

COMMITTEE ON FINANCE
SENATE AMENDMENTS TO H.B. 2608
(Reference to House engrossed bill)

- 1 Page 4, strike lines 16 through 44
- 2 Strike page 5
- 3 Page 6, strike lines 1 through 32
- 4 Renumber to conform
- 5 Page 7, line 5, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
- 6 Page 8, line 6, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
- 7 Page 11, strike lines 14 through 44
- 8 Strike pages 12, 13 and 14
- 9 Page 15, strike lines 1 through 35
- 10 Renumber to conform
- 11 Page 17, lines 20, 22, 32 and 38, strike "JUNE 30, 2013" insert "DECEMBER 31, 2013"
- 12 Page 19, line 39, strike "JUNE 30, 2013" insert "DECEMBER 31, 2013"
- 13 Page 21, line 16, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
- 14 Line 29, strike "JULY 1, 2013" insert "JANUARY 1, 2014"; strike "JUNE 30, 2013"
- 15 insert "DECEMBER 31, 2013"
- 16 Page 22, line 18, strike "JULY 1, 2013 THROUGH JUNE 30, 2043" insert "JANUARY 1,
- 17 2014 THROUGH JUNE 30, 2044"
- 18 Line 25, strike "SECTION 38-797.05" insert "ARTICLE 3.2 OF THIS CHAPTER"
- 19 Line 33, strike "2043" insert "2044"
- 20 Page 25, line 32, strike "article" insert "articles"; after "3.1" insert "and 3.2"
- 21 Strike line 41
- 22 Renumber to conform
- 23 Line 42, after "MEANS" strike remainder of line insert "THE BOARD OF TRUSTEES OF
- 24 THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY SECTION 38-848."
- 25 Page 26, line 3, strike "JULY 1, 2013" insert "JANUARY 1, 2014"; strike "JUNE 30"
- 26 insert "DECEMBER 31"

1 Page 26, line 6, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
2 Line 7, strike "JUNE 30" insert "DECEMBER 31"
3 Line 9, strike "JULY 1, 2013" insert "JANUARY 1, 2014"; strike "JUNE 30" insert
4 "DECEMBER 31"
5 Line 11, strike "JULY 1, 2013" insert "JANUARY 1, 2014"; strike "JUNE 30" insert
6 "DECEMBER 31"
7 Line 13, strike "JULY 1, 2013" insert "JANUARY 1, 2014"; strike "JUNE 30" insert
8 "DECEMBER 31"
9 Line 17, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
10 Line 18, strike "JUNE 30" insert "DECEMBER 31"
11 Line 21, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
12 Line 22, strike "JUNE 30" insert "DECEMBER 31"
13 Line 33, after "system" insert "; annual report; quarterly statements"
14 Line 42, after the period insert "ON OR BEFORE DECEMBER 31, 2013, THE BOARD
15 SHALL SUBMIT TO THE INTERNAL REVENUE SERVICE THE PROPER PAPERWORK FOR
16 NOTIFICATION THAT ALL MEMBER CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER
17 AS PROVIDED IN SECTION 38-833 SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS
18 PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE CODE.
19 C. THE THIRD-PARTY ADMINISTRATOR CONTRACTED PURSUANT TO SECTION 38-952
20 SHALL PROVIDE ANNUAL UPDATES TO THE BOARD ON THE STATUS OF THE DEFINED
21 CONTRIBUTION SYSTEM. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE BOARD SHALL
22 REPORT THE STATUS OF THE DEFINED CONTRIBUTION SYSTEM TO THE GOVERNOR, THE
23 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE
24 JOINT LEGISLATIVE BUDGET COMMITTEE. THE THIRD-PARTY ADMINISTRATOR SHALL
25 PROVIDE QUARTERLY STATEMENTS TO EACH MEMBER."
26 Line 44, strike "JULY 1, 2013" insert "JANUARY 1, 2014"
27 Page 27, line 1, strike "ASRS" insert "THE BOARD"
28 Line 6, strike "LONG-TERM" insert "ELECTED OFFICIALS' DEFINED CONTRIBUTION
29 RETIREMENT SYSTEM"
30 Line 7, strike "2.1" insert "3.2"
31 Line 12, strike "LONG-TERM" insert "ELECTED OFFICIALS' DEFINED CONTRIBUTION
32 RETIREMENT SYSTEM"; strike "2.1" insert "3.2"
33 Line 16, strike "2.1" insert "3.2"; strike ", BUT IS"

