Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 241

HOUSE BILL 2482

AN ACT

AMENDING SECTION 38-884, ARIZONA REVISED STATUTES; AMENDING SECTION 38-884, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-885.01; PROVIDING FOR THE DELAYED REPEAL OF SECTION 38-885.01, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-884, Arizona Revised Statutes, is amended to read:

38-884. Membership of retirement plan; termination; credited service; redemption

A. Each employee of a participating employer is a member of the plan UNLESS THE EMPLOYEE IS RECEIVING A PENSION FROM THE PLAN. A person employed shall undergo a medical examination performed by a doctor or clinic appointed by the local board or, in the case of a state correctional officer who is employed by the state department of corrections, complete a physical examination pursuant to section 41-1822, subsection B. For the purposes of subsection B of this section, the doctor or clinic appointed by the local board may be the employer's regular employee or contractor.

B. The purpose of the medical examination authorized by this section is to identify a member's physical or mental condition or injury that existed or occurred before the member's date of membership in the plan. Any employee who fails or refuses to submit to the medical examination prescribed in this section is deemed to waive all rights to disability benefits under this article. Medical examinations conducted under this article shall not be conducted or used for purposes of hiring, advancement, discharge, job training or other terms, conditions and privileges of employment unrelated to receipt or qualification for pension benefits or service credits from the fund. This subsection does not affect or impair the right of an employer to prescribe medical or physical standards for employees or prospective employees.

C. If a member ceases to be an employee for any reason other than death or retirement, within twenty days after filing a completed application with the fund manager, the member is entitled to receive the following amounts, less any benefit payments the member has received and any amount the member may owe to the plan:

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

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

(a) 5.0 to 5.9 years of credited service, twenty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(b) 6.0 to 6.9 years of credited service, forty per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(c) 7.0 to 7.9 years of credited service, fifty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

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

E. If the refund 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 fund manager.

F. Service shall be credited to a member's individual credited service account in accordance with rules the local board prescribes. In no case shall more than twelve months of credited service be credited on account of all service rendered by a member in any one year. In no case shall service be credited for any period during which the member is not employed in a designated position, except as provided by sections 38-921 and 38-922.

G. Credited service is forfeited if the amounts prescribed in subsection C or D of this section are paid or are transferred in accordance with this section.

H. If a former member becomes reemployed with the same employer within two years after the former member's termination date, a member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:

1. The member files with the plan a written application for reinstatement of forfeited credited service within ninety days after again becoming an employee.

2. The retirement fund is paid the total amount previously withdrawn pursuant to subsection C or D of this section plus compound interest from the date of withdrawal to the dates of repayment. Interest shall be computed at the rate of nine per cent for each year compounded each year from the date of

withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.

3. The required payment is completed within one year after returning to employee status.

I. A present active member of the plan who received a refund of accumulated contributions from the plan pursuant to subsection C OR D of this section and forfeited credited service pursuant to subsection G of this section may elect to redeem any part of that forfeited credited service by paying into the plan any amounts required pursuant to this subsection. A present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the fund manager shall pay into the plan the amounts previously paid or transferred as a refund of the member's accumulated contributions plus an amount, computed by the plan's actuary, that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the plan's actuary.

J. ~~The following conditions apply to a retired member who becomes an employee subsequent to retirement~~ A RETIRED MEMBER WHO RETIRES BEFORE JANUARY 1, 2006 MAY BECOME EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION AND STILL CONTINUE TO RECEIVE A PENSION IF THE EMPLOYMENT OCCURS AT LEAST NINETY DAYS AFTER RETIREMENT AND IF THE EMPLOYMENT INVOLVES SUBSTANTIAL DIRECT INMATE CONTACT. THE RETIRED MEMBER SHALL NOT CONTRIBUTE TO THE FUND AND SHALL NOT ACCRUE CREDITED SERVICE.

K. IF A RETIRED MEMBER RETIRES ON OR AFTER JANUARY 1, 2006, BECOMES EMPLOYED BY AN EMPLOYER IN A DESIGNATED POSITION BEFORE NINETY DAYS AFTER RETIREMENT OR IF THE EMPLOYMENT DOES NOT INVOLVE SUBSTANTIAL DIRECT INMATE CONTACT:

1. Payment of the retired member's pension shall be suspended until the retired member again ceases to be an employee. The amount of pension shall not be changed on account of service as an employee subsequent to retirement.

