House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

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

CHAPTER 63

SENATE BILL 1055

AN ACT

AMENDING SECTIONS 38-801, 38-804, 38-817, 38-819 AND 38-820, 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 38-815 or service that was redeemed pursuant to section 38-816. Credited service does not include periods of service for which an

active member is uncompensated by the employer and for which no contributions to the plan are made.

8. "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 plan issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

9. "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.

10. "Determination period" means the ninety-day period in which the plan 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 plan mails a notice of receipt to the participant and alternate payee.

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

12. "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.

13. "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.

14. "Effective date of participation" means August 7, 1985, except with respect to employers and their elected officials whose contributions to the plan commence after that date, in which case the effective date of their participation in the plan is specified in the applicable joinder agreement.

15. "Elected official" means:

(a) Every elected official of this state who was a member of the plan on December 31, 2013.

(b) Every elected official of each county of this state who was a member of the plan on December 31, 2013.

(c) Every justice of the supreme court, every judge of the court of appeals, every judge of the superior court and every full-time superior court commissioner, except full-time superior court commissioners who failed to make a timely election of membership under the judges' retirement plan, repealed on August 7, 1985, who was a member of the plan on December 31, 2013.

(d) The administrator of the board if the administrator is a natural person but only if the administrator is employed by the board before January 1, 2012.

(e) Each elected official of an incorporated city or town whose employer has executed a proper joinder agreement for coverage of its elected officials and who was a member of the plan on December 31, 2013.

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.

(d) ANY DISTRIBUTION MADE TO SATISFY THE REQUIREMENTS OF SECTION 415 OF THE INTERNAL REVENUE CODE.

(e) HARDSHIP DISTRIBUTIONS.

(f) SIMILAR ITEMS DESIGNATED BY THE COMMISSIONER OF THE UNITED STATES INTERNAL REVENUE SERVICE IN REVENUE RULINGS, NOTICES AND OTHER GUIDANCE PUBLISHED IN THE INTERNAL REVENUE BULLETIN.

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.

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

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.

29. "PLAN YEAR" OR "FISCAL YEAR" MEANS THE PERIOD BEGINNING ON JULY 1 OF ANY YEAR AND ENDING ON JUNE 30 OF THE NEXT SUCCEEDING YEAR.

~~29.~~ 30. "Retired member" means a person who is being paid a pension based on the person's credited service as a member of the plan.

~~30.~~ 31. "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.

~~31.~~ 32. "System" means the public safety personnel retirement system.

Sec. 2. Section 38-804, Arizona Revised Statutes, is amended to read:

38-804. <u>Membership; termination; definition</u>

A. Except as otherwise provided in this section, all elected officials are members of the plan, except that a state elected official who is subject to term limits may elect not to participate in the plan. The state elected official who is subject to term limits shall make the election in writing and file the election with the board within thirty days after the state elected official assumes office. The election is effective on the first day of the

state elected official's eligibility for that term of office. The election not to participate is specific for that term of office. If a state elected official who is subject to term limits fails to make an election as provided in this subsection, the state elected official is deemed to have elected to participate in the plan. The election not to participate in the plan is irrevocable and constitutes a waiver of all benefits provided by the plan for the state elected official's entire term, except for any benefits accrued by the state elected official in the plan for periods of participation before being elected to an office subject to term limits or any benefits expressly provided by law. The state elected official who elects not to participate in the plan shall participate in the Arizona state retirement system unless the state elected official makes an irrevocable election not to participate in the Arizona state retirement system as provided in section 38-727.

B. All elected officials who are members of the plan on December 31, 2013 may remain members of the plan under the terms and limitations of this article.

C. If a member who becomes a member of the plan before January 1, 2012 ceases to hold office for any reason other than death or retirement, within twenty days after filing a completed application with the board, the member is entitled to receive the following amounts, less any benefit payments the member has received and any amount the member may owe to the plan:

1. If the member has less than five years of credited service with the plan, the member may withdraw the member's accumulated contributions from the plan.

2. If the member has five or more years of credited service with the plan, the member may withdraw the member's accumulated contributions plus an amount equal to the amount determined as follows:

(a) 5.0 to 5.9 years of credited service, twenty-five ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(b) 6.0 to 6.9 years of credited service, forty ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(c) 7.0 to 7.9 years of credited service, fifty-five ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(d) 8.0 to 8.9 years of credited service, seventy ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(e) 9.0 to 9.9 years of credited service, eighty-five ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(f) 10.0 or more years of credited service, one hundred ~~per cent~~ PERCENT of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

D. If a member has more than ten years of credited service with the plan, leaves the monies prescribed in subsection C of this section on account with the plan for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the amount prescribed in subsection B of this section plus interest at a rate determined by the board for each year computed from and after the member's termination of employment.

