maricopa county. On entry  
44 of an order finding the person has defrauded the plan or taken, converted,  
45 stolen or embezzled monies owned by or from the plan, the court shall enter

1 an order against that person and for the plan awarding the plan all of its  
2 costs and expenses of any kind, including attorney fees, that were necessary  
3 to successfully prosecute the action. The court shall also grant the plan a  
4 judicial lien on all of the nonexempt property of the person against whom  
5 judgment is entered pursuant to this subsection in an amount equal to all  
6 amounts awarded to the plan, plus interest at the rate prescribed by section  
7 44-1201, subsection A, until all amounts owed are paid to the plan.

8 E. IF A MEMBER IS CONVICTED OF, OR DISCHARGED BECAUSE OF, THEFT,  
9 EMBEZZLEMENT, FRAUD OR MISAPPROPRIATION OF AN EMPLOYER'S PROPERTY OR PROPERTY  
10 UNDER THE CONTROL OF THE EMPLOYER, THE MEMBER IS SUBJECT TO RESTITUTION AND  
11 FINES IMPOSED BY A COURT OF COMPETENT JURISDICTION. THE COURT MAY ORDER THE  
12 RESTITUTION OR FINES TO BE PAID FROM ANY PAYMENTS OTHERWISE PAYABLE TO THE  
13 MEMBER FROM THE PLAN.

14 F. A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT OR WHO FALSIFIES  
15 OR PERMITS TO BE FALSIFIED ANY RECORD OF THE PLAN WITH AN INTENT TO DEFRAUD  
16 THE PLAN IS GUILTY OF A CLASS 1 MISDEMEANOR. IF ANY CHANGE OR ERROR IN THE  
17 RECORDS RESULTS IN ANY MEMBER OR BENEFICIARY RECEIVING FROM THE PLAN MORE OR  
18 LESS THAN THE MEMBER OR BENEFICIARY WOULD HAVE BEEN ENTITLED TO RECEIVE HAD  
19 THE RECORDS BEEN CORRECT, THE PLAN SHALL CORRECT THE ERROR, AND AS FAR AS  
20 PRACTICABLE SHALL ADJUST THE PAYMENTS IN SUCH A MANNER THAT THE ACTUARIAL  
21 EQUIVALENT OF THE BENEFIT TO WHICH THE MEMBER OR BENEFICIARY WAS CORRECTLY  
22 ENTITLED TO RECEIVE SHALL BE PAID. IF A MEMBER IS CONVICTED OF A CRIME  
23 PURSUANT TO THIS SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM  
24 PAYMENT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE  
25 COMPENSATION AND BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE  
26 MEMBER'S ESTATE UNDER THIS ARTICLE.

27 E. G. Notwithstanding any other provision of this article, the fund  
28 manager may offset against any benefits otherwise payable by the plan to an  
29 active or retired member or survivor any court ordered amounts awarded to the  
30 fund manager and plan and assessed against the member or survivor.

31 Sec. 6. Section 38-817, Arizona Revised Statutes, is amended to read:

32 38-817. Group health and accident coverage for retired members;  
33 payment

34 A. The fund manager shall pay from the assets of the fund part of the  
35 single coverage premium of any group health and accident insurance for each  
36 retired member or survivor of the ~~elected officials' retirement~~ plan who  
37 receives a pension if the retired member had eight or more years of credited  
38 service under the plan. In order to qualify for payment pursuant to this  
39 subsection, the retired member or survivor shall elect single coverage and  
40 must have elected to participate in the coverage provided in section  
41 38-651.01 or 38-782 or any other health and accident insurance coverage  
42 provided or administered by a ~~participating AN employer of the elected~~  
43 ~~officials' retirement plan~~. The fund manager shall pay up to:

44 1. One hundred fifty dollars per month for each retired member or  
45 survivor of the plan who is not eligible for medicare.

1           2. One hundred dollars per month for each retired member or survivor  
2 of the plan who is eligible for medicare.

3           B. The fund manager shall pay from the assets of the fund part of the  
4 family coverage premium of any group health and accident insurance each month  
5 for a ~~benefit recipient~~ RETIRED MEMBER OR SURVIVOR who elects family coverage  
6 and who otherwise qualifies for payment pursuant to subsection A of this  
7 section. The fund manager shall pay up to:

8           1. Two hundred sixty dollars per month if the retired member or  
9 survivor of the plan and one or more dependents are not eligible for  
10 medicare.

