Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 35

HOUSE BILL 2110

AN ACT

AMENDING SECTIONS 38-801 AND 38-808, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-810.03; REPEALING SECTION 38-812, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-812; AMENDING SECTIONS 38-816 AND 38-819, ARIZONA REVISED STATUTES; REPEALING SECTION 38-820, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-820; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-843.04; AMENDING SECTIONS 38-844 AND 38-844.03, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.01; AMENDING SECTIONS 38-846.01, 38-849, 38-853.01 AND 38-856.01, ARIZONA REVISED STATUTES; REPEALING SECTION 38-858, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-858; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 1 AND CHAPTER 185, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 2 AND CHAPTER 185, SECTION 2; AMENDING SECTION 38-890, ARIZONA REVISED STATUTES; REPEALING SECTION 38-895, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-895; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-895.01; AMENDING SECTION 38-905.01, ARIZONA REVISED STATUTES; REPEALING SECTION 38-907, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-907; AMENDING SECTIONS 38-909 AND 38-922, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS AND PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(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.

~~2.~~ 3. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

~~3.~~ 4. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

~~4.~~ 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 ~~which~~ 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.

~~5.~~ 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 ~~as an elected official~~ 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 ~~which~~ THAT is being funded pursuant to a joinder agreement ~~in accordance with~~ PURSUANT TO section 38-810, subsection C and section 38-815 or ~~which~~ SERVICE THAT was redeemed pursuant to section 38-816.

~~6.~~ 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.

~~7.~~ 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.

~~8.~~ 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.

~~9.~~ 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.

~~10.~~ 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.

~~11.~~ 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 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. "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.

~~12.~~ 17. "Fund" means the elected officials' retirement plan fund.

~~13.~~ 18. "Fund manager" means the fund manager of the system.

~~14.~~ 19. "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.

~~15.~~ 20. "Participant" means a member who is subject to a domestic relations order.

~~16.~~ 21. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

~~17.~~ 22. "Pension" means a series of monthly payments to a person who is entitled to receive benefits under the plan.

~~18.~~ 23. "Personal representative" means the personal representative of a deceased alternate payee.

~~19.~~ 24. "Plan" means the elected officials' retirement plan.

~~20.~~ 25. "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.

~~21.~~ 26. "Retired member" means a person who is being paid a pension based on the person's credited service as a member of the plan.

~~22.~~ 27. "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 ~~qualified~~ domestic relations order, if the domestic relations order were determined to be a plan approved ~~qualified~~ domestic relations order.

~~23.~~ 28. "System" means the public safety personnel retirement system.

Sec. 2. Section 38-808, Arizona Revised Statutes, is amended to read:

38-808. Pension payments; computation of amounts; termination

A. Plan retirement commences on the first day of the month following the date of the member's retirement or death. Pension payments shall be received on or about the first day of the month next following the member's plan retirement. The last pension payment shall be made as of the last day of the month in which the death of the retired member or the surviving spouse or minor children occurs. Pension payments shall not be made in advance.

B. The monthly pension shall be equal to one-twelfth of the following amount:

1. Four per cent of the member's average yearly salary multiplied by the member's credited service, not to exceed eighty per cent of the member's average yearly salary. This amount shall be reduced if the member takes early retirement pursuant to section 38-805, subsection B. The amount of reduction is three-twelfths of one per cent for each month the retired member's early retirement age precedes the member's normal retirement age pursuant to section 38-805, subsection A, except that the reduction shall not be more than thirty per cent.

2. A member who meets the requirements for a disability retirement pension shall receive a disability pension equal to four per cent of the member's average yearly salary multiplied by twenty years of credited service if the member has ten or more years of credited service, four per cent of the member's average yearly salary multiplied by ten years of credited service if the member has five or more years of credited service but fewer than ten years of credited service or four per cent of the member's average yearly salary multiplied by five years of credited service if the member has fewer than five years of credited service.

C. THE PLAN SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF THIS PLAN, BEGINNING JANUARY 1, 1987 PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF YEARS OF AGE.

2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

~~C.~~ D. If all pension payments terminate before an amount equal to the member's accumulated contributions has been paid, the difference between the member's accumulated contributions and the aggregate amount of pension payments shall be paid to the person or persons and in such shares as designated by the retired member in writing and filed with the fund manager. If the designated person or persons do not survive the retired member, the difference shall be paid to the estate of the retired member.

Sec. 3. Title 38, chapter 5, article 3, Arizona Revised Statutes, is amended by adding section 38-810.03, to read:

38-810.03. Compensation limitation; adjustments

A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR PURPOSES OF THE PLAN SHALL NOT EXCEED THE FOLLOWING:

1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED FIFTY THOUSAND DOLLARS.

2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

B. IF COMPENSATION UNDER THE PLAN IS DETERMINED FOR A PERIOD OF TIME THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE DENOMINATOR IS TWELVE.

C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR WITHIN THE CALENDAR YEAR.

Sec. 4. Repeal

Section 38-812, Arizona Revised Statutes, is repealed.

Sec. 5. Title 38, chapter 5, article 3, Arizona Revised Statutes, is amended by adding a new section 38-812, to read:

38-812. Maximum annual pension; limitations; definition

A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED THE FOLLOWING:

1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE MEMBER'S AVERAGE YEARLY SALARY.

2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002, NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

3. FOR LIMITATION YEARS ENDING IN AND AFTER 2002, ONE HUNDRED SIXTY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE THEN IN EFFECT UNDER THAT SECTION.

C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS PLAN MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE PLAN, TO PREVENT DISQUALIFICATION OF THE PLAN UNDER SECTION 415 OF THE INTERNAL REVENUE CODE, WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO MEMBERS WHO ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN OR OTHER PLAN OF THIS STATE. THE PLAN SHALL ADVISE AFFECTED MEMBERS OF ANY ADDITIONAL LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE PLAN'S FISCAL YEAR.

