

Senate Engrossed House Bill

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 348

HOUSE BILL 2409

AN ACT

AMENDING SECTION 38-816, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-816.01; AMENDING SECTIONS 38-844.05, 38-844.08 AND 38-853.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-853.02; AMENDING SECTION 38-909, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-909.01; 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 38-816, Arizona Revised Statutes, is amended to
3 read:

4 38-816. Redemption of prior service

5 A. Any present active elected official who has at least ~~ten~~ FIVE years
6 of credited service with the plan may elect to redeem up to sixty months of
7 any part of the following prior service or employment by paying into the fund
8 the amounts required under subsection B of this section if the prior service
9 or employment is not on account with any other retirement system or plan:

10 1. Prior service in this state as an elected official with an employer
11 now covered by the plan before the effective date of participation if the
12 elected official has received a refund from a prior retirement system or plan
13 on termination of employment before the elected official's application for
14 redemption of prior service.

15 2. Prior service in this state as an elected official with an employer
16 now covered by the plan before the effective date of participation if the
17 elected official was not covered by a retirement system or plan during the
18 elected official's prior elected official service.

19 3. Prior service as an elected official of this state or a city, town
20 or county of this state if the elected official was not covered by a
21 retirement system or plan during that service whether or not the city, town
22 or county is an employer now covered by the plan.

23 4. Prior employment with the United States government, a state of the
24 United States or a political subdivision of a state of the United States.

25 B. Any present active elected official who elects to redeem any part
26 of the prior service or employment for which the elected official is deemed
27 eligible by the board under this section shall pay into the plan the amounts
28 previously withdrawn by the elected official as a refund of the elected
29 official's accumulated contributions, if any, plus the additional amount, if
30 any, that is computed by the plan's actuary and that is necessary to equal
31 the increase in the actuarial present value of projected benefits resulting
32 from the redemption calculated using the actuarial methods and assumptions
33 that are prescribed by the plan's actuary.

34 C. On approval by the governing body of an incorporated city or town
35 that executes a joinder agreement under section 38-815, the city or town may
36 pay into the fund all or any part of the amount sufficient to provide
37 retirement benefits for elected officials or former elected officials for the
38 time of service as an elected official of the city or town before the joinder
39 agreement if no retirement benefits were in effect for elected officials
40 during the time of service being redeemed under this section.

41 D. A member electing to redeem service pursuant to this section may
42 pay for service being redeemed in the form of a lump sum payment to the plan,
43 a trustee-to-trustee transfer or a direct rollover of an eligible
44 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
45 (vi) of the internal revenue code or a rollover of an eligible distribution

1 from an individual retirement account or annuity described in section 408(a)
2 or (b) of the internal revenue code.

3 Sec. 2. Title 38, chapter 5, article 3, Arizona Revised Statutes, is
4 amended by adding section 38-816.01, to read:

5 38-816.01. Purchase of service; payment

6 A MEMBER WHO PURCHASES SERVICE PURSUANT TO THIS ARTICLE OR SECTION
7 38-922 SHALL MAKE PAYMENTS DIRECTLY TO THE PLAN IN WHOLE OR IN PART BY ANY
8 ONE OR A COMBINATION OF THE FOLLOWING METHODS:

9 1. IN LUMP SUM PAYMENTS.

10 2. THROUGH AN ARRANGEMENT WITH THE PLAN THAT THE PAYMENTS BE MADE IN
11 INSTALLMENT PAYMENTS OVER A PERIOD OF TIME.

12 3. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTIONS 401(a)(31) AND
13 402(c) OF THE INTERNAL REVENUE CODE, ACCEPTING A DIRECT TRANSFER OF ANY
14 ELIGIBLE ROLLOVER DISTRIBUTION OR A CONTRIBUTION BY A MEMBER OF AN ELIGIBLE
15 ROLLOVER DISTRIBUTION FROM ONE OR MORE:

16 (a) RETIREMENT PROGRAMS THAT ARE QUALIFIED UNDER SECTION 401(a) OR
17 403(a) OF THE INTERNAL REVENUE CODE.

18 (b) ANNUITY CONTRACTS DESCRIBED IN SECTION 403(b) OF THE INTERNAL
19 REVENUE CODE.

