

House Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 144
HOUSE BILL 2120

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; AMENDING SECTIONS 38-893 AND 38-902, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by
3 Laws 2007, chapter 87, section 5, is amended to read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that
7 the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's department, was
9 incurred in the performance of the employee's duties and was the result of
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business
16 for the employee's employer. A job related motor vehicle accident does not
17 include an accident that occurs on the way to or from work. Persons found
18 guilty of violating a personnel rule, a rule established by the employee's
19 employer or a state or federal law in connection with a job related motor
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member
22 contributions deducted from a member's salary and paid to the fund, plus
23 member contributions transferred to the fund by another retirement plan
24 covering public employees of this state, plus previously withdrawn
25 accumulated member contributions ~~which~~ THAT are repaid to the fund in
26 accordance with this article, minus any benefits paid to or on behalf of a
27 member.

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

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

32 5. "Average monthly salary" means one-thirty-sixth of the aggregate
33 amount of salary that is paid a member by a participating employer during a
34 period of thirty-six consecutive months of service in which the member
35 received the highest salary within the last one hundred twenty months of
36 service. Average monthly salary means the aggregate amount of salary that is
37 paid a member divided by the member's months of service if the member has
38 less than thirty-six months of service. In the computation under this
39 paragraph, a period of nonpaid or partially paid industrial leave shall be
40 considered based on the salary the employee would have received in the
41 employee's job classification if the employee was not on industrial leave.

42 6. "Beneficiary" means an individual who is being paid or who has
43 entitlement to the future payment of a pension on account of a reason other
44 than the individual's membership in the retirement plan.

1 7. "Claimant" means a member, beneficiary or estate that files an
2 application for benefits with the retirement plan.

3 8. "Credited service" means credited service transferred to the
4 retirement plan from another retirement system or plan for public employees
5 of this state, plus those compensated periods of service as a member of the
6 retirement plan for which member contributions are on deposit in the fund.

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

12 10. "Designated position" means:

13 (a) For a county:

14 (i) A county detention officer.

15 (ii) A nonuniformed employee of a sheriff's department whose primary
16 duties require direct contact with inmates.

17 (b) For the state department of corrections and the department of
18 juvenile corrections, only the following specifically designated positions:

19 (i) Food service.

20 (ii) Nursing personnel.

21 (iii) Corrections physician assistant.

22 (iv) Therapist.

23 (v) Corrections dental assistant.

24 (vi) Hygienist.

25 (vii) Corrections medical assistant.

26 (viii) Correctional service officer, including assistant deputy
27 warden, deputy warden, warden and superintendent.

28 (ix) State correctional program officer.

29 (x) Parole or community supervision officers.

30 (xi) Investigators.

31 (xii) Teachers.

32 (xiii) Institutional maintenance workers.

33 (xiv) Youth corrections officer.

34 (xv) Youth program officer.

35 (xvi) Behavioral health treatment unit managers.

36 (xvii) The director and assistant directors of the department of
37 juvenile corrections and the superintendent of the state educational system
38 for committed youth.

39 (xviii) The director, deputy directors and assistant directors of the
40 state department of corrections.

41 (xix) Other positions designated by the local board of the state
42 department of corrections or the local board of the department of juvenile
43 corrections pursuant to section 38-891, subsection E.

44 (c) For a city or town, a city or town detention officer.

