

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

# SENATE BILL 1206

AN ACT

AMENDING SECTIONS 38-727, 38-801, 38-804, 38-810, 38-831 AND 38-833, ARIZONA  
REVISED STATUTES; RELATING TO STATE RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-727, Arizona Revised Statutes, is amended to  
3 read:

4 38-727. Eligibility: options

5 A. The following provisions apply to all employees hired on or after  
6 the effective date:

7 1. All employees and officers of this state and all officers and  
8 employees of political subdivisions establishing a retirement plan  
9 administered by the board pursuant to this article are subject to this  
10 article, except that membership is not mandatory:

11 (a) On the part of any employee who is eligible and who elects to  
12 participate in the optional retirement programs established by the Arizona  
13 board of regents pursuant to the authority conferred by section 15-1628 or by  
14 a community college district board pursuant to authority conferred by section  
15 15-1451.

16 (b) For a state elected official who is subject to term limits, who is  
17 **INITIALLY** elected or appointed before January 1, 2014, who is eligible for  
18 participation in ASRS because the state elected official **HAS CONTINUOUSLY**  
19 elected not to participate in the elected officials' retirement plan **AS**  
20 **SPECIFIED IN SECTION 38-804, SUBSECTION K AND** as provided in section 38-804,  
21 subsection A and who ~~elects~~ **HAS CONTINUOUSLY ELECTED** not to participate in  
22 ASRS as provided in paragraph 7 of this subsection.

23 (c) On the part of any employee or officer who is eligible to  
24 participate and who participates in the elected officials' retirement plan  
25 pursuant to article 3 of this chapter, the elected officials' defined  
26 contribution retirement system pursuant to article 3.1 of this chapter, the  
27 public safety personnel retirement system pursuant to article 4 of this  
28 chapter or the corrections officer retirement plan pursuant to article 6 of  
29 this chapter.

30 2. All employees and officers of political subdivisions whose  
31 compensation is provided wholly or in part from state monies and who are  
32 declared to be state employees and officers by the legislature for retirement  
33 purposes are subject, on legislative enactment, to this article and are  
34 members of ASRS.

35 3. Any member whose service terminates other than by death or  
36 withdrawal from membership is deemed to be a member of ASRS until the  
37 member's death benefit is paid.

38 4. Employees and officers shall not become members of ASRS and, if  
39 they are members immediately before becoming employed as provided by this  
40 section, shall have their membership status suspended while they are employed  
41 by state departments paying the salaries of their officers and employees  
42 wholly or in part from monies received from sources other than appropriations  
43 from the state general fund for the period or periods payment of the employer  
44 contributions is not made by or on behalf of the departments.

1           5. Notwithstanding other provisions of this section, a temporary  
2 employee of the legislature whose projected term of employment is for not  
3 more than six months is ineligible for membership in ASRS. If the employment  
4 continues beyond six successive months, the employee may elect to either:

5           (a) Receive credit for service for the first six months of employment  
6 and establish membership in ASRS as of the beginning of the current term of  
7 employment if, within forty-five days after the first six months of  
8 employment, both the employer and the employee contribute to ASRS the amount  
9 that would have been required to be contributed to ASRS during the first six  
10 months of employment as if the employee had been a member of ASRS during  
11 those six months.

12           (b) Establish membership in ASRS as of the day following the  
13 completion of six months of employment.

14           6. A person who is employed in postgraduate training in an approved  
15 medical residency training program of an employer or a postdoctoral scholar  
16 who is employed by a university under the jurisdiction of the Arizona board  
17 of regents is ineligible for membership in ASRS.

18           7. A state elected official who is subject to term limits, who is  
19 **INITIALLY** elected or appointed before January 1, 2014 and who is eligible for  
20 participation in ASRS because the state elected official **HAS CONTINUOUSLY**  
21 elected not to participate in the elected officials' retirement plan **AS**  
22 **SPECIFIED IN SECTION 38-804, SUBSECTION K AND** as provided in section 38-804,  
23 subsection A may elect not to participate in ASRS. The election not to  
24 participate is specific for that term of office. The state elected official  
25 who is subject to term limits shall make the election in writing and file the  
26 election with ASRS within thirty days after the elected official's retirement  
27 plan mails the notice to the state elected official of the state elected  
28 official's eligibility to participate in ASRS. The election is effective on  
29 the first day of the state elected official's eligibility. If a state  
30 elected official who is subject to term limits fails to make an election as  
31 provided in this paragraph, the state elected official is deemed to have  
32 elected to participate in ASRS. The election not to participate in ASRS is  
33 irrevocable and constitutes a waiver of all benefits provided by ASRS for the  
34 state elected official's entire term, except for any benefits accrued by the  
35 state elected official in ASRS for periods of participation before being  
36 elected to an office subject to term limits or any benefits expressly  
37 provided by law.