1 Page 27, line 17, strike "NOT ELIGIBLE FOR ANY DISABILITY PENSION BENEFITS UNDER
2 SECTION 38-806"

3 Between lines 17 and 18, insert:

4 "ARTICLE 3.2. ELECTED OFFICIALS' DEFINED CONTRIBUTION
5 RETIREMENT SYSTEM DISABILITY PROGRAM

6 38-840. Definitions

7 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

8 1. "ASSETS" MEANS THE ACCUMULATED RESOURCES OF THE EODC DISABILITY
9 PROGRAM.

10 2. "BOARD" MEANS THE BOARD OF TRUSTEES ESTABLISHED PURSUANT TO SECTION
11 38-848.

12 3. "DEPOSITORY" MEANS A BANK IN WHICH THE MONIES OF THE EODC
13 DISABILITY PROGRAM ARE DEPOSITED AND COLLATERALIZED AS PROVIDED BY LAW.

14 4. "EMPLOYER" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-831.

15 5. "EMPLOYER CONTRIBUTIONS" MEANS ALL AMOUNTS PAID INTO THE EODC
16 DISABILITY PROGRAM BY AN EMPLOYER.

17 6. "EODC DISABILITY PROGRAM" OR "PROGRAM" MEANS THE ELECTED OFFICIALS'
18 DEFINED CONTRIBUTION RETIREMENT SYSTEM DISABILITY PROGRAM ESTABLISHED BY THIS
19 ARTICLE.

20 7. "MEMBER" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-831.

21 8. "STATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

22 9. "SYSTEM" MEANS THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
23 ESTABLISHED BY ARTICLE 4 OF THIS CHAPTER.

24 38-840.01. EODC disability program; administration; power and
25 duties of the board; hearing

26 A. THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM
27 DISABILITY PROGRAM IS ESTABLISHED FOR MEMBERS OF THE ELECTED OFFICIALS'
28 DEFINED CONTRIBUTION RETIREMENT SYSTEM. THE BOARD SHALL ADMINISTER THE EODC
29 DISABILITY PROGRAM.

30 B. THE BOARD MAY DELEGATE AUTHORITY TO ADMINISTER THE PROGRAM AS IT
31 DEEMS NECESSARY AND PRUDENT TO THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION
32 38-848.

1 C. THE BOARD, IN THE ADMINISTRATION, MANAGEMENT AND OPERATION OF THE
2 PROGRAM, SHALL:

3 1. ACCOUNT FOR THE OPERATION, ADMINISTRATION AND INVESTMENT EXPENSES
4 AND ALLOCATE THEM AGAINST INVESTMENT INCOME.

5 2. CONTRACT ON A FEE BASIS WITH AN ACTUARY TO MAKE AN ACTUARIAL
6 VALUATION OF THE PROGRAM BASED ON THE VALUATION METHOD AND VALUATION
7 ASSUMPTIONS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. THE ACTUARY
8 SHALL BE A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES.

9 3. CONTRACT ON A FEE BASIS WITH AN INDEPENDENT AUDITING FIRM TO MAKE
10 AN ANNUAL AUDIT OF THE ACCOUNTING RECORDS OF THE FUND AND FILE A COPY OF THE
11 AUDIT WITH THE AUDITOR GENERAL.

12 4. INVEST THE MONIES IN THE FUND AS PROVIDED IN ARTICLE 4 OF THIS
13 CHAPTER.

