

Senate Engrossed House Bill

**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
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2013

CHAPTER 203

**HOUSE BILL 2056**

AN ACT

AMENDING SECTIONS 38-643, 38-842, 38-843, 38-844, 38-845.02, 38-846, 38-847, 38-848, 38-849, 38-853.02, 38-857, 38-859 AND 38-961, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-643, Arizona Revised Statutes, is amended to  
3 read:

4 38-643. Fire fighter and peace officer cancer insurance policy  
5 program account

6 A. The fire fighter and peace officer cancer insurance policy program  
7 account is established and shall be under the exclusive control of the  
8 board. The board shall deposit monies collected pursuant to section 38-642  
9 in the account to pay the cost of providing a group cancer insurance policy  
10 under the program and the cost of administering the program.

11 B. The board may use up to ten per cent of the monies deposited in the  
12 account each year ending July 31 to pay the costs of administering the  
13 program, except that board attorney fees and court costs relating to the  
14 program shall be paid out of the account and are not subject to this  
15 limitation. IF NO MONIES ARE DEPOSITED IN THE ACCOUNT IN A GIVEN YEAR, THE  
16 BOARD MAY USE UP TO FIVE PER CENT OF THE MONIES DEPOSITED IN THE ACCOUNT IN  
17 THE MOST RECENT YEAR IN WHICH THERE WAS A DEPOSIT TO PAY THE COSTS OF  
18 ADMINISTERING THE PROGRAM.

19 C. The board shall cause an independent audit of the account to be  
20 performed at the end of each fiscal year and shall report the results of the  
21 audit to each employer within six months following the end of the fiscal  
22 year.

23 D. The employer contributions and securities in the account and  
24 investment earnings on monies in the account are exempt from state, county  
25 and municipal taxes.

26 E. The program is a welfare benefit plan or trust intended to pay  
27 expenses incurred in the treatment of cancer as provided in the policy of  
28 insurance secured or established by the board pursuant to section 38-642.  
29 The legislature intends that the program's income be excluded as gross income  
30 for the purposes of the assessment of federal income tax under section 115 of  
31 the internal revenue code and that coverage under the program be excluded as  
32 gross income to the employees or retirees under section 106 of the internal  
33 revenue code. The board may adopt additional program provisions as are  
34 necessary to fulfill its intent that the program's income and premiums are  
35 not subject to federal income tax.

36 F. Employers, the board of trustees and any member of a local board do  
37 not guarantee the account in any manner against loss or depreciation and are  
38 not liable for any act or failure to act made in good faith pursuant to this  
39 article, including determinations on program claims.

40 Sec. 2. Section 38-842, Arizona Revised Statutes, is amended to read:  
41 38-842. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Accidental disability" means a physical or mental condition that  
44 the local board finds totally and permanently prevents an employee from  
45 performing a reasonable range of duties within the employee's job

1 classification and that was incurred in the performance of the employee's  
2 duty.

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

9 3. "Actuarial equivalent" means equality in present value of the  
10 aggregate amounts expected to be received under two different forms of  
11 payment, based on mortality and interest assumptions adopted by the board.

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

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

16 6. "Annuitant" means a person who is receiving a benefit pursuant to  
17 section 38-846.01.

18 7. "Average monthly benefit compensation" means the result obtained by  
19 dividing the total compensation paid to an employee during a considered  
20 period by the number of months, including fractional months, in which such  
21 compensation was received. For an employee who becomes a member of the  
22 system before January 1, 2012, the considered period shall be the three  
23 consecutive years within the last twenty completed years of credited service  
24 that yield the highest average. For an employee who becomes a member of the  
25 system on or after January 1, 2012, the considered period is the five  
26 consecutive years within the last twenty completed years of credited service  
27 that yield the highest average. In the computation under this paragraph, a  
28 period of nonpaid or partially paid industrial leave shall be considered  
29 based on the compensation the employee would have received in the employee's  
30 job classification if the employee was not on industrial leave.

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

33 9. "Catastrophic disability" means a physical and not a psychological  
34 condition that the local board determines prevents the employee from totally  
35 and permanently engaging in any gainful employment and that results from a  
36 physical injury incurred in the performance of the employee's duty.

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

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

41 12. "Compensation" means, for the purpose of computing retirement  
42 benefits, base salary, overtime pay, shift differential pay, military  
43 differential wage pay, compensatory time used by an employee in lieu of  
44 overtime not otherwise paid by an employer and holiday pay paid to an  
45 employee by the employer FOR THE EMPLOYEE'S PERFORMANCE OF SERVICES IN AN