38           8. A person may elect not to participate in ASRS if the person becomes  
39 employed by an employer after the person has attained at least sixty-five  
40 years of age, is not an active member, inactive member, retired member or  
41 receiving benefits pursuant to article 2.1 of this chapter and does not have  
42 any credited service or prior service in ASRS. The employee shall make the  
43 election not to participate in writing and file the election with ASRS within  
44 thirty days after employment. The election not to participate is irrevocable  
45 for the remainder of the person's employment for which the person made the

1 election and constitutes a waiver of all benefits provided by the Arizona  
2 state retirement system. The period the person works is not eligible for  
3 purchase under section 38-743 or 38-744.

4 9. The following are ineligible for membership in ASRS:

5 (a) A person who performs services in a hospital, home or other  
6 institution as an inmate or patient at the hospital, home or other  
7 institution.

8 (b) A person who performs agricultural labor services, as defined in  
9 section 210 of the social security act.

10 (c) A person who is a nonresident alien temporarily residing in the  
11 United States and who holds an F-1, J-1, M-1 or Q-1 visa when services are  
12 performed.

13 (d) A person who performs services for a school, college or university  
14 in this state at which the person is enrolled as a student, as defined by the  
15 employing institution. The employing institution shall maintain an appeal  
16 process for a person who disagrees with the employing institution's  
17 determination that the person is a student and not eligible for membership in  
18 ASRS.

19 (e) A person who performs services under a program designed to relieve  
20 the person from unemployment.

21 B. The following elected officials are subject to this article if the  
22 member's employer is an employer under article 3 of this chapter:

23 1. A state elected official who is subject to term limits, who is  
24 elected or appointed on or before December 31, 2013 and who is an active, an  
25 inactive or a retired member of ASRS or a member of ASRS with a disability  
26 because the state elected official had previously elected not to participate  
27 in the elected officials' retirement plan as provided in section 38-804,  
28 subsection A.

29 2. An elected official, as defined in section 38-831, who is an  
30 active, an inactive or a retired member of ASRS or a member of ASRS with a  
31 disability, if the elected official's employer is a participating employer  
32 under this article.

33 Sec. 2. Section 38-801, Arizona Revised Statutes, is amended to read:

34 38-801. Definitions

35 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

22           7. "Credited service" means the number of whole and fractional years  
23 of a member's service as an elected official after the elected official's  
24 effective date of participation for which member and employer contributions  
25 are on deposit with the fund, plus credited service transferred to the plan  
26 from another retirement system or plan for public employees of this state,  
27 plus service as an elected official before the elected official's effective  
28 date of participation that is being funded pursuant to a joinder agreement  
29 pursuant to section 38-815 or service that was redeemed pursuant to section  
30 38-816. Credited service does not include periods of service for which an  
31 active member is uncompensated by the employer and for which no contributions  
32 to the plan are made.

33           8. "Cure period" means the ninety-day period in which a participant or  
34 alternate payee may submit an amended domestic relations order and request a  
35 determination, calculated from the time the plan issues a determination  
36 finding that a previously submitted domestic relations order did not qualify  
37 as a plan approved domestic relations order.

38           9. "Determination" means a written document that indicates to a  
39 participant and alternate payee whether a domestic relations order qualifies  
40 as a plan approved domestic relations order.

41           10. "Determination period" means the ninety-day period in which the  
42 plan must review a domestic relations order that is submitted by a  
43 participant or alternate payee to determine whether the domestic relations  
44 order qualifies as a plan approved domestic relations order, calculated from

1 the time the plan mails a notice of receipt to the participant and alternate  
2 payee.

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

5 12. "Distributee" means a member, a member's surviving spouse or a  
6 member's spouse or former spouse who is the alternate payee under a plan  
7 approved domestic relations order.

8 13. "Domestic relations order" means an order of a court of this state  
9 that is made pursuant to the domestic relations laws of this state and that  
10 creates or recognizes the existence of an alternate payee's right to, or  
11 assigns to an alternate payee the right to, receive a portion of the benefits  
12 payable to a participant.

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

17 15. "Elected official" means:

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

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

22 (c) Every justice of the supreme court, every judge of the court of  
23 appeals, every judge of the superior court and every full-time superior court  
24 commissioner, except full-time superior court commissioners who failed to  
25 make a timely election of membership under the judges' retirement plan,  
26 repealed on August 7, 1985, who was a member of the plan on December 31,  
27 2013.

