House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 347

SENATE BILL 1317

AN ACT

AMENDING SECTIONS 38-817 AND 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.02; AMENDING SECTION 38-847, ARIZONA REVISED STATUTES; AMENDING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 118, SECTION 10; REPEALING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 45; AMENDING SECTIONS 38-857, 38-891, 38-893 AND 38-906, ARIZONA REVISED STATUTES; RELATING TO THE ADMINISTRATION OF PUBLIC RETIREMENT SYSTEM AND PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-817, Arizona Revised Statutes, is amended to read:

38-817. Group health and accident coverage for retired members; payment

A. UPON NOTIFICATION, the board shall pay from the assets of the fund part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the plan who receives a pension if the retired member had eight or more years of credited service under the plan. In order to qualify for payment pursuant to this subsection, the retired member or survivor shall elect single coverage and must have elected to participate in the coverage provided in section 38-651.01 or 38-782 or any other health and accident insurance coverage provided or administered by an employer. The board shall pay up to:

1. One hundred fifty dollars per month for each retired member or survivor of the plan who is not eligible for medicare.

2. One hundred dollars per month for each retired member or survivor of the plan who is eligible for medicare.

B. UPON NOTIFICATION, the board shall pay from the assets of the fund part of the family coverage premium of any group health and accident insurance each month for a retired member or survivor who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. The board shall pay up to:

1. Two hundred sixty dollars per month if the retired member or survivor of the plan and one or more dependents are not eligible for medicare.

2. One hundred seventy dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare.

3. Two hundred fifteen dollars per month if either:

(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.

C. Each retired member or survivor of the plan with less than eight years of credited service and a dependent of such a retired member or survivor who participates in the coverage provided by section 38-651.01 or 38-782 or who participates in any other health and accident insurance coverage provided or administered by an employer is entitled to receive a proportion of the full benefit prescribed by subsection A or B of this section according to the following schedule:

1. 7.0 to 7.9 years of credited service, ninety per cent.

2. 6.0 to 6.9 years of credited service, seventy-five per cent.

3. 5.0 to 5.9 years of credited service, sixty per cent.

4. Those with less than five years of credited service do not qualify for the benefit.

D. The board shall not pay more than the amount prescribed in this section for a benefit recipient as a member or survivor of the plan.

E. A retired member or survivor of the plan may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's FORMER employer if that FORMER employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the plan. THIS PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

Sec. 2. 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 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 board.

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.

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.

8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.

9. "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.

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

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

12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, COMPENSATORY TIME USED BY AN EMPLOYEE IN LIEU OF OVERTIME NOT OTHERWISE PAID BY AN EMPLOYER 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 UNUSED compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training OR FIRE, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities~~,~~ training~~,~~ OR fire, wildfire, emergency medical or emergency management ~~services~~ ACTIVITIES. 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.

13. "Credited service" means the member's total period of service 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.

14. "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.

15. "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.

16. "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.

17. "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.

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "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.

20. "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.

21. "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.

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

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:

(a) Is under eighteen years of age.

(b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.

(c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "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.
25. "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.

26. "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.

27. "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 OR FIRE FIGHTER CERTIFICATION and at the option of the local board, employee may include a person who is training to become a certified peace officer OR FIRE FIGHTER.

28. "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.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated

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.

31. "Member" means any full-time employee who meets all of the following qualifications:

(a) Who is either a paid municipal police officer, a 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 customary employment is at least forty hours per week or, for those employees who customarily work fluctuating work weeks, whose customary employment averages at least forty hours per week.

(d) Who is engaged to work for more than six months in a calendar year.

(e) Who, if economic conditions exist, is required to take furlough days or reduce the hours of ~~their~~ THE EMPLOYEE'S normal work week below forty hours but not less than thirty hours per pay cycle, and maintain ~~their~~ THE EMPLOYEE'S active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

(f) Who has not attained age sixty-five 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.

