House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Second Regular Session
2010

CHAPTER 30

HOUSE BILL 2068

AN ACT

AMENDING SECTIONS 38-801, 38-802, 38-804, 38-807, 38-809 AND 38-817, ARIZONA REVISED STATUTES; RELATING TO THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-801, Arizona Revised Statutes, is amended to read:

38-801. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

5. "Average yearly salary" means the result obtained by dividing the total salary paid to an employee during a considered period by the number of years, including fractional years, in which the salary was received. The considered period shall be the three consecutive years within the last ten completed years of credited service as an elected official that yield the highest average. If an employee does not have three consecutive years of credited service as an elected official, the considered period is the employee's last consecutive period of employment with a plan employer immediately before retirement.

6. "Credited service" means the number of whole and fractional years of a member's service as an elected official after the elected official's effective date of participation for which member and employer contributions are on deposit with the fund, plus credited service transferred to the plan from another retirement system or plan for public employees of this state, plus service as an elected official before the elected official's effective date of participation that is being funded pursuant to a joinder agreement pursuant to section 38-810, subsection C and section 38-815 or service that was redeemed pursuant to section 38-816. CREDITED SERVICE DOES NOT INCLUDE PERIODS OF SERVICE FOR WHICH AN ACTIVE MEMBER IS UNCOMPENSATED BY THE EMPLOYER AND FOR WHICH NO CONTRIBUTIONS TO THE PLAN ARE MADE.

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

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

9. "Determination period" means the ninety-day period in which the plan must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the plan mails a notice of receipt to the participant and alternate payee.

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

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

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

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

14. "Elected official" means:

(a) Every elected official of this state.

(b) Every elected official of each county of this state.

(c) Every justice of the supreme court, every judge of the court of appeals, every judge of the superior court and every full-time superior court commissioner, except full-time superior court commissioners who failed to make a timely election of membership under the judges' retirement plan, repealed on August 7, 1985.

(d) The administrator of the fund manager if the administrator is a natural person.

(e) Each elected official of an incorporated city or town whose employer has executed a proper joinder agreement for coverage of its elected officials.

15. "ELIGIBLE CHILD" MEANS AN UNMARRIED CHILD OF A DECEASED ACTIVE OR RETIRED MEMBER WHO MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

(a) IS UNDER EIGHTEEN YEARS OF AGE.

(b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF AGE ONLY DURING ANY PERIOD THAT THE CHILD IS A FULL-TIME STUDENT.

(c) IS UNDER A DISABILITY THAT BEGAN BEFORE THE CHILD ATTAINED TWENTY-THREE YEARS OF AGE AND REMAINS A DEPENDENT OF THE SURVIVING SPOUSE OR GUARDIAN.

~~15.~~ 16. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

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

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

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

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

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

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

~~16.~~ 17. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

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

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

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

18. "EMPLOYER" MEANS A DEPARTMENT, AGENCY OR POLITICAL SUBDIVISION OF THIS STATE THAT MAKES EMPLOYER CONTRIBUTIONS TO THE PLAN PURSUANT TO SECTION 38-810 ON BEHALF OF AN ELECTED OFFICIAL WHO PARTICIPATES IN THE PLAN.

~~17.~~ 19. "Fund" means the elected officials' retirement plan fund.

~~18.~~ 20. "Fund manager" means the fund manager of the system.

~~19.~~ 21. "Notice of receipt" means a written document that is issued by the plan to a participant and alternate payee and that states that the plan has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

~~20.~~ 22. "Participant" means a member who is subject to a domestic relations order.

~~21.~~ 23. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

~~22.~~ 24. "Pension" means a series of monthly payments to a person who is entitled to receive benefits under the plan.

~~23.~~ 25. "Personal representative" means the personal representative of a deceased alternate payee.

~~24.~~ 26. "Plan" means the elected officials' retirement plan.

~~25.~~ 27. "Plan approved domestic relations order" means a domestic relations order that the plan approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

~~26.~~ 28. "Retired member" means a person who is being paid a pension based on the person's credited service as a member of the plan.