28 (d) The administrator of the board if the administrator is a natural  
29 person but only if the administrator is employed by the board before January  
30 1, 2012.

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

34 (f) A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS, WHO IS  
35 INITIALLY ELECTED OR APPOINTED BEFORE JANUARY 1, 2014, WHO HAS CONTINUOUSLY  
36 ELECTED NOT TO PARTICIPATE IN THE PLAN PURSUANT TO SECTION 38-804, SUBSECTION  
37 A AND IN THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-727,  
38 SUBSECTION A SINCE INITIALLY BEING ELECTED AS A STATE ELECTED OFFICIAL WHO IS  
39 SUBJECT TO TERM LIMITS AND WHO IS SUBSEQUENTLY ELECTED OR APPOINTED AS A  
40 STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS ON OR AFTER JANUARY 1,  
41 2014.

42 16. "Eligible child" means an unmarried child of a deceased active or  
43 retired member who meets one of the following qualifications:

44 (a) Is under eighteen years of age.

1 (b) Is at least eighteen years of age and under twenty-three years of  
2 age only during any period that the child is a full-time student.

3 (c) Is under a disability that began before the child attained  
4 twenty-three years of age and remains a dependent of the surviving spouse or  
5 guardian.

6 17. "Eligible retirement plan" means any of the following that accepts  
7 a distributee's eligible rollover distribution:

8 (a) An individual retirement account described in section 408(a) of  
9 the internal revenue code.

10 (b) An individual retirement annuity described in section 408(b) of  
11 the internal revenue code.

12 (c) An annuity plan described in section 403(a) of the internal  
13 revenue code.

14 (d) A qualified trust described in section 401(a) of the internal  
15 revenue code.

16 (e) An annuity contract described in section 403(b) of the internal  
17 revenue code.

18 (f) An eligible deferred compensation plan described in section 457(b)  
19 of the internal revenue code that is maintained by a state, a political  
20 subdivision of a state or any agency or instrumentality of a state or a  
21 political subdivision of a state and that agrees to separately account for  
22 amounts transferred into the eligible deferred compensation plan from this  
23 plan.

24 18. "Eligible rollover distribution" means a payment to a distributee,  
25 but does not include any of the following:

26 (a) Any distribution that is one of a series of substantially equal  
27 periodic payments made not less frequently than annually for the life or life  
28 expectancy of the member or the joint lives or joint life expectancies of the  
29 member and the member's beneficiary or for a specified period of ten years or  
30 more.

31 (b) Any distribution to the extent the distribution is required under  
32 section 401(a)(9) of the internal revenue code.

33 (c) The portion of any distribution that is not includable in gross  
34 income.

35 (d) Any distribution made to satisfy the requirements of section 415  
36 of the internal revenue code.

37 (e) Hardship distributions.

38 (f) Similar items designated by the commissioner of the United States  
39 internal revenue service in revenue rulings, notices and other guidance  
40 published in the internal revenue bulletin.

41 19. "Employer" means a department, agency or political subdivision of  
42 this state that makes employer contributions to the plan pursuant to section  
43 38-810 on behalf of an elected official who participates in the plan.

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

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

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

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

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

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

13           26. "Physician" means a physician who is licensed pursuant to title  
14 32, chapter 13 or 17.

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

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

20           29. "Plan year" or "fiscal year" means the period beginning on July 1  
21 of any year and ending on June 30 of the next succeeding year.

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

24           31. "Segregated funds" means the amount of benefits that would  
25 currently be payable to an alternate payee pursuant to a domestic relations  
26 order under review by the plan, or a domestic relations order submitted to  
27 the plan that failed to qualify as a plan approved domestic relations order,  
28 if the domestic relations order were determined to be a plan approved  
29 domestic relations order.

30           32. "System" means the public safety personnel retirement system.

31           Sec. 3. Section 38-804, Arizona Revised Statutes, is amended to read:  
32 38-804. Membership; termination; definition

33           A. Except as otherwise provided in this section, all elected officials  
34 are members of the plan, except that a state elected official who is subject  
35 to term limits may elect not to participate in the plan. The state elected  
36 official who is subject to term limits shall make the election in writing and  
37 file the election with the board within thirty days after the state elected  
38 official assumes office. The election is effective on the first day of the  
39 state elected official's eligibility for that term of office. The election  
40 not to participate is specific for that term of office. If a state elected  
41 official who is subject to term limits fails to make an election as provided  
42 in this subsection, the state elected official is deemed to have elected to  
43 participate in the plan. The election not to participate in the plan is  
44 irrevocable and constitutes a waiver of all benefits provided by the plan for  
45 the state elected official's entire term, except for any benefits accrued by



1 the state elected official in the plan for periods of participation before  
2 being elected to an office subject to term limits or any benefits expressly  
3 provided by law. The state elected official who elects not to participate in  
4 the plan shall participate in the Arizona state retirement system unless the  
5 state elected official makes an irrevocable election not to participate in  
6 the Arizona state retirement system as provided in section 38-727.

