House Engrossed

**FILED**

**JANICE K. BREWER**
**SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 147

# HOUSE BILL 2268

AN ACT

CHANGING THE DESIGNATION OF TITLE 38, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, TO "FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE"; AMENDING SECTIONS 38-641, 38-642, 38-643, 38-644 AND 38-645, ARIZONA REVISED STATUTES; RELATING TO THE FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE POLICY PROGRAM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Heading change

The article heading of title 38, chapter 4, article 3, Arizona Revised Statutes, is changed from "FIRE FIGHTER CANCER INSURANCE" to "FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE".

Sec. 2. Section 38-641, Arizona Revised Statutes, is amended to read:

38-641. Definitions

In this article, unless the context otherwise requires:

1. "Employer" means this state or any political subdivision of this state, including cities, towns, fire districts and Indian tribes, that employs fire fighters OR PEACE OFFICERS and that participates in the public safety personnel retirement system established by chapter 5, article 4 of this title.

2. "Fund manager" means the fund manager of the public safety personnel retirement system established by section 38-848, including its authorized employees, administrators, attorneys and agents.

3. "PEACE OFFICER" MEANS A CERTIFIED PEACE OFFICER AS DEFINED IN SECTION 38-842.

~~3.~~ 4. "Program" means the fire fighter AND PEACE OFFICER cancer insurance policy program established by this article.

Sec. 3. Section 38-642, Arizona Revised Statutes, is amended to read:

38-642. Fire fighter and peace officer cancer insurance policy program

A. The fund manager shall establish and administer a fire fighter AND PEACE OFFICER cancer insurance policy program for participating employers that employ fire fighters OR PEACE OFFICERS. For the purposes of the internal revenue code, the program is an integral part of a political subdivision of this state.

B. Participating employers that employ fire fighters OR PEACE OFFICERS shall participate in the program.

C. The fund manager shall contract for a group cancer insurance policy to provide coverage as prescribed by section 38-645 or may self-insure the program by establishing an insurance policy that is of its own design and that is underwritten by the assets of the fire fighter AND PEACE OFFICER cancer insurance policy program account established by section 38-643. When procuring, establishing or administering any cancer insurance policy provided pursuant to this article the fund manager is exempt from the requirements of title 41, chapter 23.

D. On or before July 31 of each year, the fund manager shall notify each employer required to participate in the program of the total amount payable to the fund manager to pay for the costs of the program. The amount charged to each employer shall not exceed one hundred eighty dollars for each employee of the employer who is a fire fighter OR PEACE OFFICER on record with the fund manager as of June 30 of that year. Each employer shall pay this amount to the fund manager on or before August 31 of each year.

E. Employers that fail to pay the amount required by subsection D of this section by August 31 shall pay a fifteen per cent late charge to the fund manager on all delinquent amounts accrued monthly. If the amount due and the late charge are not paid within thirty days, the fund manager may recover the amounts due from the employer by either:

1. Filing an action in a court of competent jurisdiction to recover the amount due.

2. Requesting a deduction of any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

F. If the fund manager self-insures the program the fund manager and the program are exempt from title 20 and any rules adopted pursuant to title 20.

Sec. 4. Section 38-643, Arizona Revised Statutes, is amended to read:

38-643. Fire fighter and peace officer cancer insurance policy program account

A. The fire fighter AND PEACE OFFICER cancer insurance policy program account is established and shall be under the exclusive control of the fund manager. The fund manager shall deposit monies collected pursuant to section 38-642 in the account to pay the cost of providing a group cancer insurance policy under the program and the cost of administering the program.

B. The fund manager may use up to ten per cent of the monies deposited in the account each year ending July 31 to pay the costs of administering the program, except that fund manager attorney fees and court costs relating to the program shall be paid out of the account and are not subject to this limitation.

C. The fund manager shall cause an independent audit of the account to be performed at the end of each fiscal year and shall report the results of the audit to each employer within six months following the end of the fiscal year.

D. The employer contributions and securities in the account and investment earnings on monies in the account are exempt from state, county and municipal taxes.

E. The program is a welfare benefit plan or trust intended to pay expenses incurred in the treatment of cancer as provided in the policy of insurance secured or established by the fund manager pursuant to section 38-642. The legislature intends that the program's income be excluded as gross income for the purposes of the assessment of federal income tax under section 115 of the internal revenue code and that coverage under the program be excluded as gross income to the employees or retirees under section 106 of the internal revenue code. The fund manager may adopt additional program provisions as are necessary to fulfill its intent that the program's income and premiums are not subject to federal income tax.

F. Employers, the fund manager and any member of a local board do not guarantee the account in any manner against loss or depreciation and are not

liable for any act or failure to act made in good faith pursuant to this article, including determinations on program claims.

Sec. 5. Section 38-644, Arizona Revised Statutes, is amended to read:

38-644. Eligibility

A. Except as provided in subsections B, C and D, to qualify for covered benefits under the program, a person must satisfy all of the following criteria:

1. Be an active or retired member of the public safety personnel retirement system.

2. Be a firefighter who is or was regularly assigned to hazardous duty of the type normally expected of a firefighter OR BE A PEACE OFFICER.

3. Have cancer that was first diagnosed after the person's date of membership in the public safety personnel retirement system.

B. Persons who terminate employment with a participating employer are not eligible for benefits under the program unless the person has made a valid claim for payment of expenses under the program before termination of employment.

C. On retirement, persons who were either receiving benefits under the program before retirement or who are diagnosed with cancer subsequent to retirement remain eligible for coverage under the program for five months for each year of credited service accumulated toward retirement under the public safety personnel retirement system.

D. A person whose eligibility to receive benefits under subsection C is expiring may continue to remain eligible for coverage under the program if the person makes an election with the fund manager and pays to the fund manager the cost of the premium as determined by the fund manager at the time determined by the fund manager.

E. A person is not eligible for benefits under the program if there is any evidence that the cancer that forms the basis for a benefit claim under the program existed before the person's membership in the public safety personnel retirement system.

Sec. 6. Section 38-645, Arizona Revised Statutes, is amended to read:

38-645. Coverage

A. Coverage provided under the program shall provide benefits to eligible persons to pay for expenses that are designated by the fund manager and that are incurred in the treatment of cancer, including treatments by clinics or providers outside of the United States.

B. The fund manager may provide for additional coverage or exclusions under the program based on available monies in the fire fighter AND PEACE OFFICER cancer insurance policy program account.

C. Coverage under the fire fighter AND PEACE OFFICER cancer insurance policy program may be canceled, changed or terminated by the fund manager at any time without notice. If the program is terminated, the fund manager shall refund monies in the fire fighter AND PEACE OFFICER cancer insurance

policy program account on a pro rata basis to employers, excluding monies held in reserve for benefits as determined by the fund manager.

D. If the program is self-insured, benefits are limited to the assets in the fire fighter AND PEACE OFFICER cancer insurance policy program account and those benefits may be reduced or eliminated at any time.

Sec. 7. Retroactivity

This act is effective retroactively to from and after June 30, 2007.

APPROVED BY THE GOVERNOR MAY 1, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2007.