14 5. ON OR BEFORE DECEMBER 31 OF EACH YEAR, SUBMIT TO THE GOVERNOR, THE
15 SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE A
16 DETAILED REPORT OF THE OPERATION AND THE INVESTMENT PERFORMANCE OF THE
17 PROGRAM THAT INCLUDES THE CONTRIBUTION RATE FOR THE ENSUING FISCAL YEAR.

18 D. THE BOARD, IN THE ADMINISTRATION, MANAGEMENT AND OPERATION OF THE
19 PROGRAM, MAY:

20 1. EMPLOY SERVICES AS IT DEEMS NECESSARY.

21 2. EITHER KEEP INVESTED MONIES SEPARATE OR COMMINGLE INVESTED MONIES
22 AS IT DEEMS APPROPRIATE.

23 3. DO ALL ACTS, WHETHER EXPRESSLY AUTHORIZED, THAT MAY BE DEEMED
24 NECESSARY OR PROPER FOR THE PROTECTION OF THE FUND.

25 4. DETERMINE THE RIGHTS, BENEFITS OR OBLIGATIONS OF ANY PERSON UNDER
26 THIS ARTICLE AND AFFORD ANY PERSON DISSATISFIED WITH A DETERMINATION OF THE
27 PERSON'S RIGHTS, BENEFITS OR OBLIGATIONS UNDER THIS ARTICLE WITH A HEARING ON
28 THE DETERMINATION.

29 38-840.02. EODC disability program trust fund

30 A. THE EODC DISABILITY PROGRAM TRUST FUND IS ESTABLISHED FOR THE
31 PURPOSE OF PAYING BENEFITS UNDER AND COSTS OF ADMINISTERING THE EODC
32 DISABILITY PROGRAM. THE TRUST FUND SHALL BE ADMINISTERED BY THE BOARD.

1 B. THE EODC DISABILITY PROGRAM TRUST FUND CONSISTS OF ALL MONIES PAID
2 INTO THE TRUST FUND PURSUANT TO THIS ARTICLE, WHETHER IN THE FORM OF CASH,
3 SECURITIES OR OTHER ASSETS, AND ALL MONIES RECEIVED FROM ANY OTHER SOURCE.
4 EXCEPT AS PROVIDED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, THE EODC
5 DISABILITY PROGRAM TRUST FUND IS EXEMPT FROM TITLE 44, CHAPTER 3.

6 C. ABANDONED MONIES SHALL REVERT TO THE EODC DISABILITY PROGRAM TRUST
7 FUND UNDER THE FOLLOWING CONDITIONS:

8 1. MONIES IN THE TRUST FUND ARE PRESUMED ABANDONED IF THE SYSTEM HAS
9 TAKEN THE REQUIRED ACTION DESCRIBED IN THIS SUBSECTION TO IDENTIFY AND LOCATE
10 THE APPARENT OWNER AND THE APPARENT OWNER AS DEFINED IN SECTION 44-301 HAS
11 NOT COMMUNICATED IN WRITING WITH THE SYSTEM AND HAS NOT OTHERWISE INDICATED
12 AN INTEREST IN THE MONIES FOR THE THREE-YEAR PERIOD FOLLOWING THE REQUIRED
13 BEGINNING DATE OF DISTRIBUTIONS.

14 2. BEFORE MONIES ARE PRESUMED ABANDONED, THE SYSTEM SHALL ATTEMPT TO
15 CONTACT THE APPARENT OWNER IN WRITING. IF THIS NOTICE IS RETURNED BY THE
16 POSTAL AUTHORITY AS UNDELIVERABLE, THEN EACH YEAR FOR THREE YEARS FROM THE
17 DATE THAT DISTRIBUTIONS SHOULD HAVE BEGUN, THE SYSTEM SHALL MAKE A GOOD FAITH
18 ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN
19 BENEFICIARY ON RECORD WITH THE SYSTEM, SEARCHING PUBLIC DATABASES TO IDENTIFY
20 THE ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY
21 ADDRESS VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE
22 APPARENT OWNER FAILS, MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS
23 SUBSECTION.