- 1 (d) For an employer of an eligible group as defined in section 38-842,
2 full-time dispatchers.
- 3 (e) For the judiciary, probation, surveillance and juvenile detention
4 officers.
- 5 (f) FOR THE DEPARTMENT OF PUBLIC SAFETY, STATE DETENTION OFFICERS.
- 6 11. "Determination" means a written document that indicates to a
7 participant and alternate payee whether a domestic relations order qualifies
8 as a plan approved domestic relations order.
- 9 12. "Determination period" means the ninety-day period in which the
10 plan must review a domestic relations order that is submitted by a
11 participant or alternate payee to determine whether the domestic relations
12 order qualifies as a plan approved domestic relations order, calculated from
13 the time the plan mails a notice of receipt to the participant and alternate
14 payee.
- 15 13. "Domestic relations order" means an order of a court of this state
16 that is made pursuant to the domestic relations laws of this state and that
17 creates or recognizes the existence of an alternate payee's right to, or
18 assigns to an alternate payee the right to, receive a portion of the benefits
19 payable to a participant.
- 20 14. "Employee" means a person determined by the local board to be
21 employed by a participating employer in a designated position.
- 22 15. "Employer" means an agency or department of this state or a
23 political subdivision of this state ~~which~~ THAT has one or more employees in a
24 designated position.
- 25 16. "Fund" means the corrections officer retirement plan fund.
- 26 17. "Fund manager" means the fund manager of the public safety
27 personnel retirement system.
- 28 18. "Juvenile detention officer" means a juvenile detention officer
29 responsible for the direct custodial supervision of juveniles who are
30 detained in a county juvenile detention center.
- 31 19. "Local board" means the retirement board of the employer that
32 consists of persons appointed or elected to administer the plan as it applies
33 to the employer's members in the plan.
- 34 20. "Member" means any employee who meets all of the following
35 qualifications:
- 36 (a) Who is a full-time paid person employed by a participating
37 employer in a designated position.
- 38 (b) Who is receiving salary for personal services rendered to a
39 participating employer or would be receiving salary except for an authorized
40 leave of absence.
- 41 (c) Whose customary employment is at least forty hours each week and
42 for more than six months in a calendar year.
- 43 21. "Normal retirement date" means the first day of the calendar month
44 immediately following an employee's completion of twenty years of service or,
45 in the case of a dispatcher, twenty-five years of service, the employee's

- 1 sixty-second birthday and completion of ten years of service or the month in
2 which the sum of the employee's age and years of credited service equals
3 eighty.
- 4 22. "Notice of receipt" means a written document that is issued by the
5 plan to a participant and alternate payee and that states that the plan has
6 received a domestic relations order and a request for a determination that
7 the domestic relations order is a plan approved domestic relations order.
- 8 23. "Participant" means a member who is subject to a domestic relations
9 order.
- 10 24. "Participant's portion" means benefits that are payable to a
11 participant pursuant to a plan approved domestic relations order.
- 12 25. "Participating employer" means an employer ~~which~~ THAT the fund
13 manager has determined to have one or more employees in a designated position
14 or a county, city, ~~or town which~~ OR DEPARTMENT OF THIS STATE THAT has entered
15 into a joinder agreement pursuant to section 38-902.
- 16 26. "Pension" means a series of monthly payments by the retirement
17 plan.
- 18 27. "Personal representative" means the personal representative of a
19 deceased alternate payee.
- 20 28. "Plan approved domestic relations order" means a domestic relations
21 order that the plan approves as meeting all the requirements for a plan
22 approved domestic relations order as otherwise prescribed in this article.
- 23 29. "Probation or surveillance officer" means an officer appointed
24 pursuant to section 8-203, 12-251 or 12-259 but does not include other
25 personnel, office assistants or support staff.
- 26 30. "Retired member" means an individual who is being paid a pension on
27 account of the individual's membership in the retirement plan.
- 28 31. "Retirement" means termination of employment after a member has
29 fulfilled all requirements for a pension.
- 30 32. "Retirement plan" or "plan" means the corrections officer
31 retirement plan established by this article.
- 32 33. "Salary" means the base salary, shift differential pay and holiday
33 pay paid a member in a designated position for personal services rendered to
34 a participating employer on a regular monthly, semimonthly or biweekly
35 payroll basis. Salary includes amounts that are subject to deferred
36 compensation or tax shelter agreements. Salary does not include payment for
37 any remuneration or reimbursement other than as prescribed by this paragraph.
38 For the purposes of this paragraph, "base salary" means the amount of
39 compensation each member is regularly paid for personal services rendered to
40 an employer before the addition of any extra monies, including overtime pay,
41 shift differential pay, holiday pay, fringe benefit pay and similar extra
42 payments.
- 43 34. "Segregated funds" means the amount of benefits that would
44 currently be payable to an alternate payee pursuant to a domestic relations
45 order under review by the plan, or a domestic relations order submitted to

1 the plan that failed to qualify as a plan approved domestic relations order,
2 if the domestic relations order were determined to be a plan approved
3 domestic relations order.

