Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 66

SENATE BILL 1423

AN ACT

AMENDING SECTION 17-340, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 113, SECTION 2; REPEALING SECTION 17-340, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 282, SECTION 2; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 118, SECTION 3 AND CHAPTER 200, SECTION 30; REPEALING SECTION 38-842, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 27, SECTION 25, CHAPTER 347, SECTION 2 AND CHAPTER 357, SECTION 24; AMENDING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 177, SECTION 2 AND CHAPTER 203, SECTION 3; REPEALING SECTION 41-1758, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 190, SECTION 32; AMENDING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 113, SECTION 4, CHAPTER 177, SECTION 3 AND CHAPTER 203, SECTION 4; REPEALING SECTION 41-1758.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2011, CHAPTER 190, SECTION 33; REPEALING LAWS 2010, CHAPTER 254, SECTION 2, AS AMENDED BY LAWS 2011, CHAPTER 307, SECTION 6; REPEALING LAWS 2011, CHAPTER 333, SECTION 6; PROVIDING FOR THE DELAYED REPEAL OF SECTION 41-1008.01, ARIZONA REVISED STATUTES; RELATING TO MULTIPLE, DEFECTIVE AND CONFLICTING LEGISLATIVE DISPOSITIONS OF STATUTORY TEXT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Purpose

1. Section 17-340, Arizona Revised Statutes, was amended by Laws 2011, chapter 113, section 2 and Laws 2011, chapter 282, section 2. The chapter 282 version could not be blended because it failed to amend the chapter 113 version, which was an emergency enactment, and therefore did not comply with article IV, part 2, section 14, Constitution of Arizona. To accomplish the intent of these enactments, this act amends section 17-340, Arizona Revised Statutes, as amended by Laws 2011, chapter 113, section 2 to incorporate the amendments made by Laws 2011, chapter 282, section 2 and the chapter 282 version is repealed.

2. Section 38-842, Arizona Revised Statutes, was amended by Laws 2011, chapter 27, section 25, Laws 2011, chapter 347, section 2 and Laws 2011, chapter 357, section 24. However, these versions did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 38-842, Arizona Revised Statutes, as amended by Laws 2010, chapter 118, section 3 and chapter 200, section 30, to incorporate the amendments made by Laws 2011, chapter 27, section 25, chapter 347, section 2 and chapter 357, section 24 and the chapter 27, 347 and 357 blend version is repealed.

3. Section 41-1758, Arizona Revised Statutes, was amended by Laws 2011, chapter 177, section 2, Laws 2011, chapter 190, section 32 and Laws 2011, chapter 203, section 3. However, the Laws 2011, chapter 190 version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 41-1758, Arizona Revised Statutes, as amended by Laws 2011, chapter 177, section 2 and chapter 203, section 3 to incorporate the amendments made by Laws 2011, chapter 190, section 32 and the chapter 190 version is repealed.

4. Section 41-1758.01, Arizona Revised Statutes, was amended by Laws 2011, chapter 113, section 4, Laws 2011, chapter 177, section 3, Laws 2011, chapter 190, section 33 and Laws 2011, chapter 203, section 4. However, the Laws 2011, chapter 190 version did not reflect the previous valid version of the section. In order to comply with article IV, part 2, section 14, Constitution of Arizona, this act amends section 41-1758.01, Arizona Revised Statutes, as amended by Laws 2011, chapter 113, section 4, chapter 177, section 3 and chapter 203, section 4 to incorporate the amendments made by Laws 2011, chapter 190, section 33 and the chapter 190 version is repealed.

5. Laws 2011, chapter 126, section 2 and Laws 2011, chapter 307, section 6 amended Laws 2010, chapter 254, section 2 in an identical manner. In order to eliminate the double amendment activity, this act repeals Laws 2010, chapter 254, section 2, as amended by Laws 2011, chapter 307, section 6.