2. The retired member shall not contribute to the fund and shall not accrue credited service.

Sec. 2. Section 38-884, Arizona Revised Statutes, as amended by section 1 of this act, is amended to read:

38-884. <u>Membership of retirement plan; termination; credited service; redemption</u>

A. Each employee of a participating employer is a member of the plan ~~unless the employee is receiving a pension from the plan~~. A person employed shall undergo a medical examination performed by a doctor or clinic appointed by the local board or, in the case of a state correctional officer who is employed by the state department of corrections, complete a physical examination pursuant to section 41-1822, subsection B. For the purposes of subsection B of this section, the doctor or clinic appointed by the local board may be the employer's regular employee or contractor.

B. The purpose of the medical examination authorized by this section is to identify a member's physical or mental condition or injury that existed or occurred before the member's date of membership in the plan. Any employee who fails or refuses to submit to the medical examination prescribed in this section is deemed to waive all rights to disability benefits under this article. Medical examinations conducted under this article shall not be conducted or used for purposes of hiring, advancement, discharge, job training or other terms, conditions and privileges of employment unrelated to receipt or qualification for pension benefits or service credits from the fund. This subsection does not affect or impair the right of an employer to prescribe medical or physical standards for employees or prospective employees.

C. If a member ceases to be an employee for any reason other than death or retirement, within twenty days after filing a completed application with the fund manager, the member is entitled to receive the following amounts, less any benefit payments the member has received and any amount the member may owe to the plan:

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

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

(a) 5.0 to 5.9 years of credited service, twenty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(b) 6.0 to 6.9 years of credited service, forty per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(c) 7.0 to 7.9 years of credited service, fifty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

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

E. If the refund 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 fund manager.

F. Service shall be credited to a member's individual credited service account in accordance with rules the local board prescribes. In no case shall more than twelve months of credited service be credited on account of all service rendered by a member in any one year. In no case shall service be credited for any period during which the member is not employed in a designated position, except as provided by sections 38-921 and 38-922.

G. Credited service is forfeited if the amounts prescribed in subsection C or D of this section are paid or are transferred in accordance with this section.

H. If a former member becomes reemployed with the same employer within two years after the former member's termination date, a member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:

1. The member files with the plan a written application for reinstatement of forfeited credited service within ninety days after again becoming an employee.

2. The retirement fund is paid the total amount previously withdrawn pursuant to subsection C or D of this section plus compound interest from the date of withdrawal to the dates of repayment. Interest shall be computed at the rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.

3. The required payment is completed within one year after returning to employee status.

I. A present active member of the plan who received a refund of accumulated contributions from the plan pursuant to subsection C or D of this section and forfeited credited service pursuant to subsection G of this section may elect to redeem any part of that forfeited credited service by paying into the plan any amounts required pursuant to this subsection. A

present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the fund manager shall pay into the plan the amounts previously paid or transferred as a refund of the member's accumulated contributions plus an amount, computed by the plan's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the plan's actuary.

~~J. A retired member who retires before January 1, 2006 may become employed by an employer in a designated position and still continue to receive a pension if the employment occurs at least ninety days after retirement and if the employment involves substantial direct inmate contact. The retired member shall not contribute to the fund and shall not accrue credited service.~~

~~K. If a retired member retires on or after January 1, 2006, becomes employed by an employer in a designated position before ninety days after retirement or if the employment does not involve substantial direct inmate contact:~~

J. THE FOLLOWING CONDITIONS APPLY TO A RETIRED MEMBER WHO BECOMES AN EMPLOYEE SUBSEQUENT TO RETIREMENT:

1. Payment of the retired member's pension shall be suspended until the retired member again ceases to be an employee. The amount of pension shall not be changed on account of service as an employee subsequent to retirement.

2. The retired member shall not contribute to the fund and shall not accrue credited service.

Sec. 3. Title 38, chapter 5, article 6, Arizona Revised Statutes, is amended by adding section 38-885.01, to read:

38-885.01. Reverse deferred retirement option plan; purpose

A. A REVERSE DEFERRED RETIREMENT OPTION PLAN IS ESTABLISHED. THE PURPOSE OF THE REVERSE DEFERRED RETIREMENT OPTION PLAN IS TO ADD FLEXIBILITY TO THE PLAN AND TO PROVIDE MEMBERS WHO ELECT TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN ACCESS TO A LUMP SUM BENEFIT IN ADDITION TO THEIR NORMAL MONTHLY RETIREMENT BENEFIT ON ACTUAL RETIREMENT.

B. BEGINNING ON JULY 1, 2006 THROUGH JUNE 30, 2011, THE FUND MANAGER SHALL OFFER THE REVERSE DEFERRED RETIREMENT OPTION PLAN TO MEMBERS ON A VOLUNTARY BASIS AS AN ALTERNATIVE METHOD OF BENEFIT ACCRUAL UNDER THE PLAN.

