Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 111

SENATE BILL 1174

AN ACT

AMENDING SECTIONS 38-801, 38-807, 38-810, 38-816.01, 38-817 AND 38-923, ARIZONA REVISED STATUTES; RELATING TO THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-801, Arizona Revised Statutes, is amended to read:

38-801. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

5. "Average yearly salary" means the result obtained by dividing the total salary paid to an employee during a considered period by the number of years, including fractional years, in which the salary was received. The considered period shall be:

(a) For an elected official who becomes a member of the plan before January 1, 2012, the three consecutive years within the last ten completed years of credited service as an elected official that yield the highest average. If a member does not have three consecutive years of credited service as an elected official, the considered period is the member's last consecutive period of employment with a plan employer immediately before retirement.

(b) For an elected official who becomes a member of the plan on or after January 1, 2012, the five consecutive years within the last ten completed years of credited service as an elected official that yield the highest average. If a member does not have five consecutive years of credited service as an elected official, the considered period is the member's last consecutive period of employment with a plan employer immediately before retirement.

6. "Board" means the board of trustees of the system.

7. "Credited service" means the number of whole and fractional years of a member's service as an elected official after the elected official's effective date of participation for which member and employer contributions are on deposit with the fund, plus credited service transferred to the plan from another retirement system or plan for public employees of this state, plus service as an elected official before the elected official's effective date of participation that is being funded pursuant to a joinder agreement pursuant to section 38-810, subsection C and section 38-815 or service that was redeemed pursuant to section 38-816. Credited service does not include

1 periods of service for which an active member is uncompensated by the
2 employer and for which no contributions to the plan are made.
3 8. "Cure period" means the ninety-day period in which a participant or
4 alternate payee may submit an amended domestic relations order and request a
5 determination, calculated from the time the plan issues a determination
6 finding that a previously submitted domestic relations order did not qualify
7 as a plan approved domestic relations order.
8 9. "Determination" means a written document that indicates to a
9 participant and alternate payee whether a domestic relations order qualifies
10 as a plan approved domestic relations order.
11 10. "Determination period" means the ninety-day period in which the
12 plan must review a domestic relations order that is submitted by a
13 participant or alternate payee to determine whether the domestic relations
14 order qualifies as a plan approved domestic relations order, calculated from
15 the time the plan mails a notice of receipt to the participant and alternate
16 payee.
17 11. "Direct rollover" means a payment by the plan to an eligible
18 retirement plan that is specified by the distributee.
19 12. "Distributee" means a member, a member's surviving spouse or a
20 member's spouse or former spouse who is the alternate payee under a plan
21 approved domestic relations order.
22 13. "Domestic relations order" means an order of a court of this state
23 that is made pursuant to the domestic relations laws of this state and that
24 creates or recognizes the existence of an alternate payee's right to, or
25 assigns to an alternate payee the right to, receive a portion of the benefits
26 payable to a participant.
27 14. "Effective date of participation" means August 7, 1985, except with
28 respect to employers and their elected officials whose contributions to the
29 plan commence after that date, in which case the effective date of their
30 participation in the plan is specified in the applicable joinder agreement.
31 15. "Elected official" means:
32 (a) Every elected official of this state.
33 (b) Every elected official of each county of this state.
34 (c) Every justice of the supreme court.
35 (d) Every judge of the court of appeals.
36 (e) Every judge of the superior court.
37 (f) Every full-time superior court commissioner who is a member of the
38 plan before July 1 of the first fiscal year after the social security
39 administration approves the inclusion of superior court commissioners on this
40 state's section 218 agreement, except full-time superior court commissioners
41 who failed to make a timely election of membership under the judges'
42 retirement plan, repealed on August 7, 1985.
43 (g) The administrator of the board if the administrator is a natural
44 person but only if the administrator is employed by the board before January
45 1, 2012.

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

16. "Eligible child" means an unmarried child of a deceased active 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.

17. "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.

18. "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.

19. "Employer" means a department, agency or political subdivision of this state that makes employer contributions to the plan pursuant to section 38-810 on behalf of an elected official who participates in the plan.