20 (c) ELIGIBLE DEFERRED COMPENSATION PLANS DESCRIBED IN SECTION 457(b)
21 OF THE INTERNAL REVENUE CODE THAT ARE MAINTAINED BY A STATE, A POLITICAL
22 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
23 POLITICAL SUBDIVISION OF A STATE.

24 4. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTION 408(d)(3)(a)(ii)
25 OF THE INTERNAL REVENUE CODE, ACCEPTING FROM A MEMBER A ROLLOVER CONTRIBUTION
26 OF THAT PORTION OF A DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR
27 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(a) OR 408(b) OF THE
28 INTERNAL REVENUE CODE THAT IS ELIGIBLE TO BE ROLLED OVER AND WOULD OTHERWISE
29 BE INCLUDABLE AS GROSS INCOME.

30 Sec. 3. Section 38-844.05, Arizona Revised Statutes, is amended to
31 read:

32 38-844.05. Deferred retirement option benefits and
33 participation accounts

34 A. A deferred retirement option plan participation account is an
35 account established within the system on behalf of each deferred retirement
36 option plan participant. All benefits accrued pursuant to this article shall
37 be accounted for in the deferred retirement option plan participation
38 account. A deferred retirement option plan participant does not have a claim
39 on the assets of the system with respect to the member's deferred retirement
40 option plan participation account and assets shall not be set aside for any
41 deferred retirement option plan participant that are separate from all other
42 system assets.

43 B. All amounts credited to a member's deferred retirement option plan
44 participation account are fully vested.

1 C. A member's deferred retirement option plan participation account
2 shall be credited with the following:

3 1. An amount, credited monthly, that is computed in the same manner as
4 a normal retirement benefit using the factors of credited service and average
5 monthly benefit compensation in effect on the date of deferred retirement
6 option plan participation.

7 2. An amount, credited monthly, that represents interest ON THE AMOUNT
8 CREDITED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION at a rate equal to the
9 assumed rate of return determined by the board, except that for a member who
10 has less than twenty years of credited service on January 1, 2012 and who
11 elects to participate in the deferred retirement option plan on or after
12 January 1, 2012, the amount credited monthly is the amount that represents
13 interest at a rate equal to the average annual return of the system over the
14 period of years established by the board for use in the calculation of the
15 actuarial value of assets for the previous year, but not to exceed the
16 system's assumed investment rate of return but at least two per cent.

17 3. IF APPLICABLE, EMPLOYEE CONTRIBUTIONS MADE PURSUANT TO SECTION
18 38-844.06, SUBSECTION B.

19 D. The participant is not entitled to receive any amount prescribed by
20 section 38-856, 38-856.02 or 38-857 during the deferred retirement option
21 plan participation period.

22 Sec. 4. Section 38-844.08, Arizona Revised Statutes, is amended to
23 read:

24 38-844.08. Payment of deferred retirement option plan benefits

25 A. On the simultaneous termination of deferred retirement option plan
26 participation and employment, a member is entitled to receive ~~both~~ ALL of the
27 following:

28 1. The monthly retirement allowance in the amount determined pursuant
29 to section 38-845 that was credited monthly to the member's deferred
30 retirement option plan participation account at the date of termination of
31 deferred retirement option plan participation.

32 2. All amounts credited to the member's deferred retirement option
33 plan participation account on the effective date of termination of deferred
34 retirement option plan participation.

35 3. INTEREST ON THE AMOUNT CREDITED PURSUANT TO SECTION 38-844.05,
36 SUBSECTION C, PARAGRAPH 3 AT A RATE EQUAL TO TWO PER CENT BUT ONLY IF THE
37 AVERAGE ANNUAL RETURN OF THE SYSTEM OVER THE PERIOD OF YEARS ESTABLISHED BY
38 THE BOARD FOR USE IN THE CALCULATION OF THE ACTUARIAL VALUE OF ASSETS IS AT
39 LEAST TWO PER CENT FOR THE PREVIOUS FISCAL YEAR.

40 B. The form of payment shall be a lump sum distribution. If allowed
41 by the internal revenue service, the participant may elect to transfer the
42 lump sum distribution to an eligible retirement plan or individual retirement
43 account.