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

~~28.~~ 30. "System" means the public safety personnel retirement system.

Sec. 2. Section 38-802, Arizona Revised Statutes, is amended to read:

38-802. Elected officials' retirement plan and fund; administration

A. The elected officials' retirement plan is established.

B. The elected officials' retirement plan fund is established. The fund shall be made up of the assets of the judges' retirement plan and the elected officials' retirement plan terminated on August 7, 1985 plus the assets generated by this plan and the assets of the administrator of the fund manager in the state employees retirement plan on the date of transfer plus any assets transferred to the fund in accordance with a joinder agreement. The fund shall be used exclusively for payment of benefits to retired members or their beneficiaries as provided in this article and for payment of the administration, operation and investment expenses of the plan. In no case shall any portion of the fund revert or otherwise be paid to an employer.

C. The fund manager shall administer, manage and operate the plan and fund.

D. THE ELECTED OFFICIALS' RETIREMENT PLAN IS A JURAL ENTITY THAT MAY SUE AND BE SUED.

Sec. 3. Section 38-804, Arizona Revised Statutes, is amended to read:

38-804. Membership; termination; reinstatement of credited service

A. All elected officials are members of the plan, except that a state elected official who is subject to term limits may elect not to participate in the plan. The state elected official who is subject to term limits shall make the election in writing and file the election with the fund manager within thirty days after the state elected official assumes office. The election is effective on the first day of the state elected official's eligibility for that term of office. The election not to participate is specific for that term of office. If a state elected official who is subject to term limits fails to make an election as provided in this subsection, the state elected official is deemed to have elected to participate in the plan. The election not to participate in the plan is irrevocable and constitutes a

waiver of all benefits provided by the plan for the state elected official's entire term, except for any benefits accrued by the state elected official in the plan for periods of participation prior to being elected to an office subject to term limits or any benefits expressly provided by law. The state elected official who elects not to participate in the plan shall participate in the Arizona state retirement system unless the state elected official makes an irrevocable election not to participate in the Arizona state retirement system as provided in section 38-727.

B. If a member ceases to hold office 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 38-810, subsection A.

(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 38-810, subsection A.

(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 38-810, subsection A.

(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 38-810, subsection A.

(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 38-810, subsection A.

(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 38-810, subsection A.

C. If a member has more than ten years of credited service with the plan, leaves the monies prescribed in subsection B 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 B 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.

D. If the amount prescribed in subsection B or C of this section 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. A member who receives the amount prescribed in subsection B or C of this section from the plan or who elects a transfer pursuant to this subsection forfeits the member's credited service, and all rights to benefits under the plan and membership in the plan terminate.

E. 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.

~~E.~~ F. If an elected official who has terminated the member's membership in the plan pursuant to subsection B of this section is subsequently elected or otherwise becomes eligible for membership in the plan pursuant to subsection A of this section, credited service only accrues from the date of the member's most recent eligibility as an elected official.

~~F.~~ G. Notwithstanding subsection ~~E~~ F of this section, if an elected official files a written election form with the fund manager within ninety days after the day of the member's reemployment as an elected official and repays the amount previously withdrawn pursuant to subsection B or C of this section within one year after the date of the member's reemployment as an elected official, with interest on that amount at the rate of nine per cent for each year, compounded each year from the date of withdrawal to the date of repayment, credited service shall be restored. Credited service shall not be restored until complete repayment is made to the fund.

~~G.~~ H. If a retired member subsequently becomes an elected official, contributions shall not be made by the retired member or the retired member's employer and credited service shall not accrue while the retired member is holding office.

~~H.~~ I. In addition to ~~the provisions of~~ subsection ~~G~~ H of this section, if a retired member subsequently becomes, by reason of election or reelection, an elected official of the same office from which the member retired within a time period following the member's retirement that is less than one full term for that office, the member shall not receive a pension. If the elected official ceases to hold the same office, the elected official is entitled to receive the same pension the elected official was receiving when the elected official's pension was discontinued pursuant to this subsection. Nothing in this subsection prohibits a retired judge called by the supreme court to active duties of a judge pursuant to section 38-813 from receiving retirement benefits.