20. "Fund" means the elected officials' retirement plan fund.

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

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

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

24. "Pension" means a series of monthly payments to a person who is entitled to receive benefits under the plan.

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

26. "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17.

~~26.~~ 27. "Plan" means the elected officials' retirement plan.

~~27.~~ 28. "Plan approved domestic relations order" means a domestic relations order that the plan approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

~~28.~~ 29. "Retired member" means a person who is being paid a pension based on the person's credited service as a member of the plan.

~~29.~~ 30. "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 plan, or a domestic relations order submitted to the plan 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.

~~30.~~ 31. "System" means the public safety personnel retirement system.

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

38-807. Survivor pensions

A. The surviving spouse of a deceased retired member shall be paid a surviving spouse's pension if the spouse was married to the member for a period of at least two consecutive years at the time of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the retired member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs. For a member who becomes a member of the plan before January 1, 2012, the amount of pension paid a surviving spouse is equal to three-fourths of the amount of the deceased retired member's pension at the time of death. For a member who becomes a member of the plan on or after January 1, 2012, the amount of pension paid a surviving spouse is equal to one-half of the amount of the deceased retired member's pension at the time of death, except that at the time of retirement a member may elect an optional form of retirement benefit, as determined by the board, that provides for an actuarially reduced pension and an increased surviving

spouse's benefit. The surviving spouse shall file a written application with the plan in order to receive the survivor benefit.

B. The surviving spouse of a deceased active or inactive member shall be paid a surviving spouse's pension if the spouse was married to the member on the date of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs. For the purposes of this subsection, for a member who becomes a member of the plan before January 1, 2012, the surviving spouse's pension shall be three-fourths of the amount calculated in the same manner as a disability pension is calculated pursuant to section 38-806. For a member who becomes a member of the plan on or after January 1, 2012, the surviving spouse's pension shall be one-half of the amount calculated in the same manner as a disability pension is calculated pursuant to section 38-806. The surviving spouse shall file a written application with the plan in order to receive the survivor benefit.

C. If the deceased retired or active or inactive member does not have an eligible surviving spouse or the pension of the eligible surviving spouse is terminated, each eligible child is entitled to receive a child's pension. A child's pension terminates if the child is adopted. In the case of a disabled child, the child's pension terminates if the child ceases to be under a disability or ceases to be a dependent of the surviving spouse or guardian. The amount of the pension of each eligible child is an equal share of the amount of the surviving spouse's pension. The surviving minor or disabled child's pension shall be paid to the person who is the legally appointed guardian or custodian of the eligible child, UNTIL THE ELIGIBLE CHILD REACHES EIGHTEEN YEARS OF AGE AT WHICH TIME THE ELIGIBLE CHILD'S PENSION SHALL BE PAID DIRECTLY TO THE ELIGIBLE CHILD SO LONG AS THE PERSON REMAINS ELIGIBLE TO RECEIVE THE PENSION AND IS NOT SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO DISABILITY OR INCAPACITY. THE PENSION OF A DISABLED CHILD WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO IS SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO DISABILITY OR INCAPACITY SHALL CONTINUE TO BE PAID TO THE GUARDIAN OR CONSERVATOR SO LONG AS THE CHILD REMAINS ELIGIBLE FOR THE PENSION PAYMENT.

D. If a member dies and no pension is payable on account of the member's death, the deceased member's accumulated contributions shall be paid to the person or persons designated by the deceased member in writing and filed with the board. If the designated person or persons do not survive the deceased member, the accumulated contributions shall be paid to the estate of the deceased member.

Sec. 3. Section 38-810, Arizona Revised Statutes, is amended to read:

38-810. <u>Contributions</u>

A. Each member shall contribute to the fund an amount equal to the amount prescribed in subsection F of this section. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to

these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for the member's services rendered during the period covered by the payment, except with respect to the benefits provided under the plan. A MEMBER MAY NOT, UNDER ANY CIRCUMSTANCE, BORROW FROM, TAKE A LOAN AGAINST OR REMOVE CONTRIBUTIONS FROM THE MEMBER'S ACCOUNT BEFORE THE TERMINATION OF MEMBERSHIP IN THE PLAN OR THE RECEIPT OF A PENSION.

