

Senate Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 207

# **SENATE BILL 1196**

AN ACT

AMENDING SECTION 15-1451, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGE OPTIONAL RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 15-1451, Arizona Revised Statutes, is amended to  
3 read:

4 15-1451. Optional retirement plans

5 A. Pursuant to section 15-1444, subsection B, paragraph 5- 7, a  
6 community college district board may establish an optional retirement program  
7 under which contracts providing retirement and death benefits may be  
8 purchased for employees of the institutions under its jurisdiction as  
9 designated by the community college district board.

10 B. An optional retirement program established pursuant to this section  
11 shall:

12 1. Be designed to be a qualified governmental plan under section  
13 401(a) of the internal revenue code.

14 2. Comply with all requirements of the internal revenue code  
15 applicable to governmental plans.

16 3. Be a qualified plan under section 401(a) of the internal revenue  
17 code.

18 4. Apply for and maintain a current letter of determination issued by  
19 the United States internal revenue service.

20 5. Be a qualified pick-up plan as defined by section 414(h)(2) of the  
21 internal revenue code as confirmed by a private letter ruling issued by the  
22 United States internal revenue service.

23 6. Provide benefits through annuity contracts that are fixed or  
24 variable in nature or that are a combination of fixed and variable.

25 C. Eligible employees may elect to participate in an optional  
26 retirement plan established by the community college district board. The  
27 eligible employee shall make the election in writing and file the election  
28 with the Arizona state retirement system and the disbursing officer of the  
29 employing institution. The eligible employee shall make the election either:

30 1. Within thirty days of the employee's effective date of employment.

31 2. If the employee is a member of the Arizona state retirement system  
32 on the date the optional retirement program becomes effective, within ninety  
33 days of the effective date of the optional retirement program.

34 ~~3. Beginning on October 1, 2001 through December 31, 2001.~~

35 D. If an employee who is a member of the Arizona state retirement  
36 system elects to participate in an optional retirement program pursuant to  
37 subsection C of this section, the Arizona state retirement system shall  
38 transfer the employee's contributions to the Arizona state retirement system  
39 and interest as determined by the board of the Arizona state retirement  
40 system to the optional retirement program within the later of ninety days  
41 after the election or ninety days after receipt by the optional retirement  
42 program of a favorable letter of determination issued by the United States  
43 internal revenue service. If an eligible employee fails to make an election  
44 as provided in subsection C of this section, the employee is deemed to have  
45 elected to participate in the Arizona state retirement system. The election

1 to participate in an optional retirement program is irrevocable and  
2 constitutes a waiver of all benefits provided by the Arizona state retirement  
3 system. All eligible employees who elect to participate in an optional  
4 retirement program shall remain participants in the optional retirement  
5 program during the continuance of employment with the community college  
6 district.

7 E. The community college district board shall make contributions from  
8 public monies appropriated or any other monies available for this purpose on  
9 behalf of each participant in the optional retirement program in an amount  
10 that is at least equal to the employer contribution prescribed in title 38,  
11 chapter 5, article 2 ~~but that is not more than the amount prescribed in~~  
12 ~~section 15-1628, subsection C.~~

13 F. Subject to subsection H of this section, each community college  
14 district board that establishes an optional retirement program shall  
15 establish program provisions including:

16 1. Categories of employees that are eligible to elect to participate  
17 in the optional retirement program.

18 2. The employee contribution rate. This rate may be greater than the  
19 employee contribution rate prescribed in title 38, chapter 5, article 2.

20 3. A vesting period for employer contributions, if any. All employee  
21 contributions that are picked up by the employer are fully vested at all  
22 times.

23 4. Restrictions on benefits, except that the optional retirement  
24 program shall not allow a participant to withdraw employer contributions  
25 except as retirement income payable for life or to provide for loans on  
26 retirement income.

27 G. A community college district board may elect to provide health or  
28 long-term disability coverage to optional retirement program participants  
29 under separate benefit plans. The community college district board may  
30 allocate a portion of its employer contribution that would otherwise be made  
31 to the optional retirement program under subsection E of this section to the  
32 separate benefit plans to provide health or long-term disability coverage.

33 H. Community college district boards that establish an optional  
34 retirement program under this section may enter into intergovernmental  
35 agreements appointing a single administrator or designating a single  
36 community college district board to administer the optional retirement  
37 program. A community college district board may satisfy the requirements of  
38 this section by entering into an intergovernmental agreement with another  
39 community college district board to participate in that community college  
40 district's optional retirement program. The administration shall include,  
41 without limitation, the design and implementation of the plan document  
42 establishing the optional retirement program, compliance with the  
43 qualification requirements prescribed in subsection B of this section and  
44 such other duties that are not inconsistent with this section as may be

1 delegated to the administrator pursuant to the intergovernmental agreements  
2 entered into among the community college district boards.

3 I. Although designated as employee contributions, all employee  
4 contributions made to an optional retirement program shall be picked up and  
5 paid by the community college district in lieu of contributions by the  
6 employee. The contributions picked up by a community college district may be  
7 made through a reduction in the employees' salary or an offset against future  
8 salary increases, or a combination of both. The employees participating in  
9 the optional retirement program do not have the option of choosing to receive  
10 the contributed amounts directly instead of the community college district  
11 paying the amounts to the optional retirement program. It is intended that  
12 all employee contributions that are picked up by the community college  
13 district as provided in this subsection shall be treated as employer  
14 contributions under section 414(h) of the internal revenue code and shall be  
15 excluded from the employees' gross income for federal and state income tax  
16 purposes and are includable in the gross income of the employees or their  
17 beneficiaries only in the taxable year in which they are distributed.

18 J. A community college district board shall not be liable to any  
19 employee, retiree or other person for any reason relating to the community  
20 college district board's provision of or failure to provide for an optional  
21 retirement program or health or long-term disability coverage.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House April 12, 20 11,

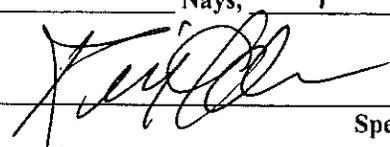
Passed the Senate February 23, 20 11,

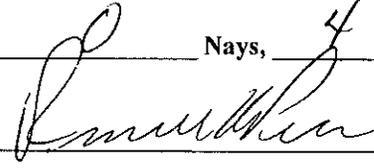
by the following vote: 52 Ayes,

by the following vote: 26 Ayes,

7 Nays, 1 Not Voting

4 Nays, 4 Not Voting

  
Speaker of the House

  
President of the Senate

Cheryl Laube  
Chief Clerk of the House

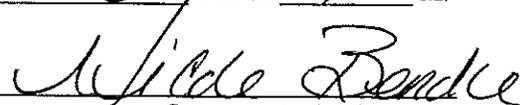
Charmain Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 20 11,

at 4:46 o'clock P. M.

  
Secretary to the Governor

Approved this 19th day of

April, 20 11,

at 3:58 o'clock P. M.

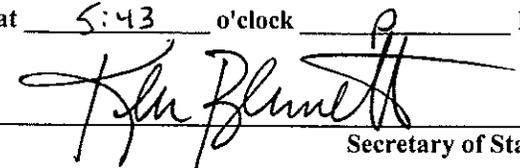
  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of April, 20 11,

at 5:43 o'clock P. M.

  
Secretary of State

S.B. 1196