

COMMITTEE ON FINANCE
SENATE AMENDMENTS TO S.B. 1609
(Reference to printed bill)

Page 1, between lines 1 and 2, insert:

"Section 1. Section 38-727, Arizona Revised Statutes, is amended to read:

38-727. Eligibility; options

The following provisions apply to all employees hired on or after the effective date:

1. All employees and officers of this state and all officers and employees of political subdivisions establishing a retirement plan administered by the board pursuant to this article who as a result of state service or service for the political subdivision are included in agreements providing for their coverage under the federal old age and survivors insurance system are subject to this article, except that membership is not mandatory:

(a) On the part of any employee who is eligible and who elects to participate in the optional retirement programs established by the Arizona board of regents pursuant to the authority conferred by section 15-1628 or by a community college district board pursuant to authority conferred by section 15-1451.

(b) For a state elected official who is subject to term limits, who is eligible for participation in ASRS because the state elected official elected not to participate in the elected officials' retirement plan as provided in section 38-804, subsection A and who elects not to participate in ASRS as provided in paragraph 7 of this section.

(c) On the part of any employee or officer who is eligible to participate and who participates in the elected officials' retirement plan pursuant to article 3 of this chapter, the public safety personnel retirement

1 system pursuant to article 4 of this chapter or the corrections officer
2 retirement plan pursuant to article 6 of this chapter.

3 2. All employees and officers of political subdivisions whose
4 compensation is provided wholly or in part from state monies and who are
5 declared to be state employees and officers by the legislature for retirement
6 purposes are subject, on legislative enactment, to this article and are
7 members of ASRS.

8 3. Any member whose service terminates other than by death or
9 withdrawal from membership is deemed to be a member of ASRS until the
10 member's death benefit is paid.

11 4. Employees and officers shall not become members of ASRS and, if
12 they are members immediately before becoming employed as provided by this
13 section, shall have their membership status suspended while they are employed
14 by state departments paying the salaries of their officers and employees
15 wholly or in part from monies received from sources other than appropriations
16 from the state general fund for the period or periods payment of the employer
17 contributions is not made by or on behalf of the departments.

18 5. Notwithstanding other provisions of this section, a temporary
19 employee of the legislature whose projected term of employment is for not
20 more than six months is ineligible for membership in ASRS. If the employment
21 continues beyond six successive months, the employee may elect to either:

22 (a) Receive credit for service for the first six months of employment
23 and establish membership in ASRS as of the beginning of the current term of
24 employment if, within forty-five days after the first six months of
25 employment, both the employer and the employee contribute to ASRS the amount
26 that would have been required to be contributed to ASRS during the first six
27 months of employment as if the employee had been a member of ASRS during
28 those six months.

29 (b) Establish membership in ASRS as of the day following the
30 completion of six months of employment.

31 6. A person who is employed in postgraduate training in an approved
32 medical residency training program of an employer or a postdoctoral scholar

1 who is employed by a university under the jurisdiction of the Arizona board
2 of regents is ineligible for membership in ASRS.

3 7. A state elected official who is subject to term limits and who is
4 eligible for participation in ASRS because the state elected official elected
5 not to participate in the elected officials' retirement plan as provided in
6 section 38-804, subsection A may elect not to participate in ASRS. The
7 election not to participate is specific for that term of office. The state
8 elected official who is subject to term limits shall make the election in
9 writing and file the election with ASRS within thirty days after the elected
10 official's retirement plan mails the notice to the state elected official of
11 the state elected official's eligibility to participate in ASRS. The
12 election is effective on the first day of the state elected official's
13 eligibility. If a state elected official who is subject to term limits fails
14 to make an election as provided in this paragraph, the state elected official
15 is deemed to have elected to participate in ASRS. The election not to
16 participate in ASRS is irrevocable and constitutes a waiver of all benefits
17 provided by ASRS for the state elected official's entire term, except for any
18 benefits accrued by the state elected official in ASRS for periods of
19 participation ~~prior to~~ BEFORE being elected to an office subject to term
20 limits or any benefits expressly provided by law.

21 8. EVERY FULL-TIME SUPERIOR COURT COMMISSIONER WHO IS APPOINTED ON OR
22 AFTER JULY 1 OF THE FIRST FISCAL YEAR AFTER THE SOCIAL SECURITY
23 ADMINISTRATION APPROVES THE INCLUSION OF SUPERIOR COURT COMMISSIONERS ON THIS
24 STATE'S SECTION 218 AGREEMENT IS A MEMBER OF ASRS AND IS SUBJECT TO THIS
25 ARTICLE."