4 35. "Service" means employment rendered to a participating employer as
5 an employee in a designated position. Any absence that is authorized by an
6 employer, including any periods during which the employee is on an employer
7 sponsored long-term disability program, is considered as service if the
8 employee returns or is deemed by the employer to have returned to a
9 designated position within the period of the authorized absence.

10 36. "Total and permanent disability" means a physical or mental
11 condition that is not an accidental disability, that the local board finds
12 totally and permanently prevents a member from engaging in any gainful
13 employment and that is the direct and proximate result of the member's
14 performance of the member's duty as an employee of a participating employer.

15 Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws
16 2007, chapter 87, section 6, is amended to read:

17 38-881. Definitions

18 In this article, unless the context otherwise requires:

19 1. "Accidental disability" means a physical or mental condition that
20 the local board finds totally and permanently prevents an employee from
21 performing a reasonable range of duties within the employee's department, was
22 incurred in the performance of the employee's duties and was the result of
23 any of the following:

24 (a) Physical contact with inmates, prisoners, parolees or persons on
25 probation.

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27 parolees or persons on probation.

28 (c) A job related motor vehicle accident while on official business
29 for the employee's employer. A job related motor vehicle accident does not
30 include an accident that occurs on the way to or from work. Persons found
31 guilty of violating a personnel rule, a rule established by the employee's
32 employer or a state or federal law in connection with a job related motor
33 vehicle accident do not meet the conditions for accidental disability.

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35 contributions deducted from a member's salary and paid to the fund, plus
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38 accumulated member contributions ~~which~~ THAT are repaid to the fund in
39 accordance with this article, minus any benefits paid to or on behalf of a
40 member.

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42 participant as designated in a domestic relations order.

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2 amount of salary that is paid a member by a participating employer during a
3 period of thirty-six consecutive months of service in which the member
4 received the highest salary within the last one hundred twenty months of
5 service. Average monthly salary means the aggregate amount of salary that is
6 paid a member divided by the member's months of service if the member has
7 less than thirty-six months of service. In the computation under this
8 paragraph, a period of nonpaid or partially paid industrial leave shall be
9 considered based on the salary the employee would have received in the
10 employee's job classification if the employee was not on industrial leave.

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12 entitlement to the future payment of a pension on account of a reason other
13 than the individual's membership in the retirement plan.

14 7. "Claimant" means a member, beneficiary or estate that files an
15 application for benefits with the retirement plan.

16 8. "Credited service" means credited service transferred to the
17 retirement plan from another retirement system or plan for public employees
18 of this state, plus those compensated periods of service as a member of the
19 retirement plan for which member contributions are on deposit in the fund.

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

25 10. "Designated position" means:

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29 duties require direct contact with inmates.

30 (b) For the state department of corrections and the department of
31 juvenile corrections, only the following specifically designated positions:

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39 (viii) Correctional service officer, including assistant deputy
40 warden, deputy warden, warden and superintendent.

41 (ix) State correctional program officer.

42 (x) Parole or community supervision officers.

43 (xi) Investigators.