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.

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.

1 34. "Ordinary disability" means a physical condition that the local
2 board determines will prevent an employee totally and permanently from
3 performing a reasonable range of duties within the employee's department or a
4 mental condition that the local board determines will prevent an employee
5 totally and permanently from engaging in any substantial gainful activity.
6 35. "Participant" means a member who is subject to a domestic relations
7 order.
8 36. "Participant's portion" means benefits that are payable to a
9 participant pursuant to a plan approved domestic relations order.
10 37. "Pension" means a series of monthly amounts that are payable to a
11 person who is entitled to receive benefits under the plan but does not
12 include an annuity that is payable pursuant to section 38-846.01.
13 38. "Personal representative" means the personal representative of a
14 deceased alternate payee.
15 39. "Plan approved domestic relations order" means a domestic relations
16 order that the system approves as meeting all the requirements for a plan
17 approved domestic relations order as otherwise prescribed in this article.
18 40. "Regularly assigned to hazardous duty" means regularly assigned to
19 duties of the type normally expected of municipal police officers, municipal
20 or state fire fighters, eligible fire district fire fighters, state highway
21 patrol officers, county sheriffs and deputies, fish and game wardens, fire
22 fighters and police officers of a nonprofit corporation operating a public
23 airport pursuant to sections 28-8423 and 28-8424, police officers who are
24 appointed by the Arizona board of regents or a community college district
25 governing board, state attorney general investigators who are certified peace
26 officers, county attorney investigators who are certified peace officers,
27 police officers who are appointed by the department of administration and who
28 are certified peace officers, department of liquor licenses and control
29 investigators who are certified peace officers, Arizona department of
30 agriculture officers who are certified peace officers, Arizona state parks
31 board rangers and managers who are certified peace officers, county park
32 rangers who are certified peace officers, police officers who are certified
33 peace officers and who are employed by an Indian reservation police agency or
34 fire fighters who are employed by an Indian reservation fire fighting agency.
35 Those individuals who are assigned solely to support duties such as
36 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
37 personnel, mechanics and dispatchers are not assigned to hazardous duty
38 regardless of their position classification title. Since the normal duties of
39 those jobs described in this paragraph are constantly changing, questions as
40 to whether a person is or was previously regularly assigned to hazardous duty
41 shall be resolved by the local board on a case-by-case basis. Resolutions by
42 local boards are subject to rehearing and appeal.

41. "Retirement" or "retired" 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.

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.

43. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, 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.

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

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

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. 3. Title 38, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 38-845.02, to read:

38-845.02. <u>Payment of pension</u>

THE BOARD SHALL NOT MAKE A RETROACTIVE PAYMENT OF A PENSION TO A PERSON THAT IS MORE THAN NINETY DAYS BEFORE THE DATE OF THE PERSON'S APPLICATION FOR BENEFITS.