Sec. 6. Section 38-816, Arizona Revised Statutes, is amended to read:

38-816. Redemption of prior service

A. Any present active elected official may elect to redeem any part of the following prior service or employment by paying into the fund the amounts required under subsection B of this section if the prior service or employment is not on account with any other retirement system or plan:

1. Prior service in this state as an elected official with an employer now covered by the plan before the effective date of participation if the elected official has received a refund from a prior retirement system or plan on termination of employment before the elected official's application for redemption of prior service.

2. Prior service in this state as an elected official with an employer now covered by the plan before the effective date of participation if the elected official was not covered by a retirement system or plan during the elected official's prior elected official service.

3. Prior service as an elected official of this state or a city, town or county of this state if the elected official was not covered by a retirement system or plan during that service whether or not the city, town or county is an employer now covered by the plan.

4. Prior employment with the United States government, a state of the United States or a political subdivision of a state of the United States.

B. Any present active elected official who elects to redeem any part of the prior service or employment for which the elected official is deemed eligible by the fund manager under this section shall pay into the plan the amounts previously withdrawn by the elected official as a refund of the elected official's accumulated contributions, if any, plus the additional amount, if any, that is computed by the plan's actuary and that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions that are prescribed by the plan's actuary.

C. ~~Upon~~ ON approval by the governing body of an incorporated city or town ~~which~~ THAT executes a joinder agreement under section 38-815, the city or town may pay into the fund all or any part of the amount sufficient to provide retirement benefits for elected officials or former elected officials for the time of service as an elected official of the city or town ~~prior to~~ BEFORE the joinder agreement if no retirement benefits were in effect for elected officials during the time of service being redeemed under this section.

D. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE PLAN, A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v) OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE

DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

Sec. 7. Section 38-819, Arizona Revised Statutes, is amended to read:

38-819. Lump sum payment of benefit increases

Notwithstanding any provision of this article, the fund manager, at the request of a retired member, a survivor or the retired member's or survivor's guardian or conservator, may pay any increase in retirement benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR A DIRECT ROLLOVER DISTRIBUTION.

Sec. 8. Repeal

Section 38-820, Arizona Revised Statutes, is repealed.

Sec. 9. Title 38, chapter 5, article 3, Arizona Revised Statutes, is amended by adding a new section 38-820, to read:

38-820. Credit for military service

A. A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR PERIODS OF ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT EMPLOYER IF:

1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.

2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.

3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL CREDITED SERVICE.

5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

B. AN ACTIVE MEMBER OF THE PLAN WHO VOLUNTEERS OR IS ORDERED TO PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43). THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE MEMBER MEETS THE FOLLOWING REQUIREMENTS:

1. WAS AN ACTIVE MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR IS A MEMBER OF THE NATIONAL GUARD.

3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED STATES CODE SECTION 4312.

C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO ACTIVE MILITARY SERVICE.

2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE, NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE PLAN PURSUANT TO SECTION 38-810 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE MEMBER WHILE PERFORMING MILITARY SERVICE.

F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE

EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS SECTION.

H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS, BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL REVENUE CODE SECTION.

Sec. 10. Section 38-842, Arizona Revised Statutes, is amended to read:

38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions ~~prior to~~ BEFORE the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "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. ~~The fund manager may from time to time change the mortality and interest assumptions.~~

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

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

6. "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A BENEFIT PURSUANT TO SECTION 38-846.01.

~~6.~~ 7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. The considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

~~7.~~ 8. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee

from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

~~8.~~ 9. "Certified peace officer" means a peace officer certified by the Arizona peace officers standards and training board.

~~9.~~ 10. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

~~10.~~ 11. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, MILITARY DIFFERENTIAL WAGE PAY and holiday pay paid to an employee by the employer on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for compensatory time or payment for any fringe benefits. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

~~11.~~ 12. "Credited service" means the member's total period of service ~~prior to~~ BEFORE the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

~~12.~~ 13. "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 system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

~~13.~~ 14. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

~~14.~~ 15. "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.

~~15.~~ 16. "Determination period" means the ninety-day period in which the system 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 system mails a notice of receipt to the participant and alternate payee.

17. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE SYSTEM TO AN ELIGIBLE RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTEE.

18. "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.

~~16.~~ 19. "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.

~~17.~~ 20. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

~~18.~~ 21. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

~~19.~~ 22. "Eligible child" means the unmarried child of a deceased member who is under the age of eighteen or a full-time student who is under the age of twenty-three or under a disability that began before the child attained the age of twenty-three and who remains a dependent of the surviving spouse or guardian.

~~20.~~ 23. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

(a) Municipal police officers who are certified peace officers.

(b) Municipal fire fighters.

(c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time fire fighters, but not including fire fighters employed by a fire district pursuant to a contract with a corporation.

(d) State highway patrol officers who are certified peace officers.

(e) State fire fighters.

(f) County sheriffs and deputies who are certified peace officers.

(g) Game and fish wardens who are certified peace officers.

(h) Police officers who are certified peace officers and fire fighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a fire fighter's sole duty shall be to perform fire fighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Fire fighters who are employed by an Indian reservation fire fighting agency.

(o) Police officers who are certified peace officers and who are appointed by the department of administration.

(p) Department of liquor licenses and control investigators who are certified peace officers.

(q) Arizona department of agriculture officers who are certified peace officers.

(r) Arizona state parks board rangers and managers who are certified peace officers.

(s) County park rangers who are certified peace officers.

24. "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.

25. "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.

~~21.~~ 26. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group

requires certified peace officer status and at the option of the local board, employee may include a person who is training to become a certified peace officer.

~~22.~~ 27. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

~~23.~~ 28. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

~~24.~~ 29. "Fund manager" means the fund manager of the system, who are the persons appointed to invest and operate the fund.