24 3. AT THE TIME MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS
25 SUBSECTION, ANY OTHER PROPERTY RIGHT ACCRUED OR ACCRUING TO THE OWNER AS A
26 RESULT OF THE INTEREST IN THOSE MONIES, AND NOT PREVIOUSLY PRESUMED
27 ABANDONED, IS ALSO PRESUMED ABANDONED.

28 4. INTEREST CEASES TO ACCRUE ON THE MONIES ON THE DATE THE MONIES ARE
29 PRESUMED ABANDONED.

30 D. THE CUSTODY, MANAGEMENT AND INVESTMENT OF THE EODC DISABILITY
31 PROGRAM TRUST FUND ARE AS PRESCRIBED BY THIS ARTICLE AND ARTICLE 4 OF THIS
32 CHAPTER.

38-840.03. Eligibility

ALL MEMBERS ARE SUBJECT TO THIS ARTICLE AND SHALL PARTICIPATE IN THE EODC DISABILITY PROGRAM.

38-840.04. Employer and member contributions

A. BEGINNING JANUARY 1, 2014, EMPLOYERS SHALL CONTRIBUTE THE PERCENTAGE OF THE GROSS COMPENSATION OF ALL OF THE MEMBERS UNDER THEIR EMPLOYMENT SO THAT THE TOTAL EMPLOYER CONTRIBUTIONS EQUALS THE AMOUNT THAT THE BOARD DETERMINES IS NECESSARY TO PAY ONE-HALF OF ALL BENEFITS UNDER AND COSTS OF ADMINISTERING THE EODC DISABILITY PROGRAM.

B. BEGINNING JANUARY 1, 2014, A MEMBER SHALL CONTRIBUTE A PERCENTAGE OF THE MEMBER'S GROSS COMPENSATION EQUAL TO THE EMPLOYER CONTRIBUTION FOR THE MEMBER REQUIRED PURSUANT TO SUBSECTION A OF THIS SECTION.

C. THE EMPLOYER SHALL PAY THE MEMBER CONTRIBUTIONS REQUIRED OF MEMBERS ON ACCOUNT OF GROSS COMPENSATION EARNED. ALL EMPLOYER AND MEMBER CONTRIBUTIONS SHALL BE PAID TO THE BOARD. THE BOARD SHALL ALLOCATE THE CONTRIBUTIONS TO THE EODC DISABILITY PROGRAM TRUST FUND AND SHALL PLACE THE CONTRIBUTIONS IN THE EODC DISABILITY PROGRAM'S DEPOSITORY.

D. EACH EMPLOYER SHALL CERTIFY ON EACH PAYROLL THE AMOUNT TO BE CONTRIBUTED TO THE EODC DISABILITY PROGRAM AND SHALL REMIT THAT AMOUNT TO THE BOARD.

E. THE DEPARTMENT OF ADMINISTRATION AND THE TREASURER OF EACH COUNTY AND PARTICIPATING CITY AND TOWN SHALL TRANSFER TO THE BOARD THE CONTRIBUTIONS PROVIDED FOR IN SUBSECTIONS A AND B OF THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THESE DATES SHALL INCLUDE A PENALTY EQUAL TO TEN PER CENT PER ANNUM, COMPOUNDED DAILY, FOR EACH DAY THAT THE CONTRIBUTIONS ARE LATE. DELINQUENT PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION AND COURT COSTS, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST THE PERSON OR PERSONS RESPONSIBLE FOR THE PAYMENTS OR, AT THE REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO A POLITICAL SUBDIVISION BY ANY DEPARTMENT OR AGENCY OF THIS STATE.

1 F. IF MORE THAN THE CORRECT AMOUNT OF CONTRIBUTIONS REQUIRED IS PAID
2 BY AN EMPLOYER, PROPER ADJUSTMENT SHALL BE MADE IN CONNECTION WITH SUBSEQUENT
3 PAYMENTS. THE BOARD SHALL RETURN EXCESS CONTRIBUTIONS TO THE EMPLOYER IF THE
4 EMPLOYER REQUESTS RETURN OF THE CONTRIBUTIONS WITHIN ONE YEAR AFTER THE DATE
5 OF OVERPAYMENT.