1 Sec. 5. Section 38-853.01, Arizona Revised Statutes, is amended to
2 read:

3 38-853.01. Redemption of prior service

4 A. Each present active member of the system who has at least ~~ten~~ FIVE
5 years of service with the system may elect to redeem up to sixty months of
6 any part of the following prior service or employment by paying into the
7 system any amounts required under subsection B if the prior service or
8 employment is not on account with any other retirement system:

9 1. Prior service in this state as an employee with an employer now
10 covered by the system or prior service with an agency of the United States
11 government, a state of the United States or a political subdivision of this
12 state or of a state of the United States as a full-time paid firefighter or
13 full-time paid certified peace officer.

14 2. Subject to any limitations prescribed by federal law, prior
15 employment as an employee of a corporation that contracted with an employer
16 now covered by the system to provide firefighting services on behalf of that
17 employer as a full-time paid firefighter or that provided firefighting
18 services for a political subdivision of this state.

19 B. Any present active member who elects to redeem any part of the
20 prior service or employment for which the employee is deemed eligible by the
21 board under this section shall pay into the system the amounts previously
22 withdrawn by the member, if any, as a refund of the member's accumulated
23 contributions plus accumulated interest as determined by the board and the
24 additional amount, if any, computed by the system's actuary that is necessary
25 to equal the increase in the actuarial present value of projected benefits
26 resulting from the redemption calculated using the actuarial methods and
27 assumptions prescribed by the system's actuary.

28 C. A member electing to redeem service pursuant to this section may
29 pay for service being redeemed in the form of a lump sum payment to the
30 system, a trustee-to-trustee transfer or a direct rollover of an eligible
31 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
32 (vi) of the internal revenue code or a rollover of an eligible distribution
33 from an individual retirement account or annuity described in section 408(a)
34 or (b) of the internal revenue code.

35 Sec. 6. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
36 amended by adding section 38-853.02, to read:

37 38-853.02. Purchase of service; payment

38 A MEMBER WHO PURCHASES SERVICE PURSUANT TO THIS ARTICLE OR SECTION
39 38-922 SHALL MAKE PAYMENTS DIRECTLY TO THE SYSTEM IN WHOLE OR IN PART BY ANY
40 ONE OR A COMBINATION OF THE FOLLOWING METHODS:

41 1. IN LUMP SUM PAYMENTS.

42 2. THROUGH AN ARRANGEMENT WITH THE SYSTEM THAT THE PAYMENTS BE MADE IN
43 INSTALLMENT PAYMENTS OVER A PERIOD OF TIME.

44 3. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTIONS 401(a)(31) AND
45 402(c) OF THE INTERNAL REVENUE CODE, ACCEPTING A DIRECT TRANSFER OF ANY

1 ELIGIBLE ROLLOVER DISTRIBUTION OR A CONTRIBUTION BY A MEMBER OF AN ELIGIBLE
2 ROLLOVER DISTRIBUTION FROM ONE OR MORE:

3 (a) RETIREMENT PROGRAMS THAT ARE QUALIFIED UNDER SECTION 401(a) OR
4 403(a) OF THE INTERNAL REVENUE CODE.

5 (b) ANNUITY CONTRACTS DESCRIBED IN SECTION 403(b) OF THE INTERNAL
6 REVENUE CODE.

7 (c) ELIGIBLE DEFERRED COMPENSATION PLANS DESCRIBED IN SECTION 457(b)
8 OF THE INTERNAL REVENUE CODE THAT ARE MAINTAINED BY A STATE, A POLITICAL
9 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
10 POLITICAL SUBDIVISION OF A STATE.

11 4. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTION 408(d)(3)(A)(ii)
12 OF THE INTERNAL REVENUE CODE, ACCEPTING FROM A MEMBER A ROLLOVER CONTRIBUTION
13 OF THAT PORTION OF A DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR
14 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(a) OR 408(b) OF THE
15 INTERNAL REVENUE CODE THAT IS ELIGIBLE TO BE ROLLED OVER AND WOULD OTHERWISE
16 BE INCLUDABLE AS GROSS INCOME.

17 Sec. 7. Section 38-909, Arizona Revised Statutes, is amended to read:
18 38-909. Redemption of prior service; calculation

19 A. Each present active member of the plan who has at least ~~ten~~ FIVE
20 years of credited service with the plan who had previous service in this
21 state as an employee with an employer now covered by the plan or who had
22 previous service with an agency of the United States government, a state of
23 the United States or a political subdivision of a state of the United States
24 as a full-time paid corrections officer or full-time paid certified peace
25 officer may elect to redeem up to sixty months of any part of the prior
26 service by paying into the plan any amounts required under subsection B if
27 the prior service is not on account with any other retirement system.