7 B. All elected officials who are members of the plan on December 31,  
8 2013 may remain members of the plan under the terms and limitations of this  
9 article.

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

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

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

21 (a) 5.0 to 5.9 years of credited service, twenty-five percent of all  
22 member contributions deducted from the member's salary pursuant to section  
23 38-810, subsection A.

24 (b) 6.0 to 6.9 years of credited service, forty percent of all member  
25 contributions deducted from the member's salary pursuant to section 38-810,  
26 subsection A.

27 (c) 7.0 to 7.9 years of credited service, fifty-five percent of all  
28 member contributions deducted from the member's salary pursuant to section  
29 38-810, subsection A.

30 (d) 8.0 to 8.9 years of credited service, seventy percent of all  
31 member contributions deducted from the member's salary pursuant to section  
32 38-810, subsection A.

33 (e) 9.0 to 9.9 years of credited service, eighty-five percent of all  
34 member contributions deducted from the member's salary pursuant to section  
35 38-810, subsection A.

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

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

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

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

21           G. For distributions occurring from and after December 31, 2007, a  
22 member or a member's beneficiary, including a nonspouse designated  
23 beneficiary to the extent permitted under subsection H of this section, may  
24 roll over an eligible rollover distribution as defined in section 402(c)(4)  
25 of the internal revenue code to a roth individual retirement account, if, for  
26 distributions occurring before January 1, 2010, the member or the member's  
27 beneficiary satisfies the requirements for making a roth individual  
28 retirement account contribution under section 408A(c)(3)(B) of the internal  
29 revenue code, as in effect on the date of the rollover. Any amount rolled  
30 over to a roth individual retirement account is included in the gross income  
31 of the member or the member's beneficiary to the extent the amounts would  
32 have been included in gross income if not rolled over as required under  
33 section 408A(d)(3)(A) of the internal revenue code. For the purposes of this  
34 subsection, the administrator is not responsible for ensuring the member or  
35 the member's beneficiary is eligible to make a rollover to a roth individual  
36 retirement account.

37           H. For distributions made from and after December 31, 2009, a  
38 nonspouse designated beneficiary as defined in section 401(a)(9)(E) of the  
39 internal revenue code may elect to directly rollover an eligible rollover  
40 distribution to an individual retirement account under section 408(a) of the  
41 internal revenue code or an individual retirement annuity under section  
42 408(b) of the internal revenue code that is established on behalf of the  
43 designated beneficiary and that will be treated as an inherited individual  
44 retirement plan pursuant to section 402(c)(11) of the internal revenue  
45 code. In order to be able to roll over the distribution, the distribution

1 otherwise must satisfy the definition of an eligible rollover distribution as  
2 defined in section 402(c)(4) of the internal revenue code. In applying this  
3 subsection, a nonspouse rollover is not subject to the direct rollover  
4 requirements under section 401(a)(31) of the internal revenue code, the  
5 rollover notice requirements under section 402(f) of the internal revenue  
6 code or the mandatory withholding requirements under section 3405(c) of the  
7 internal revenue code.

8 I. For plan years occurring before January 1, 2007, the period for  
9 providing the rollover notice as required under section 402(f) of the  
10 internal revenue code is no less than thirty days and no more than ninety  
11 days before the date of distribution and, for plan years beginning from and  
12 after December 31, 2006, the period for providing the rollover notice as  
13 required under section 402(f) of the internal revenue code is no less than  
14 thirty days and no more than one hundred eighty days before the date of  
15 distribution.