Sec. 4. Section 38-807, Arizona Revised Statutes, is amended to read:

38-807. Survivor pensions

A. The surviving spouse of a DECEASED retired member shall be paid a SURVIVING SPOUSE'S pension ~~which terminates on the death of the surviving spouse if the retired member was married to the surviving spouse for at least two years. The surviving spouse's pension under this subsection is three-fourths of the amount the retired member was receiving at the time of the member's death.~~

~~B. The surviving spouse of an active or inactive member who dies before retirement shall be paid a pension which terminates on the death of the surviving spouse if the active or inactive member was married to the surviving spouse for at least two years.~~

~~C. The surviving spouse's pension under subsection B of this section is three-fourths of the amount of pension computed according to section 38-808, subsection B, paragraph 2 under the assumption that the member had retired for reason of disability immediately before death.~~ IF THE SPOUSE WAS MARRIED TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE TIME OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE RETIRED MEMBER'S DATE OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. THE AMOUNT OF PENSION PAID A SURVIVING SPOUSE IS EQUAL TO THREE-FOURTHS OF THE AMOUNT OF THE DECEASED RETIRED MEMBER'S PENSION AT THE TIME OF DEATH. THE SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

B. THE SURVIVING SPOUSE OF A DECEASED ACTIVE OR INACTIVE MEMBER SHALL BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER ON THE DATE OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S DEATH OCCURS. FOR THE PURPOSES OF THIS SUBSECTION, THE SURVIVING SPOUSE'S PENSION SHALL BE THREE-FOURTHS OF THE AMOUNT CALCULATED IN THE SAME MANNER AS A DISABILITY PENSION IS CALCULATED PURSUANT TO SECTION 38-806. THE SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE PLAN IN ORDER TO RECEIVE THE SURVIVOR BENEFIT.

~~D.~~ C. If the deceased retired or active or inactive member does not have an eligible surviving spouse or the pension of the eligible surviving spouse is terminated, each ~~surviving unmarried child of the deceased retired or active or inactive member shall be paid a~~ ELIGIBLE CHILD IS ENTITLED TO RECEIVE A CHILD'S pension ~~which terminates on adoption or the attainment of age eighteen unless the child is a full-time student under the age of twenty-three or the child is under a disability which began before the child attained the age of twenty-three~~. A CHILD'S PENSION TERMINATES IF THE CHILD IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE CHILD'S PENSION TERMINATES IF THE CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF

THE SURVIVING SPOUSE OR GUARDIAN. The amount of the pension of each ~~surviving minor child of a deceased retired or active or inactive member~~ ELIGIBLE CHILD is an equal share of the amount of the surviving spouse's pension. The surviving minor OR DISABLED child's pension shall be paid to the person who is the legally appointed guardian or custodian of the eligible child.

~~E.~~ D. If a member dies and no pension is payable on account of the member's death, the deceased member's accumulated contributions shall be paid to the person or persons designated by the deceased member in writing and filed with the fund manager. If the designated person or persons do not survive the deceased member, the accumulated contributions shall be paid to the estate of the deceased member.

Sec. 5. Section 38-809, Arizona Revised Statutes, is amended to read:

38-809. Correction of pension payment errors; assignments prohibited; civil liability; restitution or payment of fine; violation; classification; offset of benefits

A. If the plan has made pension payments based on incorrect information and a person or an estate has been paid more or less than the person or estate ~~would~~ SHOULD have been paid ~~if the information had been correct~~, the fund manager shall adjust future payments so that the proper amount is paid. The adjustment may be made in such a manner that the equivalent actuarial present value of the benefit to which the person or estate is correctly entitled is paid.

B. Notwithstanding any other statute, benefits, member contributions or court fees including interest earnings and all other credits payable under the plan are not subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, before actually being received by the person entitled to the benefit, contribution, earning or credit under the terms of the plan, and any attempt to dispose of any right under the terms of the plan as proscribed in this subsection is void. The fund is not liable for or subject to the debts, contracts, liabilities, enlargements or torts of any person entitled to a benefit, contribution, earning or credit under the terms of the plan.