1 ELIGIBLE GROUP on a regular monthly, semimonthly or biweekly payroll basis  
2 and longevity pay paid to an employee at least every six months for which  
3 contributions are made to the system pursuant to section 38-843,  
4 subsection D. Compensation does not include, for the purpose of computing  
5 retirement benefits, payment for unused sick leave, payment in lieu of  
6 vacation, payment for unused compensatory time or payment for any fringe  
7 benefits. In addition, compensation does not include, for the purpose of  
8 computing retirement benefits, payments made directly or indirectly by the  
9 employer to the employee for work performed for a third party on a contracted  
10 basis or any other type of agreement under which the third party pays or  
11 reimburses the employer for the work performed by the employee for that third  
12 party, except for third party contracts between public agencies for law  
13 enforcement, criminal, traffic and crime suppression activities training or  
14 fire, wildfire, emergency medical or emergency management activities or where  
15 the employer supervises the employee's performance of law enforcement,  
16 criminal, traffic and crime suppression activities training or fire,  
17 wildfire, emergency medical or emergency management activities. For the  
18 purposes of this paragraph, "base salary" means the amount of compensation  
19 each employee is regularly paid for personal services rendered to an employer  
20 before the addition of any extra monies, including overtime pay, shift  
21 differential pay, holiday pay, longevity pay, fringe benefit pay and similar  
22 extra payments.

23 13. "Credited service" means the member's total period of service  
24 before the member's effective date of participation, plus those compensated  
25 periods of the member's service thereafter for which the member made  
26 contributions to the fund.

27 14. "Cure period" means the ninety-day period in which a participant or  
28 alternate payee may submit an amended domestic relations order and request a  
29 determination, calculated from the time the system issues a determination  
30 finding that a previously submitted domestic relations order did not qualify  
31 as a plan approved domestic relations order.

32 15. "Depository" means a bank in which all monies of the system are  
33 deposited and held and from which all expenditures for benefits, expenses and  
34 investments are disbursed.

35 16. "Determination" means a written document that indicates to a  
36 participant and alternate payee whether a domestic relations order qualifies  
37 as a plan approved domestic relations order.

38 17. "Determination period" means the ninety-day period in which the  
39 system must review a domestic relations order that is submitted by a  
40 participant or alternate payee to determine whether the domestic relations  
41 order qualifies as a plan approved domestic relations order, calculated from  
42 the time the system mails a notice of receipt to the participant and  
43 alternate payee.

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

1 19. "Distributee" means a member, a member's surviving spouse or a  
2 member's spouse or former spouse who is the alternate payee under a plan  
3 approved domestic relations order.

4 20. "Domestic relations order" means an order of a court of this state  
5 that is made pursuant to the domestic relations laws of this state and that  
6 creates or recognizes the existence of an alternate payee's right to, or  
7 assigns to an alternate payee the right to, receive a portion of the benefits  
8 payable to a participant.

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

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

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

17 (a) Is under eighteen years of age.

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

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

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

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

26 (b) Municipal fire fighters.

27 (c) Paid full-time fire fighters employed directly by a fire district  
28 organized pursuant to section 48-803 or 48-804 OR A JOINT POWERS AUTHORITY  
29 PURSUANT TO SECTION 48-805.01 with three or more full-time fire fighters, but  
30 not including fire fighters employed by a fire district pursuant to a  
31 contract with a corporation.

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

33 (e) State fire fighters.

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

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

36 (h) Police officers who are certified peace officers and fire fighters  
37 of a nonprofit corporation operating a public airport pursuant to sections  
38 28-8423 and 28-8424. A police officer shall be designated pursuant to  
39 section 28-8426 to aid and supplement state and local law enforcement  
40 agencies and a fire fighter's sole duty shall be to perform fire fighting  
41 services, including services required by federal regulations.

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

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

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

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

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

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

8 (o) Department of liquor licenses and control investigators who are  
9 certified peace officers.

10 (p) Arizona department of agriculture officers who are certified peace  
11 officers.

12 (q) Arizona state parks board rangers and managers who are certified  
13 peace officers.

14 (r) County park rangers who are certified peace officers.

15 25. "Eligible retirement plan" means any of the following that accepts  
16 a distributee's eligible rollover distribution:

17 (a) An individual retirement account described in section 408(a) of  
18 the internal revenue code.

19 (b) An individual retirement annuity described in section 408(b) of  
20 the internal revenue code.

21 (c) An annuity plan described in section 403(a) of the internal  
22 revenue code.

23 (d) A qualified trust described in section 401(a) of the internal  
24 revenue code.

25 (e) An annuity contract described in section 403(b) of the internal  
26 revenue code.

27 (f) An eligible deferred compensation plan described in section 457(b)  
28 of the internal revenue code that is maintained by a state, a political  
29 subdivision of a state or any agency or instrumentality of a state or a  
30 political subdivision of a state and that agrees to separately account for  
31 amounts transferred into the eligible deferred compensation plan from this  
32 plan.

33 26. "Eligible rollover distribution" means a payment to a distributee,  
34 but does not include any of the following:

35 (a) Any distribution that is one of a series of substantially equal  
36 periodic payments made not less frequently than annually for the life or life  
37 expectancy of the member or the joint lives or joint life expectancies of the  
38 member and the member's beneficiary or for a specified period of ten years or  
39 more.