6 G. MEMBER CONTRIBUTIONS ARE NOT REFUNDABLE.

7 38-840.05. Contribution rate

8 A. EMPLOYER CONTRIBUTIONS SHALL BE A PERCENTAGE OF GROSS COMPENSATION
9 FOR EACH MEMBER, AS THE SYSTEM ACTUARY DETERMINES PURSUANT TO THIS SECTION.
10 THE ACTUARY SHALL MAKE THIS DETERMINATION IN AN ANNUAL VALUATION PERFORMED AS
11 OF JUNE 30. THE VALUATION AS OF JUNE 30 OF A CALENDAR YEAR SHALL DETERMINE
12 THE PERCENTAGE TO BE APPLIED TO COMPENSATION FOR THE FISCAL YEAR BEGINNING
13 JULY 1 OF THE FOLLOWING CALENDAR YEAR. THE ACTUARY SHALL DETERMINE THE TOTAL
14 EMPLOYER CONTRIBUTION USING AN ACTUARIAL COST METHOD CONSISTENT WITH
15 GENERALLY ACCEPTED ACTUARIAL STANDARDS. THE TOTAL EMPLOYER CONTRIBUTIONS
16 SHALL BE EQUAL TO THE EMPLOYER NORMAL COST PLUS THE AMOUNT REQUIRED TO
17 AMORTIZE THE PAST SERVICE FUNDING REQUIREMENT OVER A PERIOD CONSISTENT WITH
18 GENERALLY ACCEPTED ACTUARIAL STANDARDS.

19 B. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE EODC
20 DISABILITY PROGRAM TRUST FUND ESTABLISHED BY SECTION 38-840.02 ARE
21 IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS ARTICLE OR TO PAY
22 EXPENSES OF THE EODC DISABILITY PROGRAM.

23 38-840.06. EODC disability program benefits

24 IN DETERMINING ELIGIBILITY FOR AND CONTINUATION OF A DISABILITY BENEFIT
25 AND COMPUTING THE AMOUNT AVAILABLE TO A MEMBER, THE BOARD SHALL FOLLOW THE
26 SAME PROCEDURES AND METHODS AS PRESCRIBED IN SECTION 38-806, EXCEPT THAT THE
27 CREDITED SERVICE USED TO COMPUTE THE BENEFIT SHALL BE ONLY THE TIME EARNED
28 WHILE A MEMBER OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT
29 SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER.

30 38-840.07. Errors; benefit recomputation

31 IF ANY CHANGE OR ERROR IN THE RECORDS RESULTS IN ANY MEMBER RECEIVING
32 FROM THE EODC DISABILITY PROGRAM MORE OR LESS THAN THE MEMBER WOULD HAVE BEEN
33 ENTITLED TO RECEIVE IF THE RECORDS HAD BEEN CORRECT, THE BOARD SHALL CORRECT

1 THE ERROR AND SHALL ADJUST THE PAYMENTS IN A MANNER SO THAT THE EQUIVALENT OF
2 THE BENEFIT TO WHICH THE MEMBER WAS CORRECTLY ENTITLED IS PAID. THE BOARD
3 SHALL CORRECT ANY CHANGE OR ERROR AND SHALL PAY THE APPROPRIATE MONIES TO A
4 MEMBER OR SHALL RECOVER MONIES FROM THE MEMBER IF THE MEMBER WAS OVERPAID.
5 THE BOARD SHALL RECOVER MONIES BY REDUCING ANY BENEFIT THAT IS OTHERWISE
6 PAYABLE BY THE EODC DISABILITY PROGRAM TO A DISABLED MEMBER.