B. The board's office shall be credited monthly with monies collected pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31, subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6, section 22-281, subsection C, paragraph 3 and section 41-178. The monies credited to the fund pursuant to this subsection shall be deposited in the fund on a monthly basis, and there shall be a complete accounting of the determination of these monies deposited in the fund.

C. As determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the board taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, the employer contribution rate shall not be less than ten per cent of salary. The monies deposited in the fund pursuant to subsection B of this section shall be used to reduce the contributions required of state and county employers only. Employers that entered the plan under a joinder agreement shall also contribute an amount equal to the unfunded accrued liability for that employer. The unfunded liability for each new employer shall be actuarially determined by the plan's actuary as of the effective date of participation of each employer and shall be payable on the effective date of participation. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund contains excess valuation assets and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization

reserve account, to the extent available, to limit the decline in the fund's funding ratio to not more than two per cent.

D. The department of administration and the treasurer of each county and participating city and town shall transfer to the board the contributions provided for in subsections A and C of this section within ten working days after each payroll date. The state, county treasurers and clerks of the superior court shall transfer the monies credited under subsection B of this section to the board on or before the fifteenth day of each calendar month that follows the month in which the court fees were collected. Contributions and monies credited under subsection B of this section and transferred after these dates shall include a penalty equal to ten per cent a year, compounded annually, for each day that the contributions or monies credited under subsection B of this section are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or, at the request of the board, may be deducted from any other monies, including excise revenue taxes, payable to a political subdivision by any department or agency of this state. If requested by the board, the state, county treasurers or clerks of the superior court shall transfer the monies credited under subsection B of this section, in an amount determined by the board, directly to the qualified governmental excess benefit arrangement established pursuant to section 38-803.01.

E. The employer shall pay the member contributions required of members on account of compensation earned after August 7, 1985. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the United States internal revenue code. The effective date of the employer payment shall not be before the date the retirement plan has received notification from the United States internal revenue service that pursuant to section 414(h) of the United States internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or pension payments. The employer shall pay the member contributions from monies established and available in the retirement deduction account, which monies would otherwise have been designated as member contributions and paid to the retirement plan. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before August 7, 1985.

F. The amount contributed by a member pursuant to subsection A of this section is:

1. Through June 30, 2011, seven per cent of the member's gross salary.

2. For fiscal year 2011-2012, ten per cent of the member's gross salary.

3. For fiscal year 2012-2013, eleven and one-half per cent of the member's gross salary.

4. For fiscal year 2013-2014 and each fiscal year thereafter, thirteen per cent of the member's gross salary or 33.3 per cent of the sum of the member's contribution rate from the preceding fiscal year and the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability for the employer as calculated pursuant to subsection C of this section, whichever is lower, except that the member contribution rate shall not be less than seven per cent of the member's compensation and the employer contribution rate shall not be less than the rate prescribed in subsection C of this section.

G. For fiscal year 2011-2012 and each fiscal year thereafter, the amount of the member's contribution that exceeds seven per cent of the member's compensation shall not be used to reduce the employer's contributions that are calculated pursuant to subsection C of this section.

Sec. 4. Section 38-816.01, Arizona Revised Statutes, is amended to read:

38-816.01. <u>Purchase of service; payment</u>

A member who purchases service pursuant to this article or section 38-922 OR 38-924 shall make payments directly to the plan in whole or in part by any one or a combination of the following methods:

1. In lump sum payments.

2. Through an arrangement with the plan that the payments be made in installment payments over a period of time.

3. Subject to the limitations prescribed in sections 401(a)(31) and 402(c) of the internal revenue code, accepting a direct transfer of any eligible rollover distribution or a contribution by a member of an eligible rollover distribution from one or more:

(a) Retirement programs that are qualified under section 401(a) or 403(a) of the internal revenue code.