40 (b) Any distribution to the extent the distribution is required under  
41 section 401(a)(9) of the internal revenue code.

42 (c) The portion of any distribution that is not includable in gross  
43 income.

44 27. "Employee" means any person who is employed by a participating  
45 employer and who is a member of an eligible group but does not include any

1 persons compensated on a contractual or fee basis. If an eligible group  
2 requires certified peace officer status or fire fighter certification and at  
3 the option of the local board, employee may include a person who is training  
4 to become a certified peace officer or fire fighter.

5 28. "Employers" means:

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

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

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

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

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

25 29. "Fund" means the public safety personnel retirement fund, which is  
26 the fund established to receive and invest contributions accumulated under  
27 the system and from which benefits are paid.

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

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

33 (a) Who is either a paid municipal police officer, a paid fire  
34 fighter, a law enforcement officer who is employed by this state including  
35 the director thereof, a state fire fighter who is primarily assigned to fire  
36 fighting duties, a fire fighter or police officer of a nonprofit corporation  
37 operating a public airport pursuant to sections 28-8423 and 28-8424, all  
38 ranks designated by the Arizona law enforcement merit system council, a state  
39 attorney general investigator who is a certified peace officer, a county  
40 attorney investigator who is a certified peace officer, a department of  
41 liquor licenses and control investigator who is a certified peace officer, an  
42 Arizona department of agriculture officer who is a certified peace officer,  
43 an Arizona state parks board ranger or manager who is a certified peace  
44 officer, a county park ranger who is a certified peace officer, a person who  
45 is a certified peace officer and who is employed by an Indian reservation

1 police agency, a fire fighter who is employed by an Indian reservation fire  
2 fighting agency or an employee included in a group designated as eligible  
3 employees under a joinder agreement entered into by their employer after July  
4 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning  
5 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

9 (c) Whose customary employment is at least forty hours per week or,  
10 for those employees who customarily work fluctuating work weeks, whose  
11 customary employment averages at least forty hours per week.

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

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

19 (f) Who has not attained age sixty-five before the employee's  
20 effective date of participation or who was over age sixty-five with  
21 twenty-five years or more of service prior to the employee's effective date  
22 of participation.

23 32. "Normal retirement date" means:

24 (a) For an employee who becomes a member of the system before January  
25 1, 2012, the first day of the calendar month immediately following the  
26 employee's completion of twenty years of service or the employee's  
27 sixty-second birthday and the employee's completion of fifteen years of  
28 service.

29 (b) For an employee who becomes a member of the system on or after  
30 January 1, 2012, the first day of the calendar month immediately following  
31 the employee's completion of twenty-five years of service if the employee is  
32 at least fifty-two and one-half years of age.

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

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

43 35. "Participant" means a member who is subject to a domestic relations  
44 order.

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

3           37. "Pension" means a series of monthly amounts that are payable to a  
4 person who is entitled to receive benefits under the plan but does not  
5 include an annuity that is payable pursuant to section 38-846.01.

6           38. "Personal representative" means the personal representative of a  
7 deceased alternate payee.

8           39. "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32,  
9 CHAPTER 13 OR 17.

10          ~~39.~~ 40. "Plan approved domestic relations order" means a domestic  
11 relations order that the system approves as meeting all the requirements for  
12 a plan approved domestic relations order as otherwise prescribed in this  
13 article.

14          ~~40.~~ 41. "Regularly assigned to hazardous duty" means regularly  
15 assigned to duties of the type normally expected of municipal police  
16 officers, municipal or state fire fighters, eligible fire district fire  
17 fighters, state highway patrol officers, county sheriffs and deputies, fish  
18 and game wardens, fire fighters and police officers of a nonprofit  
19 corporation operating a public airport pursuant to sections 28-8423 and  
20 28-8424, police officers who are appointed by the Arizona board of regents or  
21 a community college district governing board, state attorney general  
22 investigators who are certified peace officers, county attorney investigators  
23 who are certified peace officers, department of liquor licenses and control  
24 investigators who are certified peace officers, Arizona department of  
25 agriculture officers who are certified peace officers, Arizona state parks  
26 board rangers and managers who are certified peace officers, county park  
27 rangers who are certified peace officers, police officers who are certified  
28 peace officers and who are employed by an Indian reservation police agency or  
29 fire fighters who are employed by an Indian reservation fire fighting agency.  
30 Those individuals who are assigned solely to support duties such as  
31 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
32 personnel, mechanics and dispatchers are not assigned to hazardous duty  
33 regardless of their position classification title. Since the normal duties  
34 of those jobs described in this paragraph are constantly changing, questions  
35 as to whether a person is or was previously regularly assigned to hazardous  
36 duty shall be resolved by the local board on a case-by-case basis.  
37 Resolutions by local boards are subject to rehearing and appeal.