26 Renumber to conform

27 Page 2, line 32, strike the comma insert ".

28 (d)"

Page 2, line 33, strike the comma insert ".".

(e)"; after the first "court" insert a period; strike "and" insert:
"(f)"

Line 34, after "commissioner" insert "WHO IS A MEMBER OF THE PLAN BEFORE JULY 1
OF THE FIRST FISCAL YEAR AFTER THE SOCIAL SECURITY ADMINISTRATION APPROVES
THE INCLUSION OF SUPERIOR COURT COMMISSIONERS ON THIS STATE'S SECTION 218
AGREEMENT"

Line 37, strike "(d)" insert "(g)"

Line 39, strike "(e)" insert "(h)"

Line 42, strike "(f)" insert "(i)"

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

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

After line 44, insert:

"Sec. 8. 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; forfeiture of benefits; 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 should have been paid, the board 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

1 credit under the terms of the plan, and any attempt to dispose of any right
2 under the terms of the plan as proscribed in this subsection is void. The
3 fund is not liable for or subject to the debts, contracts, liabilities,
4 enlargements or torts of any person entitled to a benefit, contribution,
5 earning or credit under the terms of the plan.

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

10 D. A person who defrauds the plan or who takes, converts, steals or
11 embezzles monies owned by or from the plan and who fails or refuses to return
12 the monies to the plan on the board's written request is subject to a civil
13 suit by the plan in the superior court in Maricopa county. On entry of an
14 order finding the person has defrauded the plan or taken, converted, stolen
15 or embezzled monies owned by or from the plan, the court shall enter an order
16 against that person and for the plan awarding the plan all of its costs and
17 expenses of any kind, including attorney fees, that were necessary to
18 successfully prosecute the action. The court shall also grant the plan a
19 judicial lien on all of the nonexempt property of the person against whom
20 judgment is entered pursuant to this subsection in an amount equal to all
21 amounts awarded to the plan, plus interest at the rate prescribed by section
22 44-1201, subsection A, until all amounts owed are paid to the plan.

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

1 F. A person who knowingly makes any false statement or who falsifies
2 or permits to be falsified any record of the plan with an intent to defraud
3 the plan is guilty of a class 1 misdemeanor. If any change or error in the
4 records results in any member or beneficiary receiving from the plan more or
5 less than the member or beneficiary would have been entitled to receive had
6 the records been correct, the plan shall correct the error, and as far as
7 practicable shall adjust the payments in such a manner that the actuarial
8 equivalent of the benefit to which the member or beneficiary was correctly
9 entitled to receive shall be paid. If a member is convicted of a crime
10 pursuant to this subsection, the member is entitled to receive a lump sum
11 payment of the member's accumulated contributions but forfeits any future
12 compensation and benefits that would otherwise accrue to the member or the
13 member's estate under this article.

14 G. Notwithstanding any other provision of this article, the board may
15 offset against any benefits otherwise payable by the plan to an active or
16 retired member or survivor any court ordered amounts awarded to the board and
17 plan and assessed against the member or survivor."

18 Renumber to conform

19 Page 17, line 4, after the first "party" strike remainder of line

20 Strike lines 5 through 8

21 Line 9, strike "suppression activities"; strike "training"; strike "OR fire,
22 wildfire, emergency medical or"

23 Line 10, strike "emergency management"; strike "ACTIVITIES"

24 Page 30, line 31, after the period insert "IF A MEMBER IS CONVICTED OF A FELONY
25 PURSUANT TO THIS SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM
26 PAYMENT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE
27 COMPENSATION AND BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE
28 MEMBER'S ESTATE UNDER THIS ARTICLE."

29 Page 50, between lines 31 and 32, insert:

30 "Sec. 31. Section 38-912, Arizona Revised Statutes, is amended to
31 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 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.

B. 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. 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.

C. 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 6 felony. 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 local board shall correct the error, and as far

1 as practicable shall adjust the payments in a manner that the actuarial
2 equivalent of the benefit to which the member or beneficiary was correctly
3 entitled shall be paid. If a member is convicted of a crime pursuant to this
4 subsection the member is entitled to receive a lump sum payment of the
5 member's accumulated contributions but forfeits any future compensation and
6 benefits that would otherwise accrue to the member or the member's estate
7 under this article.

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

12 Renumber to conform

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

14 "Sec. 35. Defined contribution study committee; delayed repeal

15 A. The defined contribution study committee is established consisting
16 of the members of the state board of investment established by section
17 35-311, Arizona Revised Statutes.

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

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

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

27 Renumber to conform

28 Amend title to conform

02/23/11
11:45 AM
s: tb