House Engrossed Senate Bill

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MICHELE REAGAN
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CHAPTER 64

SENATE BILL 1057

AN ACT

AMENDING SECTIONS 38-842, 38-844.08, 38-845, 38-846.02, 38-856.01, 38-857 AND 38-858, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-842, Arizona Revised Statutes, 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 classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "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.

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

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

6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.

7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. For an employee who becomes a member of the system before January 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. For an employee who becomes a member of the system on or after January 1, 2012, the considered period is the five consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.

9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

10. "Certified peace officer" means a peace officer certified by the Arizona peace officer standards and training board.

11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and holiday pay paid to an employee by the employer for the employee's performance of services in an eligible group 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 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 or a joint powers authority pursuant to section 48-805.01 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) Department of liquor licenses and control investigators who are certified peace officers.

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

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

(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.

(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.

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, joint powers authorities, 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 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 the employee's normal work week below forty hours but not less than thirty hours per pay cycle, and maintain 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 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. "Physician" means a physician who is licensed pursuant to title 32, chapter 13 or 17.

40. "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.

41. "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.

~~41.~~ 42. "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, 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.

~~42.~~ 43. "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.

~~43.~~ 44. "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.

~~44.~~ 45. "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~~ PERCENT 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.

~~45.~~ 46. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

~~46.~~ 47. "System" means the public safety personnel retirement system established by this article.

~~47.~~ 48. "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. 2. Section 38-844.08, Arizona Revised Statutes, is amended to read:

38-844.08. Payment of deferred retirement option plan benefits

A. On the simultaneous termination of deferred retirement option plan participation and employment, a member is entitled to receive all of the following:

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

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

3. Interest on the amount credited pursuant to section 38-844.05, subsection C, paragraph 3 at a rate equal to two ~~per cent~~ PERCENT but only if the average annual return of the system over the period of years established by the board for use in the calculation of the actuarial value of assets is at least two ~~per cent~~ PERCENT for the previous fiscal year.

B. The form of payment shall be a lump sum distribution. ~~If allowed by the internal revenue service, the participant may elect to transfer the lump sum distribution to an eligible retirement plan or individual retirement account.~~ THE MEMBER OR THE MEMBER'S BENEFICIARY MAY MAKE A DIRECT ROLLOVER OF THE LUMP SUM DISTRIBUTION TO AN ELIGIBLE RETIREMENT PLAN UNDER THE SAME RULES SPECIFIED IN SECTION 38-846.02, SUBSECTIONS E, F AND G.

Sec. 3. Section 38-845, Arizona Revised Statutes, is amended to read:

38-845. Amount of retirement benefit

A. A member who meets the requirements for a normal pension, who becomes a member of the system before January 1, 2012 and who has twenty years of credited service shall receive a monthly amount that equals fifty ~~per cent~~ PERCENT of the member's average monthly benefit compensation. If the member retires with other than twenty years of credited service, the foregoing amount shall be:

1. Reduced by four ~~per cent~~ PERCENT for each year of credited service under twenty years, with pro rata reduction for any fractional year.

2. Increased by a monthly amount equal to two ~~per cent~~ PERCENT of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata

increase for any fractional year, except that if a member retires with twenty-five or more years of credited service the amount shall be increased by a monthly amount equal to two and one-half ~~per cent~~ PERCENT of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year. Notwithstanding ~~the provisions of~~ this subsection, the maximum amount payable as a normal pension shall be eighty ~~per cent~~ PERCENT of the average monthly benefit compensation.

B. A member who meets the requirements for an accidental disability pension shall receive a monthly amount, which shall be computed in the same manner as a normal pension, using the member's average monthly benefit compensation before termination of employment and the member's actual credited service or twenty years of credited service, whichever is greater.

C. A member who meets the requirements for an ordinary disability pension shall receive a monthly amount that is equal to a fraction times the member's normal pension that is computed according to subsection A or G OF THIS SECTION if the member had twenty years of credited service. The fraction is the result obtained by dividing the member's actual years of credited service, not to exceed twenty years of credited service, by twenty.

D. A member who meets the requirements for a temporary disability pension shall receive a monthly amount that is equal to one-twelfth of fifty ~~per cent~~ PERCENT of the member's annual compensation received immediately prior to the date on which the member's disability was incurred.

E. A member who meets the requirements for a catastrophic disability pension is entitled to receive a monthly amount computed as follows:

1. For the first sixty months, ninety ~~per cent~~ PERCENT of the member's average monthly benefit compensation before termination of employment.

2. After sixty months, sixty-two and one-half ~~per cent~~ PERCENT of the member's average monthly benefit compensation before termination of employment or computed in the same manner as a normal pension using the member's average monthly benefit compensation before termination of employment and the member's actual credited service, whichever is greater.

F. A member who was employed before September 15, 1989 by an employer participating in the system and who retires on or after November 1, 2001 is entitled to receive a tax equity benefit allowance consisting of a permanent increase of two ~~per cent~~ PERCENT of the member's base benefit retroactive to the day of retirement.

G. A member who meets the requirements for a normal pension, who becomes a member of the system on or after January 1, 2012 and who has twenty-five years of credited service shall receive a monthly amount that equals sixty-two and one-half ~~per cent~~ PERCENT of the member's average monthly benefit compensation. If the member retires with other than twenty-five years of credited service, the foregoing amount shall be:

1. Reduced by four ~~per cent~~ PERCENT for each year of credited service under twenty-five years, with pro rata reduction for any fractional year.

2. Increased by a monthly amount equal to two and one-half ~~per cent~~ PERCENT of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty-five years, with pro rata increase for any fractional year. Notwithstanding ~~the provisions of~~ this subsection, the maximum amount payable as a normal pension shall be eighty ~~per cent~~ PERCENT of the average monthly benefit compensation.