1 Sec. 4. Section 38-847, Arizona Revised Statutes, is amended to read:
2 38-847. Local boards
3 A. The administration of the system and responsibility for making the
4 provisions of the system effective for each employer are vested in a local
5 board. The department of public safety, the Arizona game and fish
6 department, the department of emergency and military affairs, the university
7 of Arizona, Arizona state university, northern Arizona university, each
8 county sheriff's office, each county attorney's office, each county parks
9 department, each municipal fire department, each eligible fire district, each
10 community college district, each municipal police department, the department
11 of law, the department of administration, the department of liquor licenses
12 and control, the Arizona department of agriculture, the Arizona state parks
13 board, each Indian reservation police agency and each Indian reservation fire
14 fighting agency shall have a local board. A nonprofit corporation operating
15 pursuant to sections 28-8423 and 28-8424 shall have one local board for all
16 of its members. Each local board shall be constituted as follows:
17 1. For political subdivisions or Indian tribes, the mayor or chief
18 elected official or a designee of the mayor or chief elected official
19 approved by the respective governing body as chairman, two members elected by
20 secret ballot by members employed by the appropriate employer and two
21 citizens, one of whom shall be the head of the merit system, or the head's
22 designee from among the other members of the merit system, if it exists for
23 the group of members, appointed by the mayor or chief elected official and
24 with the approval of the governing body of the city or the governing body of
25 the employer. The appointed two citizens shall serve on both local boards in
26 a city or Indian tribes where both fire and police department employees are
27 members.
28 2. For state agencies and nonprofit corporations operating pursuant to
29 sections 28-8423 and 28-8424, two members elected by secret ballot by members
30 employed by the appropriate employer and three citizens appointed by the
31 governor. Each state agency local board shall elect a chairman.
32 3. For fire districts organized pursuant to section 48-804, the
33 secretary-treasurer as chairman, two members elected by secret ballot by
34 members employed by the fire district and two citizens appointed by the
35 secretary-treasurer, one of whom is a resident of the fire district and one
36 of whom has experience in personnel administration but who is not required to
37 be a resident of the fire district.
38 B. On the taking effect of this system for an employer, the
39 appointments and elections of local board members shall take place with one
40 elective and appointive local board member serving a term ending two years
41 after the effective date of participation for the employer and other local
42 board members serving a term ending four years after the effective date.
43 Thereafter, every second year, and as a vacancy occurs, an office shall be
44 filled for a term of four years in the same manner as previously provided.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the ~~fund manager~~ BOARD OF TRUSTEES, the ~~fund manager~~ BOARD OF TRUSTEES may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the fund manager cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the ~~fund manager~~ BOARD OF TRUSTEES may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1. To decide all questions of eligibility and service credits, and determine the amount, manner and time of payment of any benefits under the system.

2. To prescribe procedures to be followed by claimants in filing applications for benefits.

3. To make a determination as to the right of any claimant to a benefit and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter within ninety days after the date the matter is presented to the local board for determination. If a local board fails to commence a hearing as provided in this paragraph, on a matter presented to the local board for determination, the relief demanded by the party petitioning the local board is deemed granted and approved by the local board. The granting and approval of this relief is considered final and binding unless a timely request for rehearing or appeal is made as provided in this article, unless the ~~fund manager~~ BOARD OF TRUSTEES determines that granting the relief requested would violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code. If the ~~fund manager~~ BOARD OF TRUSTEES determines that granting the requested relief would violate the internal revenue code or threaten to impair the system's status as a qualified plan, the ~~fund manager~~ BOARD OF TRUSTEES may refuse to grant the relief by issuing a written determination to the local board and the party petitioning the local board for relief. The decision by the ~~fund manager~~ BOARD OF TRUSTEES is subject to judicial review pursuant to title 12, chapter 7, article 6.

4. To request and receive from the employers and from members such information as is necessary for the proper administration of the system and action on claims for benefits and to forward such information to the board of trustees.

5. To distribute, in such manner as the local board determines to be appropriate, information explaining the system received from the board of trustees.

6. To furnish the employer, the board of trustees and the legislature, on request, with such annual reports with respect to the administration of the system as are reasonable and appropriate.

7. To receive and review the actuarial valuation of the system for its group of members.

8. To receive and review reports of the financial condition and of the receipts and disbursements of the fund from the board of trustees.

9. To appoint medical boards as provided in section 38-859.

10. To sue and be sued to effectuate the duties and responsibilities set forth in this article.

E. A local board shall have no power to add to, subtract from, modify or waive any of the terms of the system, change or add to any benefits provided by the system or waive or fail to apply any requirement of eligibility for membership or benefits under the system. Notwithstanding any limitations periods imposed in this article, including subsection D, paragraph 3 and subsections G and H of this section, if the ~~fund manager~~ BOARD OF TRUSTEES determines a local board decision violates the internal revenue code or threatens to impair the system's status as a qualified plan under the internal revenue code, the local board's decision is not final and binding and the ~~fund manager~~ BOARD OF TRUSTEES may refrain from implementing or complying with the local board decision.

