

Senate Engrossed

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

State of Arizona  
Senate  
Fifty-second Legislature  
First Regular Session  
2015

CHAPTER 36

## **SENATE BILL 1095**

AN ACT

AMENDING SECTION 15-1451, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGES.

(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 7, a community  
6 college district board may establish an optional retirement program under  
7 which contracts providing retirement and death benefits may be purchased for  
8 employees of the institutions under its jurisdiction as designated by the  
9 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 D. If an employee who is a NONRETIRED member of the Arizona state  
35 retirement system elects to participate in an optional retirement program  
36 pursuant to subsection C of this section, the Arizona state retirement system  
37 shall transfer the employee's contributions to the Arizona state retirement  
38 system and interest as determined by the board of the Arizona state  
39 retirement system to the optional retirement program within the later of  
40 ninety days after the election or ninety days after receipt by the optional  
41 retirement program of a favorable letter of determination issued by the  
42 United States internal revenue service. If an eligible employee fails to  
43 make an election as provided in subsection C of this section, the employee is  
44 deemed to have elected to participate in the Arizona state retirement system.  
45 The election to participate in an optional retirement program is irrevocable

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

6 E. The community college district board shall make contributions from  
7 public monies appropriated or any other monies available for this purpose on  
8 behalf of each participant in the optional retirement program in an amount  
9 that is at least equal to the employer contribution prescribed in title 38,  
10 chapter 5, article 2.

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

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

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

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

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

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

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

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

APPROVED BY THE GOVERNOR MARCH 23, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2015.

Passed the House March 18, 20 15,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 9, 20 15,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
19th day of March, 20 15,

at 2:09 o'clock P. M.

[Signature]  
Secretary to the Governor

Approved this 23rd day of  
March, 20 15,

at 10:54 o'clock A. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 23rd day of March, 20 15,

at 2:50 o'clock P. M.

[Signature]  
Secretary of State

S.B. 1095