~~25.~~ 30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

~~26.~~ 31. "Member" means any employee who meets all of the following qualifications:

(a) Who is either a full-time paid municipal police officer, a full-time paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a police officer who is appointed by the department of administration and who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace

officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty.

(b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

~~(c) Whose employment with an employer commenced prior to attainment of age fifty.~~

~~(d)~~ (c) Whose customary employment is at least forty hours per week and for more than six months in a calendar year.

~~(e)~~ (d) Who has not attained age sixty-five ~~prior to~~ BEFORE the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

~~27.~~ 32. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

~~28.~~ 33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

~~29.~~ 34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

~~30.~~ 35. "Participant" means a member who is subject to a domestic relations order.

~~31.~~ 36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

~~32.~~ 37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan BUT DOES NOT INCLUDE AN ANNUITY THAT IS PAYABLE PURSUANT TO SECTION 38-846.01.

~~33.~~ 38. "Personal representative" means the personal representative of a deceased alternate payee.

~~34.~~ 39. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

~~35.~~ 40. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, fire fighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, police officers who are appointed by the department of administration and who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or fire fighters who are employed by an Indian reservation fire fighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

~~36.~~ 41. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

~~37.~~ 42. "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 system, or a domestic relations order submitted to the system 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.

~~38.~~ 43. "Service" means the last period of continuous employment of an employee by the employers ~~prior to~~ BEFORE the employee's retirement ~~or the employee's sixty-fifth birthday, whichever first occurs~~, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers

between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid fire fighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

~~39.~~ 44. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

~~40.~~ 45. "System" means the public safety personnel retirement system established by this article.

~~41.~~ 46. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

Sec. 11. Title 38, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 38-843.04, to read:

38-843.04. Compensation limitation; adjustments

A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR PURPOSES OF THE SYSTEM SHALL NOT EXCEED THE FOLLOWING:

1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED FIFTY THOUSAND DOLLARS.

2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

B. IF COMPENSATION UNDER THE SYSTEM IS DETERMINED ON A PERIOD OF TIME THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE DENOMINATOR IS TWELVE.

C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR WITHIN THE CALENDAR YEAR.

Sec. 12. Section 38-844, Arizona Revised Statutes, is amended to read:

38-844. Requirements for retirement benefits and disability pensions

A. A member shall be eligible for a normal pension ~~upon~~ ON retirement on or after the member's normal retirement date. Payment of a normal pension shall commence as of the first day of the month following the date of

retirement, and the last payment shall be made as of the last day of the month in which the death of the retired member occurs.

B. A member is eligible for an accidental disability pension if the member's employment is terminated by reason of accidental disability. A member is eligible for an ordinary disability pension if the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. A member shall file an application for a disability pension after the disabling incident or within one year after the date the member ceases to be an employee. Timely application for an accidental, catastrophic or ordinary disability pension is a prerequisite to receipt of the pension. Payment of an accidental, catastrophic or ordinary disability pension shall commence as of the first day of the month following the date of retirement or the expiration of a period during which the member is receiving sick leave payments or a temporary disability pension, whichever is later. The last payment shall be made as of the last day of the month in which the death of the retired member occurs, or if disability ceases ~~prior to~~ BEFORE the member's normal retirement date, the first day of the month in which disability ceases.

C. A member is eligible for a catastrophic disability pension if the member's employment is terminated by reason of catastrophic disability. If more than the allowable catastrophic disability pensions are approved by the local boards in a calendar year, from and after December 31 of the following calendar year a member of the system is not eligible to apply for a catastrophic disability pension. On or before January 31, the fund manager shall report to the president of the senate and the speaker of the house of representatives the number of catastrophic disability pensions that were approved by the local boards in the preceding calendar year. For the purposes of this subsection, "allowable catastrophic disability pensions" means for calendar year 2004, ten, and for subsequent calendar years the number of allowable catastrophic disability pensions allowed in the prior calendar year minus the number of catastrophic disability pensions approved by the local boards in the prior calendar year plus four.

D. Notwithstanding any other provision of this section, no member shall qualify for an accidental, catastrophic or ordinary disability pension if the local board determines that the member's disability results from the following:

1. An injury suffered while engaged in a felonious criminal act or enterprise.

2. Service in the armed forces of the United States ~~which~~ THAT entitles the member to a veteran's disability pension.

3. A physical or mental condition or injury that existed or occurred ~~prior to~~ BEFORE the member's date of membership in the system.

E. Accidental or ordinary disability shall be considered to have ceased and an accidental or ordinary disability pension terminates if the member:

1. Has sufficiently recovered, in the opinion of the local board, based on a medical examination by a physician or clinic appointed by the local board, to be able to engage in a reasonable range of duties within the member's department and the member refuses an offer of employment by an employer in the system.

2. Refuses to undergo any medical examination requested by the board, provided that a medical examination shall not be required more frequently than once in any calendar year.

F. Sixty months after the award of a catastrophic disability pension, the local board shall reevaluate the member. If the member still qualifies for the catastrophic disability pension, the member is entitled to continue to receive the pension at the reduced amount prescribed in section 38-845, subsection E. A catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a physician or a clinic appointed by the local board. After the sixty month review, the catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a physician or a clinic appointed by the local board, except that the medical examination shall not be required more frequently than once in a calendar year. The medical review after the sixty month period does not apply after the date the catastrophic disability pensioner would have attained twenty-five years of service assuming the pensioner remained a member of the system. The local board shall also terminate a catastrophic disability pension if the member refuses to undergo any medical examination requested by the board. A member whose catastrophic disability pension is terminated may apply for and if eligible is entitled to receive an accidental disability pension as provided in this section.