(b) Annuity contracts described in section 403(b) of the internal revenue code.

(c) Eligible deferred compensation plans described in section 457(b) of the internal revenue code that are 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.

4. Subject to the limitations prescribed in section 408(d)(3)(A)(ii) of the internal revenue code, accepting from a member a rollover contribution of that portion of a distribution from an individual retirement account or individual retirement annuity described in section 408(a) or 408(b) of the internal revenue code that is eligible to be rolled over and would otherwise be includable as gross income.

Sec. 5. Section 38-817, Arizona Revised Statutes, is amended to read:

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

A. Upon notification, the board shall pay from the assets of the ~~fund~~ SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the plan who receives a pension if the retired member had eight or more years of credited service under the plan. In order to qualify for payment pursuant to this subsection, the retired member or survivor shall elect single coverage and must have elected to participate in the coverage provided in section 38-651.01 or 38-782 or any other RETIREE health and accident insurance coverage provided or administered by an employer. The board shall pay up to:

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

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

B. Upon notification, the board shall pay from the assets of the ~~fund~~ SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of the family coverage premium of any group health and accident insurance each month for a retired member or survivor who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. The board shall pay up to:

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

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

3. Two hundred fifteen dollars per month if either:

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

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

C. Each retired member or survivor of the plan with less than eight years of credited service and a dependent of such a retired member or survivor who participates in the coverage provided by section 38-651.01 or 38-782 or who participates in any other RETIREE health and accident insurance coverage provided or administered by an employer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

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

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

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

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

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

E. A retired member or survivor of the plan may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's former employer if that former employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the plan. ~~This provision does not apply to a retired member or survivor of the system who is reemployed and who participates in health care coverage provided by the member's or survivor's new employer.~~

F. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE PLAN WHO BECOMES A RETIRED MEMBER OR SURVIVOR ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

G. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT THAT CONSISTS OF THE BENEFITS PROVIDED IN THIS SECTION. THE BOARD SHALL DEPOSIT THE BENEFITS PROVIDED BY THIS SECTION IN THE ACCOUNT. THE BOARD SHALL NOT USE OR DIVERT ANY PART OF THE CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN THE PROVISION OF BENEFITS PURSUANT TO THIS SECTION UNLESS THE LIABILITIES TO PROVIDE THE BENEFITS PURSUANT TO THIS SECTION ARE SATISFIED. IF THE LIABILITIES TO PROVIDE THE BENEFITS DESCRIBED IN THIS SECTION ARE SATISFIED, THE BOARD SHALL RETURN ANY AMOUNT REMAINING IN THE ACCOUNT TO THE EMPLOYER.

H. PAYMENT OF THE BENEFITS PROVIDED BY THIS SECTION IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. THE PAYMENT OF THE BENEFITS IS SUBORDINATE TO THE PAYMENT OF RETIREMENT BENEFITS PAYABLE BY THE PLAN.

2. THE TOTAL OF CONTRIBUTIONS FOR THE BENEFITS AND ACTUAL CONTRIBUTIONS FOR LIFE INSURANCE PROTECTION, IF ANY, SHALL NOT EXCEED TWENTY-FIVE PER CENT OF THE TOTAL ACTUAL EMPLOYER AND EMPLOYEE CONTRIBUTIONS TO THE PLAN, MINUS THE CONTRIBUTIONS TO FUND PAST SERVICE CREDITS, AFTER THE DAY THE ACCOUNT IS ESTABLISHED.

3. THE CONTRIBUTIONS BY THE EMPLOYER TO THE ACCOUNT SHALL BE REASONABLE AND ASCERTAINABLE.

Sec. 6. Section 38-923, Arizona Revised Statutes, is amended to read:

38-923. <u>Transfer of service credits between municipal retirement systems and special retirement plans; definitions</u>

A. An active or inactive member of a retirement system or plan of a municipality of this state or the public safety personnel retirement system who becomes a member of one or the other of these retirement systems or plans may transfer service credits from the member's prior retirement system or plan to the member's current retirement system or plan pursuant to section 38-924 if all of the following conditions are met:

1. The board governing the retirement system or plan from which the service credits are being transferred ~~mutually agrees with~~ AND the board governing the retirement system or plan to which the service credits are being transferred ~~regarding~~ APPROVE the terms of the transfer.