C. ANY MEMBER WHO IS ELIGIBLE FOR A NORMAL PENSION PURSUANT TO SECTION 38-885 AND WHO HAS AT LEAST TWENTY-FOUR YEARS OF CREDITED SERVICE IS ELIGIBLE TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

D. A MEMBER WHO ELECTS TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN SHALL VOLUNTARILY AND IRREVOCABLY:

1. DESIGNATE A REVERSE DEFERRED RETIREMENT OPTION PLAN DATE THAT IS THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING A MEMBER'S COMPLETION OF TWENTY-FOUR YEARS OF CREDITED SERVICE OR A DATE NOT MORE THAN

SIXTY CONSECUTIVE MONTHS BEFORE THE DATE THE MEMBER ELECTS TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN, WHICHEVER IS LATER.

2. AGREE TO TERMINATE EMPLOYMENT ON THE DATE THE MEMBER ELECTS TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN.

3. RECEIVE BENEFITS FROM THE PLAN ON TERMINATION OF EMPLOYMENT AT THE SAME TIME AND IN THE SAME MANNER AS OTHERWISE PRESCRIBED IN THIS ARTICLE USING THE FACTORS OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON THE REVERSE DEFERRED RETIREMENT OPTION PLAN DATE.

E. ON ELECTION, A REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT IS ESTABLISHED WITHIN THE PLAN ON BEHALF OF EACH REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPANT. ALL BENEFITS ACCRUED PURSUANT TO THIS ARTICLE SHALL BE ACCOUNTED FOR IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT. A REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPANT DOES NOT HAVE A CLAIM ON THE ASSETS OF THE PLAN WITH RESPECT TO THE MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT AND ASSETS SHALL NOT BE SET ASIDE FOR ANY REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPANT THAT ARE SEPARATE FROM ALL OTHER SYSTEM ASSETS.

F. ALL AMOUNTS CREDITED TO A MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT ARE FULLY VESTED.

G. A MEMBER'S REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT SHALL BE CREDITED WITH THE FOLLOWING:

1. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY FROM THE REVERSE DEFERRED RETIREMENT OPTION PLAN DATE TO THE DATE THE MEMBER ELECTED TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION PLAN AND THAT IS COMPUTED IN THE SAME MANNER AS A NORMAL RETIREMENT BENEFIT USING THE FACTORS OF CREDITED SERVICE AND AVERAGE MONTHLY SALARY IN EFFECT ON THE REVERSE DEFERRED RETIREMENT OPTION PLAN DATE.

2. AN AMOUNT THAT IS CREDITED AS THOUGH ACCRUED MONTHLY AND THAT REPRESENTS INTEREST AT A RATE EQUAL TO THE YIELD ON A FIVE YEAR TREASURY NOTE AS OF THE FIRST DAY OF THE MONTH AS PUBLISHED BY THE FEDERAL RESERVE BOARD.

H. EMPLOYEE AND EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 38-891 THAT ARE DEPOSITED DURING THE PERIOD OF THE REVERSE DEFERRED RETIREMENT OPTION PLAN ARE NOT ELIGIBLE TO BE REFUNDED TO THE EMPLOYER OR MEMBER.

I. THE PARTICIPANT IS NOT ENTITLED TO RECEIVE ANY AMOUNT PRESCRIBED BY SECTION 38-905 OR 38-906 DURING THE REVERSE DEFERRED RETIREMENT OPTION PLAN PARTICIPATION PERIOD.

J. 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.

K. THE REVERSE DEFERRED RETIREMENT OPTION PLAN SHALL NOT JEOPARDIZE IN ANY WAY THE TAX QUALIFIED STATUS OF THE PLAN UNDER THE RULES OF THE INTERNAL REVENUE SERVICE. THE FUND MANAGER MAY ADOPT ADDITIONAL PROVISIONS TO THE EXTENT NECESSARY OR APPROPRIATE FOR THE REVERSE DEFERRED RETIREMENT OPTION PLAN TO COMPLY WITH APPLICABLE FEDERAL LAWS OR RULES.

1 Sec. 4. Effective date
2 Section 38-884, Arizona Revised Statutes, as amended by section 2 of
3 this act, is effective from and after June 30, 2008.
4 Sec. 5. Delayed repeal
5 Section 38-885.01, Arizona Revised Statutes, as added by this act, is
6 repealed from and after June 30, 2011.

APPROVED BY THE GOVERNOR MAY 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2006.