28 B. Any present active member who elects to redeem any part of the
29 prior service for which the employee is deemed eligible by the board under
30 this section shall pay into the plan the amounts previously withdrawn by the
31 member, if any, as a refund of the member's accumulated contributions plus
32 accumulated interest as determined by the board and the additional amount, if
33 any, computed by the plan's actuary that is necessary to equal the increase
34 in the actuarial present value of projected benefits resulting from the
35 redemption calculated using the actuarial methods and assumptions prescribed
36 by the plan's actuary.

37 C. The discount rate used by the actuary for the redemption
38 calculation pursuant to subsection B is an amount equal to the lesser of the
39 assumed rate of return that is prescribed by the board or an amount equal to
40 the yield on a ten year treasury note as of March 1 that is published by the
41 federal reserve board plus two per cent. This discount rate is effective
42 beginning in the next fiscal year and shall be recalculated each year.

43 D. A member electing to redeem service pursuant to this section may
44 pay for service being redeemed in the form of a lump sum payment to the plan,
45 a trustee-to-trustee transfer or a direct rollover of an eligible

1 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
2 (vi) of the internal revenue code or a rollover of an eligible distribution
3 from an individual retirement account or annuity described in section 408(a)
4 or (b) of the internal revenue code.

5 Sec. 8. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
6 amended by adding section 38-909.01, to read:

7 38-909.01. Purchase of service; payment

8 A MEMBER WHO PURCHASES SERVICE PURSUANT TO THIS ARTICLE OR SECTION
9 38-922 SHALL MAKE PAYMENTS DIRECTLY TO THE PLAN IN WHOLE OR IN PART BY ANY
10 ONE OR A COMBINATION OF THE FOLLOWING METHODS:

11 1. IN LUMP SUM PAYMENTS.

12 2. THROUGH AN ARRANGEMENT WITH THE PLAN THAT THE PAYMENTS BE MADE IN
13 INSTALLMENT PAYMENTS OVER A PERIOD OF TIME.

14 3. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTIONS 401(a)(31) AND
15 402(c) OF THE INTERNAL REVENUE CODE, ACCEPTING A DIRECT TRANSFER OF ANY
16 ELIGIBLE ROLLOVER DISTRIBUTION OR A CONTRIBUTION BY A MEMBER OF AN ELIGIBLE
17 ROLLOVER DISTRIBUTION FROM ONE OR MORE:

18 (a) RETIREMENT PROGRAMS THAT ARE QUALIFIED UNDER SECTION 401(a) OR
19 403(a) OF THE INTERNAL REVENUE CODE.

20 (b) ANNUITY CONTRACTS DESCRIBED IN SECTION 403(b) OF THE INTERNAL
21 REVENUE CODE.

22 (c) ELIGIBLE DEFERRED COMPENSATION PLANS DESCRIBED IN SECTION 457(b)
23 OF THE INTERNAL REVENUE CODE THAT ARE MAINTAINED BY A STATE, A POLITICAL
24 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
25 POLITICAL SUBDIVISION OF A STATE.

26 4. SUBJECT TO THE LIMITATIONS PRESCRIBED IN SECTION 408(d)(3)(a)(ii)
27 OF THE INTERNAL REVENUE CODE, ACCEPTING FROM A MEMBER A ROLLOVER CONTRIBUTION
28 OF THAT PORTION OF A DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR
29 INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(a) OR 408(b) OF THE
30 INTERNAL REVENUE CODE THAT IS ELIGIBLE TO BE ROLLED OVER AND WOULD OTHERWISE
31 BE INCLUDABLE AS GROSS INCOME.

APPROVED BY THE GOVERNOR MAY 14, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 14, 2012.

Passed the House February 20, 2012

Passed the Senate March 15, 2012

by the following vote: 51 Ayes,

by the following vote: 29 Ayes,

0 Nays, 7 Not Voting
2 vacant

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[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

_____ day of _____, 20____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this _____ day of _____, 20____

at _____ o'clock _____ M.

Secretary of State

H.B. 2409

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 30, 2012,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30th day of April, 2012,

at 4:30 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 14th day of

May, 2012,

at 11:45 o'clock A. M.

[Signature]
Governor of Arizona

H.B. 2409

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14th day of May, 2012,

at 3:21 o'clock P M.

[Signature]
Secretary of State