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

18 K. ~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,~~ if an elected  
19 official who has terminated the member's membership in the plan pursuant to  
20 subsection ~~C~~ A of this section is subsequently elected, appointed or hired  
21 on or after January 1, 2014, the elected official is not eligible to become a  
22 member of the plan but is subject to article 3.1 of this chapter. ~~IF A STATE  
23 ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS, WHO IS INITIALLY ELECTED OR  
24 APPOINTED BEFORE JANUARY 1, 2014 AND WHO HAS CONTINUOUSLY ELECTED NOT TO  
25 PARTICIPATE IN THE PLAN PURSUANT TO SUBSECTION A OF THIS SECTION AND IN THE  
26 ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO SECTION 38-727, SUBSECTION A  
27 SINCE INITIALLY BEING ELECTED AS A STATE ELECTED OFFICIAL WHO IS SUBJECT TO  
28 TERM LIMITS IS SUBSEQUENTLY ELECTED OR APPOINTED AS A STATE ELECTED OFFICIAL  
29 WHO IS SUBJECT TO TERM LIMITS ON OR AFTER JANUARY 1, 2014, THE STATE ELECTED  
30 OFFICIAL IS ELIGIBLE TO BECOME A MEMBER OF THE PLAN OR MAY ELECT NOT TO  
31 PARTICIPATE IN THE PLAN PURSUANT TO SUBSECTION A OF THIS SECTION. IF THE  
32 STATE ELECTED OFFICIAL BECOMES A MEMBER OF THE PLAN, CREDITED SERVICE ONLY  
33 ACCRUES FROM THE DATE OF THE MEMBER'S MOST RECENT ELIGIBILITY AS A STATE  
34 ELECTED OFFICIAL.~~

35 L. Notwithstanding subsection K of this section ~~RELATING TO AN ELECTED  
36 OFFICIAL WHO HAS TERMINATED THE MEMBER'S MEMBERSHIP IN THE PLAN,~~ if an  
37 elected official files a written election form with the board within ninety  
38 days after the day of the member's reemployment as an elected official and  
39 repays the amount previously withdrawn pursuant to subsection C or D of this  
40 section within one year after the date of the member's reemployment as an  
41 elected official, with interest on that amount at the rate of nine ~~per-cent~~  
42 PERCENT for each year, compounded each year from the date of withdrawal to  
43 the date of repayment, credited service shall be restored. Credited service  
44 shall not be restored until complete repayment is made to the fund.

1 M. EXCEPT AS PROVIDED IN SUBSECTION K OF THIS SECTION, an elected  
2 official who is elected, appointed or hired on or after January 1, 2014 and  
3 who was not a member of the plan on December 31, 2013 is not eligible to  
4 become a member of the plan but is subject to article 3.1 of this chapter.

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

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

19 Sec. 4. Section 38-810, Arizona Revised Statutes, is amended to read:

20 38-810. Contributions; appropriations

21 A. Each member shall contribute to the fund an amount equal to the  
22 amount prescribed in subsection G of this section. Contributions of members  
23 shall be made by payroll deductions. Every member is deemed to consent to  
24 these deductions. Payment of a member's compensation, less these payroll  
25 deductions, constitutes a full and complete discharge and satisfaction of all  
26 claims and demands by the member relating to remuneration for the member's  
27 services rendered during the period covered by the payment, except with  
28 respect to the benefits provided under the plan. A member may not, under any  
29 circumstance, borrow from, take a loan against or remove contributions from  
30 the member's account before the termination of membership in the plan or the  
31 receipt of a pension.

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

39 C. Beginning on January 1, 2014 through June 30, 2044, EXCEPT AS  
40 OTHERWISE PROVIDED IN THIS SUBSECTION, each employer shall make level ~~per~~  
41 ~~cent~~ PERCENT compensation contributions of twenty-three and one-half ~~per cent~~  
42 PERCENT of the compensation of all employees of the employer who are either  
43 members under this article, article 3.1 of this chapter or article 2 of this  
44 chapter pursuant to section 38-727, subsection B to meet the normal cost plus  
45 an amount to amortize the unfunded accrued liability and the employer's

1 contribution under the elected officials' defined contribution retirement  
2 system established pursuant to article 3.1 of this chapter and the employer's  
3 contribution under article 2 of this chapter for members eligible pursuant to  
4 section 38-727, subsection B. **IF A MEMBER HAS ELECTED NOT TO ACCEPT THE**  
5 **EMPLOYER'S CONTRIBUTION PURSUANT TO SECTION 38-833, THE EMPLOYER IS NOT**  
6 **REQUIRED TO CONTRIBUTE THAT PERCENT OF COMPENSATION FOR THAT MEMBER.** The  
7 employer also shall pay the amount required by section 38-797.05 for members  
8 under article 2 of this chapter who are eligible pursuant to section 38-727,  
9 subsection B and the amount required by article 3.2 of this chapter for  
10 members under article 3.1 of this chapter. The monies deposited in the fund  
11 pursuant to subsection B of this section shall be used to supplement the  
12 contributions required of all employers under the plan. The employer level  
13 ~~per-cent~~ **PERCENT** compensation contribution that is paid pursuant to this  
14 subsection, less the amount contributed by the employer pursuant to section  
15 38-833 and section 38-737 for members eligible pursuant to section 38-727,  
16 subsection B, shall not be used to pay for an increase in benefits that is  
17 otherwise payable to members but shall be used to meet the normal cost plus  
18 an amount to amortize the unfunded accrued liability.