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- 1 (xiv) Youth corrections officer.
2 (xv) Youth program officer.
3 (xvi) Behavioral health treatment unit managers.
4 (xvii) The director and assistant directors of the department of
5 juvenile corrections and the superintendent of the state educational system
6 for committed youth.
7 (xviii) The director, deputy directors and assistant directors of the
8 state department of corrections.
9 (xix) Other positions designated by the local board of the state
10 department of corrections or the local board of the department of juvenile
11 corrections pursuant to section 38-891, subsection E.
12 (c) For a city or town, a city or town detention officer.
13 (d) For an employer of an eligible group as defined in section 38-842,
14 full-time dispatchers.
15 (e) For the judiciary, probation, surveillance and juvenile detention
16 officers.
17 (f) FOR THE DEPARTMENT OF PUBLIC SAFETY, STATE DETENTION OFFICERS.
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24 order qualifies as a plan approved domestic relations order, calculated from
25 the time the plan mails a notice of receipt to the participant and alternate
26 payee.
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28 that is made pursuant to the domestic relations laws of this state and that
29 creates or recognizes the existence of an alternate payee's right to, or
30 assigns to an alternate payee the right to, receive a portion of the benefits
31 payable to a participant.
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33 employed by a participating employer in a designated position.
34 15. "Employer" means an agency or department of this state or a
35 political subdivision of this state ~~which~~ THAT has one or more employees in a
36 designated position.
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38 17. "Fund manager" means the fund manager of the public safety
39 personnel retirement system.
40 18. "Juvenile detention officer" means a detention officer responsible
41 for the direct custodial supervision of juveniles who are detained in a
42 county juvenile detention center.
43 19. "Local board" means the retirement board of the employer that
44 consists of persons appointed or elected to administer the plan as it applies
45 to the employer's members in the plan.

1 20. "Member" means any employee who meets all of the following
2 qualifications:

3 (a) Who is a full-time paid person employed by a participating
4 employer in a designated position.

5 (b) Who is receiving salary for personal services rendered to a
6 participating employer or would be receiving salary except for an authorized
7 leave of absence.

8 (c) Whose customary employment is at least forty hours each week and
9 for more than six months in a calendar year.

10 21. "Normal retirement date" means the first day of the calendar month
11 immediately following an employee's completion of twenty years of service or,
12 in the case of a dispatcher, twenty-five years of service, the employee's
13 sixty-second birthday and completion of ten years of service or the month in
14 which the sum of the employee's age and years of credited service equals
15 eighty.

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

20 23. "Participant" means a member who is subject to a domestic relations
21 order.

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

24 25. "Participating employer" means an employer ~~which~~ THAT the fund
25 manager has determined to have one or more employees in a designated position
26 or a county, city, ~~or town which~~ OR DEPARTMENT OF THIS STATE THAT has entered
27 into a joinder agreement pursuant to section 38-902.

28 26. "Pension" means a series of monthly payments by the retirement
29 plan.

30 27. "Personal representative" means the personal representative of a
31 deceased alternate payee.

32 28. "Plan approved domestic relations order" means a domestic relations
33 order that the plan approves as meeting all the requirements for a plan
34 approved domestic relations order as otherwise prescribed in this article.

35 29. "Probation or surveillance officer" means an officer appointed
36 pursuant to section 8-203, 12-251 or 12-259 but does not include other
37 personnel, office assistants or support staff.

38 30. "Retired member" means an individual who is being paid a pension on
39 account of the individual's membership in the retirement plan.

40 31. "Retirement" means termination of employment after a member has
41 fulfilled all requirements for a pension.

42 32. "Retirement plan" or "plan" means the corrections officer
43 retirement plan established by this article.

44 33. "Salary" means the base salary, overtime pay, shift differential
45 pay and holiday pay paid a member in a designated position for personal

1 services rendered to a participating employer on a regular monthly,
2 semimonthly or biweekly payroll basis, except that for the purposes of this
3 paragraph the amount of overtime included shall not include payments to the
4 member for the sale of compensatory time. Salary includes amounts that are
5 subject to deferred compensation or tax shelter agreements. Salary does not
6 include payment for any remuneration or reimbursement other than as
7 prescribed by this paragraph. For the purposes of this paragraph, "base
8 salary" means the amount of compensation each member is regularly paid for
9 personal services rendered to an employer before the addition of any extra
10 monies, including overtime pay, shift differential pay, holiday pay, payments
11 for the sale of compensatory time, fringe benefit pay and similar extra
12 payments.

13 34. "Segregated funds" means the amount of benefits that would
14 currently be payable to an alternate payee pursuant to a domestic relations
15 order under review by the plan, or a domestic relations order submitted to
16 the plan that failed to qualify as a plan approved domestic relations order,
17 if the domestic relations order were determined to be a plan approved
18 domestic relations order.

