



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

March 29, 2018

The Honorable Michele Reagan  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2<sup>nd</sup> Regular Session, which I signed on March 29, 2018:

HB 2035 deferred compensation plans; governing committee (Livingston)  
HB 2156 legislative vacancy; appointment; time frame (Coleman)  
HB 2196 certificates of necessity; hearings; duration (Carter)  
HB 2242 fire districts; revisions; county islands (Farnsworth, E.)  
HB 2258 diabetes; annual report (Carter)  
HB 2412 leave of absence; day; definition (Shope)  
HB 2477 high school mathematics; proficiency; notification (Udall)  
HB 2505 converted entities; claims (Cobb)  
HB 2513 hyperbaric oxygen therapy; veterans; fund (Finchem)  
HB 2536 dual enrollment; homeschooled children (Bowers)  
SB 1073 orthotics; prosthetic devices; valid prescription (Brophy McGee)  
SB 1111 workers' compensation; opioids; dispensed medications (Fann)  
SB 1204 trusts and estates (Worsley)  
SB 1253 game and fish; licenses; fees (Griffin)  
SB 1294 tax corrections act of 2018 (Farnsworth, D.)  
SB 1401 ignition interlock device; installer; manufacturer (Worsley)  
SB 1405 corporate income tax allocation; sales (Fann)  
SB 1422 universities; tuition and fees (Griffin)

SB 1499 community facilities districts; directors (Smith)  
SB 1502 ignition interlock device; incarceration credits (Smith)  
SB 1518 department of child safety; reports (Brophy McGee)

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Ducey". The signature is written in a cursive style with a large, prominent initial "D".

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service

House Engrossed

**FILED**

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

State of Arizona  
House of Representatives  
Fifty-third Legislature  
Second Regular Session  
2018

**CHAPTER 90**

# **HOUSE BILL 2035**

AN ACT

AMENDING SECTIONS 38-715, 38-871 AND 38-872, ARIZONA REVISED STATUTES;  
RELATING TO DEFERRED COMPENSATION PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-715, Arizona Revised Statutes, is amended to  
3 read:

4 38-715. Director; powers and duties

5 A. The board shall appoint a director. The director shall serve at  
6 the pleasure of the board.

7 B. The director shall appoint a deputy director and assistant  
8 directors with the approval of the board.

9 C. The director, under the supervision of the board, shall:

10 1. Administer this article.

11 2. Be responsible for the recruitment, hiring and day-to-day  
12 management of employees.

13 3. Prescribe procedures to be followed by members and their  
14 beneficiaries in filing applications for benefits.

15 4. Prescribe procedures to be followed by employers for remitting  
16 data and monies to ASRS and for receiving data and monies from ASRS.

17 5. Be responsible for:

18 (a) Income and the collection of income and the accuracy of all  
19 expenditures.

20 (b) Maintaining books and maintaining and processing records  
21 of ASRS.

22 (c) Providing continuing education programs for the board to keep  
23 the board members informed of current issues and information needed to  
24 carry out their duties.

25 6. Perform additional powers and duties as may be prescribed by the  
26 board and delegated to the director.

27 D. The director, under the supervision and approval of the board,  
28 may:

29 1. Delegate duties and responsibilities to such state departments  
30 as the director deems feasible and desirable to administer this article.

31 2. Appoint a custodian for the safekeeping of all investments owned  
32 by ASRS and register stocks, bonds and other investments in the name of a  
33 nominee.

34 3. Establish one or more reserve holding accounts, into which the  
35 board shall close periodically the account balances of inactive accounts.  
36 If any person files a claim and furnishes proof of ownership of any  
37 amounts in any inactive account, the claim shall be paid from the reserve  
38 holding account on the same basis as if no action had been taken under  
39 this paragraph. Interest and supplemental credits shall be allocated to  
40 each reserve holding account on June 30 of each year, as determined by the  
41 board. For the purposes of this paragraph, "inactive account" means an  
42 account to which contributions have not been paid for six months or more.

1           4. Make retirement under this article effective retroactively to on  
2 or after the day following the date employment is terminated if the member  
3 was unable to apply before the retroactive effective date through no fault  
4 of the member.

5           E. For current or prospective employees of ASRS, the director,  
6 under the supervision of the board, may:

7           1. Conduct criminal records checks. The director may require a  
8 current or prospective employee to submit a full set of fingerprints to  
9 the department of public safety for the purpose of obtaining a state and  
10 federal criminal records check pursuant to section 41-1750 and Public Law  
11 92-544. The department of public safety may exchange this fingerprint  
12 data with the federal bureau of investigation.

13           2. Conduct credit checks for accounting, investment and other  
14 finance-related positions. The director shall establish a policy for  
15 conducting credit checks on a current employee that includes the method  
16 for determining when a credit check may be conducted, retaining records  
17 relating to the reason for the credit check and notifying an employee of  
18 the credit check and the result of the credit check.

19           F. The director, under supervision of the governing committee for  
20 ~~tax deferred annuity and deferred compensation plans~~, may hire and  
21 supervise employees and obtain services the director deems necessary to  
22 administer article 5 of this chapter. The ~~tax deferred annuity and~~  
23 ~~deferred compensation programs~~ PLANS established pursuant to article 5 of  
24 this chapter shall bear the costs for these employees and services.

25           G. The director and all persons employed by the director are  
26 subject to section 38-611 and title 41, chapter 4, article 4.