38          ~~41.~~ 42. "Retirement" or "retired" means termination of employment  
39 after a member has fulfilled all requirements for a pension or, for an  
40 employee who becomes a member of the system on or after January 1, 2012,  
41 attains the age and service requirements for a normal retirement date.  
42 Retirement shall be considered as commencing on the first day of the month  
43 immediately following a member's last day of employment or authorized leave  
44 of absence, if later.

1           ~~42.~~ 43. "Segregated funds" means the amount of benefits that would  
2 currently be payable to an alternate payee pursuant to a domestic relations  
3 order under review by the system, or a domestic relations order submitted to  
4 the system that failed to qualify as a plan approved domestic relations  
5 order, if the domestic relations order were determined to be a plan approved  
6 domestic relations order.

7           ~~43.~~ 44. "Service" means the last period of continuous employment of an  
8 employee by the employers before the employee's retirement, except that if  
9 such period includes employment during which the employee would not have  
10 qualified as a member had the system then been effective, such as employment  
11 as a volunteer fire fighter, then only twenty-five per cent of such  
12 noncovered employment shall be considered as service. Any absence that is  
13 authorized by an employer shall not be considered as interrupting continuity  
14 of employment if the employee returns within the period of authorized  
15 absence. Transfers between employers also shall not be considered as  
16 interrupting continuity of employment. Any period during which a member is  
17 receiving sick leave payments or a temporary disability pension shall be  
18 considered as service. Notwithstanding any other provision of this  
19 paragraph, any period during which a person was employed as a full-time paid  
20 fire fighter for a corporation that contracted with an employer to provide  
21 firefighting services on behalf of the employer shall be considered as  
22 service if the employer has elected at its option to treat part or all of the  
23 period the firefighter worked for the company as service in its applicable  
24 joinder agreement. Any reference in this system to the number of years of  
25 service of an employee shall be deemed to include fractional portions of a  
26 year.

27           ~~44.~~ 45. "State" means the state of Arizona, including any department,  
28 office, board, commission, agency or other instrumentality of the state.

29           ~~45.~~ 46. "System" means the public safety personnel retirement system  
30 established by this article.

31           ~~46.~~ 47. "Temporary disability" means a physical or mental condition  
32 that the local board finds totally and temporarily prevents an employee from  
33 performing a reasonable range of duties within the employee's department and  
34 that was incurred in the performance of the employee's duty.

35           Sec. 3. Section 38-843, Arizona Revised Statutes, is amended to read:

36           38-843. Contributions

37           A. Each employer who participates in the system on behalf of a group  
38 of employees who were covered under a prior public retirement system, other  
39 than the federal social security act, shall transfer all securities and  
40 monies attributable to the taxes and contributions of the state other than  
41 the state contribution to social security, the employer and the employees for  
42 the covered group of employees under the other system, such transfer to be  
43 made to the fund subject to all existing liabilities and on or within sixty  
44 days following the employer's effective date. All monies and securities  
45 transferred to the fund shall be credited to the employer's account in the

1 fund. A record of the market value and the cost value of such transferred  
2 contributions shall be maintained for actuarial and investment purposes.

3 B. As determined by actuarial valuations reported to the employer and  
4 the local board by the board of trustees, each employer shall make level per  
5 cent of compensation contributions sufficient under such actuarial valuations  
6 to meet both the normal cost plus the actuarially determined amount required  
7 to amortize the unfunded accrued liability over, beginning July 1, 2005, a  
8 rolling period of at least twenty and not more than thirty years that is  
9 established by the board of trustees taking into account the recommendation  
10 of the system's actuary, except that, beginning with fiscal year 2006-2007,  
11 except as otherwise provided, the employer contribution rate shall not be  
12 less than eight per cent of compensation. For any employer whose actual  
13 contribution rate is less than eight per cent of compensation for fiscal year  
14 2006-2007, that employer's contribution rate is not subject to the eight per  
15 cent minimum but, for fiscal year 2006-2007 and each year thereafter, shall  
16 be at least five per cent and not more than the employer's actual  
17 contribution rate. An employer shall have the option of paying a higher  
18 level per cent of compensation thereby reducing its unfunded past service  
19 liability. An employer shall also have the option of increasing its  
20 contributions in order to reduce the contributions required from its members  
21 under subsection C OF THIS SECTION, except that if an employer elects this  
22 option the employer shall pay the same higher level percentage contribution  
23 for all members of the eligible group. During a period when an employee is  
24 on industrial leave and the employee elects to continue contributions during  
25 the period of industrial leave, the employer shall make the contributions  
26 based on the compensation the employee would have received in the employee's  
27 job classification if the employee was in normal employment status. All  
28 contributions made by the employers and all state taxes allocated to the fund  
29 shall be irrevocable and shall be used to pay benefits under the system or to  
30 pay expenses of the system and fund. The minimum employer contribution that  
31 is paid and that is in excess of the normal cost plus the actuarially  
32 determined amount required to amortize the unfunded accrued liability as  
33 calculated pursuant to this subsection shall be used to reduce future  
34 employer contribution increases and shall not be used to pay for an increase  
35 in benefits that are otherwise payable to members. The board shall  
36 separately account for these monies in the fund. Forfeitures arising because  
37 of severance of employment before a member becomes eligible for a pension or  
38 any other reason shall be applied to reduce the cost of the employer, not to  
39 increase the benefits otherwise payable to members. After the close of any  
40 fiscal year, if the system's actuary determines that the actuarial valuation  
41 of an employer's account contains excess valuation assets other than excess  
42 valuation assets that were in the employer's account as of fiscal year  
43 2004-2005 and is more than one hundred per cent funded, the board shall  
44 account for fifty per cent of the excess valuation assets in a stabilization  
45 reserve account. After the close of any fiscal year, if the system's actuary

