

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1609

(Reference to printed bill)

1 Page 10, line 14, after the period insert "**FOUR PER CENT OF THE MEMBER'S AVERAGE**
2 **YEARLY SALARY MULTIPLIED BY THE MEMBER'S CREDITED SERVICE THAT IS ACCRUED**
3 **BEFORE JANUARY 1, 2012 AND**"

4 Line 15, after "SERVICE" insert "**THAT IS ACCRUED ON OR AFTER JANUARY 1, 2012**"

5 After line 44, insert:

6 "Sec. 7. Section 38-809, Arizona Revised Statutes, is amended to read:

7 38-809. Correction of pension payment errors: assignments
8 prohibited; civil liability; restitution or payment of
9 fine; forfeiture of benefits; violation;
10 classification; offset of benefits

11 A. If the plan has made pension payments based on incorrect
12 information and a person or an estate has been paid more or less than the
13 person or estate should have been paid, the board shall adjust future
14 payments so that the proper amount is paid. The adjustment may be made in
15 such a manner that the equivalent actuarial present value of the benefit to
16 which the person or estate is correctly entitled is paid.

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

1 enlargements or torts of any person entitled to a benefit, contribution,
2 earning or credit under the terms of the plan.

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

7 D. A person who defrauds the plan or who takes, converts, steals or
8 embezzles monies owned by or from the plan and who fails or refuses to return
9 the monies to the plan on the board's written request is subject to a civil
10 suit by the plan in the superior court in Maricopa county. On entry of an
11 order finding the person has defrauded the plan or taken, converted, stolen
12 or embezzled monies owned by or from the plan, the court shall enter an order
13 against that person and for the plan awarding the plan all of its costs and
14 expenses of any kind, including attorney fees, that were necessary to
15 successfully prosecute the action. The court shall also grant the plan a
16 judicial lien on all of the nonexempt property of the person against whom
17 judgment is entered pursuant to this subsection in an amount equal to all
18 amounts awarded to the plan, plus interest at the rate prescribed by section
19 44-1201, subsection A, until all amounts owed are paid to the plan.

20 E. If a member is convicted of, or discharged because of, theft,
21 embezzlement, fraud or misappropriation of an employer's property or property
22 under the control of the employer, the member is subject to restitution and
23 fines imposed by a court of competent jurisdiction. The court may order the
24 restitution or fines to be paid from any payments otherwise payable to the
25 member from the plan. **IF A MEMBER IS CONVICTED OF A FELONY PURSUANT TO THIS**
26 **SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE**
27 **MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND**
28 **BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE**
29 **UNDER THIS ARTICLE.**

30 F. A person who knowingly makes any false statement or who falsifies
31 or permits to be falsified any record of the plan with an intent to defraud
32 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.

G. Notwithstanding any other provision of this article, the board 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 board and plan and assessed against the member or survivor."

Renumber to conform

Page 30, line 31, after the period insert "**IF A MEMBER IS CONVICTED OF A FELONY 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.**"

Page 50, between lines 31 and 32, insert:

"Sec. 30. Section 38-912, Arizona Revised Statutes, is amended to read:

**38-912. Civil liability; restitution or payment of fine;
forfeiture of benefits; violation; classification;
offset of benefits**

A. 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 board's written request is subject to civil suit by the plan in the superior court 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

1 against that person and for the plan awarding the plan all of its costs and
2 expenses of any kind, including attorney fees, that were necessary to
3 successfully prosecute the action. The court shall also grant the plan a
4 judicial lien on all of the nonexempt property of the person against whom
5 judgment is entered pursuant to this subsection in an amount equal to all
6 amounts awarded to the plan, plus interest at the rate prescribed by section
7 44-1201, subsection A, until all amounts owed are paid to the plan.

8 B. If a member is convicted of, or discharged because of, theft,
9 embezzlement, fraud or misappropriation of an employer's property or property
10 under the control of the employer, the member is subject to restitution and
11 fines imposed by a court of competent jurisdiction. The court may order the
12 restitution or fines to be paid from any payments otherwise payable to the
13 member from the plan. **IF A MEMBER IS CONVICTED OF A FELONY PURSUANT TO THIS**
14 **SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE**
15 **MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND**
16 **BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE**
17 **UNDER THIS ARTICLE.**

18 C. A person who knowingly makes any false statement or who falsifies
19 or permits to be falsified any record of the plan with an intent to defraud
20 the plan is guilty of a class 6 felony. If any change or error in the
21 records results in any member or beneficiary receiving from the plan more or
22 less than the member or beneficiary would have been entitled to receive had
23 the records been correct, the local board shall correct the error, and as far
24 as practicable shall adjust the payments in a manner that the actuarial
25 equivalent of the benefit to which the member or beneficiary was correctly
26 entitled shall be paid. If a member is convicted of a crime pursuant to this
27 subsection the member is entitled to receive a lump sum payment of the
28 member's accumulated contributions but forfeits any future compensation and
29 benefits that would otherwise accrue to the member or the member's estate
30 under this article.

1 D. Notwithstanding any other provision of this article, the board may
2 offset against any benefits otherwise payable by the plan to a member or
3 survivor any court ordered amounts awarded to the board and plan and assessed
4 against the member or survivor."

5 Renumber to conform

6 Page 51, between lines 23 and 24, insert:

7 "Sec. 34. Defined contribution study committee; delayed repeal

8 A. The defined contribution study committee is established consisting
9 of the members of the state board of investment established by section
10 35-311, Arizona Revised Statutes.

11 B. The committee shall study and make recommendations as to the
12 feasibility and cost of transferring existing members of a public retirement
13 system or plan to a new defined contribution plan as well as providing for a
14 defined contribution plan for newly hired public employees.

15 C. On or before December 31, 2011, the committee shall submit a
16 written report of its findings and recommendations to the speaker of the
17 house of representatives, the president of the senate and the governor. The
18 committee shall provide a copy of the report to the secretary of state.

19 D. This section is repealed from and after September 30, 2012."

20 Renumber to conform

21 Amend title to conform

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