G. Subsection E of this section does not apply after a disability pensioner's normal retirement date. The amount of a disability pension shall not be recomputed at a disability pensioner's normal retirement date.

H. An ordinary disability pension shall be reduced in the period ~~prior to~~ BEFORE the member's normal retirement date if the member engages in any employment and if the member's income from this employment is greater than the member's pension unreduced by this subsection. The amount of the reduction shall be equal to the difference between the member's income from employment and the member's unreduced pension. The local board shall have the right to suspend payments of an ordinary disability pension if the disabled member fails to report earned income. Such suspension shall be for the period there is no satisfactory report with restoration of benefits ~~upon~~ ON acceptance of such report or until the member's normal retirement date, whichever occurs earlier. If, in the opinion of the local board, the reduction provided in this subsection is insufficient to recover monies

previously paid to a member, each local board, in its sole discretion, may bring an action to recover any outstanding balance due, notwithstanding any other rights the local board possesses.

I. If accidental or ordinary disability ceases before a retired member attains the member's normal retirement date and the member is reemployed by an employer, the pension payable ~~upon~~ ON the member's subsequent retirement shall be determined as provided in section 38-849, subsection D.

J. A member shall be eligible for a temporary disability pension if the member's employment is terminated ~~prior to~~ BEFORE the member's normal retirement date by reason of temporary disability. Payment of a temporary disability pension shall commence as of the first day of the month following the date of disability or the expiration of a period during which the member is receiving compensation and sick leave payments, whichever is later. The last payment shall be made as of the first day of the month in which either the death of the member occurs or the local board deems the member is no longer under temporary disability, whichever first occurs, provided that no more than twelve monthly temporary disability payments shall be made in total to the member.

K. If ~~upon~~ ON the expiration of a temporary disability pension the local board finds ~~upon~~ ON application that the member has an accidental or ordinary disability, the member shall be eligible for an accidental or ordinary disability pension, as provided in this section.

L. THE SYSTEM SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF THE SYSTEM, BEGINNING JANUARY 1, 1987 PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF YEARS OF AGE.

2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

Sec. 13. Section 38-844.03, Arizona Revised Statutes, is amended to read:

38-844.03. Eligibility; participation

A. Any member who is eligible for a normal pension pursuant to section 38-844, subsection A and who has at least twenty years of credited service is eligible to participate in the deferred retirement option plan. In addition, any member who is subject to section 38-858, subsection ~~C~~ B is eligible to participate in the deferred retirement option plan retroactive to the member's twentieth year of credited service or on the day before the member began ~~active~~ military service, whichever is later, if the member makes the election pursuant to this section on or before resuming employment with the member's employer.

B. A member who elects to participate in the deferred retirement option plan shall voluntarily and irrevocably:

1. Designate a period of participation that is not more than sixty consecutive months.

2. Beginning on the date the member elects to participate in the deferred retirement option plan, cease to accrue benefits under any other provision of this article. The member's effective date of participation is the first day of the month following the date the member elects to participate.

3. Have deferred retirement option plan benefits credited to a deferred retirement option plan participation account pursuant to section 38-844.05.

4. Receive benefits from the system on termination of employment at the same time and in the same manner as otherwise prescribed in this article.

5. Agree to terminate employment on completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.

C. If a member fails to terminate employment on completion of the designated deferred retirement option plan participation period:

1. The member is not entitled to the interest accumulation on the deferred retirement option plan participation account.

2. The deferred retirement option plan participation account shall not be credited with the monthly amount prescribed in section 38-844.05, subsection C, paragraph 1 and that amount shall not be paid directly to the member.

3. The payment prescribed in section 38-844.08, subsection A, paragraph 1 shall not be paid until the member terminates employment and is payable at the same time as the pension amount is paid on retirement.

4. The member does not acquire any further credited service in the system.

Sec. 14. Title 38, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 38-845.01, to read:

38-845.01. Maximum annual pension; limitations; definition

A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED THE FOLLOWING:

1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION.

2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002, NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

3. FOR LIMITATION YEARS ENDING IN AND AFTER 2002, ONE HUNDRED SIXTY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE THEN IN EFFECT UNDER THAT SECTION.

C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS SYSTEM MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE SYSTEM, TO

PREVENT DISQUALIFICATION OF THE SYSTEM UNDER SECTION 415 OF THE INTERNAL REVENUE CODE, WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO MEMBERS WHO ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN OR OTHER PLAN OF THIS STATE. THE SYSTEM SHALL ADVISE AFFECTED MEMBERS OF ANY ADDITIONAL LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE SYSTEM'S FISCAL YEAR.

Sec. 15. Section 38-846.01, Arizona Revised Statutes, is amended to read:

38-846.01. Deferred annuity

If any member who has at least ten years of credited service terminates ~~his~~ employment for reasons other than retirement or disability, ~~he~~ THE MEMBER may elect to receive a deferred ~~retirement allowance~~ ANNUITY, except that if the ~~member~~ ANNUITANT withdraws all or part of ~~his~~ THE ANNUITANT'S accumulated contributions IN THE SYSTEM all ~~his~~ rights in and to a deferred ~~retirement allowance~~ ANNUITY shall be forfeited by ~~him and he ceases to be a member~~ THE ANNUITANT. A deferred ~~retirement allowance shall be a life time~~ ANNUITY IS A LIFETIME monthly ~~pension~~ PAYMENT actuarially equivalent to the ~~member's~~ ANNUITANT'S accumulated contributions IN THE SYSTEM plus an equal amount paid by the employer and shall commence on application on or after the sixty-second birthday of the ~~member~~ ANNUITANT. THE ANNUITY IS NOT A RETIREMENT BENEFIT AND ANNUITANTS ARE NOT ENTITLED TO RECEIVE ANY AMOUNT PRESCRIBED BY SECTION 38-845, SUBSECTION F, OR SECTION 38-846, 38-856 OR 38-857.

