

House Engrossed

retirement plans; plan election; rehire

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

## CHAPTER 48

# HOUSE BILL 2015

AN ACT

AMENDING SECTIONS 38-842.01, 38-867 AND 38-881.01, ARIZONA REVISED  
STATUTES; RELATING TO PUBLIC 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 38-842.01, Arizona Revised Statutes, is amended  
3 to read:

4 38-842.01. Benefit election; eligibility; disability; death;  
5 employees hired on or after July 1, 2017

6 A. An employee who is hired on or after July 1, 2017 and who was  
7 not an active, an inactive or a retired member of the system or a member  
8 of the system with a disability on June 30, 2017 is eligible to  
9 participate in the system or the public safety personnel defined  
10 contribution retirement plan established pursuant to article 4.1 of this  
11 chapter, depending on the employee's election under this section. The  
12 employee's participation in either the system or the public safety  
13 personnel defined contribution retirement plan established pursuant to  
14 article 4.1 of this chapter begins ninety days after the date the employee  
15 is hired. Unless the elections made under this section are made before  
16 the ninetieth day after the date of employment, the employee is  
17 automatically enrolled in the system for the remainder of the employee's  
18 employment ~~with any employer under the system~~. Any election made under  
19 this section is irrevocable and is the employee's election for the  
20 remainder of the employee's employment ~~with any employer under the system,~~  
21 ~~regardless of whether the employee's employment is continuous.~~ IF AN  
22 EMPLOYEE IS SUBSEQUENTLY REHIRED AFTER A BONA FIDE TERMINATION OF  
23 EMPLOYMENT FROM THE EMPLOYEE'S EMPLOYER OF NOT LESS THAN SIX MONTHS WITH  
24 NO PREARRANGED REEMPLOYMENT AGREEMENT WITH THE EMPLOYER OR HIRED BY A NEW  
25 EMPLOYER, THE EMPLOYEE MAY MAKE A NEW ELECTION UNDER THIS SECTION BEFORE  
26 THE NINETIETH DAY AFTER THE DATE OF HIRE. IF THE EMPLOYEE DOES NOT MAKE A  
27 NEW ELECTION WITHIN THAT TIME FRAME, THE EMPLOYEE'S PREVIOUS ELECTION WILL  
28 CONTINUE. The employee may make one of the following irrevocable  
29 elections:

- 30 1. To participate solely in the system.
- 31 2. To participate solely in the public safety personnel defined  
32 contribution retirement plan established pursuant to article 4.1 of this  
33 chapter.

34 B. An employee who makes an election to participate solely in the  
35 system or is automatically enrolled in the system pursuant to subsection A  
36 of this section and who is not covered by the federal old age and  
37 survivors insurance system is also enrolled in the public safety personnel  
38 defined contribution retirement plan established pursuant to article 4.1  
39 of this chapter during any period that the employee is not covered by the  
40 federal old age and survivors insurance system through an employer under  
41 the system. If such employee is subsequently covered by the federal old  
42 age and survivors insurance system, the employee and the employer may not  
43 make any contributions on the employee's behalf to the public safety  
44 personnel defined contribution retirement plan established pursuant to  
45 article 4.1 of this chapter that are described in section 38-867,

1 subsection A, paragraph 1 or subsection B during the period the employee  
2 is covered by the federal old age and survivors insurance system. If at  
3 any later time the employee is not covered by the federal old age and  
4 survivors insurance system through an employer under the system, the  
5 employee and the employer shall again be required to contribute on behalf  
6 of the employee to the public safety personnel defined contribution  
7 retirement plan established pursuant to article 4.1 of this chapter as  
8 required by section 38-867, subsection A, paragraph 1 and, if the employee  
9 made an irrevocable election to contribute more of the employee's gross  
10 pensionable compensation to the public safety personnel defined  
11 contribution retirement plan as provided in section 38-867, subsection B,  
12 such contributions shall be reestablished for the period the employee is  
13 not covered by the federal old age and survivors insurance system.

14 C. If an employee in the employee's first ninety days of employment  
15 is determined to be eligible for an accidental or catastrophic disability  
16 pension pursuant to section 38-844, the employee shall be automatically  
17 enrolled in the system for the remainder of the employee's employment with  
18 any employer under the system commencing on the employee's date of  
19 disability and shall receive an accidental or catastrophic disability  
20 pension as prescribed in this article.

21 D. If an employee in the employee's first ninety days of employment  
22 is killed in the line of duty or dies from injuries suffered in the line  
23 of duty, the employee shall be considered as having been enrolled in the  
24 system and the surviving spouse of the deceased employee is eligible for  
25 survivor benefits as prescribed in this article.