F. A local board, from time to time, shall establish and adopt such rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.

G. Except as otherwise provided in this article, any action by a majority vote of the members of a local board that is not inconsistent with the provisions of the system and the internal revenue code shall be final, conclusive and binding on all persons affected by it unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty ~~business~~ days after taking action, the local board shall submit to the ~~fund manager~~ BOARD OF TRUSTEES THE MINUTES FROM THE LOCAL BOARD MEETING THAT INCLUDE the name of the member affected by its decision, a

description of the action taken and an explanation of the reasons AND DOCUMENTS supporting the local board's action. The ~~fund manager~~ BOARD OF TRUSTEES may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the system's status as a qualified plan under the internal revenue code.

H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the system's status as a qualified plan under the internal revenue code, no limitation period for the ~~fund manager~~ BOARD OF TRUSTEES to seek a rehearing of a local board decision applies. An application for a rehearing shall be filed in writing with a member of the local board or its secretary within sixty days after:

1. The applicant-claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the system pursuant to the local board's original action, whichever occurs first.

2. The applicant-board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, the board of trustees, independent legal counsel or the actuary for the system.

L. Each member of a local board is entitled to one vote. A majority ~~are~~ IS necessary for a decision by the members of a local board at any meeting of the local board.

M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings~~,~~ IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1 OF THIS TITLE AND forward the minutes AND ALL NECESSARY COMMUNICATIONS to the board of trustees ~~within forty-five days after each meeting and forward all necessary communications to the board of trustees~~ AS PRESCRIBED BY SUBSECTION G OF THIS SECTION.

N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the ~~fund manager~~ BOARD OF TRUSTEES or system at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and

owes its duty of loyalty only to the local board in connection with its representation of the local board.

O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act."

Sec. 5. Section 38-849, Arizona Revised Statutes, as amended by Laws 2010, chapter 118, section 10, is amended to read:

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

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 that would otherwise accrue to the member or the member's estate under this article.

C. If a member who received a severance refund 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. 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 the reemployment. 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. Within ten days after a retired member is reemployed by the employer from which the member retired, the employer shall advise the ~~fund manager~~ BOARD in writing as to whether the retired member has been reemployed in the same position from which the member retired. The ~~fund manager~~ BOARD shall review all reemployment determinations. If the ~~fund manager~~ BOARD is not provided the necessary information to make a reemployment determination, the ~~fund manager~~ BOARD shall suspend pension payments until information is received and a determination is made that the reemployment meets the requirements of this subsection. For the purposes of this subsection, "same position" means the member is in a position where the member performs 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~~ BOARD'S written request is subject to civil suit by the system in the superior court 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~~ BOARD 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~~ BOARD and system and assessed against the member or survivor.

Sec. 6. Repeal

Section 38-849, Arizona Revised Statutes, as amended by Laws 2010, chapter 200, section 45, is repealed.

Sec. 7. Section 38-857, Arizona Revised Statutes, is amended to read:

38-857. Group health and accident coverage for retired members; payment

A. UPON NOTIFICATION, the board shall pay part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the system who receives a pension and who has elected to participate in the coverage provided by section 38-651.01 or 38-782 or any other health and accident insurance coverage provided or administered by a participating employer of the system. The board shall pay up to:

1. One hundred fifty dollars per month for each retired member or survivor of the system who is not eligible for medicare.

2. One hundred dollars per month for each retired member or survivor of the system who is eligible for medicare.

B. UPON NOTIFICATION, the board shall pay from assets of the fund part of the family coverage premium of any group health and accident insurance each month for a benefit recipient who elects family coverage and otherwise qualifies for payment pursuant to subsection A of this section. The board shall pay up to:

1. Two hundred sixty dollars per month if the retired member or survivor of the system and one or more dependents are not eligible for medicare.