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

6 C. Each member, throughout the member's period of service from the  
7 member's effective date of participation, shall contribute to the fund an  
8 amount equal to the amount prescribed in subsection E OF THIS SECTION, except  
9 as provided in subsection B OF THIS SECTION. During a period when an  
10 employee is on industrial leave and the employee elects to continue  
11 contributions during the period of industrial leave, the employee shall make  
12 the employee's contribution based on the compensation the employee would have  
13 received in the employee's job classification if the employee was in normal  
14 employment status. Contributions of members shall be required as a condition  
15 of employment and membership in the system and shall be made by payroll  
16 deductions. Every employee shall be deemed to consent to such deductions.  
17 Payment of an employee's compensation, less such payroll deductions, shall  
18 constitute a full and complete discharge and satisfaction of all claims and  
19 demands by the employee relating to remuneration for the employee's services  
20 rendered during the period covered by the payment, except with respect to the  
21 benefits provided under the system. A MEMBER MAY NOT, UNDER ANY  
22 CIRCUMSTANCE, BORROW FROM, TAKE A LOAN AGAINST OR REMOVE CONTRIBUTIONS FROM  
23 THE MEMBER'S ACCOUNT BEFORE THE TERMINATION OF MEMBERSHIP IN THE PLAN OR THE  
24 RECEIPT OF A PENSION.

25 D. Each employer shall transfer to the board the employer and employee  
26 contributions provided for in subsections B and C OF THIS SECTION within ten  
27 working days after each payroll date. Contributions transferred after that  
28 date shall include a penalty of ten per cent per annum, compounded annually,  
29 for each day the contributions are late, such penalty to be paid by the  
30 employer. Delinquent payments due under this subsection, together with  
31 interest charges as provided in this subsection, may be recovered by action  
32 in a court of competent jurisdiction against an employer liable for the  
33 payments or, at the request of the board, may be deducted from any other  
34 monies, including excise revenue taxes, payable to such employer by any  
35 department or agency of this state.

36 E. The amount contributed by a member pursuant to subsection C OF THIS  
37 SECTION is:

- 38 1. Through June 30, 2011, 7.65 per cent of the member's compensation.
- 39 2. For fiscal year 2011-2012, 8.65 per cent of the member's  
40 compensation.
- 41 3. For fiscal year 2012-2013, 9.55 per cent of the member's  
42 compensation.
- 43 4. For fiscal year 2013-2014, 10.35 per cent of the member's  
44 compensation.



1 trustees shall report to the president of the senate and the speaker of the  
2 house of representatives the number of catastrophic disability pensions that  
3 were approved by the local boards in the preceding calendar year. For the  
4 purposes of this subsection, "allowable catastrophic disability pensions"  
5 means for calendar year 2004, ten, and for subsequent calendar years the  
6 number of allowable catastrophic disability pensions allowed in the prior  
7 calendar year minus the number of catastrophic disability pensions approved  
8 by the local boards in the prior calendar year plus four.

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

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

15 2. Service in the armed forces of the United States that entitles the  
16 member to a veteran's disability pension.

17 3. A physical or mental condition or injury that existed or occurred  
18 before the member's date of membership in the system.

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

22 1. Has sufficiently recovered, in the opinion of the local board,  
23 based on a medical examination by a DESIGNATED physician or A PHYSICIAN  
24 WORKING IN A clinic THAT IS appointed by the local board, to be able to  
25 engage in a reasonable range of duties within the member's department and the  
26 member refuses an offer of employment by an employer in the system.