E. If an elected official who becomes a member of the plan on or after January 1, 2012 ceases to hold office for any reason other than death or retirement, within twenty days after filing a completed application with the board, the member may withdraw the member's accumulated contributions from the plan and shall be paid the member's accumulated contributions plus interest at a rate determined by the board as of the date of termination, less any benefit payments the member has received and any amount the member may owe to the plan.

F. If the amount prescribed in subsection C, D or E of this section includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the board. A member who receives the amount prescribed in subsection C, D or E of this section from the plan or who elects a transfer pursuant to this subsection forfeits the member's credited service, and all rights to benefits under the plan and membership in the plan terminate.

G. FOR DISTRIBUTIONS OCCURRING FROM AND AFTER DECEMBER 31, 2007, A MEMBER OR A MEMBER'S BENEFICIARY, INCLUDING A NONSPOUSE DESIGNATED BENEFICIARY TO THE EXTENT PERMITTED UNDER SUBSECTION H OF THIS SECTION, MAY ROLLOVER AN ELIGIBLE ROLLOVER DISTRIBUTION AS DEFINED IN SECTION 402(c)(4) OF THE INTERNAL REVENUE CODE TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT, IF, FOR DISTRIBUTIONS OCCURRING BEFORE JANUARY 1, 2010, THE MEMBER OR THE MEMBER'S BENEFICIARY SATISFIES THE REQUIREMENTS FOR MAKING A ROTH INDIVIDUAL RETIREMENT ACCOUNT CONTRIBUTION UNDER SECTION 408A(c)(3)(B) OF THE INTERNAL REVENUE CODE, AS IN EFFECT ON THE DATE OF THE ROLLOVER. ANY AMOUNT ROLLED OVER TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT IS INCLUDED IN THE GROSS INCOME OF THE MEMBER OR THE MEMBER'S BENEFICIARY TO THE EXTENT THE AMOUNTS WOULD HAVE BEEN INCLUDED IN GROSS INCOME IF NOT ROLLED OVER AS REQUIRED UNDER SECTION 408A(d)(3)(A) OF THE INTERNAL REVENUE CODE. FOR THE PURPOSES OF THIS SUBSECTION, THE ADMINISTRATOR IS NOT RESPONSIBLE FOR ENSURING THE MEMBER OR THE MEMBER'S BENEFICIARY IS ELIGIBLE TO MAKE A ROLLOVER TO A ROTH INDIVIDUAL RETIREMENT ACCOUNT.

H. FOR DISTRIBUTIONS MADE FROM AND AFTER DECEMBER 31, 2009, A NONSPOUSE DESIGNATED BENEFICIARY AS DEFINED IN SECTION 401(a)(9)(E) OF THE INTERNAL REVENUE CODE MAY ELECT TO DIRECTLY ROLLOVER AN ELIGIBLE ROLLOVER DISTRIBUTION TO AN INDIVIDUAL RETIREMENT ACCOUNT UNDER SECTION 408(a) OF THE INTERNAL REVENUE CODE OR AN INDIVIDUAL RETIREMENT ANNUITY UNDER SECTION 408(b) OF THE INTERNAL REVENUE CODE THAT IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED INDIVIDUAL RETIREMENT PLAN PURSUANT TO SECTION 402(c)(11) OF THE INTERNAL REVENUE CODE. IN ORDER TO BE ABLE TO ROLLOVER THE DISTRIBUTION, THE DISTRIBUTION OTHERWISE MUST SATISFY THE DEFINITION OF AN ELIGIBLE ROLLOVER DISTRIBUTION AS DEFINED IN SECTION 402(c)(4) OF THE INTERNAL REVENUE CODE. IN APPLYING THIS SUBSECTION, A NONSPOUSE ROLLOVER IS NOT SUBJECT TO THE DIRECT ROLLOVER REQUIREMENTS UNDER SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE, THE ROLLOVER NOTICE REQUIREMENTS UNDER SECTION 402(f) OF THE INTERNAL REVENUE CODE OR THE MANDATORY WITHHOLDING REQUIREMENTS UNDER SECTION 3405(c) OF THE INTERNAL REVENUE CODE.