6. Laws 2011, chapter 333, section 6 provided for the delayed repeal of section 41-1008.01, Arizona Revised Statutes. However, the repeal of

section 41-1008.01, Arizona Revised Statutes, was not included in the title of the act in violation of article IV, part 2, section 13, Constitution of Arizona. In order to correct a potentially defective enactment, this act provides for the delayed repeal of section 41-1008.01, Arizona Revised Statutes, and repeals Laws 2011, chapter 333, section 6.

Sec. 2. Section 17-340, Arizona Revised Statutes, as amended by Laws 2011, chapter 113, section 2, is amended to read:

17-340. Revocation, suspension and denial of privilege of taking wildlife; notice; violation; classification

A. ~~Upon~~ ON conviction or after adjudication as a delinquent juvenile as defined in section 8-201 and in addition to other penalties prescribed by this title, the commission, after a public hearing, may revoke or suspend a license issued to any person under this title and deny the person the right to secure another license to take or possess wildlife for a period of not to exceed five years for:

1. Unlawful taking, unlawful selling, unlawful offering for sale, unlawful bartering or unlawful possession of wildlife.

2. Careless use of firearms which has resulted in the injury or death of any person.

3. Destroying, injuring or molesting livestock, or damaging or destroying growing crops, personal property, notices or signboards, or other improvements while hunting, trapping or fishing.

4. Littering public hunting or fishing areas while taking wildlife.

5. Knowingly allowing another person to use the person's big game tag, except as provided by section 17-332, subsection D.

6. A violation of section 17-303, 17-304 or 17-341 OR SECTION 17-362, SUBSECTION A.

7. A VIOLATION OF SECTION 17-309, SUBSECTION A, PARAGRAPH 5 INVOLVING A WASTE OF EDIBLE PORTIONS OTHER THAN MEAT DAMAGED DUE TO THE METHOD OF TAKING AS FOLLOWS:

(a) UPLAND GAME BIRDS, MIGRATORY GAME BIRDS AND WILD TURKEY: BREAST.

(b) DEER, ELK, PRONGHORN (ANTELOPE), BIGHORN SHEEP, BISON (BUFFALO) AND PECCARY (JAVELINA): HIND QUARTERS, FRONT QUARTERS AND LOINS.

(c) GAME FISH: FILLETS OF THE FISH.

~~7.~~ 8. A violation of section 17-309, subsection A, paragraph 1 involving any unlawful use of aircraft to take, assist in taking, harass, chase, drive, locate or assist in locating wildlife.

B. On conviction or after adjudication as a delinquent juvenile and in addition to any other penalties prescribed by this title:

1. For a first conviction or a first adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to five years.

2. For a second conviction or a second adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife for a period of up to ten years.

3. For a third conviction or a third adjudication as a delinquent juvenile, for unlawfully taking or wounding wildlife at any time or place, the commission, after a public hearing, may revoke, suspend or deny a person's privilege to take wildlife permanently.

C. A person who is assessed civil damages under section 17-314 shall not apply for or obtain a license during the pendency of an action for damages, while measures are pursued to collect damages or prior to the full payment of damages.

D. On receiving a report from the licensing authority of a state which is a party to the wildlife violator compact, adopted under chapter 5 of this title, that a resident of this state has failed to comply with the terms of a wildlife citation, the commission, after a public hearing, may suspend any license issued under this title to take wildlife until the licensing authority furnishes satisfactory evidence of compliance with the terms of the wildlife citation.

E. In carrying out ~~the provisions of~~ this section the director shall notify the licensee, within one hundred eighty days after conviction, to appear and show cause why the license should not be revoked, suspended or denied. The notice may be served personally or by certified mail sent to the address appearing on the license.

F. The commission shall furnish to license dealers the names and addresses of persons whose licenses have been revoked or suspended, and the periods for which they have been denied the right to secure licenses.

G. The commission may use the services of the office of administrative hearings to conduct hearings and to make recommendations to the commission pursuant to this section.