7 38-840.08. Facility of payment

8 IN THE CASE OF INCAPACITY OF A MEMBER RECEIVING EODC DISABILITY PROGRAM
9 BENEFITS, OR IN THE CASE OF ANY OTHER EMERGENCY AS DETERMINED BY THE BOARD,
10 THE BOARD MAY MAKE EODC DISABILITY PROGRAM BENEFIT PAYMENTS ON BEHALF OF THE
11 MEMBER TO ANOTHER PERSON OR PERSONS THE BOARD DETERMINES TO BE LAWFULLY
12 ENTITLED TO RECEIVE PAYMENT. THE PAYMENT IS PAYMENT FOR THE ACCOUNT OF THE
13 MEMBER AND ALL PERSONS ENTITLED TO PAYMENT AND, TO THE EXTENT OF THE PAYMENT,
14 IS A FULL AND COMPLETE DISCHARGE OF ALL LIABILITY OF THE BOARD OR THE EODC
15 DISABILITY PROGRAM, OR BOTH, UNDER OR IN CONNECTION WITH THE EODC DISABILITY
16 PROGRAM.

17 38-840.09. Assurances and liabilities

18 A. THIS ARTICLE DOES NOT ESTABLISH:

- 19 1. A CONTRACT OF EMPLOYMENT BETWEEN AN EMPLOYER AND ANY EMPLOYEE.
20 2. A RIGHT OF ANY MEMBER TO CONTINUE IN THE EMPLOYMENT OF AN EMPLOYER.
21 3. A LIMITATION OF THE RIGHTS OF AN EMPLOYER TO DISCHARGE ANY OF ITS
22 EMPLOYEES, WITH OR WITHOUT CAUSE.

23 B. A MEMBER DOES NOT HAVE ANY RIGHT TO, OR INTEREST IN, ANY EODC
24 DISABILITY PROGRAM ASSETS ON TERMINATION OF THE MEMBER'S EMPLOYMENT OR
25 OTHERWISE, EXCEPT AS PROVIDED IN THIS ARTICLE, AND THEN ONLY TO THE EXTENT OF
26 THE BENEFITS PAYABLE TO THE MEMBER OUT OF EODC DISABILITY PROGRAM ASSETS.
27 ALL PAYMENTS OF BENEFITS SHALL BE MADE SOLELY OUT OF EODC DISABILITY PROGRAM
28 ASSETS, AND THE EMPLOYERS, THE BOARD AND MEMBERS OF THE BOARD ARE NOT LIABLE
29 FOR PAYMENT OF BENEFITS IN ANY MANNER.

30 C. BENEFITS, EMPLOYER AND MEMBER CONTRIBUTIONS, EARNINGS AND ALL OTHER
31 CREDITS PAYABLE UNDER THIS ARTICLE ARE NOT SUBJECT IN ANY MANNER TO
32 ANTICIPATION, ALIENATION, SALE, TRANSFER, ASSIGNMENT, PLEDGE, ENCUMBRANCE,
33 CHARGE, GARNISHMENT, EXECUTION OR LEVY OF ANY KIND, EITHER VOLUNTARY OR

1 INVOLUNTARY, BEFORE ACTUALLY BEING RECEIVED BY A PERSON ENTITLED TO THE
2 BENEFIT, EARNING OR CREDIT, AND ANY ATTEMPT TO ANTICIPATE, ALIENATE, SELL,
3 TRANSFER, ASSIGN, PLEDGE, ENCUMBER, CHARGE, GARNISH, EXECUTE OR LEVY OR
4 OTHERWISE DISPOSE OF ANY BENEFIT, EARNING OR CREDIT UNDER THIS ARTICLE IS
5 VOID. THE EODC DISABILITY PROGRAM TRUST FUND IS NOT IN ANY MANNER LIABLE
6 FOR, OR SUBJECT TO, THE DEBTS, CONTRACTS, LIABILITIES, ENGAGEMENTS OR TORTS
7 OF ANY PERSON ENTITLED TO ANY BENEFIT, EARNING OR CREDIT UNDER THIS ARTICLE.