26 Sec. 2. Section 38-867, Arizona Revised Statutes, is amended to  
27 read:

28 38-867. Contributions; member; employer; pickup

29 A. Each participant in the defined contribution plan shall  
30 contribute the following percentage of the participant's gross pensionable  
31 compensation by salary reduction that shall be deposited in the  
32 participant's annuity account:

33 1. For a participant as defined in section 38-865, paragraph 7,  
34 subdivision (a), item (ii), three percent.

35 2. For a participant as defined in section 38-865, paragraph 7,  
36 subdivision (a), item (i), nine percent.

37 3. For a participant as defined in section 38-865, paragraph 7,  
38 subdivision (b), seven percent.

39 B. A participant as defined in section 38-865 may make a onetime  
40 irrevocable election, before the participant is eligible to participate in  
41 any qualified plan of the employer, to contribute more than the percentage  
42 of the participant's gross pensionable compensation specified in this  
43 section, up to the amount allowable under section 415(c) of the internal  
44 revenue code. A participant as defined in section 38-865, paragraph 7,  
45 subdivision (b) may make a onetime irrevocable election, before the

1 participant is eligible to participate in any qualified plan of the  
2 employer, to contribute less than the percentage of the participant's  
3 gross pensionable compensation specified in this section but may not elect  
4 to contribute less than five percent of the participant's gross  
5 pensionable compensation. The election made pursuant to this subsection  
6 shall be the participant's contribution rate for the remainder of the  
7 participant's employment ~~with any employer under the system or the~~  
8 ~~corrections officer retirement plan, as applicable.~~

9 C. Although designated as employee contributions, all participant  
10 contributions made to the defined contribution plan shall be picked up and  
11 paid by the employer in lieu of contributions by the employee. The  
12 contributions picked up by an employer may be made through a reduction in  
13 the participant's compensation. A participant in the defined contribution  
14 plan may not choose to receive the contributed amounts directly instead of  
15 the employer paying the amounts to the defined contribution plan. All  
16 participant contributions that are picked up by the employer as provided  
17 in this subsection shall be treated as employer contributions under  
18 section 414(h) of the internal revenue code, shall be excluded from the  
19 participant's gross income for federal and state income tax purposes and  
20 are includable in the gross income of the participant or the participant's  
21 beneficiaries only in the taxable year in which they are distributed.

22 D. Each employer shall annually make a contribution equal to the  
23 following percentages of each participant's gross pensionable  
24 compensation:

25 1. For a participant as defined in section 38-865, paragraph 7,  
26 subdivision (a), item (ii), three percent.

27 2. For a participant as defined in section 38-865, paragraph 7,  
28 subdivision (a), item (i), nine percent.

29 3. For a participant as defined in section 38-865, paragraph 7,  
30 subdivision (b), five percent.

31 E. The pro rata share of the amount paid in subsection D of this  
32 section shall be paid on each date that a participant contribution is made  
33 and shall be credited to the participant's annuity account.

34 F. A participant of the defined contribution plan may not take  
35 loans on any portion of the accumulated assets in the participant's  
36 annuity account.

37 G. Each participant as defined in section 38-865, paragraph 7,  
38 subdivision (a), item (i) and subdivision (b) and each employer shall  
39 contribute:

40 1. To the public safety personnel defined contribution retirement  
41 plan disability program established by article 4.2 of this chapter.

42 2. For participants who make an election pursuant to section  
43 38-869, an equal amount for the group health benefits plan payments as  
44 specified in section 38-869 as determined by actuarial valuations reported

1 by the board to the employer and local board, which shall be deposited in  
2 a separate account established pursuant to section 38-869.

3 H. A participant's contributions and earnings on those  
4 contributions are immediately vested.

5 I. A participant as defined in section 38-865, paragraph 7,  
6 subdivision (a) or section 38-865.01 is fully vested in the defined  
7 contribution plan after ten years of service, with employer contributions  
8 vesting at a rate of ten percent per year. If a participant described in  
9 this subsection dies or is determined to be eligible for an accidental or  
10 catastrophic disability pension pursuant to section 38-844 before  
11 completing ten years of service, the employer contributions are  
12 immediately fully vested.

13 J. A participant as defined in section 38-865, paragraph 7,  
14 subdivision (b) is fully vested in the defined contribution plan after  
15 three years of service, with the employer contributions vesting at the  
16 following rates:

- 17 1. Twenty-five percent after the first year of service.
- 18 2. Fifty percent after the second year of service.
- 19 3. One hundred percent after the third year of service.