19 35. "Service" means employment rendered to a participating employer as
20 an employee in a designated position. Any absence that is authorized by an
21 employer, including any periods during which the employee is on an employer
22 sponsored long-term disability program, is considered as service if the
23 employee returns or is deemed by the employer to have returned to a
24 designated position within the period of the authorized absence.

25 36. "Total and permanent disability" means a physical or mental
26 condition that is not an accidental disability, that the local board finds
27 totally and permanently prevents a member from engaging in any gainful
28 employment and that is the direct and proximate result of the member's
29 performance of the member's duty as an employee of a participating employer.

30 Sec. 3. Section 38-893, Arizona Revised Statutes, is amended to read:

31 38-893. Local boards; powers and duties; rules; hearings;
32 administrative review

33 A. The administration of the plan and the responsibility for making
34 the provisions of the plan effective for each employer are vested in a local
35 board. The state department of corrections, the department of juvenile
36 corrections, THE DEPARTMENT OF PUBLIC SAFETY, each participating county
37 sheriff's department, each participating city or town, each participating
38 employer of full-time dispatchers for eligible groups as defined in section
39 38-842 and the judiciary shall have a local board. Each local board is
40 constituted as follows:

41 1. For the state departments, two members who are elected by secret
42 ballot by members employed by that department in a designated position and
43 two citizens who are appointed by the governor. The director of each state
44 department shall appoint one member to the local board who is knowledgeable

1 in personnel actions. Each state department local board shall elect a
2 chairman.

3 2. For each participating county, the chairman of the board of
4 supervisors, or the chairman's designee who is approved by the board of
5 supervisors, as chairman, two members who are elected by secret ballot by
6 members employed by the participating county in a designated position and two
7 citizens, one of whom shall be the head of the merit system if it exists for
8 the group of members, who are appointed by the chairman of the board of
9 supervisors with the approval of the board of supervisors.

10 3. For political subdivisions, the mayor or chief elected official or
11 a designee of the mayor or chief elected official approved by the respective
12 governing body as chairman, two members elected by secret ballot by members
13 employed by the appropriate employer and two citizens, one of whom shall be
14 the head of the merit system if it exists for the group of members, appointed
15 by the mayor or chief elected official and with the approval of the city
16 council or governing body of the employer.

17 4. For the judiciary, two members who are elected by secret ballot by
18 members who are employed as a probation, surveillance or juvenile detention
19 officer, a designee of the chief justice of the Arizona supreme court and two
20 citizens, one of whom shall be the head of a human resource department for
21 the group of members, appointed by the chief justice.

22 B. The appointments and elections of local board members shall take
23 place with one elective and one appointive board member, as designated by the
24 appointing authority, serving a term ending two years after the date of
25 appointment or election and the other local board members serving a term
26 ending four years after the date of appointment or election. Thereafter,
27 every second year, and as a vacancy occurs, an office shall be filled for a
28 term of four years in the same manner as provided in this section.

29 C. Within ten days after the member's appointment or election, each
30 member of a local board shall take an oath of office that, so far as it
31 devolves on the member, the member shall diligently and honestly administer
32 the affairs of the local board and shall not knowingly violate or willingly
33 permit to be violated any of the provisions of law applicable to the plan.

34 D. Except as limited by subsection E of this section, a local board
35 shall:

36 1. Decide all questions of eligibility and service credits and
37 determine the amount, manner and time of payment of any benefit under the
38 plan.

39 2. Make a determination as to the right of a claimant to a benefit and
40 afford a claimant or the fund manager, or both, a right to a rehearing on the
41 original determination.

42 3. Request and receive from the employers and from members information
43 as is necessary for the proper administration of the plan and action on
44 claims for benefits and forward the information to the fund manager.