8 D. THE EMPLOYERS, THE BOARD AND MEMBERS OF THE BOARD DO NOT GUARANTEE
9 THE EODC DISABILITY PROGRAM TRUST FUND ESTABLISHED BY SECTION 38-840.02 IN
10 ANY MANNER AGAINST LOSS OR DEPRECIATION AND ARE NOT LIABLE FOR ANY ACT OR
11 FAILURE TO ACT THAT IS MADE IN GOOD FAITH PURSUANT TO THIS ARTICLE. THE
12 EMPLOYERS ARE NOT RESPONSIBLE FOR ANY ACT OR FAILURE TO ACT OF THE BOARD OR
13 ANY MEMBER OF THE BOARD. THE BOARD AND MEMBERS OF THE BOARD ARE NOT
14 RESPONSIBLE FOR ANY ACT OR FAILURE TO ACT OF ANY EMPLOYER.

15 E. THIS SECTION DOES NOT EXEMPT BENEFITS UNDER THE PROGRAM FROM A WRIT
16 OF ATTACHMENT, A WRIT OF EXECUTION, A WRIT OF GARNISHMENT AND ORDERS OF
17 ASSIGNMENT ISSUED BY A COURT OF RECORD AS THE RESULT OF A JUDGMENT FOR
18 ARREARAGES OF CHILD SUPPORT OR FOR CHILD SUPPORT DEBT.

19 38-840.10. Exemption from execution and attachment; taxation

20 A. THE EMPLOYER AND MEMBER CONTRIBUTIONS AND THE SECURITIES IN THE
21 EODC DISABILITY PROGRAM TRUST FUND ESTABLISHED BY SECTION 38-840.02 ARE NOT
22 SUBJECT TO EXECUTION OR ATTACHMENT AND ARE NONASSIGNABLE. THE EMPLOYER AND
23 MEMBER CONTRIBUTIONS AND THE SECURITIES IN THE EODC DISABILITY PROGRAM TRUST
24 FUND ESTABLISHED BY SECTION 38-840.02 ARE EXEMPT FROM STATE, COUNTY AND
25 MUNICIPAL INCOME TAXES. BENEFITS RECEIVED BY A MEMBER FROM THE EODC
26 DISABILITY PROGRAM ARE SUBJECT TO TAX PURSUANT TO TITLE 43.

27 B. INTEREST, EARNINGS AND ALL OTHER CREDITS ON MONIES IN THE EODC
28 DISABILITY PROGRAM TRUST FUND ARE NOT SUBJECT TO EXECUTION OR ATTACHMENT AND
29 ARE NONASSIGNABLE.

30 38-840.11. Violation; classification

31 A PERSON WHO KNOWINGLY MAKES ANY FALSE STATEMENT OR WHO FALSIFIES OR
32 PERMITS TO BE FALSIFIED ANY RECORD OF THE EODC DISABILITY PROGRAM WITH AN
33 INTENT TO DEFRAUD THE EODC DISABILITY PROGRAM IS GUILTY OF A CLASS 6 FELONY.

38-840.12. Reservation to legislature

THE RIGHT TO MODIFY, AMEND OR REPEAL THIS ARTICLE, OR ANY PROVISIONS OF THIS ARTICLE, IS RESERVED TO THE LEGISLATURE.

38-840.13. Liquidation of the EODC disability program

IF THE LEGISLATURE DETERMINES THAT THE EODC DISABILITY PROGRAM IS NO LONGER TO BE OPERATED FOR THE PURPOSES SET FORTH IN THIS ARTICLE, ANY MONIES REMAINING IN THE EODC DISABILITY PROGRAM TRUST FUND AFTER PAYING ALL LIABILITIES OF THE PROGRAM OR AFTER MAKING ADEQUATE PROVISION FOR PAYING THOSE LIABILITIES REVERT TO THE GENERAL FUNDS OF THE EMPLOYERS THAT WERE MAKING CONTRIBUTIONS TO THE EODC DISABILITY PROGRAM AT THE TIME THE LEGISLATURE TERMINATES THE EODC DISABILITY PROGRAM. THE REVERTED MONIES SHALL BE PRORATED ACCORDING TO THE GROSS AMOUNT OF CONTRIBUTIONS MADE BY THE EMPLOYERS TO THE EODC DISABILITY PROGRAM."