2. The transfer does not cause either the retirement system or plan to which the transfer is made or the retirement system or plan from which the transfer is made to incur any unfunded accrued liabilities as a result of the transfer.

3. The member initiates the transfer by making written application to the governing board of the retirement system or plan to which the member is contributing.

B. An active or inactive member of a retirement system or plan of a municipality of this state or the corrections officer retirement plan who becomes a member of one or the other of these retirement systems or plans may transfer service credits from the member's prior retirement system or plan to the member's current retirement system or plan pursuant to section 38-924 if all of the following conditions are met:

1. The board governing the retirement system or plan from which the service credits are being transferred ~~mutually agrees with~~ AND the board governing the retirement system or plan to which the service credits are being transferred ~~regarding~~ APPROVE the terms of the transfer.

2. The transfer does not cause either the retirement system or plan to which the transfer is made or the retirement system or plan from which the transfer is made to incur any unfunded accrued liabilities as a result of the transfer.

3. The member initiates the transfer by making written application to the governing board of the retirement system or plan to which the member is contributing.

C. AN ACTIVE OR INACTIVE MEMBER OF A RETIREMENT SYSTEM OR PLAN OF A MUNICIPALITY OF THIS STATE OR OF THE ELECTED OFFICIALS' RETIREMENT PLAN WHO BECOMES A MEMBER OF ONE OR THE OTHER OF THESE RETIREMENT SYSTEMS OR PLANS MAY TRANSFER SERVICE CREDITS FROM THE MEMBER'S PRIOR RETIREMENT SYSTEM OR PLAN TO THE MEMBER'S CURRENT RETIREMENT SYSTEM OR PLAN PURSUANT TO SECTION 38-924 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1. THE BOARD GOVERNING THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE SERVICE CREDITS ARE BEING TRANSFERRED AND THE BOARD GOVERNING THE RETIREMENT SYSTEM OR PLAN TO WHICH THE SERVICE CREDITS ARE BEING TRANSFERRED APPROVE THE TERMS OF THE TRANSFER.

2. THE TRANSFER DOES NOT CAUSE EITHER THE RETIREMENT SYSTEM OR PLAN TO WHICH THE TRANSFER IS MADE OR THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE TRANSFER IS MADE TO INCUR ANY UNFUNDED ACCRUED LIABILITIES AS A RESULT OF THE TRANSFER.

3. THE MEMBER INITIATES THE TRANSFER BY MAKING WRITTEN APPLICATION TO THE GOVERNING BOARD OF THE RETIREMENT SYSTEM OR PLAN TO WHICH THE MEMBER IS CONTRIBUTING.

~~C.~~ D. For the purposes of this section:

1. "Active member" means a member who satisfies the eligibility criteria of the retirement system or plan and who is currently making member contributions to or receiving credited service from the retirement system or plan.

2. "Inactive member" means a member of the retirement system or plan who previously made contributions to the retirement system or plan and who satisfies each of the following:

(a) Has not retired.

(b) Is not eligible for active membership in the retirement system or plan.

(c) Is not currently making contributions to the retirement system or plan.

(d) Has not withdrawn contributions from the retirement system or plan.

3. "Municipality" means a city in this state with a population of more than five hundred thousand persons.

APPROVED BY THE GOVERNOR APRIL 16, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.

Passed the House April 4, 2013, by the following vote: 59 Ayes, 0 Nays, 1 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 18, 2013, by the following vote: 30 Ayes, 0 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
15 day of April, 2013,
at 2:35 o'clock P M.

Mikhaila Howard
Secretary to the Governor

Approved this 16th day of April, 2013
at 3:36 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 17th day of April, 2013,
at 8:41 o'clock A M.

Secretary of State

S.B. 1174