C. Nothing in this section exempts employee benefits of any kind from a writ of attachment, a writ of execution, a writ of garnishment and orders of assignment issued by a court of record as the result of a judgment for arrearages of child support or for child support debt.

D. A person who defrauds the plan or who takes, converts, steals or embezzles monies owned by or from the plan and who fails or refuses to return the monies to the plan on the fund manager's written request is subject to a civil suit by the plan in the superior court ~~of~~ IN Maricopa county. On entry of an order finding the person has defrauded the plan or taken, converted, stolen or embezzled monies owned by or from the plan, the court shall enter

an order against that person and for the plan awarding the plan all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the plan a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the plan, plus interest at the rate prescribed by section 44-1201, subsection A, until all amounts owed are paid to the plan.

E. IF A MEMBER IS CONVICTED OF, OR DISCHARGED BECAUSE OF, THEFT, EMBEZZLEMENT, FRAUD OR MISAPPROPRIATION OF AN EMPLOYER'S PROPERTY OR PROPERTY UNDER THE CONTROL OF THE EMPLOYER, THE MEMBER IS SUBJECT TO RESTITUTION AND FINES IMPOSED BY A COURT OF COMPETENT JURISDICTION. THE COURT MAY ORDER THE RESTITUTION OR FINES TO BE PAID FROM ANY PAYMENTS OTHERWISE PAYABLE TO THE MEMBER FROM THE PLAN.

F. A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT OR WHO FALSIFIES OR PERMITS TO BE FALSIFIED ANY RECORD OF THE PLAN WITH AN INTENT TO DEFRAUD THE PLAN IS GUILTY OF A CLASS 1 MISDEMEANOR. IF ANY CHANGE OR ERROR IN THE RECORDS RESULTS IN ANY MEMBER OR BENEFICIARY RECEIVING FROM THE PLAN MORE OR LESS THAN THE MEMBER OR BENEFICIARY WOULD HAVE BEEN ENTITLED TO RECEIVE HAD THE RECORDS BEEN CORRECT, THE PLAN SHALL CORRECT THE ERROR, AND AS FAR AS PRACTICABLE SHALL ADJUST THE PAYMENTS IN SUCH A MANNER THAT THE ACTUARIAL EQUIVALENT OF THE BENEFIT TO WHICH THE MEMBER OR BENEFICIARY WAS CORRECTLY ENTITLED TO RECEIVE SHALL BE PAID. IF A MEMBER IS CONVICTED OF A CRIME PURSUANT TO THIS SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE UNDER THIS ARTICLE.

~~E.~~ G. Notwithstanding any other provision of this article, the fund manager may offset against any benefits otherwise payable by the plan to an active or retired member or survivor any court ordered amounts awarded to the fund manager and plan and assessed against the member or survivor.

Sec. 6. Section 38-817, Arizona Revised Statutes, is amended to read:

38-817. <u>Group health and accident coverage for retired members; payment</u>

A. The fund manager shall pay from the assets of the fund part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the ~~elected officials' retirement~~ plan who receives a pension if the retired member had eight or more years of credited service under the plan. In order to qualify for payment pursuant to this subsection, the retired member or survivor shall elect single coverage and must have elected to participate in the coverage provided in section 38-651.01 or 38-782 or any other health and accident insurance coverage provided or administered by ~~a participating~~ AN employer ~~of the elected officials' retirement plan~~. The fund manager shall pay up to:

1. One hundred fifty dollars per month for each retired member or survivor of the plan who is not eligible for medicare.

2. One hundred dollars per month for each retired member or survivor of the plan who is eligible for medicare.

B. The fund manager shall pay from the assets of the fund part of the family coverage premium of any group health and accident insurance each month for a ~~benefit recipient~~ RETIRED MEMBER OR SURVIVOR who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. The fund manager shall pay up to:

1. Two hundred sixty dollars per month if the retired member or survivor of the plan and one or more dependents are not eligible for medicare.