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

30 F. Sixty months after the award of a catastrophic disability pension,  
31 the local board shall reevaluate the member. If the member still qualifies  
32 for the catastrophic disability pension, the member is entitled to continue  
33 to receive the pension at the reduced amount prescribed in section 38-845,  
34 subsection E. A catastrophic disability shall be considered to have ceased  
35 and a catastrophic disability pension terminates if the local board  
36 determines that the member has sufficiently recovered and is able to engage  
37 in gainful employment based on a medical examination by a DESIGNATED  
38 physician or a PHYSICIAN WORKING IN A clinic THAT IS appointed by the local  
39 board. After the sixty-month review, the catastrophic disability shall be  
40 considered to have ceased and a catastrophic disability pension terminates if  
41 the local board determines that the member has sufficiently recovered and is  
42 able to engage in gainful employment based on a medical examination by a  
43 DESIGNATED physician or a PHYSICIAN WORKING IN A clinic THAT IS appointed by  
44 the local board, except that the medical examination shall not be required  
45 more frequently than once in a calendar year. The medical review after the

1 sixty-month period does not apply after the date the catastrophic disability  
2 pensioner would have attained twenty-five years of service assuming the  
3 pensioner remained a member of the system. The local board shall also  
4 terminate a catastrophic disability pension if the member refuses to undergo  
5 any medical examination requested by the local board. A member whose  
6 catastrophic disability pension is terminated may apply for and if eligible  
7 is entitled to receive an accidental disability pension as provided in this  
8 section.

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

12 H. If accidental or ordinary disability ceases before a retired member  
13 attains the member's normal retirement date and the member is reemployed by  
14 an employer, the MEMBER SHALL BE TREATED AS IF THE MEMBER HAS BEEN ON AN  
15 UNCOMPENSATED LEAVE OF ABSENCE DURING THE PERIOD OF THE MEMBER'S DISABILITY  
16 RETIREMENT AND SHALL BE A CONTRIBUTING MEMBER OF THE SYSTEM. THE pension  
17 payable on the member's subsequent retirement shall be determined as provided  
18 in section ~~38-849, subsection E~~ 38-845.

19 I. A member shall be eligible for a temporary disability pension if  
20 the member's employment is terminated before the member's normal retirement  
21 date by reason of temporary disability. Payment of a temporary disability  
22 pension shall commence as of the first day of the month following the date of  
23 disability or the expiration of a period during which the member is receiving  
24 compensation and sick leave payments, whichever is later. The last payment  
25 shall be made as of the first day of the month in which either the death of  
26 the member occurs or the local board deems the member is no longer under  
27 temporary disability, whichever first occurs, provided that no more than  
28 twelve monthly temporary disability payments shall be made in total to the  
29 member.

30 J. If on the expiration of a temporary disability pension the local  
31 board finds on application that the member has an accidental or ordinary  
32 disability, the member shall be eligible for an accidental or ordinary  
33 disability pension, as provided in this section.

34 K. The system shall make payments pursuant to section 401(a)(9) of the  
35 internal revenue code and the regulations that are issued under that  
36 section. Notwithstanding any other provision of the system, beginning  
37 January 1, 1987 payment of benefits to a member shall commence no later than  
38 April 1 of the calendar year following the later of:

- 39 1. The calendar year in which the member attains seventy and one-half  
40 years of age.
- 41 2. The date the member terminates employment.

1           Sec. 5. Section 38-845.02, Arizona Revised Statutes, is amended to  
2 read:

3           38-845.02. Payment of pension

4           The board shall not make a retroactive payment of a pension to a person  
5 that is more than ~~ninety~~ ONE HUNDRED EIGHTY days before the date of the  
6 person's application for benefits.

7           Sec. 6. Section 38-846, Arizona Revised Statutes, is amended to read:

8           38-846. Death benefits

9           A. The surviving spouse of a deceased retired member shall be paid a  
10 surviving spouse's pension if the spouse was married to the member for a  
11 period of at least two consecutive years at the time of the member's death.  
12 Payment of a surviving spouse's pension shall commence as of the last day of  
13 the month following the retired member's date of death. The last payment  
14 shall be made as of the last day of the month in which the surviving spouse's  
15 death occurs.

16           B. The surviving spouse of a deceased member shall be paid a surviving  
17 spouse's pension if the spouse was married to the member on the date of the  
18 member's death. Payment of a surviving spouse's pension commences as of the  
19 last day of the month following the member's date of death. The last payment  
20 shall be made as of the last day of the month in which the surviving spouse's  
21 death occurs.

22           C. The surviving spouse of a deceased retired member is entitled to  
23 receive a monthly amount equal to four-fifths of the monthly amount of  
24 pension that the decedent would have received immediately before death.

25           D. The surviving spouse of a deceased member who was not killed in the  
26 line of duty or did not die from injuries suffered in the line of duty is  
27 entitled to receive a monthly amount calculated in the same manner as an  
28 accidental disability pension is calculated pursuant to section 38-845,  
29 subsection B. The surviving spouse of a deceased member who is killed in the  
30 line of duty or dies from injuries suffered in the line of duty is entitled  
31 to receive a monthly amount equal to the deceased member's average monthly  
32 benefit compensation less any amount payable for an eligible child under this  
33 section. A member who was eligible for or receiving a temporary disability  
34 pension at the time of the member's death is not deemed to be retired for the  
35 purposes of this subsection. For the purposes of this subsection, "killed in  
36 the line of duty" means the decedent's death was the direct and proximate  
37 result of the performance of the decedent's public safety duties and does not  
38 include suicide.

39           E. A surviving spouse shall file a written application with the system  
40 in order to receive a survivor benefit.