H. Except for a person who takes or possesses wildlife while under permanent revocation, a person who takes wildlife in this state, or attempts to obtain a license to take wildlife, at a time when the person's privilege to do so is suspended, revoked or denied under this section is guilty of a class 1 misdemeanor.

Sec. 3. Repeal

Section 17-340, Arizona Revised Statutes, as amended by Laws 2011, chapter 282, section 2, is repealed.

Sec. 4. Section 38-842, Arizona Revised Statutes, as amended by Laws 2010, chapter 118, section 3 and chapter 200, section 30, is amended to read:

38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job

1 classification and that was incurred in the performance of the employee's
2 duty.
3 2. "Accumulated contributions" means, for each member, the sum of the
4 amount of the member's aggregate contributions made to the fund and the
5 amount, if any, attributable to the employee's contributions before the
6 member's effective date under another public retirement system, other than
7 the federal social security act, and transferred to the fund minus the
8 benefits paid to or on behalf of the member.
9 3. "Actuarial equivalent" means equality in present value of the
10 aggregate amounts expected to be received under two different forms of
11 payment, based on mortality and interest assumptions adopted by the board.
12 4. "Alternate payee" means the spouse or former spouse of a
13 participant as designated in a domestic relations order.
14 5. "Alternate payee's portion" means benefits that are payable to an
15 alternate payee pursuant to a plan approved domestic relations order.
16 6. "Annuitant" means a person who is receiving a benefit pursuant to
17 section 38-846.01.
18 7. "Average monthly benefit compensation" means the result obtained by
19 dividing the total compensation paid to an employee during a considered
20 period by the number of months, including fractional months, in which such
21 compensation was received. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE
22 SYSTEM BEFORE JANUARY 1, 2012, the considered period shall be the three
23 consecutive years within the last twenty completed years of credited service
24 that yield the highest average. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE
25 SYSTEM ON OR AFTER JANUARY 1, 2012, THE CONSIDERED PERIOD IS THE FIVE
26 CONSECUTIVE YEARS WITHIN THE LAST TWENTY COMPLETED YEARS OF CREDITED SERVICE
27 THAT YIELD THE HIGHEST AVERAGE. In the computation under this paragraph, a
28 period of nonpaid or partially paid industrial leave shall be considered
29 based on the compensation the employee would have received in the employee's
30 job classification if the employee was not on industrial leave.
31 8. "Board" means the board of trustees of the system, who are the
32 persons appointed to invest and operate the fund.
33 9. "Catastrophic disability" means a physical and not a psychological
34 condition that the local board determines prevents the employee from totally
35 and permanently engaging in any gainful employment and that results from a
36 physical injury incurred in the performance of the employee's duty.
37 10. "Certified peace officer" means a peace officer certified by the
38 Arizona peace officers standards and training board.
39 11. "Claimant" means any member or beneficiary who files an application
40 for benefits pursuant to this article.
41 12. "Compensation" means, for the purpose of computing retirement
42 benefits, base salary, overtime pay, shift differential pay, military
43 differential wage pay, COMPENSATORY TIME USED BY AN EMPLOYEE IN LIEU OF
44 OVERTIME NOT OTHERWISE PAID BY AN EMPLOYER and holiday pay paid to an
45 employee by the employer on a regular monthly, semimonthly or biweekly

payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for UNUSED compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training OR FIRE, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities~~,~~ training~~,~~ OR fire, wildfire, emergency medical or emergency management ~~services~~ ACTIVITIES. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

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

15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

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

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

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

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

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

21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:

(a) Is under eighteen years of age.

(b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.

(c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

(a) Municipal police officers who are certified peace officers.

(b) Municipal fire fighters.

(c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time fire fighters, but not including fire fighters employed by a fire district pursuant to a contract with a corporation.

(d) State highway patrol officers who are certified peace officers.

(e) State fire fighters.

(f) County sheriffs and deputies who are certified peace officers.

(g) Game and fish wardens who are certified peace officers.

(h) Police officers who are certified peace officers and fire fighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a fire fighter's sole duty shall be to perform fire fighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Fire fighters who are employed by an Indian reservation fire fighting agency.