I. FOR PLAN YEARS OCCURRING BEFORE JANUARY 1, 2007, THE PERIOD FOR PROVIDING THE ROLLOVER NOTICE AS REQUIRED UNDER SECTION 402(f) OF THE INTERNAL REVENUE CODE IS NO LESS THAN THIRTY DAYS AND NO MORE THAN NINETY DAYS BEFORE THE DATE OF DISTRIBUTION AND, FOR PLAN YEARS BEGINNING FROM AND AFTER DECEMBER 31, 2006, THE PERIOD FOR PROVIDING THE ROLLOVER NOTICE AS REQUIRED UNDER SECTION 402(f) OF THE INTERNAL REVENUE CODE IS NO LESS THAN THIRTY DAYS AND NO MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE DATE OF DISTRIBUTION.

~~G.~~ J. In no case shall more than twelve months of credited service be credited on account of all service rendered by a member in any one year.

~~H.~~ K. If an elected official who has terminated the member's membership in the plan pursuant to subsection C of this section is subsequently elected, appointed or hired on or after January 1, 2014, the elected official is not eligible to become a member of the plan but is subject to article 3.1 of this chapter.

~~I.~~ L. Notwithstanding subsection ~~H~~ K of this section, if an elected official files a written election form with the board within ninety days after the day of the member's reemployment as an elected official and repays the amount previously withdrawn pursuant to subsection C or D of this section within one year after the date of the member's reemployment as an elected official, with interest on that amount at the rate of nine per cent for each year, compounded each year from the date of withdrawal to the date of repayment, credited service shall be restored. Credited service shall not be restored until complete repayment is made to the fund.

~~J.~~ M. An elected official who is elected, appointed or hired on or after January 1, 2014 and who was not a member of the plan on December 31, 2013 is not eligible to become a member of the plan but is subject to article 3.1 of this chapter.

~~K.~~ N. If a retired member subsequently becomes an elected official, contributions shall not be made by the retired member and credited service shall not accrue while the retired member is holding office.

~~L.~~ O. In addition to subsection ~~K~~ N of this section, if a retired member subsequently becomes, by reason of election or reelection, an elected official of the same office from which the member retired within a time period following the member's retirement that is less than one full term for that office, the member shall not receive a pension. If the elected official ceases to hold the same office, the elected official is entitled to receive the same pension the elected official was receiving when the elected official's pension was discontinued pursuant to this subsection. Nothing in this subsection prohibits a retired judge called by the supreme court to active duties of a judge pursuant to section 38-813 from receiving retirement benefits.

Sec. 3. Section 38-817, Arizona Revised Statutes, is amended to read:

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

A. ~~Upon~~ ON notification, the board shall pay from the assets of the 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~~ ON notification, the board shall pay from the assets of the 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~~ PERCENT.

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

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

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.

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~~ SEPTEMBER 13, 2013 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~~ PERCENT 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.

I. IF A MEMBER WHO IS ELIGIBLE FOR BENEFITS UNDER THIS SECTION FORFEITS THE MEMBER'S INTEREST IN THE ACCOUNT BEFORE THE TERMINATION OF THE PLAN, AN AMOUNT EQUAL TO THE AMOUNT OF THE FORFEITURE SHALL BE APPLIED AS SOON AS POSSIBLE TO REDUCE EMPLOYER CONTRIBUTIONS TO FUND THE BENEFITS PROVIDED BY THIS SECTION.

Sec. 4. Section 38-819, Arizona Revised Statutes, is amended to read:

38-819. Lump sum payment of benefit increases

Notwithstanding any provision of this article, the board, at the request of a retired member, a survivor or the retired member's or survivor's guardian or conservator, may pay any increase in retirement benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. ~~Lump sum payments made pursuant to this section are eligible for a direct rollover distribution.~~

Sec. 5. Section 38-820, Arizona Revised Statutes, is amended to read:

38-820. Credit for military service

A. A member of the plan who has at least ten years of credited service with the plan may receive credited service for periods of active military service performed before employment with the member's current employer if:

1. The member was honorably separated from the military service.

2. The period of military service for which the member receives credited service does not exceed sixty months.

3. The period of military service for which the member receives credited service is not on account with any other retirement system, except as provided by 10 United States Code section 12736 or except if the member is not yet eligible for a military retirement benefit.

4. The member pays the cost to purchase the prior active military service. The cost is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the additional credited service.

5. The amount of benefits purchased pursuant to this subsection is subject to limits established by section 415 of the internal revenue code.