2. One hundred seventy dollars per month if the retired member or survivor of the system and one or more dependents are eligible for medicare.

3. Two hundred fifteen dollars per month if either:

(a) The retired member or survivor of the system is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The retired member or survivor of the system is eligible for medicare and one or more dependents are not eligible for medicare.

C. The board shall not pay from assets of the fund more than the amount prescribed in this section for a benefit recipient as a member or survivor of the system.

~~D. This section does not apply to a retired member or survivor of the system who is reemployed by this state or a political subdivision of this~~

~~state and who participates in coverage provided by this state or a political subdivision of this state as an active employee.~~

~~E.~~ D. A retired member or survivor of the system may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's FORMER employer if that FORMER employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the system. THIS PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

Sec. 8. Section 38-891, Arizona Revised Statutes, is amended to read:

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the board, each employer shall make level per cent of salary contributions sufficient under the actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the board taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than six per cent of salary. For any employer whose actual contribution rate is less than six per cent of salary for fiscal year 2006-2007 and each year thereafter, that employer's contribution rate shall be at least five per cent and not more than the employer's actual contribution rate. An employer may pay a higher level per cent of salary thereby reducing its unfunded past service liability. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary

determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two per cent.

B. Except as provided by subsection I, each member shall contribute 7.96 per cent of the member's salary to the retirement plan. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution. Payment of the member's salary less the deducted contributions constitutes full and complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment.

~~C. Each participating employer shall cause the member contributions to be deducted from the salary of each member. The deducted member contributions shall be paid to the retirement plan within five working days and shall be credited to the member's individual account.~~

C. EACH EMPLOYER SHALL TRANSFER TO THE BOARD THE EMPLOYER AND EMPLOYEE CONTRIBUTIONS PROVIDED FOR IN THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THAT DATE SHALL INCLUDE A PENALTY OF TEN PER CENT PER ANNUM, COMPOUNDED ANNUALLY, FOR EACH DAY THE CONTRIBUTIONS ARE LATE. THE EMPLOYER SHALL PAY THIS PENALTY. DELINQUENT PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION AGAINST AN EMPLOYER LIABLE FOR THE PAYMENTS OR, AT THE REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY DEPARTMENT OR AGENCY OF THIS STATE.

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the salary the employee would have received in the employee's job classification if the employee was in normal employment status.

E. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a position within that department as a designated position if the position is filled by an employee who has at least five years of credited service under the plan, who is transferred to temporarily fill the position and who makes a written request to the local board to specify the position as a designated position within ninety days of being transferred. On the employee leaving the position, the position is no longer a designated position. For the purposes of this subsection, "temporarily filled" means an employee is transferred to fill the position for a period of not more than one year.

F. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a designated

position within the department as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a designated position.

G. The local board of the judiciary may specify positions within the administrative office of the courts that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers as a designated position if the position is filled by an employee who is a member of the plan currently employed in a designated position as a probation, surveillance or juvenile detention officer and who has at least five years of credited service under the plan. An employee who fills such a position shall make a written request to the local board to specify the position as a designated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a nondesignated position.

H. Beginning with fiscal year 2008-2009, if the aggregate computed employer contribution rate that is calculated pursuant to subsection A is less than six per cent of salary, beginning on July 1 of the following fiscal year the member contribution rate prescribed in subsection B or I is permanently reduced by an amount that is equal to the difference between six per cent and the aggregate computed employer contribution rate. Notwithstanding this subsection, the member contribution rate shall not be less than 7.65 per cent of the member's salary.

I. Notwithstanding subsection B, except for a full-time dispatcher, a member shall contribute 8.41 per cent of the member's salary to the retirement plan. After the close of any fiscal year, if the plan's actuary determines that the aggregate ratio of the funding value of accrued assets to the accrued liabilities of the fund is at least one hundred per cent, from and after June 30 of the following year, except for a full-time dispatcher, a member shall contribute 7.96 per cent of the member's salary to the retirement plan. Additionally, the member's contribution to the retirement plan may also be permanently reduced pursuant to subsection H.