- 1 4. Distribute, in the manner the local board determines to be
2 appropriate, information explaining the plan that is received from the fund
3 manager.
- 4 5. Furnish the employer, the fund manager and the legislature, on
5 request, with annual reports with respect to the administration of the plan
6 that are reasonable and appropriate.
- 7 6. Appoint a medical board, which is composed of a designated
8 physician or clinic other than the employer's regular employee or contractor.
9 If required, the local board may employ other physicians to report on special
10 cases. The examining physician or clinic shall report the results of
11 examinations made to the local board, and the secretary of the local board
12 shall preserve the report as a permanent record.
- 13 7. Sue and be sued to effectuate the duties and responsibilities set
14 forth in this article.
- 15 E. A local board has no power to add to, subtract from, modify or
16 waive any of the terms of the plan, change or add to any benefits provided by
17 the plan or waive or fail to apply any requirement of eligibility for
18 membership or benefits under the plan.
- 19 F. A local board, from time to time, shall establish and adopt rules
20 as it deems necessary or desirable for its administration. All rules and
21 decisions of a local board shall be uniformly and consistently applied to all
22 members in similar circumstances.
- 23 G. An action by a majority vote of the members of a local board that
24 is not inconsistent with the provisions of the plan is final, conclusive and
25 binding on all persons affected by it, unless a timely application for a
26 rehearing or appeal is filed as provided in this article.
- 27 H. A claimant or the fund manager may apply for a rehearing before the
28 local board within the time period prescribed in this subsection. A claimant
29 or the fund manager shall file an application for rehearing in writing with a
30 member of the local board or its secretary within sixty days after:
- 31 1. The claimant receives notification of the local board's original
32 action by certified mail, by attending the meeting at which the action is
33 taken or by receiving benefits from the plan pursuant to the local board's
34 original action, whichever occurs first.
- 35 2. The fund manager receives notification of the local board's
36 original action by certified mail or by receipt of written directions from
37 the local board pursuant to its original action, whichever occurs first.
- 38 I. A hearing before a local board on a matter remanded from the
39 superior court is not subject to a rehearing before the local board.
- 40 J. Decisions of local boards are subject to judicial review pursuant
41 to title 12, chapter 7, article 6.
- 42 K. When making a ruling, determination or calculation, the local board
43 is entitled to rely on information furnished by the employer, the fund
44 manager, independent legal counsel or the actuary for the plan.

1 L. Each member of a local board is entitled to one vote. A majority
2 of the appointed and elected members is necessary for a decision by the
3 members of a local board at any meeting of the local board.

4 M. The local board shall adopt bylaws as it deems necessary. The
5 local board shall elect a secretary who may, but need not, be a member of the
6 local board. The secretary of the local board shall keep a record and
7 prepare minutes of all meetings, forward the minutes to the fund manager
8 within forty-five days after each meeting and forward all necessary
9 communications to the fund manager.

10 N. The employer shall pay the fees of the medical board and of the
11 local board's legal counsel and all other expenses of the local board
12 necessary for the administration of the plan at rates and in amounts as the
13 local board approves.

14 O. The local board shall issue directions to the fund manager
15 concerning all benefits that are to be paid from the employer's account
16 pursuant to the provisions of the fund. The local board shall keep on file,
17 in the manner it deems convenient and proper, all reports from the fund
18 manager and the actuary.

19 P. The local board and the individual members of the local board are
20 indemnified from the assets of the fund against any liability arising by
21 reason of any act, or failure to act, made in good faith pursuant to the
22 provisions of the plan.

23 Sec. 4. Section 38-902, Arizona Revised Statutes, is amended to read:
24 38-902. Joinder agreement

25 A. County detention officers and nonuniformed employees of a sheriff's
26 department whose primary duties require direct contact with inmates may
27 participate in this plan if the board of supervisors of the county enters
28 into a joinder agreement with the fund manager to bring such employees into
29 this plan. The joinder agreement shall be in accordance with the provisions
30 of this plan. All such employees shall be designated for membership in the
31 joinder agreement unless written consent to the contrary is obtained from the
32 fund manager.

33 B. City or town detention officers may participate in this plan if the
34 governing body of the city or town enters into a joinder agreement with the
35 fund manager to bring its detention officers into this plan. The joinder
36 agreement shall be in accordance with the provisions of the plan. The
37 governing body of the city or town shall designate all detention officers for
38 membership in the plan unless written consent to the contrary is obtained
39 from the fund manager.