19 D. Beginning July 1, 2044, as determined by actuarial valuations  
20 performed by the plan's actuary, each employer shall make level ~~per-cent~~  
21 **PERCENT** compensation contributions sufficient under the actuarial valuation  
22 to meet both the normal cost plus the actuarially determined amount required  
23 to amortize the unfunded accrued liability over a rolling period of at least  
24 twenty and not more than thirty years that is established by the board taking  
25 into account the recommendation of the plan's actuary, except that the  
26 employer contribution rate shall not be less than ten ~~per-cent~~ **PERCENT** of  
27 salary. The monies deposited in the fund pursuant to subsection B of this  
28 section shall be used to supplement the contributions required of all  
29 employers under the plan. The minimum employer contribution that is paid and  
30 that is in excess of the normal cost plus the actuarially determined amount  
31 required to amortize the unfunded accrued liability as calculated pursuant to  
32 this subsection shall be used to reduce future employer contribution  
33 increases and shall not be used to pay for an increase in benefits that are  
34 otherwise payable to members. The board shall separately account for these  
35 monies in the fund. After the close of any fiscal year, if the plan's  
36 actuary determines that the actuarial valuation of the fund contains excess  
37 valuation assets and is more than one hundred ~~per-cent~~ **PERCENT** funded, the  
38 board shall account for fifty ~~per-cent~~ **PERCENT** of the excess valuation assets  
39 in a stabilization reserve account. After the close of any fiscal year, if  
40 the plan's actuary determines that the actuarial valuation of the fund has a  
41 valuation asset deficiency and an unfunded actuarial accrued liability, the  
42 board shall use any valuation assets in the stabilization reserve account, to  
43 the extent available, to limit the decline in the fund's funding ratio to not  
44 more than two ~~per-cent~~ **PERCENT**.

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

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

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

- 40 1. Through June 30, 2011, seven ~~per-cent~~ PERCENT of the member's gross  
41 salary.
- 42 2. For fiscal year 2011-2012, ten ~~per-cent~~ PERCENT of the member's  
43 gross salary.
- 44 3. For fiscal year 2012-2013, eleven and one-half ~~per-cent~~ PERCENT of  
45 the member's gross salary.

1           4. For fiscal year 2013-2014 and each fiscal year thereafter, thirteen  
2 ~~per-cent~~ PERCENT of the member's gross salary.

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

7           I. In fiscal years 2013-2014 through 2042-2043, the sum of \$5,000,000  
8 is appropriated in each fiscal year from the state general fund to the  
9 elected officials' retirement plan fund to supplement the normal cost plus an  
10 amount to amortize the unfunded accrued liability pursuant to subsection C of  
11 this section. Monies appropriated pursuant to this subsection shall not be  
12 used to pay for an increase in benefits that is otherwise payable to members  
13 and shall only be used as specified in this subsection. Monies appropriated  
14 pursuant to this subsection are exempt from the provisions of section 35-190  
15 relating to lapsing of appropriations.

16           Sec. 5. Section 38-831, Arizona Revised Statutes, is amended to read:

17           38-831. Definitions

18           In this article, unless the context otherwise requires:

19           1. "Annuity account" means an account that is established for each  
20 member to record the deposit of member contributions, employer contributions  
21 and interest, dividends or other accumulations credited on behalf of the  
22 member.

23           2. "Board" means the board of trustees of the public safety personnel  
24 retirement system established by section 38-848.

25           3. "Defined contribution system" means the elected officials' defined  
26 contribution retirement system established pursuant to this article.

27           4. "Elected official":

28           (a) Means:

29           ~~(a)~~ (i) Every elected official of this state who was elected or  
30 appointed on or after January 1, 2014 and who was not an active, an  
31 inactive, ~~a disabled~~ or a retired member of the plan OR A MEMBER OF THE PLAN  
32 WITH A DISABILITY on December 31, 2013.

33           ~~(b)~~ (ii) Every elected official of each county of this state who was  
34 elected or appointed on or after January 1, 2014 and who was not an active,  
35 an inactive, ~~a disabled~~ or a retired member of the plan OR A MEMBER OF THE  
36 PLAN WITH A DISABILITY on December 31, 2013.