Sec. 16. Section 38-849, Arizona Revised Statutes, is amended to read:

38-849. Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired or disabled member

A. 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 shall be 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 retirement system.

B. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the system with an intent to defraud the system is guilty of a class 6 felony. If any change or error in the records results in any member or beneficiary receiving from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime specified in this subsection the member shall be entitled to receive a lump

sum payment of the member's accumulated contributions but forfeits any future compensation and benefits ~~which~~ THAT would otherwise accrue to the member or the member's estate under this article.

C. If a member who received a severance refund ~~upon~~ ON termination of employment, as provided in section 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, if the former member's reemployment with the same employer occurred within two years after the former member's termination date, and, within ninety days after reemployment the former member signs a written election consenting to reimburse the fund within one year, the former member shall be required to redeposit the amount withdrawn at the time of the former member's separation from service, with interest thereon at the rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. ~~Upon~~ ON satisfaction of this obligation the member's prior service credits shall be reinstated.

D. IF A RETIRED MEMBER BECOMES EMPLOYED IN ANY CAPACITY BY THE EMPLOYER FROM WHICH THE MEMBER RETIRED BEFORE SIXTY CONSECUTIVE DAYS AFTER THE MEMBER'S DATE OF RETIREMENT, THE SYSTEM SHALL NOT MAKE PENSION PAYMENTS TO THE RETIRED MEMBER DURING THE PERIOD OF REEMPLOYMENT. If a retired member is reemployed by an employer, no contributions shall be made on the retired member's account, nor any service credited, during the period of ~~such~~ THE reemployment. THE FUND MANAGER SHALL REVIEW ALL REEMPLOYMENT DETERMINATIONS. Notwithstanding this subsection, if a retired member subsequently becomes employed in the same position by the employer from which the member retired, the system shall not make pension payments to the retired member during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. If a member who retired under disability is reemployed by an employer as an employee, that member shall be treated as if the member had been on an uncompensated leave of absence during the period of the member's disability retirement and shall be a contributing member of the system. For the purposes of this subsection, "same position" means the member is in a position where the member performs ~~duties and exercises authority that are the same duties that were performed and the same authority that was exercised by the member before the member's retirement.~~ SUBSTANTIALLY SIMILAR DUTIES THAT WERE PERFORMED AND EXERCISES SUBSTANTIALLY SIMILAR AUTHORITY THAT WAS EXERCISED BY THE RETIRED MEMBER BEFORE RETIREMENT.

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

court shall enter an order against that person and for the system awarding the system 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 system 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 system, plus interest at the rate prescribed by section 44-1201, subsection A, until all amounts owed are paid to the system.

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

Sec. 17. Section 38-853.01, Arizona Revised Statutes, is amended to read:

38-853.01. Redemption of prior service

A. Each present active member of the system may elect to redeem any part of the following prior service or employment by paying into the system any amounts required under subsection B if the prior service or employment is not on account with any other retirement system:

1. Prior service in this state as an employee with an employer now covered by the system or prior service with an agency of the United States government, a state of the United States or a political subdivision of a state of the United States as a full-time paid firefighter or full-time paid certified peace officer.

2. Subject to any limitations prescribed by federal law, prior employment as an employee with a corporation that contracted with an employer now covered by the system to provide firefighting services on behalf of that employer as a full-time paid firefighter.

B. Any present active member who elects to redeem any part of the prior service or employment for which the employee is deemed eligible by the fund manager under this section shall pay into the system the amounts previously withdrawn by the member, if any, as a refund of the member's accumulated contributions plus accumulated interest as determined by the fund manager and the additional amount, if any, computed by the system's actuary ~~which~~ THAT is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the system's actuary.

C. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE SYSTEM. A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v) OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

Sec. 18. Section 38-856.01, Arizona Revised Statutes, is amended to read:

38-856.01. Lump sum payment of benefit increases

Notwithstanding any provision of this article, the fund manager, at the request of a retired member, a survivor or the retired member's or survivor's guardian or conservator, may pay any increase in retirement benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR A DIRECT ROLLOVER DISTRIBUTION.

Sec. 19. Repeal

Section 38-858, Arizona Revised Statutes, is repealed.

Sec. 20. Title 38, chapter 5, article 4, Arizona Revised Statutes, is amended by adding a new section 38-858, to read:

38-858. Credit for military service

A. A MEMBER OF THE SYSTEM MAY RECEIVE CREDITED SERVICE FOR PERIODS OF ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT EMPLOYER IF:

1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.

2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.

3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL CREDITED SERVICE.

5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

B. AN ACTIVE MEMBER OF THE SYSTEM WHO VOLUNTEERS OR IS ORDERED TO PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43). THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE MEMBER MEETS THE FOLLOWING REQUIREMENTS:

1. WAS AN ACTIVE MEMBER OF THE SYSTEM ON THE DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR IS A MEMBER OF THE NATIONAL GUARD.

3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED STATES CODE SECTION 4312.

C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO ACTIVE MILITARY SERVICE.

2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE, NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE SYSTEM PURSUANT TO SECTION 38-843 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE MEMBER WHILE PERFORMING MILITARY SERVICE.

F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE

EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS SECTION.

H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS, BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL REVENUE CODE SECTION.

Sec. 21. Section 38-881, Arizona Revised Statutes, as amended by Laws 2008, chapter 144, section 1 and chapter 185, section 1, is amended to read:

38-881. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

~~4.~~ 5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

~~5.~~ 6. "Average monthly salary" means one-thirty-sixth of the aggregate amount of salary that is paid a member by a participating employer during a period of thirty-six consecutive months of service in which the

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

~~6.~~ 7. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

~~7.~~ 8. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

~~8.~~ 9. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees of this state, plus those compensated periods of service as a member of the retirement plan for which member contributions are on deposit in the fund.