~~H. In addition to the amounts received under subsection A, B, C, D, E or G and subject to the approval of the employer, the pension includes the ability of a member to purchase the handgun or shotgun issued by the employer to the member at less than fair market value.~~

Sec. 4. Section 38-846.02, Arizona Revised Statutes, is amended to read:

38-846.02. Termination of membership

A. On termination of employment for any reason other than death or retirement, within twenty days after filing a completed application with the board, a member who becomes a member of the system before January 1, 2012 is entitled to receive the following amounts, less any benefit payments the member has received or any amount the member may owe to the system:

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

2. If the member has five or more years of credited service with the system, 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 38-843, subsection C.

(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 38-843, subsection C.

(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 38-843, subsection C.

(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 38-843, subsection C.

(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 38-843, subsection C.

(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 38-843, subsection C.

B. If a member who becomes a member of the system before January 1, 2012 has more than ten years of credited service with the system, leaves the monies prescribed in subsection A of this section on account with the system

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 A 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.

C. On termination of employment for any reason other than death or retirement, within twenty days after filing a completed application with the board, a member who becomes a member of the system on or after January 1, 2012 is entitled to receive a lump sum payment equal to the member's accumulated contribution plus interest at a rate determined by the board as of the date of termination, less any benefit payments the member has received as of the date of termination or any amount the member may owe to the system.

D. If the amount prescribed in subsection A, B or C 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 withdraws the amount prescribed in subsection A, B or C of this section from the system or who elects a transfer pursuant to this section forfeits all rights to benefits under the system and rights to rehearing and appeal, except as provided in section 38-849.

E. 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 F 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.

F. 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.

G. 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.

Sec. 5. Section 38-856.01, Arizona Revised Statutes, is amended to read:

38-856.01. <u>Lump sum payment of benefit increases</u>

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. 6. Section 38-857, Arizona Revised Statutes, is amended to read:

38-857. <u>Group health and accident coverage for retired members; payment; forfeiture of interest</u>

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 system who receives a pension and who has elected to participate in the coverage provided by section 38-651.01 or 38-782 or any other retiree health and accident insurance coverage provided or administered by a participating employer of the system. The board shall pay up to:

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

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

B. ~~Upon~~ ON notification, the board shall pay from 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 benefit recipient who elects family coverage and 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 system 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 system 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 system is not eligible for medicare and one or more dependents are eligible for medicare.

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

C. The board shall not pay from assets of the fund more than the amount prescribed in this section for a benefit recipient as a member or survivor of the system.

D. A retired member or survivor of the system 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 system.

E. This section does not apply to a retired member of the system who becomes a member 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 new employer.

F. This section does not apply to a survivor of the system whose deceased spouse becomes a member 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 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 system.

2. The total of the 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 system, 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. 7. Section 38-858, Arizona Revised Statutes, is amended to read:

38-858. Credit for military service

A. A member of the system who has at least ten years of service with the system 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 system 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 system 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 system pursuant to section 38-843 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

1 section on the member's return and in compliance with subsection B of this
2 section.
3 H. In addition to, but not in duplication of, the provisions of
4 subsection B of this section, beginning December 12, 1994 contributions,
5 benefits and credited service provided pursuant to this section shall be
6 provided pursuant to section 414(u) of the internal revenue code, and this
7 section shall be interpreted in a manner consistent with that internal
8 revenue code section.
9 I. FOR PLAN YEARS BEGINNING AFTER DECEMBER 31, 2008, A MEMBER WHO DOES
10 NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY REASON OF QUALIFIED
11 MILITARY SERVICE AS DEFINED IN SECTION 414(u)(5) OF THE INTERNAL REVENUE CODE
12 IS NOT CONSIDERED HAVING A SEVERANCE FROM EMPLOYMENT DURING THAT QUALIFIED
13 MILITARY SERVICE. ANY PAYMENTS BY THE EMPLOYER TO THE MEMBER DURING THE
14 QUALIFIED MILITARY SERVICE SHALL BE CONSIDERED COMPENSATION TO THE EXTENT
15 THOSE PAYMENTS DO NOT EXCEED THE AMOUNTS THE MEMBER WOULD HAVE RECEIVED IF
16 THE MEMBER HAD CONTINUED TO PERFORM SERVICES FOR THE EMPLOYER RATHER THAN
17 ENTERING QUALIFIED MILITARY SERVICE.
18 J. FOR DEATHS OCCURRING FROM AND AFTER DECEMBER 31, 2006, IN THE CASE
19 OF A MEMBER WHO DIES WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED
20 IN SECTION 414(u)(5) OF THE INTERNAL REVENUE CODE, THE SURVIVORS OF THE
21 MEMBER ARE ENTITLED TO ANY BENEFITS, OTHER THAN BENEFIT ACCRUALS RELATING TO
22 THE PERIOD OF QUALIFIED MILITARY SERVICE, PROVIDED UNDER THE SYSTEM AS THOUGH
23 THE MEMBER RESUMED AND THEN TERMINATED EMPLOYMENT ON ACCOUNT OF DEATH.
24 Sec. 8. Retroactivity
25 Section 38-857, Arizona Revised Statutes, as amended by this act,
26 applies retroactively to from and after September 29, 1988.

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. 1057

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**

[signature]
President of the Senate

Charmin Billington
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.**

Trista Lyngman
Secretary to the Governor

Approved this 26th **day of**

March

at 11:42 **o'clock** A. **M.**

Tangle G. Ducey
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. 1057

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

Michele Reagan
Secretary of State