~~(o) Police officers who are certified peace officers and who are appointed by the department of administration.~~

~~(p)~~ (o) Department of liquor licenses and control investigators who are certified peace officers.

~~(q)~~ (p) Arizona department of agriculture officers who are certified peace officers.

~~(r)~~ (q) Arizona state parks board rangers and managers who are certified peace officers.

~~(s)~~ (r) County park rangers who are certified peace officers.

25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

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

(b) An individual retirement annuity described in section 408(b) of the internal revenue code.

(c) An annuity plan described in section 403(a) of the internal revenue code.

(d) A qualified trust described in section 401(a) of the internal revenue code.

(e) An annuity contract described in section 403(b) of the internal revenue code.

(f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.

26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's beneficiary or for a specified period of ten years or more.

(b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.

(c) The portion of any distribution that is not includable in gross income.

27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status OR FIRE FIGHTER CERTIFICATION and at the option of the local board, employee may include a person who is training to become a certified peace officer OR FIRE FIGHTER.

28. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

31. "Member" means any full-time employee who meets all of the following qualifications:

(a) Who is either a paid municipal police officer, a paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, ~~a police officer who is appointed by the department of administration and who is a certified peace officer,~~ a department of liquor licenses and control investigator who is a

certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty OR, BEGINNING RETROACTIVELY TO JANUARY 1, 2009, WHO IS A POLICE CHIEF OR A FIRE CHIEF.

(b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(c) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating work weeks, whose customary employment averages at least forty hours per week.

(d) Who is engaged to work for more than six months in a calendar year.

(e) Who, if economic conditions exist, is required to take furlough days or reduce the hours of ~~their~~ THE EMPLOYEE'S normal work week below forty hours but not less than thirty hours per pay cycle, and maintain ~~their~~ THE EMPLOYEE'S active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

(f) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

32. "Normal retirement date" means:

(a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012, the first day of the calendar month immediately following ~~an~~ THE employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

(b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE.

33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a

mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

35. "Participant" means a member who is subject to a domestic relations order.

36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.

38. "Personal representative" means the personal representative of a deceased alternate payee.

39. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

40. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, fire fighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, ~~police officers who are appointed by the department of administration and who are certified peace officers,~~ department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or fire fighters who are employed by an Indian reservation fire fighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

41. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension OR, FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE AND SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

42. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

43. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid fire fighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

44. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

45. "System" means the public safety personnel retirement system established by this article.

46. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

Sec. 5. Repeal

Section 38-842, Arizona Revised Statutes, as amended by Laws 2011, chapter 27, section 25, chapter 347, section 2 and chapter 357, section 24, is repealed.

Sec. 6. Section 41-1758, Arizona Revised Statutes, as amended by Laws 2011, chapter 177, section 2 and chapter 203, section 3, is amended to read:

41-1758. Definitions

In this article, unless the context otherwise requires:

1. "Agency" means the supreme court, the department of economic security, the department of education, the department of health services, the department of juvenile corrections, the department of emergency and military