Sec. 9. Section 38-893, Arizona Revised Statutes, is amended to read:

38-893. <u>Local boards; powers and duties; rules; hearings; administrative review</u>

A. The administration of the plan and the responsibility for making the provisions of the plan effective for each employer are vested in a local board. The state department of corrections, the department of juvenile corrections, the department of public safety, each participating county sheriff's department, each participating city or town, each participating employer of full-time dispatchers for eligible groups as defined in section 38-842 and the judiciary shall have a local board. Each local board is constituted as follows:

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

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

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

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

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

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the plan. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees shall appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Within ten days after the member's appointment or election, each member of a local board shall take an oath of office that, so far as it devolves on the member, the member shall

1 diligently and honestly administer the affairs of the local board and shall
2 not knowingly violate or willingly permit to be violated any of the
3 provisions of law applicable to the plan.
4 D. Except as limited by subsection E of this section, a local board
5 shall:
6 1. Decide all questions of eligibility and service credits and
7 determine the amount, manner and time of payment of any benefit under the
8 plan.
9 2. Make a determination as to the right of a claimant to a benefit and
10 afford a claimant or the board of trustees, or both, a right to a rehearing
11 on the original determination, unless the board of trustees determines that
12 granting the relief requested would violate the internal revenue code or
13 threaten to impair the plan's status as a qualified plan under the internal
14 revenue code. If the board of trustees determines that granting the
15 requested relief would violate the internal revenue code or threaten to
16 impair the plan's status as a qualified plan, the board of trustees may
17 refuse to grant the relief by issuing a written determination to the local
18 board and the party petitioning the local board for relief. The decision by
19 the board of trustees is subject to judicial review pursuant to title 12,
20 chapter 7, article 6.
21 3. Request and receive from the employers and from members information
22 as is necessary for the proper administration of the plan and action on
23 claims for benefits and forward the information to the board of trustees.
24 4. Distribute, in the manner the local board determines to be
25 appropriate, information explaining the plan that is received from the board
26 of trustees.
27 5. Furnish the employer, the board of trustees and the legislature, on
28 request, with annual reports with respect to the administration of the plan
29 that are reasonable and appropriate.
30 6. Appoint a medical board, which is composed of a designated
31 physician or clinic other than the employer's regular employee or contractor.
32 If required, the local board may employ other physicians to report on special
33 cases. The examining physician or clinic shall report the results of
34 examinations made to the local board, and the secretary of the local board
35 shall preserve the report as a permanent record.
36 7. Sue and be sued to effectuate the duties and responsibilities set
37 forth in this article.
38 8. Prescribe procedures to be followed by claimants in filing
39 applications for benefits.
40 9. Receive and review the actuarial valuation of the plan for its
41 group of members.
42 10. Receive and review reports of the financial condition and of the
43 receipts and disbursements of the fund from the board of trustees.
44 E. A local board has no power to add to, subtract from, modify or
45 waive any of the terms of the plan, change or add to any benefits provided by

the plan or waive or fail to apply any requirement of eligibility for membership or benefits under the plan. Notwithstanding any limitations periods imposed in this article, including subsections G and H of this section, if the board of trustees determines a local board decision violates the internal revenue code or threatens to impair the plan's status as a qualified plan under the internal revenue code the local board's decision is not final and binding and the board of trustees may refrain from implementing or complying with the local board decision.