~~9.~~ 10. "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.

~~10.~~ 11. "Designated position" means:

(a) For a county:

(i) A county detention officer.

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

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

(i) Food service.

(ii) Nursing personnel.

(iii) Corrections physician assistant.

(iv) Therapist.

(v) Corrections dental assistant.

(vi) Hygienist.

(vii) Corrections medical assistant.

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

(ix) State correctional program officer.

(x) Parole or community supervision officers.

(xi) Investigators.

(xii) Teachers.

(xiii) Institutional maintenance workers.

(xiv) Youth corrections officer.

(xv) Youth program officer.

(xvi) Behavioral health treatment unit managers.

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

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

(xix) Other positions designated by the local board of the state department of corrections or the local board of the department of juvenile corrections pursuant to section 38-891.

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

(d) For an employer of an eligible group as defined in section 38-842, full-time dispatchers.

(e) For the judiciary, probation, surveillance and juvenile detention officers and those positions designated by the local board of the judiciary pursuant to section 38-891.

(f) For the department of public safety, state detention officers.

~~11.~~ 12. "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.

~~12.~~ 13. "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.

14. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE PLAN TO AN ELIGIBLE RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTEE.

15. "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.

~~13.~~ 16. "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.

17. "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.

18. "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.

~~14.~~ 19. "Employee" means a person determined by the local board to be employed by a participating employer in a designated position.

~~15.~~ 20. "Employer" means an agency or department of this state or a political subdivision of this state that has one or more employees in a designated position.

~~16.~~ 21. "Fund" means the corrections officer retirement plan fund.

~~17.~~ 22. "Fund manager" means the fund manager of the public safety personnel retirement system.

~~18.~~ 23. "Juvenile detention officer" means a juvenile detention officer responsible for the direct custodial supervision of juveniles who are detained in a county juvenile detention center.

~~19.~~ 24. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~20.~~ 25. "Member" means any employee who meets all of the following qualifications:

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

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

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

~~21.~~ 26. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the

employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

~~22.~~ 27. "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.

~~23.~~ 28. "Participant" means a member who is subject to a domestic relations order.

~~24.~~ 29. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

~~25.~~ 30. "Participating employer" means an employer that the fund manager has determined to have one or more employees in a designated position or a county, city, town or department of this state that has entered into a joinder agreement pursuant to section 38-902.

~~26.~~ 31. "Pension" means a series of monthly payments by the retirement plan.

~~27.~~ 32. "Personal representative" means the personal representative of a deceased alternate payee.

~~28.~~ 33. "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.

~~29.~~ 34. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

~~30.~~ 35. "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement plan.

~~31.~~ 36. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

~~32.~~ 37. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~33.~~ 38. "Salary" means the base salary, shift differential pay, MILITARY DIFFERENTIAL WAGE PAY and holiday pay paid a member in a designated position for personal services rendered to a participating employer on a regular monthly, semimonthly or biweekly payroll basis. Salary includes amounts that are subject to deferred compensation or tax shelter agreements. Salary does not include payment for any remuneration or reimbursement other than as prescribed by this paragraph. For the purposes of this paragraph, "base salary" means the amount of compensation each member is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, fringe benefit pay and similar extra payments.

~~34.~~ 39. "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.

~~35.~~ 40. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

~~36.~~ 41. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 22. Section 38-881, Arizona Revised Statutes, as amended by Laws 2008, chapter 144, section 2 and chapter 185, section 2, is amended to read:

38-881. Definitions

In this article, unless the context otherwise requires:

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

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

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

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

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

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

~~4.~~ 5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

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

~~6.~~ 7. "Beneficiary" means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual's membership in the retirement plan.

~~7.~~ 8. "Claimant" means a member, beneficiary or estate that files an application for benefits with the retirement plan.

~~8.~~ 9. "Credited service" means credited service transferred to the retirement plan from another retirement system or plan for public employees of this state, plus those compensated periods of service as a member of the retirement plan for which member contributions are on deposit in the fund.

~~9.~~ 10. "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.

~~10.~~ 11. "Designated position" means:

(a) For a county:

(i) A county detention officer.

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

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

(i) Food service.

(ii) Nursing personnel.

(iii) Corrections physician assistant.

(iv) Therapist.

(v) Corrections dental assistant.

(vi) Hygienist.

(vii) Corrections medical assistant.

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

(ix) State correctional program officer.

(x) Parole or community supervision officers.

(xi) Investigators.

(xii) Teachers.

(xiii) Institutional maintenance workers.

(xiv) Youth corrections officer.

(xv) Youth program officer.

(xvi) Behavioral health treatment unit managers.

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

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

(xix) Other positions designated by the local board of the state department of corrections or the local board of the department of juvenile corrections pursuant to section 38-891.

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

(d) For an employer of an eligible group as defined in section 38-842, full-time dispatchers.

(e) For the judiciary, probation, surveillance and juvenile detention officers and those positions designated by the local board of the judiciary pursuant to section 38-891.

(f) For the department of public safety, state detention officers.

~~11.~~ 12. "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.

~~12.~~ 13. "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.

14. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE PLAN TO AN ELIGIBLE RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTEE.

15. "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.

~~13.~~ 16. "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.

17. "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.

18. "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.

~~14.~~ 19. "Employee" means a person determined by the local board to be employed by a participating employer in a designated position.

~~15.~~ 20. "Employer" means an agency or department of this state or a political subdivision of this state that has one or more employees in a designated position.

~~16.~~ 21. "Fund" means the corrections officer retirement plan fund.

~~17.~~ 22. "Fund manager" means the fund manager of the public safety personnel retirement system.

~~18.~~ 23. "Juvenile detention officer" means a detention officer responsible for the direct custodial supervision of juveniles who are detained in a county juvenile detention center.