11           2. One hundred seventy dollars per month if the retired member or  
12 survivor of the plan and one or more dependents are eligible for medicare.

13           3. Two hundred fifteen dollars per month if either:

14           (a) The retired member or survivor of the plan is not eligible for  
15 medicare and one or more dependents are eligible for medicare.

16           (b) The retired member or survivor of the plan is eligible for  
17 medicare and one or more dependents are not eligible for medicare.

18           C. Each retired member or survivor of the plan with less than eight  
19 years of credited service and a dependent of such a retired member or  
20 survivor who participates in the coverage provided by section 38-651.01 or  
21 38-782 or who participates in any other health and accident insurance  
22 coverage provided or administered by a ~~participating~~ AN employer ~~of the plan~~  
23 is entitled to receive a proportion of the full benefit prescribed by  
24 subsection A, ~~OR B, E, F, G or H~~ of this section according to the following  
25 schedule:

26           1. 7.0 to 7.9 years of credited service, ninety per cent.

27           2. 6.0 to 6.9 years of credited service, seventy-five per cent.

28           3. 5.0 to 5.9 years of credited service, sixty per cent.

29           4. Those with less than five years of credited service do not qualify  
30 for the benefit.

31           D. The fund manager shall not pay more than the amount prescribed in  
32 this section for a benefit recipient as a member or survivor of the plan.

33           ~~E. In addition to the payments provided by subsection A of this~~  
34 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~  
35 ~~premium benefit for medical coverage, not including limited benefit coverage~~  
36 ~~as defined in section 20 1137, for each retired member or survivor of the~~  
37 ~~plan who is entitled to a premium benefit payment pursuant to subsection A of~~  
38 ~~this section and who lives in a nonservice area as follows:~~

39           ~~1. Up to three hundred dollars per month for a retired member or~~  
40 ~~survivor of the plan who is not eligible for medicare and who has eight or~~  
41 ~~more years of credited service. To qualify for this additional benefit, a~~  
42 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~  
43 ~~of at least one hundred twenty-five dollars per month.~~

44           ~~2. Up to one hundred seventy dollars per month for a retired member or~~  
45 ~~survivor of the plan who is eligible for medicare and who has eight or more~~

1 ~~years of credited service. To qualify for this additional benefit, a retired~~  
2 ~~member or survivor shall pay out of pocket medical insurance premiums of at~~  
3 ~~least one hundred dollars per month.~~

4 ~~F. In addition to the payments provided by subsection B of this~~  
5 ~~section, through June 30, 2005, the fund manager shall pay an insurance~~  
6 ~~premium benefit for medical coverage, not including limited benefit coverage~~  
7 ~~as defined in section 20 1137, for a retired member or survivor of the plan~~  
8 ~~who is entitled to a premium benefit payment pursuant to subsection B of this~~  
9 ~~section, who is enrolled in a family medical plan and who lives in a~~  
10 ~~nonservice area as follows:~~

11 ~~1. Up to six hundred dollars per month if the retired member or~~  
12 ~~survivor of the plan and one or more dependents are not eligible for medicare~~  
13 ~~and the retired member or survivor of the plan has eight or more years of~~  
14 ~~credited service. To qualify for this additional benefit, a retired member~~  
15 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~  
16 ~~four hundred twenty five dollars per month.~~

17 ~~2. Up to three hundred fifty dollars per month if the retired member~~  
18 ~~or survivor of the plan and one or more dependents are eligible for medicare~~  
19 ~~and the retired member or survivor of the plan has eight or more years of~~  
20 ~~credited service. To qualify for this additional benefit, a retired member~~  
21 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~  
22 ~~two hundred dollars per month.~~

23 ~~3. If the retired member or survivor of the plan has eight or more~~  
24 ~~years of credited service, up to four hundred seventy dollars per month if~~  
25 ~~either:~~

26 ~~(a) The retired member or survivor of the plan is not eligible for~~  
27 ~~medicare and one or more dependents are eligible for medicare.~~

28 ~~(b) The retired member or survivor of the plan is eligible for~~  
29 ~~medicare and one or more dependents are not eligible for medicare.~~