Page 35, between lines 21 and 22, insert:

"(c) THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED BY ARTICLE 3.1 OF THIS CHAPTER."

Reletter to conform

Strike lines 33 through 45, insert:

"Sec. 12. Section 38-952, Arizona Revised Statutes, is amended to read:

38-952. Supplemental defined contribution plan; establishment; administration

A. The board or employer of an eligible group may establish, administer, manage and operate a supplemental defined contribution plan. The board of trustees established by section 38-848 may establish a single supplemental defined contribution plan for all contributing members of the retirement system and plans it administers.

B. If a board or employer establishes a supplemental defined contribution plan:

1. The Arizona state retirement system board may delegate authority to implement the plan to its director appointed pursuant to section 38-715.

2. The employer may delegate authority to implement the plan to its internal benefits administrator or designee.

1 3. The board of trustees may delegate authority to implement the plan
2 to the administrator employed pursuant to section 38-848, subsection K,
3 paragraph 6.

4 4. The board or employer may:

5 (a) Employ services it deems necessary, including legal services, for
6 the operation and administration of the plan.

7 (b) Administer the plan through contracts with multiple vendors.

8 (c) Perform all acts, whether or not expressly authorized, that it
9 deems necessary and proper for the operation and protection of the plan.

10 (d) For the purposes of this article, enter into intergovernmental
11 agreements pursuant to title 11, chapter 7, article 3.

12 5. THE BOARD OF TRUSTEES SHALL PARTICIPATE IN A COMPETITIVE BID
13 PROCESS AT LEAST ONCE EVERY FIVE YEARS TO CONTRACT WITH A PRIVATE PERSON OR
14 ANY QUALIFIED COMPANY OR COMPANIES TO ADMINISTER THE PLAN ESTABLISHED UNDER
15 THIS SECTION. THE CONTRACT SHALL INCLUDE COMPETITIVE FEES AND QUARTERLY
16 MEETINGS WITH THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

17 C. A supplemental defined contribution plan shall be designed to be a
18 qualified governmental plan under section 401(a) of the internal revenue
19 code. The legislature intends that a supplemental defined contribution plan
20 is a qualified plan under section 401 of the internal revenue code, as
21 amended, or successor provisions of law, and that a plan is exempt from
22 taxation under section 501 of the internal revenue code. The board or
23 employer may adopt any additional provisions to a plan that are necessary to
24 fulfill this intent.

25 D. Although designated as employee contributions, all employee
26 contributions made to a plan shall be picked up and paid by the employer in
27 lieu of contributions by the employee. The contributions picked up by an
28 employer may be made through a reduction in the employee's compensation or an
29 offset against future compensation increases, or a combination of both. An
30 employee participating in a plan does not have the option of choosing to
31 receive the contributed amounts directly instead of the employer paying the
32 amounts to the plan. It is intended that all employee contributions that are
33 picked up by the employer as provided in this subsection shall be treated as

1 employer contributions under section 414(h) of the internal revenue code,
2 shall be excluded from employees' gross income for federal and state income
3 tax purposes and are includable in the gross income of the employees or their
4 beneficiaries only in the taxable year in which they are distributed. The
5 specified effective date of the pickup pursuant to this subsection shall not
6 be before the date the plan receives notification from the internal revenue
7 service that all employee contributions that are picked up by the employer as
8 provided in this subsection shall be treated as employer contributions
9 pursuant to section 414(h) of the internal revenue code. Until notification
10 is received, any employee contributions made under section 38-953 are made
11 with after-tax contributions."
12 Amend title to conform

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03/19/2013
1:49 PM
C: mjh