~~19.~~ 24. "Local board" means the retirement board of the employer that consists of persons appointed or elected to administer the plan as it applies to the employer's members in the plan.

~~20.~~ 25. "Member" means any employee who meets all of the following qualifications:

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

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

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

~~21.~~ 26. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or, in the case of a dispatcher, twenty-five years of service, the employee's sixty-second birthday and completion of ten years of service or the month in which the sum of the employee's age and years of credited service equals eighty.

~~22.~~ 27. "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.

~~23.~~ 28. "Participant" means a member who is subject to a domestic relations order.

~~24.~~ 29. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

~~25.~~ 30. "Participating employer" means an employer that the fund manager has determined to have one or more employees in a designated position or a county, city, town or department of this state that has entered into a joinder agreement pursuant to section 38-902.

~~26.~~ 31. "Pension" means a series of monthly payments by the retirement plan.

~~27.~~ 32. "Personal representative" means the personal representative of a deceased alternate payee.

~~28.~~ 33. "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.

~~29.~~ 34. "Probation or surveillance officer" means an officer appointed pursuant to section 8-203, 12-251 or 12-259 but does not include other personnel, office assistants or support staff.

~~30.~~ 35. "Retired member" means an individual who is being paid a pension on account of the individual's membership in the retirement plan.

~~31.~~ 36. "Retirement" means termination of employment after a member has fulfilled all requirements for a pension.

~~32.~~ 37. "Retirement plan" or "plan" means the corrections officer retirement plan established by this article.

~~33.~~ 38. "Salary" means the base salary, overtime pay, shift differential pay, MILITARY DIFFERENTIAL WAGE PAY and holiday pay paid a

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

~~34.~~ 39. "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.

~~35.~~ 40. "Service" means employment rendered to a participating employer as an employee in a designated position. Any absence that is authorized by an employer, including any periods during which the employee is on an employer sponsored long-term disability program, is considered as service if the employee returns or is deemed by the employer to have returned to a designated position within the period of the authorized absence.

~~36.~~ 41. "Total and permanent disability" means a physical or mental condition that is not an accidental disability, that the local board finds totally and permanently prevents a member from engaging in any gainful employment and that is the direct and proximate result of the member's performance of the member's duty as an employee of a participating employer.

Sec. 23. Section 38-890, Arizona Revised Statutes, is amended to read:

38-890. Pensions; commencement and duration

A. A normal retirement pension, an accidental disability pension, a total and permanent disability pension or an ordinary disability pension commences on the first day of the calendar month next following the member's date of retirement. A survivor pension commences on the first day of the calendar month next following the month in which the death causing payment of the pension occurs.

B. Termination of payment of a pension occurs at the end of the calendar month in which the event causing the termination occurred. The payment shall be made for the full month of termination.

C. A change in the amount of a pension occurs on the first day of the calendar month next following the date of the event causing the change.

D. THE PLAN SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION. NOTWITHSTANDING ANY OTHER PROVISION OF THE PLAN, BEGINNING JANUARY 1, 1987

PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF YEARS OF AGE.

2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

Sec. 24. Repeal

Section 38-895, Arizona Revised Statutes, is repealed.

Sec. 25. Title 38, chapter 5, article 6, Arizona Revised Statutes, is amended by adding a new section 38-895, to read:

38-895. Maximum annual pension; limitations; definition

A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED THE FOLLOWING:

1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE MEMBER'S AVERAGE MONTHLY SALARY.

2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002, NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

3. FOR LIMITATION YEARS BEGINNING IN AND AFTER 2002, ONE HUNDRED SIXTY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE THEN IN EFFECT UNDER THAT SECTION.

C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS PLAN MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE PLAN, TO PREVENT DISQUALIFICATION OF THE PLAN UNDER SECTION 415 OF THE INTERNAL REVENUE CODE, WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO MEMBERS WHO ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN OR OTHER PLAN OF THIS STATE. THE PLAN SHALL ADVISE AFFECTED MEMBERS OF ANY ADDITIONAL LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE PLAN'S FISCAL YEAR.

Sec. 26. Title 38, chapter 5, article 6, Arizona Revised Statutes, is amended by adding section 38-895.01, to read:

38-895.01. Compensation limitation; adjustments

A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR PURPOSES OF THE PLAN SHALL NOT EXCEED THE FOLLOWING:

1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED FIFTY THOUSAND DOLLARS.

2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

B. IF COMPENSATION UNDER THE PLAN IS DETERMINED ON A PERIOD OF TIME THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE DENOMINATOR IS TWELVE.

C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR WITHIN THE CALENDAR YEAR.

Sec. 27. Section 38-905.01, Arizona Revised Statutes, is amended to read:

38-905.01. Lump sum payment of benefit increases

Notwithstanding any provision of this article, the fund manager, at the request of a retired member, a survivor or the retired member's or survivor's guardian or conservator, may pay any increase in retirement benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR A DIRECT ROLLOVER DISTRIBUTION.

Sec. 28. Repeal

Section 38-907, Arizona Revised Statutes, is repealed.

Sec. 29. Title 38, chapter 5, article 6, Arizona Revised Statutes, is amended by adding a new section 38-907, to read:

38-907. Credit for military service

A. A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR PERIODS OF ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT EMPLOYER IF:

1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.

2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.

3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL CREDITED SERVICE.

5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

B. AN ACTIVE MEMBER OF THE PLAN WHO VOLUNTEERS OR IS ORDERED TO PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43). THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL

MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE MEMBER MEETS THE FOLLOWING REQUIREMENTS:

1. WAS AN ACTIVE MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR IS A MEMBER OF THE NATIONAL GUARD.

3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED STATES CODE SECTION 4312.

C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO SUBSECTION B OF THIS SECTION AS FOLLOWS:

1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO ACTIVE MILITARY SERVICE.