20 K. If a participant as defined in section 38-865, paragraph 7,  
21 subdivision (b) dies or is determined to be eligible for an accidental or  
22 total and permanent disability pension pursuant to section 38-886 before  
23 completing three years of service, the employer contributions are  
24 immediately fully vested.

25 Sec. 3. Section 38-881.01, Arizona Revised Statutes, is amended to  
26 read:

27 38-881.01. Employees hired on or after July 1, 2018; defined  
28 contribution plan; benefit election; disability

29 A. Except as provided in subsection B of this section, an employee  
30 who is hired on or after July 1, 2018, who is a member as defined in  
31 section 38-881, paragraph 27, subdivision (a) and who was not an active,  
32 an inactive or a retired member of the plan or a member of the plan with a  
33 disability on June 30, 2018 shall participate in the public safety  
34 personnel defined contribution retirement plan established pursuant to  
35 article 4.1 of this chapter. For an employee who is hired on or after  
36 September 1, 2019, the employee's participation in the public safety  
37 personnel defined contribution retirement plan established pursuant to  
38 article 4.1 of this chapter begins ninety days after the date the employee  
39 is hired.

40 B. An employee who is hired on or after July 1, 2018, who is in a  
41 designated position as defined in section 38-881, paragraph 13,  
42 subdivision (g) and who was not an active, an inactive or a retired member  
43 of the plan or a member of the plan with a disability on June 30, 2018 is  
44 eligible to participate in the corrections officer retirement plan or the  
45 public safety personnel defined contribution retirement plan established

1 pursuant to article 4.1 of this chapter, depending on the employee's  
2 election under this section. During the first sixty days of an employee's  
3 employment and before the employee makes a decision regarding the  
4 individual's retirement plan, the board shall provide each probation and  
5 surveillance officer who is hired on or after July 1, 2018 interactive,  
6 objective educational training, counseling and participant-specific plan  
7 information about both the corrections officer retirement plan and the  
8 public safety personnel defined contribution retirement plan options. The  
9 employee's participation in either the plan or the public safety personnel  
10 defined contribution retirement plan established pursuant to article 4.1  
11 of this chapter begins ninety days after the date the employee is  
12 hired. Unless the elections made under this section are made before the  
13 ninetieth day after the date of employment, the employee is automatically  
14 enrolled in the plan for the remainder of the employee's employment ~~with~~  
15 ~~any employer under the plan.~~ Any election made under this section is  
16 irrevocable and is the employee's election for the remainder of the  
17 employee's employment ~~with any employer under the plan, regardless of~~  
18 ~~whether the employee's employment is continuous.~~ IF AN EMPLOYEE IS  
19 SUBSEQUENTLY REHIRED AFTER A BONA FIDE TERMINATION OF EMPLOYMENT FROM THE  
20 EMPLOYEE'S EMPLOYER OF NOT LESS THAN SIX MONTHS WITH NO PREARRANGED  
21 REEMPLOYMENT AGREEMENT WITH THE EMPLOYER OR HIRED BY A NEW EMPLOYER, THE  
22 EMPLOYEE MAY MAKE A NEW ELECTION UNDER THIS SECTION BEFORE THE NINETIETH  
23 DAY AFTER THE DATE OF HIRE. IF THE EMPLOYEE DOES NOT MAKE A NEW ELECTION  
24 WITHIN THAT TIME FRAME, THE EMPLOYEE'S PREVIOUS ELECTION WILL  
25 CONTINUE. The employee may make one of the following irrevocable  
26 elections:

27 1. To participate solely in the corrections officer retirement  
28 plan.

29 2. To participate solely in the public safety personnel defined  
30 contribution retirement plan established pursuant to article 4.1 of this  
31 chapter.

32 C. If an employee specified in subsection B of this section in the  
33 employee's first ninety days of employment is determined to be eligible  
34 for an accidental or total and permanent disability pension pursuant to  
35 section 38-886, the employee shall be automatically enrolled in the  
36 corrections officer retirement plan for the remainder of the employee's  
37 employment with any employer under the plan commencing on the employee's  
38 date of disability and shall receive an accidental or total and permanent  
39 disability pension as prescribed in this article.

40 D. If an employee specified in subsection B of this section in the  
41 employee's first ninety days of employment is killed in the line of duty  
42 or dies from injuries suffered in the line of duty, the employee shall be  
43 considered as having been enrolled in the corrections officer retirement  
44 plan and the surviving spouse of the deceased employee is eligible for  
45 survivor benefits as prescribed in this article.

APPROVED BY THE GOVERNOR APRIL 13, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2023.