30 ~~To qualify for this additional benefit, a retired member or survivor shall~~  
31 ~~pay out of pocket medical insurance premiums of at least four hundred dollars~~  
32 ~~per month.~~

33 ~~G. In addition to the payments provided by subsection A of this~~  
34 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~  
35 ~~pay an insurance premium benefit for medical coverage, not including limited~~  
36 ~~benefit coverage as defined in section 20 1137, for each medicare eligible~~  
37 ~~retired member or survivor of the plan who is entitled to a premium benefit~~  
38 ~~payment pursuant to subsection A of this section and who lives in a~~  
39 ~~nonservice area of up to one hundred seventy dollars per month for a retired~~  
40 ~~member or survivor of the plan who is eligible for medicare and who has eight~~  
41 ~~or more years of credited service. To qualify for this additional benefit, a~~  
42 ~~retired member or survivor shall pay out of pocket medical insurance premiums~~  
43 ~~of at least one hundred dollars per month.~~

44 ~~H. In addition to the payments provided by subsection B of this~~  
45 ~~section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~

1 ~~pay an insurance premium benefit for medical coverage, not including limited~~  
2 ~~benefit coverage as defined in section 20-1137, for a medicare eligible~~  
3 ~~retired member or survivor of the plan who is entitled to a premium benefit~~  
4 ~~payment pursuant to subsection B of this section, who is enrolled in a family~~  
5 ~~medical plan and who lives in a nonservice area as follows:~~

6 ~~1. Up to three hundred fifty dollars per month if the retired member~~  
7 ~~or survivor of the plan and one or more dependents are eligible for medicare~~  
8 ~~and the retired member or survivor of the plan has eight or more years of~~  
9 ~~credited service. To qualify for this additional benefit, a retired member~~  
10 ~~or survivor shall pay out of pocket medical insurance premiums of at least~~  
11 ~~two hundred dollars per month.~~

12 ~~2. If the retired member or survivor of the plan has eight or more~~  
13 ~~years of credited service, up to four hundred seventy dollars per month~~  
14 ~~if the retired member or survivor of the plan is eligible for medicare and~~  
15 ~~one or more dependents are not eligible for medicare. To qualify for this~~  
16 ~~additional benefit, a retired member or survivor shall pay out of pocket~~  
17 ~~medical insurance premiums of at least four hundred dollars per month.~~

18 ~~I. A retired member or survivor of the plan who is enrolled in a~~  
19 ~~managed care program in a nonservice area is not eligible for the payment~~  
20 ~~prescribed in subsection E, F, G or H of this section.~~

21 ~~J. E. A retired member or survivor of the plan may elect to purchase~~  
22 ~~individual health care coverage and receive a payment pursuant to this~~  
23 ~~section through the retired member's employer if that employer assumes the~~  
24 ~~administrative functions associated with the payment, including verification~~  
25 ~~that the payment is used to pay for health insurance coverage if the payment~~  
26 ~~is made to the retired member or survivor of the plan.~~

27 ~~K. For the purposes of this section, "nonservice area" means an area~~  
28 ~~in this state in which the Arizona state retirement system pursuant to~~  
29 ~~section 38-782, the department of administration pursuant to section~~  
30 ~~38-651.01 or the member's or survivor's participating employer does not~~  
31 ~~provide or administer a health care services organization program, excluding~~  
32 ~~any preferred provider organization program or individual health indemnity~~  
33 ~~policy, for which the retired member or survivor of the plan is eligible.~~

34 Sec. 7. Retroactivity

35 A. Section 38-801, paragraph 18, Arizona Revised Statutes, as amended  
36 by this act, applies retroactively to August 7, 1985.

37 B. Section 38-817, subsections A and C, Arizona Revised Statutes, as  
38 amended by this act, apply retroactively to from and after June 30, 2001.

APPROVED BY THE GOVERNOR APRIL 9, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2010.

Passed the House February 16, 2010

Passed the Senate April 1, 2010

by the following vote: 58 Ayes,

by the following vote: 23 Ayes.

0 Nays, 1 Not Voting  
1 vacancy

3 Nays, 4 Not Voting

[Signature]  
Speaker of the House  
Pro Tempore

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this  
5<sup>th</sup> day of April, 20 10

at 2:36 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 9<sup>th</sup> day of

April

at 10:30 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State  
this 9<sup>th</sup> day of April, 20 10

at 12:09 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2068