37           ~~(c)~~ (iii) Every justice of the supreme court who was appointed on or  
38 after January 1, 2014 and who was not an active, an inactive, ~~a disabled~~ or a  
39 retired member of the plan OR A MEMBER OF THE PLAN WITH A DISABILITY on  
40 December 31, 2013.

41           ~~(d)~~ (iv) Every judge of the court of appeals who was appointed on or  
42 after January 1, 2014 and who was not an active, an inactive, ~~a disabled~~ or a  
43 retired member of the plan OR A MEMBER OF THE PLAN WITH A DISABILITY on  
44 December 31, 2013.

1           ~~(e)~~ (v) Every judge of the superior court who was elected or appointed  
2 on or after January 1, 2014 and who was not an active, an inactive, ~~a~~  
3 ~~disabled~~ or a retired member of the plan OR A MEMBER OF THE PLAN WITH A  
4 DISABILITY on December 31, 2013.

5           ~~(f)~~ (vi) Every full-time superior court commissioner, except full-time  
6 superior court commissioners who failed to make a timely election of  
7 membership under the judges' retirement plan, repealed on August 7, 1985, who  
8 was hired on or after January 1, 2014 and who was not an active, an  
9 inactive, ~~a disabled~~ or a retired member of the plan OR A MEMBER OF THE PLAN  
10 WITH A DISABILITY on December 31, 2013.

11           ~~(g)~~ (vii) Each elected official of an incorporated city or town whose  
12 employer has executed a proper joinder agreement with the plan for coverage  
13 of its elected officials, who was elected or appointed on or after January 1,  
14 2014 and who was not an active, an inactive, ~~a disabled~~ or a retired member  
15 of the plan OR A MEMBER OF THE PLAN WITH A DISABILITY on December 31, 2013.

16           (b) DOES NOT INCLUDE A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM  
17 LIMITS, WHO IS NOT AN ACTIVE, AN INACTIVE OR A RETIRED MEMBER OF THE PLAN OR  
18 A MEMBER OF THE PLAN WITH A DISABILITY BECAUSE THE STATE ELECTED OFFICIAL HAS  
19 CONTINUOUSLY ELECTED NOT TO PARTICIPATE IN THE PLAN PURSUANT TO SECTION  
20 38-804, SUBSECTION A AND IN THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO  
21 SECTION 38-727, SUBSECTION A SINCE INITIALLY BEING ELECTED BEFORE JANUARY 1,  
22 2014 AS A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS AND WHO IS  
23 SUBSEQUENTLY ELECTED OR APPOINTED AS A STATE ELECTED OFFICIAL WHO IS SUBJECT  
24 TO TERM LIMITS ON OR AFTER JANUARY 1, 2014.

25           5. "Employer" means a department or political subdivision of this  
26 state that makes employer contributions to the defined contribution system on  
27 behalf of a member.

28           6. "Employer contribution" means an amount deposited by an employer,  
29 from the employer's own monies, in the member's annuity account on a periodic  
30 basis coinciding with the member's regular pay period.

31           7. "Member" means an elected official under the defined contribution  
32 system.

33           8. "Plan" means the elected officials' retirement plan established by  
34 article 3 of this chapter.

35           Sec. 6. Section 38-833, Arizona Revised Statutes, is amended to read:  
36 38-833. Member and employer contributions; disability

37           A. Beginning January 1, 2014, the defined contribution system is the  
38 retirement program for elected officials, unless the elected official is  
39 described in section 38-727, subsection B. Elected officials shall be  
40 enrolled in the defined contribution plan established by the board pursuant  
41 to this article.

42           B. Each elected official who is a member of the defined contribution  
43 system shall contribute eight ~~per-cent~~ PERCENT of the member's gross  
44 compensation by salary reduction that shall be deposited in the member's  
45 annuity account. Each member shall also contribute to the elected officials'



1 defined contribution retirement system disability program pursuant to article  
2 3.2 of this chapter.

3 C. Although designated as employee contributions, all member  
4 contributions made to the defined contribution system shall be picked up and  
5 paid by the employer in lieu of contributions by the employee. The  
6 contributions picked up by an employer may be made through a reduction in the  
7 member's compensation. A member participating in the defined contribution  
8 system does not have the option of choosing to receive the contributed  
9 amounts directly instead of the employer paying the amounts to the defined  
10 contribution system. All member contributions that are picked up by the  
11 employer as provided in this subsection shall be treated as employer  
12 contributions under section 414(h) of the internal revenue code, shall be  
13 excluded from members' gross income for federal and state income tax purposes  
14 and are includable in the gross income of the members or the members'  
15 beneficiaries only in the taxable year in which they are distributed.