2. One hundred seventy dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare.

3. Two hundred fifteen dollars per month if either:

(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.

C. Each retired member or survivor of the plan with less than eight years of credited service and a dependent of such a retired member or survivor who participates in the coverage provided by section 38-651.01 or 38-782 or who participates in any other health and accident insurance coverage provided or administered by ~~a participating~~ AN employer ~~of the plan~~ is entitled to receive a proportion of the full benefit prescribed by subsection A~~,~~ OR B~~, E, F, G or H~~ of this section according to the following schedule:

1. 7.0 to 7.9 years of credited service, ninety per cent.

2. 6.0 to 6.9 years of credited service, seventy-five per cent.

3. 5.0 to 5.9 years of credited service, sixty per cent.

4. Those with less than five years of credited service do not qualify for the benefit.

D. The fund manager shall not pay more than the amount prescribed in this section for a benefit recipient as a member or survivor of the plan.

~~E. In addition to the payments provided by subsection A of this section, through June 30, 2005, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for each retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection A of this section and who lives in a nonservice area as follows:~~

~~1. Up to three hundred dollars per month for a retired member or survivor of the plan who is not eligible for medicare and who has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least one hundred twenty-five dollars per month.~~

~~2. Up to one hundred seventy dollars per month for a retired member or survivor of the plan who is eligible for medicare and who has eight or more~~

~~years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least one hundred dollars per month.~~

~~F. In addition to the payments provided by subsection B of this section, through June 30, 2005, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:~~

~~1. Up to six hundred dollars per month if the retired member or survivor of the plan and one or more dependents are not eligible for medicare and the retired member or survivor of the plan has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least four hundred twenty-five dollars per month.~~

~~2. Up to three hundred fifty dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare and the retired member or survivor of the plan has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least two hundred dollars per month.~~

~~3. If the retired member or survivor of the plan has eight or more years of credited service, up to four hundred seventy dollars per month if either:~~

~~(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.~~

~~(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.~~

~~To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least four hundred dollars per month.~~

~~G. In addition to the payments provided by subsection A of this section, beginning July 1, 2005 through June 30, 2009, the fund manager shall pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for each medicare eligible retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection A of this section and who lives in a nonservice area of up to one hundred seventy dollars per month for a retired member or survivor of the plan who is eligible for medicare and who has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least one hundred dollars per month.~~

~~H. In addition to the payments provided by subsection B of this section, beginning July 1, 2005 through June 30, 2009, the fund manager shall~~

~~pay an insurance premium benefit for medical coverage, not including limited benefit coverage as defined in section 20-1137, for a medicare eligible retired member or survivor of the plan who is entitled to a premium benefit payment pursuant to subsection B of this section, who is enrolled in a family medical plan and who lives in a nonservice area as follows:~~

~~1. Up to three hundred fifty dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare and the retired member or survivor of the plan has eight or more years of credited service. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least two hundred dollars per month.~~

~~2. If the retired member or survivor of the plan has eight or more years of credited service, up to four hundred seventy dollars per month if the retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare. To qualify for this additional benefit, a retired member or survivor shall pay out-of-pocket medical insurance premiums of at least four hundred dollars per month.~~

~~I. A retired member or survivor of the plan who is enrolled in a managed care program in a nonservice area is not eligible for the payment prescribed in subsection E, F, G or H of this section.~~

~~J.~~ E. A retired member or survivor of the plan may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's employer if that employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the plan.

~~K. For the purposes of this section, "nonservice area" means an area in this state in which the Arizona state retirement system pursuant to section 38-782, the department of administration pursuant to section 38-651.01 or the member's or survivor's participating employer does not provide or administer a health care services organization program, excluding any preferred provider organization program or individual health indemnity policy, for which the retired member or survivor of the plan is eligible.~~

Sec. 7. Retroactivity

A. Section 38-801, paragraph 18, Arizona Revised Statutes, as amended by this act, applies retroactively to August 7, 1985.

B. Section 38-817, subsections A and C, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after June 30, 2001.

APPROVED BY THE GOVERNOR APRIL 9, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 9, 2010.