F. A local board, from time to time, shall establish and adopt rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. IF A CLAIM OR DISPUTE IS PRESENTED TO A LOCAL BOARD FOR DETERMINATION BUT THE LOCAL BOARD HAS NOT YET ADOPTED UNIFORM RULES OF PROCEDURE FOR ADJUDICATION OF THE CLAIM OR DISPUTE, THE LOCAL BOARD SHALL ADOPT AND USE THE MODEL UNIFORM RULES OF LOCAL BOARD PROCEDURE THAT ARE ISSUED BY THE BOARD OF TRUSTEES' FIDUCIARY COUNSEL TO ADJUDICATE THE CLAIM OR DISPUTE.

G. Except as otherwise provided in this article, an action by a majority vote of the members of a local board that is not inconsistent with the provisions of the plan and the internal revenue code is final, conclusive and binding on all persons affected by it, unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty ~~business~~ days after taking action, the local board shall submit to the board of trustees THE MINUTES FROM THE LOCAL BOARD MEETING THAT INCLUDE the name of the member affected by its decision, a description of the action taken and an explanation of the reasons AND DOCUMENTS supporting the local board's action. The board of trustees may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the plan's status as a qualified plan under the internal revenue code.

H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the plan's status as a qualified plan under the internal revenue code, no limitation period for the board of trustees to seek a rehearing of a local board decision applies. A claimant or the board of trustees shall file an application for rehearing in writing with a member of the local board or its secretary within sixty days after:

1. The claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the plan pursuant to the local board's original action, whichever occurs first.

2. The board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board is entitled to rely on information furnished by the employer, the board of trustees, independent legal counsel or the actuary for the plan.

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

M. The local board shall adopt bylaws as it deems necessary. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings~~,~~ IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1 OF THIS TITLE AND forward the minutes AND ALL NECESSARY COMMUNICATIONS to the board of trustees ~~within forty-five days after each meeting and forward all necessary communications to the board of trustees~~ AS PRESCRIBED BY SUBSECTION G OF THIS SECTION.

N. The employer and not the board of trustees or plan shall pay the fees of the medical board and of the local board's legal counsel and all other expenses of the local board necessary for the administration of the plan at rates and in amounts as the local board approves.

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

P. The local board and the individual members of the local board are indemnified from the assets of the fund for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the plan.

Sec. 10. Section 38-906, Arizona Revised Statutes, is amended to read:

38-906. <u>Group health and accident coverage for retired members; payment</u>

A. UPON NOTIFICATION, the board shall pay from the assets of the fund part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the plan who receives a pension and who has elected to participate in coverage provided by section 38-651.01 or 38-782 or any other health and accident insurance coverage provided or administered by a participating employer in the plan. The board shall pay up to:

1. One hundred fifty dollars per month for each retired member or survivor of the plan who is not eligible for medicare.

2. One hundred dollars per month for each retired member or survivor of the plan who is eligible for medicare.

B. UPON NOTIFICATION, the board shall pay from the assets of the fund part of the family coverage premium of any group health and accident insurance for each retired member or survivor of the plan who elects family coverage and who otherwise qualifies for payment pursuant to subsection A of this section. Payment under this subsection is in the following amounts:

1. Up to two hundred sixty dollars per month if the retired member or survivor of the plan and one or more dependents are not eligible for medicare.

2. Up to one hundred seventy dollars per month if the retired member or survivor of the plan and one or more dependents are eligible for medicare.

3. Up to two hundred fifteen dollars if either:

(a) The retired member or survivor of the plan is not eligible for medicare and one or more dependents are eligible for medicare.

(b) The retired member or survivor of the plan is eligible for medicare and one or more dependents are not eligible for medicare.

C. The board shall not pay more than the amount prescribed in this section for a benefit recipient as a member or survivor of the plan.

D. A retired member or survivor of the plan may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's FORMER employer if that FORMER employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the plan. THIS PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House April 18, 2011,

by the following vote: 57 Ayes,

1 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate February 28, 2011,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1317

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 11

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 12:00 o'clock P. M.

Secretary to the Governor

Approved this 29th day of

April

at 9:11 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of April, 20 11

S.B. 1317

at 7:30 o'clock P M.

Secretary of State