B. An active member of the plan who volunteers or is ordered to perform military service may receive credited service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act (38 United States Code part III, chapter 43). The member's employer shall make employer contributions and the member shall make the member contributions pursuant to subsection C of this section if the member meets the following requirements:

1. Was an active member of the plan on the day before the member began military service.

2. Entered into and served in the armed forces of the United States or is a member of the national guard.

3. Complies with the notice and return to work provisions of 38 United States Code section 4312.

C. Contributions made pursuant to subsection B of this section shall be for the period of time beginning on the date the member began military service and ending on the later of one of the following dates:

1. The date the member is separated from military service.

2. The date the member is released from service related hospitalization or two years after initiation of service related hospitalization, whichever date is earlier.

3. The date the member dies as a result of or during military service.

D. Notwithstanding any other law, on payment of the contributions made pursuant to subsection B of this section, the member shall be credited with service for retirement purposes for the period of military service of not more than sixty months. The member shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the member's application when applying for credited service corresponding to the period of military service.

E. The employer and the member shall make contributions pursuant to subsection B of this section as follows:

1. Contributions shall be based on the compensation that the member would have received but for the period that the member was ordered into active military service.

2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into military service, contributions shall be based on the member's average rate of compensation during the twelve-month period immediately preceding the period of military service.

3. If a member has been employed less than twelve months before being ordered into military service, contributions shall be based on the member's compensation being earned immediately preceding the period of military service.

4. The member has up to three times the length of military service, not to exceed sixty months, to make the member contributions. Once the member has made the member contributions or on receipt of the member's death certificate, the employer shall make the employer contributions in a lump sum. Death benefits shall be calculated as prescribed by law.

5. If the member's employer pays military differential wage pay to members serving in the military, contributions shall be paid to the plan pursuant to section 38-810 for any military differential wage pay paid to the member while performing military service.

F. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.

G. If a member performs military service due to a presidential call-up, not to exceed forty-eight months, the employer shall make the employer and member contributions computed pursuant to subsection E of this section on the member's return and in compliance with subsection B of this section.

H. In addition to, but not in duplication of, ~~the provisions of~~ subsection B of this section, beginning December 12, 1994 contributions, benefits and credited service provided pursuant to this section shall be provided pursuant to section 414(u) of the internal revenue code, and this section shall be interpreted in a manner consistent with that internal revenue code section.

I. FOR PLAN YEARS BEGINNING AFTER DECEMBER 31, 2008, A MEMBER WHO DOES NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY REASON OF QUALIFIED MILITARY SERVICE AS DEFINED IN SECTION 414(u)(5) OF THE INTERNAL REVENUE CODE IS NOT CONSIDERED HAVING A SEVERANCE FROM EMPLOYMENT DURING THAT QUALIFIED MILITARY SERVICE. ANY PAYMENTS BY THE EMPLOYER TO THE MEMBER DURING THE QUALIFIED MILITARY SERVICE SHALL BE CONSIDERED COMPENSATION TO THE EXTENT THOSE PAYMENTS DO NOT EXCEED THE AMOUNTS THE MEMBER WOULD HAVE RECEIVED IF THE MEMBER HAD CONTINUED TO PERFORM SERVICES FOR THE EMPLOYER RATHER THAN ENTERING QUALIFIED MILITARY SERVICE.

J. FOR DEATHS OCCURRING FROM AND AFTER DECEMBER 31, 2006, IN THE CASE OF A MEMBER WHO DIES WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED IN SECTION 414(u)(5) OF THE INTERNAL REVENUE CODE, THE SURVIVORS OF THE MEMBER ARE ENTITLED TO ANY BENEFITS, OTHER THAN BENEFIT ACCRUALS RELATING TO THE PERIOD OF QUALIFIED MILITARY SERVICE, PROVIDED UNDER THE PLAN AS THOUGH THE MEMBER RESUMED AND THEN TERMINATED EMPLOYMENT ON ACCOUNT OF DEATH.

Sec. 6. Retroactivity

Section 38-817, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after May 15, 1990.

APPROVED BY THE GOVERNOR MARCH 26, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 27, 2015.

Passed the House March 17, 2015,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Speaker of the House

Norma Chastain

Assistant Chief Clerk of the House

Passed the Senate January 29, 2015,

by the following vote: 28 Ayes,

0 Nays, 2 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

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1055

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate March 24, **20** 15

by the following vote: 28 **Ayes,**

0 **Nays,** 2 **Not Voting**

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

24th **day of** March, **20** 15

at 4:27 **o'clock** P. **M.**

Secretary to the Governor

Approved this 26th **day of**

March

at 11:41 **o'clock** A. **M.**

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 27th **day of** March, **20** 15

S.B. 1055

at 9:00 **o'clock** A **M.**

Secretary of State