1 affairs, THE DEPARTMENT OF TRANSPORTATION, the state real estate department,
2 the board of fingerprinting or the board of examiners of nursing care
3 institution administrators and assisted living facility managers.
4 2. "Division" means the fingerprinting division in the department of
5 public safety.
6 3. "Good cause exception" means the issuance of a fingerprint
7 clearance card to an employee pursuant to section 41-619.55.
8 4. "Person" means a person who is required to be fingerprinted
9 pursuant to any of the following:
10 (a) Section 8-105.
11 (b) Section 8-322.
12 (c) Section 8-509.
13 (d) Section 8-802.
14 (e) Section 15-183.
15 (f) Section 15-503.
16 (g) Section 15-512.
17 (h) Section 15-534.
18 (i) Section 15-782.02.
19 (j) Section 15-1330.
20 (k) Section 15-1881.
21 (l) Section 26-103.
22 (m) Section 32-2108.01.
23 (n) Section 32-2123.
24 (o) SECTION 32-2371.
25 ~~(o)~~ (p) Section 36-207.
26 ~~(p)~~ (q) Section 36-411.
27 ~~(q)~~ (r) Section 36-425.03.
28 ~~(r)~~ (s) Section 36-446.04.
29 ~~(s)~~ (t) Section 36-594.01.
30 ~~(t)~~ (u) Section 36-594.02.
31 ~~(u)~~ (v) Section 36-882.
32 ~~(v)~~ (w) Section 36-883.02.
33 ~~(w)~~ (x) Section 36-897.01.
34 ~~(x)~~ (y) Section 36-897.03.
35 ~~(y)~~ (z) Section 36-3008.
36 ~~(z)~~ (aa) Section 41-619.52.
37 ~~(aa)~~ (bb) Section 41-619.53.
38 ~~(bb)~~ (cc) Section 41-1964.
39 ~~(cc)~~ (dd) Section 41-1967.01.
40 ~~(dd)~~ (ee) Section 41-1968.
41 ~~(ee)~~ (ff) Section 41-1969.
42 ~~(ff)~~ (gg) Section 41-2814.
43 ~~(gg)~~ (hh) Section 46-141, subsection A.
44 ~~(hh)~~ (ii) Section 46-321.

5. "Vulnerable adult" has the same meaning prescribed in section 13-3623.

Sec. 7. Repeal

Section 41-1758, Arizona Revised Statutes, as amended by Laws 2011, chapter 190, section 32, is repealed.

Sec. 8. Section 41-1758.01, Arizona Revised Statutes, as amended by Laws 2011, chapter 113, section 4, chapter 177, section 3 and chapter 203, section 4, is amended to read:

41-1758.01. Fingerprinting division; duties

The fingerprinting division is established in the department of public safety and shall:

1. Conduct fingerprint background checks for persons and applicants who are seeking licenses from state agencies, employment with licensees, contract providers and state agencies or employment or educational opportunities with agencies that require fingerprint background checks pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512, 15-534, 15-782.02, 15-1330, 15-1881, 17-215, 26-103, 32-2108.01, 32-2123, 32-2371, 36-207, 36-411, 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

2. Issue fingerprint clearance cards. On issuance, a fingerprint clearance card becomes the personal property of the cardholder and the cardholder shall retain possession of the fingerprint clearance card.

3. On submission of an application for a fingerprint clearance card, collect the fees established by the board of fingerprinting pursuant to section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the monies collected in the board of fingerprinting fund.

4. Inform in writing each person who submits fingerprints for a fingerprint background check of the person's right to petition the board of fingerprinting for a good cause exception pursuant to sections 41-1758.03 and 41-1758.07.

5. Administer and enforce this article.

Sec. 9. Repeal

Section 41-1758.01, Arizona Revised Statutes, as amended by Laws 2011, chapter 190, section 33, is repealed.

Sec. 10. Repeal

Laws 2010, chapter 254, section 2, as amended by Laws 2011, chapter 307, section 6, is repealed.

Sec. 11. Repeal

Laws 2011, chapter 333, section 6 is repealed.

Sec. 12. Delayed repeal

Section 41-1008.01, Arizona Revised Statutes, is repealed from and after September 30, 2016.

1 Sec. 13. Retroactivity
2 A. Section 10 of this act is effective retroactively to April 28,
3 2011.
4 B. Sections 2, 3, 4, 5, 6, 7, 8, 9, 11 and 12 of this act are
5 effective retroactively to July 20, 2011.

APPROVED BY THE GOVERNOR MARCH 21, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2012.

Passed the House March 15, 2012,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 1, 2012,

by the following vote: 22 Ayes,

8 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of March, 2012

at 1:50 o'clock P M.

Secretary to the Governor

Approved this 21st day of

March, 2012,

at 2:10 o'clock P. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22nd day of March, 2012,

at 8:14 o'clock a M.

Secretary of State

S.B. 1423