2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY SERVICE.

4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE, NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE PLAN

PURSUANT TO SECTION 38-891 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE MEMBER WHILE PERFORMING MILITARY SERVICE.

F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS SECTION.

H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS, BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL REVENUE CODE SECTION.

Sec. 30. Section 38-909, Arizona Revised Statutes, is amended to read:

38-909. Redemption of prior service; calculation

A. Each present active member of the plan who had previous service in this state as an employee with an employer now covered by the plan or who had previous service with an agency of the United States government, a state of the United States or a political subdivision of a state of the United States as a full-time paid corrections officer or full-time paid certified peace officer may elect to redeem any part of the prior service by paying into the plan any amounts required under subsection B if the prior service is not on account with any other retirement system.

B. Any present active member who elects to redeem any part of the prior service for which the employee is deemed eligible by the fund manager under this section shall pay into the plan the amounts previously withdrawn by the member, if any, as a refund of the member's accumulated contributions plus accumulated interest as determined by the fund manager and the additional amount, if any, computed by the plan's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the plan's actuary.

C. The discount rate used by the actuary for the redemption calculation pursuant to subsection B is an amount equal to the lesser of the assumed rate of return that is prescribed by the fund manager or an amount equal to the yield on a ten year treasury note as of March 1 that is published by the federal reserve board plus two per cent. This discount rate is effective beginning in the next fiscal year and shall be recalculated each year.

D. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE PLAN, A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE

DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v) OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

Sec. 31. Section 38-922, Arizona Revised Statutes, is amended to read:

38-922. Transfer or redemption of service credits

A. Service credits qualified in accordance with section 38-921 may be transferred or redeemed in accordance with this section.

B. In the case of a member whose contributions remain on deposit with the prior retirement system or plan, the following shall be calculated:

1. The prior system or plan shall calculate the amount equal to the actuarial present value of a member's projected benefits to the extent funded on a market value basis as of the most recent actuarial valuation under the prior system or plan as calculated by that system's or plan's actuary using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements based on the transferring member's service credits at the time of transfer.

2. The system or plan to which the member is transferring shall calculate the increase in the actuarial present value of the projected benefits provided as a result of the transfer of the member's service credits. This calculation shall be performed by that system's or plan's actuary using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements based ~~upon~~ ON the transferring member's service credits at the time of transfer.

C. In the event a member decides to transfer:

1. If the amount calculated in subsection B, paragraph 2 is greater than the amount calculated in subsection B, paragraph 1:

(a) The prior system or plan shall transfer to the present system or plan the greater of the amount calculated in subsection B, paragraph 1 or the member's accumulated contribution account balance.

(b) If the amount transferred is less than the amount calculated under subsection B, paragraph 2, the transferring member shall elect either to pay the difference or to accept a reduced transfer of service credits. If the member elects to pay the difference, the amount paid shall be added to the member's accumulated contribution account balance. If the member elects to accept a reduced transfer of service credits, the amount of service credits transferred shall be equal to the amount of service credits used in making the calculation under subsection B, paragraph 1 multiplied by the ratio of the amount calculated under subsection B, paragraph 1 to the amount calculated under subsection B, paragraph 2.

2. If the amount calculated in subsection B, paragraph 2 is less than or equal to the amount calculated in subsection B, paragraph 1, the prior system or plan shall transfer to the present system or plan the greater of the amount calculated in subsection B, paragraph 2 or the member's accumulated contribution account balance.

D. In the case of an applicant who has withdrawn his member contributions from another prior system or plan of this state, the applicant shall pay into the new system or plan to which he is transferring an amount equal to the increase in the actuarial present value of the projected benefits provided by the service credits being redeemed and this amount shall be included in the member's current accumulated contribution account balance. This calculation shall be performed by the actuary of the system or plan to which the service credits are being transferred using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements.

E. Service credits shall not be applied to the applicant's account until such time as complete payment is made to the retirement system or plan to which the applicant is transferring. On completion of the transfer provided for in this article, the member's rights in the retirement system or plan from which the member is transferring are extinguished.

F. A MEMBER ELECTING TO TRANSFER TO OR REDEEM SERVICE WITH THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE ELECTED OFFICIALS' RETIREMENT PLAN OR THE CORRECTIONS OFFICER RETIREMENT PLAN PURSUANT TO THIS SECTION MAY PAY FOR THE SERVICE BEING TRANSFERRED OR REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE SYSTEM OR PLAN, A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v) OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

Sec. 32. Applicability

Section 38-846.01, Arizona Revised Statutes, as amended by this act, applies to prospective members of the public safety personnel retirement system as well as members of the public safety personnel retirement system on the effective date of this act who have not already applied for and begun receiving benefits pursuant to section 38-846.01, Arizona Revised Statutes, in effect before the effective date of this act and section 38-856, Arizona Revised Statutes.

Sec. 33. Retroactivity

Section 38-842, paragraph 31, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 1993.

Sec. 34. Conditional enactment

Section 38-881, Arizona Revised Statutes, as amended by Laws 2008, chapter 144, section 2 and chapter 185, section 2 and section 22 of this act, becomes effective on the date prescribed in Laws 2005, chapter 324, section 2 but only on the occurrence of the condition prescribed by Laws 2005, chapter 324, section 2.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.

Passed the House May 12, 2009

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate June 25, 2009

by the following vote: 22 Ayes,

6 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

June 29, 2009,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1st day of July, 2009

at 8:25 o'clock A. M.

Susan K Myers

Secretary to the Governor

Approved this 10th day of

July, 2009,

at 9:46 o'clock A M.

Janice K. Brewer

Governor of Arizona

H.B. 2110

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of July, 2009,

at 12:30 o'clock P. M.

Ken Bennett

Secretary of State