27           H. In consultation with the director of the department of  
28 administration, the board may enter into employment agreements and  
29 establish the terms of those agreements with persons holding any of the  
30 following ASRS positions:

- 31           1. Director.  
32           2. Deputy director.  
33           3. Chief investment officer.  
34           4. Fiduciary or investment counsel.

35           Sec. 2. Heading change

36           The article heading of title 38, chapter 5, article 5, Arizona  
37 Revised Statutes, is changed from "TAX DEFERRED ANNUITY AND DEFERRED  
38 COMPENSATION PROGRAMS" to "DEFERRED COMPENSATION PLANS".

39           Sec. 3. Section 38-871, Arizona Revised Statutes, is amended to  
40 read:

41           38-871. Deferred compensation governing committee; members;  
42 powers and duties

43           A. ~~A~~ THE governing committee for ~~tax deferred annuity and deferred~~  
44 compensation plans is established that consists of the following seven  
45 members:

1           1. Three ~~employees of the state~~ MEMBERS WHO ARE appointed by the  
2 governor AND WHO ARE EITHER OF THE FOLLOWING:

3           (a) INDIVIDUALS WHO HAVE AN ACCOUNT BALANCE IN A DEFERRED  
4 COMPENSATION PLAN THAT IS OVERSEEN BY THE GOVERNING COMMITTEE. THESE  
5 INDIVIDUALS MAY BE CONTRIBUTING OR NONCONTRIBUTING PARTICIPANTS IN A  
6 DEFERRED COMPENSATION PLAN AND MAY BE RETIRED OR NONRETIRED.

7           (b) MEMBERS OF THE PUBLIC WHO ARE NOT DEFERRED COMPENSATION PLAN  
8 PARTICIPANTS AND WHO HAVE AT LEAST TEN YEARS OF RELEVANT EXPERIENCE IN  
9 EITHER FINANCE, INVESTMENT MANAGEMENT, PENSION PLANS OR RETIREMENT PLANS.

10          2. The director of the department of administration or the  
11 director's designee.

12          3. The superintendent of financial institutions or the  
13 superintendent's designee.

14          4. The director of insurance or the director's designee.

15          5. The director of the Arizona state retirement system or the  
16 director's designee.

17          B. GOVERNING COMMITTEE MEMBERS ARE SUBJECT TO THE CONFLICT OF  
18 INTEREST PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8.

19          ~~B.~~ C. The governing committee may:

20           1. Investigate and approve ~~tax deferred compensation and annuity~~  
21 ~~programs which~~ PLANS THAT give STATE employees of the state income tax  
22 benefits authorized by title 26, United States Code Annotated.

23           2. In carrying out the purposes of this article, enter into  
24 agreements with ~~life insurance companies authorized to do business in this~~  
25 ~~state and with bank trustees or custodians and investment counseling firms~~  
26 ~~registered with the securities exchange commission~~ WITH DEMONSTRABLE  
27 EXPERTISE IN THE AREAS ENCOMPASSED BY THIS ARTICLE.

28           3. ADOPT RULES.

29          ~~C.~~ D. The governing committee shall:

30           1. Arrange for consolidated billing and efficient administrative  
31 services ~~in order~~ SO that any such plans approved shall operate without  
32 cost or contribution from the THIS state except for the incidental expense  
33 of administering the EXPENSES OF STATUTORILY REQUIRED ADMINISTRATIVE  
34 DUTIES AND THE ADMINISTRATION OF payroll salary deduction or reduction and  
35 remittance thereof OF THE MONIES to the ADMINISTRATOR, trustee or  
36 custodian of the plan or plans.

37           2. Meet ~~monthly~~ QUARTERLY or more frequently as the chairman of the  
38 committee deems necessary.

39           3. Arrange for an annual financial audit of the ~~programs and a~~  
40 ~~performance audit of the programs at least once every three years~~ PLANS.

41           4. ~~Adopt rules governing the solicitation of employees by persons~~  
42 ~~offering tax deferred compensation or annuity plans to such employees.~~

43           4. ARRANGE FOR A PERFORMANCE REVIEW OF THE PLANS OR PARTICIPATION  
44 IN BENCHMARKING SURVEYS OR STUDIES AT LEAST EVERY FIVE YEARS.

1           Sec. 4. Section 38-872, Arizona Revised Statutes, is amended to  
2 read:

3           38-872. Voluntary participation; authorization

4           A. State employees may participate in ~~tax deferred annuity and~~  
5 ~~deferred compensation programs~~ PLANS established pursuant to the  
6 ~~provisions of section 38-871.~~

7           B. Participants in ~~such~~ THE plans shall authorize their employers  
8 in writing to make reductions or deductions in their remuneration as  
9 provided in an executed deferred compensation agreement.

**APPROVED BY THE GOVERNOR MARCH 29, 2018**

**FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2018**

Passed the House February 6, 20 18

Passed the Senate March 27, 20 2018

by the following vote: 34 Ayes,

by the following vote: 27 Ayes,

24 Nays, 1 Not Voting  
1 vacant

3 Nays, 0 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

28<sup>th</sup> day of March, 20 18

at 11:30 o'clock A. M.

[Signature]  
Secretary to the Governor

Approved this 29<sup>th</sup> day of

March 2018

at 12:01 o'clock P. M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29 day of March, 20 18

at 3:04 o'clock P. M.

[Signature]  
Secretary of State

H.B. 2035