16 D. Each employer shall annually make a contribution:

17 1. Equal to six ~~per cent~~ PERCENT of each member's gross compensation.  
18 The pro rata share of this amount shall be paid on each date that a member  
19 contribution is made and shall be credited to the member's annuity account.  
20 A MEMBER WHO IS A STATE ELECTED OFFICIAL AND WHO IS SUBJECT TO TERM LIMITS  
21 MAY ELECT NOT TO ACCEPT THE EMPLOYER'S CONTRIBUTION TO THE MEMBER'S ANNUITY  
22 ACCOUNT THAT IS REQUIRED BY THIS SUBSECTION. THE STATE ELECTED OFFICIAL WHO  
23 IS SUBJECT TO TERM LIMITS SHALL MAKE THE ELECTION AS PROVIDED IN THIS  
24 PARAGRAPH IN WRITING AND FILE THE ELECTION WITH THE BOARD WITHIN THIRTY DAYS  
25 AFTER THE STATE ELECTED OFFICIAL ASSUMES OFFICE. THE ELECTION IS EFFECTIVE  
26 ON THE FIRST DAY OF THE STATE ELECTED OFFICIAL'S ELIGIBILITY FOR THAT TERM OF  
27 OFFICE. THE ELECTION NOT TO ACCEPT THE EMPLOYER'S CONTRIBUTION TO THE STATE  
28 ELECTED OFFICIAL'S ANNUITY ACCOUNT IS SPECIFIC FOR THAT TERM OF OFFICE. IF A  
29 STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS FAILS TO MAKE AN  
30 ELECTION AS PROVIDED IN THIS PARAGRAPH, THE STATE ELECTED OFFICIAL IS DEEMED  
31 TO HAVE ELECTED TO ACCEPT THE EMPLOYER'S CONTRIBUTION TO THE STATE ELECTED  
32 OFFICIAL'S ANNUITY ACCOUNT. THE ELECTION NOT TO ACCEPT THE EMPLOYER'S  
33 CONTRIBUTION TO THE STATE ELECTED OFFICIAL'S ANNUITY ACCOUNT IS IRREVOCABLE  
34 AND CONSTITUTES A WAIVER OF THE EMPLOYER'S CONTRIBUTION TO THE STATE ELECTED  
35 OFFICIAL'S ANNUITY ACCOUNT FOR THE STATE ELECTED OFFICIAL'S ENTIRE TERM.

36 2. ~~Each employer shall also contribute~~ To the elected officials'  
37 defined contribution retirement system disability program pursuant to article  
38 3.2 of this chapter.

39 E. Member and employer contributions and earnings on those  
40 contributions are immediately vested. A member may receive benefits pursuant  
41 to article 3.2 of this chapter if the member develops a total disability.

42 F. AT THE ELECTION OF A STATE ELECTED OFFICIAL AS DESCRIBED IN SECTION  
43 38-831, PARAGRAPH 4, SUBDIVISION (b) WHO HAS ATTAINED AGE SIXTY-TWO, THE  
44 BOARD SHALL DISTRIBUTE THE BALANCE OF THE STATE ELECTED OFFICIAL'S ANNUITY  
45 ACCOUNT TO THE STATE ELECTED OFFICIAL OR THE OFFICIAL'S BENEFICIARY.

1           Sec. 7. Refund of employer contribution: election

2           A state elected official who was subject to term limits, who was  
3 enrolled in the elected officials' defined contribution retirement system  
4 established pursuant to title 38, chapter 5, article 3.1, Arizona Revised  
5 Statutes, because the state elected official was not an active, an inactive  
6 or a retired member of the elected officials' retirement plan or a member of  
7 the elected officials' retirement plan with a disability and who had  
8 continuously elected not to participate in the elected officials' retirement  
9 plan pursuant to section 38-804, subsection A, Arizona Revised Statutes, and  
10 in the Arizona state retirement system pursuant to section 38-727, subsection  
11 A, Arizona Revised Statutes, since initially being elected before January 1,  
12 2014 as a state elected official who is subject to term limits may elect to  
13 return the employer's contributions and the earnings on those contributions  
14 that were deposited, pursuant to section 38-833, Arizona Revised Statutes, in  
15 the state elected official's annuity account. The election under this  
16 section shall be made within one hundred eighty days after the effective date  
17 of this section or the employer's contributions and the earnings on those  
18 contributions will remain in the state elected official's annuity account  
19 until distribution.

20           Sec. 8. Retroactivity

21           Sections 38-727, 38-801, 38-804 and 38-831, Arizona Revised Statutes,  
22 as amended by this act, apply retroactively to from and after September 12,  
23 2013.