40 C. Full-time dispatchers may participate in this plan if the governing
41 body or agency of the employer of an eligible group as defined in
42 section 38-842 enters into a joinder agreement with the fund manager to bring
43 its full-time dispatchers into this plan. The joinder agreement shall be in
44 accordance with the provisions of this plan. The governing body or agency of
45 the employer shall designate all full-time dispatchers for membership in the

1 plan except for a full-time dispatcher who signs an irrevocable agreement
2 before the joinder agreement becomes effective electing not to become a
3 member of the plan. A full-time dispatcher employed by an employer who
4 becomes eligible for membership in the plan pursuant to this section may
5 elect to participate in the plan within the deadlines and pursuant to the
6 terms prescribed for such participation by the fund manager.

7 D. Probation, surveillance and juvenile detention officers may
8 participate in this plan if the administrative office of the courts enters
9 into a joinder agreement with the fund manager to bring its probation,
10 surveillance and juvenile detention officers into this plan. The joinder
11 agreement shall be in accordance with the provisions of this plan. The
12 administrative office of the courts shall designate all probation,
13 surveillance and juvenile detention officers for membership in this plan
14 unless written consent to the contrary is obtained from the fund manager.

15 E. DETENTION OFFICERS WHO ARE EMPLOYED BY THE DEPARTMENT OF PUBLIC
16 SAFETY MAY PARTICIPATE IN THIS PLAN IF THE DIRECTOR OF THE DEPARTMENT OF
17 PUBLIC SAFETY ENTERS INTO A JOINDER AGREEMENT WITH THE FUND MANAGER TO BRING
18 THE DEPARTMENT'S DETENTION OFFICERS INTO THIS PLAN. THE JOINDER AGREEMENT
19 SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THIS PLAN. THE DIRECTOR OF THE
20 DEPARTMENT OF PUBLIC SAFETY SHALL DESIGNATE ALL DETENTION OFFICERS FOR
21 MEMBERSHIP IN THIS PLAN UNLESS WRITTEN CONSENT TO THE CONTRARY IS OBTAINED
22 FROM THE FUND MANAGER.

23 ~~E.~~ F. The new employer shall designate the groups of employees who
24 are eligible to participate in the plan and shall agree to make contributions
25 each year that are sufficient to meet both the normal cost of a level cost
26 method attributable to inclusion of its employees and the prescribed interest
27 on the past service cost for its employees.

28 ~~F.~~ G. Before the execution of any joinder agreement each employer
29 contemplating participation in the plan shall have an actuarial valuation
30 made, which is payable by the employer, to determine the estimated cost of
31 participation in accordance with section 38-894.

32 ~~G.~~ H. Assets under any existing public employee defined benefit
33 retirement program, except a military retirement program, that are necessary
34 to equal the actuarial present value of projected benefits to the extent
35 funded on a market value basis as of the most recent actuarial valuation
36 attributable to the employer's designated employee group, calculated using
37 the actuarial methods and assumptions adopted by the existing public employee
38 retirement program, shall be transferred from the program to this fund no
39 later than sixty days after the employer's effective date. That portion of
40 the transferred assets that is attributable to employee contributions,
41 including interest credits, shall be properly allocated to each affected
42 employee of the employer and credited to the employee's initial accumulated
43 contributions in accordance with a schedule furnished by the employer to the
44 fund manager.

1 Sec. 5. Joinder agreement; transfer of credited service to
2 corrections officer retirement plan; election to
3 remain in existing retirement system

4 Notwithstanding any other law, if the director of the department of
5 public safety enters into a joinder agreement with the fund manager to bring
6 its detention officers into the corrections officer retirement plan, all
7 credited service from any other Arizona defined benefit state retirement
8 system or plan shall be transferred to the corrections officer retirement
9 plan unless the detention officer makes an irrevocable election to remain in
10 the detention officer's existing state retirement system or plan.

11 Sec. 6. Conditional enactment

12 Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,
13 chapter 87, section 6 and this act, becomes effective on the date prescribed
14 by Laws 2005, chapter 324, section 2 but only on the occurrence of the
15 condition prescribed by Laws 2005, chapter 324, section 2.

APPROVED BY THE GOVERNOR MAY 1, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2008.