41           F. If at least one eligible child is surviving at the death of a  
42 member or retired member, but no surviving spouse's pension then becomes  
43 payable, a guardian's or conservator's pension shall be payable to the person  
44 who is serving, or who is deemed by the local board to be serving, as the  
45 legally appointed guardian or custodian of the eligible child. If an

1 eligible child of a member or retired member is surviving at the member's or  
2 retired member's death, the eligible child is entitled to receive a child's  
3 pension payable to the person who is serving or who is deemed by the local  
4 board to be serving as the legally appointed guardian or custodian of the  
5 eligible child UNTIL THE ELIGIBLE CHILD REACHES EIGHTEEN YEARS OF AGE, AT  
6 WHICH TIME THE ELIGIBLE CHILD'S PENSION SHALL BE PAID DIRECTLY TO THE  
7 ELIGIBLE CHILD IF THE PERSON REMAINS ELIGIBLE TO RECEIVE THE PENSION AND IS  
8 NOT SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO DISABILITY OR  
9 INCAPACITY. THE PENSION OF A DISABLED CHILD WHO IS EIGHTEEN YEARS OF AGE OR  
10 OLDER AND WHO IS SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO  
11 DISABILITY OR INCAPACITY SHALL CONTINUE TO BE PAID TO THE GUARDIAN OR  
12 CONSERVATOR IF THE CHILD REMAINS ELIGIBLE FOR THE PENSION PAYMENT. A child's  
13 pension or a guardian's or conservator's pension terminates if the child is  
14 adopted. In the case of a disabled child, the child's pension or the  
15 guardian's or conservator's pension terminates if the child ceases to be  
16 under a disability or ceases to be a dependent of the surviving spouse or  
17 guardian. The member may also direct by designation to the local board that  
18 the guardian or conservator pension or child's pension be paid to the trustee  
19 of a trust created for the benefit of the eligible child. A guardian's or  
20 conservator's pension shall also become payable if at least one eligible  
21 child is surviving when a surviving spouse's pension terminates. The  
22 guardian or conservator shall file a written application with the system in  
23 order to receive the guardian's or conservator's pension and child's pension.

24 G. The board shall pay a guardian's or conservator's pension during  
25 the same period in which a pension is payable to at least one eligible child.  
26 The guardian, conservator or designated trustee is entitled to receive the  
27 same monthly amount as would have been payable to the decedent's surviving  
28 spouse had a surviving spouse's pension become payable on the decedent's  
29 death.

30 H. Each eligible child is entitled to a monthly amount equal to  
31 one-tenth of the monthly amount of pension that the deceased member or  
32 retired member would have received immediately before death. The pension for  
33 a child of a deceased member shall be calculated in the same manner as an  
34 accidental disability is calculated pursuant to section 38-845, subsection B.  
35 A deceased member shall be assumed to be retired for reasons of accidental  
36 disability immediately before the member's death. If there are three or more  
37 children eligible for a child's pension, a maximum of two shares of the  
38 child's pension shall be payable, the aggregate of such shares to be  
39 apportioned in equal measure to each eligible child.

40 I. If a member has accumulated contributions remaining in the system  
41 at the date of death of the last beneficiary, a lump sum refund of such  
42 accumulated contributions shall be payable to the person whom the member has  
43 designated to the local board as the member's refund beneficiary, or if the  
44 member's refund beneficiary is not then surviving, to the designated  
45 contingent refund beneficiary, or if the designated contingent refund

1 beneficiary is not then surviving or if the surviving designated beneficiary  
2 does not apply for the benefit within twelve months from the date of the  
3 member's death, at the election of the local board to the person's nearest of  
4 kin as determined by the local board or to the estate of the deceased member.  
5 The amount of the lump sum refund shall be the remaining accumulated  
6 contributions. The beneficiary or person who is claiming to be the nearest  
7 of kin shall file a written application in order to receive the refund.

8 J. In calculating the right to and the amount of the surviving  
9 spouse's pension, the law in effect on the date of the death of the member or  
10 retired member controls, unless the law under which the member retired  
11 provides for a greater benefit amount for a surviving spouse.

12 Sec. 7. Section 38-847, Arizona Revised Statutes, is amended to read:  
13 38-847. Local boards

14 A. The administration of the system and responsibility for making the  
15 provisions of the system effective for each employer are vested in a local  
16 board. The department of public safety, the Arizona game and fish  
17 department, the department of emergency and military affairs, the university  
18 of Arizona, Arizona state university, northern Arizona university, each  
19 county sheriff's office, each county attorney's office, each county parks  
20 department, each municipal fire department, each eligible fire district, each  
21 community college district, each municipal police department, the department  
22 of law, the department of liquor licenses and control, the Arizona department  
23 of agriculture, the Arizona state parks board, each Indian reservation police  
24 agency and each Indian reservation fire fighting agency shall have a local  
25 board. A nonprofit corporation operating pursuant to sections 28-8423 and  
26 28-8424 shall have one local board for all of its members. Each local board  
27 shall be constituted as follows:

28 1. For political subdivisions or Indian tribes, the mayor or chief  
29 elected official or a designee of the mayor or chief elected official  
30 approved by the respective governing body as chairman, two members elected by  
31 secret ballot by members employed by the appropriate employer and two  
32 citizens, one of whom shall be the head of the merit system, or the head's  
33 designee from among the other members of the merit system, if it exists for  
34 the group of members, appointed by the mayor or chief elected official and  
35 with the approval of the governing body of the city or the governing body of  
36 the employer. The appointed two citizens shall serve on both local boards in  
37 a city or Indian tribes where both fire and police department employees are  
38 members.

39 2. For state agencies and nonprofit corporations operating pursuant to  
40 sections 28-8423 and 28-8424, two members elected by secret ballot by members  
41 employed by the appropriate employer and three citizens appointed by the  
42 governor. Each state agency local board shall elect a chairman.

43 3. For fire districts organized pursuant to section 48-804, the  
44 secretary-treasurer as chairman, two members elected by secret ballot by  
45 members employed by the fire district and two citizens appointed by the

1 secretary-treasurer, one of whom is a resident of the fire district and one  
2 of whom has experience in personnel administration but who is not required to  
3 be a resident of the fire district.

4 4. FOR JOINT POWERS AUTHORITIES ORGANIZED PURSUANT TO SECTION  
5 48-805.01, THE JOINT POWERS AUTHORITY BOARD CHAIRMAN OR A DESIGNEE APPROVED  
6 BY THE GOVERNING BODY, TWO MEMBERS ELECTED BY SECRET BALLOT BY MEMBERS  
7 EMPLOYED BY THE JOINT POWERS AUTHORITY AND TWO CITIZENS, ONE OF WHOM IS A  
8 RESIDENT OF ONE OF THE PARTNER ENTITIES AND ONE OF WHOM HAS EXPERIENCE IN  
9 PERSONNEL ADMINISTRATION BUT WHO IS NOT REQUIRED TO BE A RESIDENT OF A  
10 PARTNER ENTITY.

11 B. On the taking effect of this system for an employer, the  
12 appointments and elections of local board members shall take place with one  
13 elective and appointive local board member serving a term ending two years  
14 after the effective date of participation for the employer and other local  
15 board members serving a term ending four years after the effective date.  
16 Thereafter, every second year, and as a vacancy occurs, an office shall be  
17 filled for a term of four years in the same manner as previously provided.

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

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

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

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

42 3. To make a determination as to the right of any claimant to a  
43 benefit and to afford any claimant or the board of trustees, or both, a right  
44 to a rehearing on the original determination. Except as otherwise required  
45 by law, unless all parties involved in a matter presented to the local board

1 for determination otherwise agree, the local board shall commence a hearing  
2 on the matter within ninety days after the date the matter is presented to  
3 the local board for determination. If a local board fails to commence a  
4 hearing as provided in this paragraph, on a matter presented to the local  
5 board for determination, the relief demanded by the party petitioning the  
6 local board is deemed granted and approved by the local board. The granting  
7 and approval of this relief is considered final and binding unless a timely  
8 request for rehearing or appeal is made as provided in this article, unless  
9 the board of trustees determines that granting the relief requested would  
10 violate the internal revenue code or threaten to impair the system's status  
11 as a qualified plan under the internal revenue code. If the board of  
12 trustees determines that granting the requested relief would violate the  
13 internal revenue code or threaten to impair the system's status as a  
14 qualified plan, the board of trustees may refuse to grant the relief by  
15 issuing a written determination to the local board and the party petitioning  
16 the local board for relief. The decision by the board of trustees is subject  
17 to judicial review pursuant to title 12, chapter 7, article 6.

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

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

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

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

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

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

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

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

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

10 G. Except as otherwise provided in this article, any action by a  
11 majority vote of the members of a local board that is not inconsistent with  
12 the provisions of the system and the internal revenue code shall be final,  
13 conclusive and binding on all persons affected by it unless a timely  
14 application for a rehearing or appeal is filed as provided in this article.  
15 No later than twenty days after taking action, the local board shall submit  
16 to the board of trustees the minutes from the local board meeting that  
17 include the name of the member affected by its decision, a description of the  
18 action taken and an explanation of the reasons and all documents submitted to  
19 the local board for the action taken, including the reports of a medical  
20 board. The board of trustees may not implement and comply with any local  
21 board action that does not comply with the internal revenue code or that  
22 threatens to jeopardize the system's status as a qualified plan under the  
23 internal revenue code.

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

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

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

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

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

43 K. When making a ruling, determination or calculation, the local board  
44 shall be entitled to rely on information furnished by the employer, a medical

1 board, the board of trustees, independent legal counsel or the actuary for  
2 the system.

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

6 M. The local board shall adopt such bylaws as it deems desirable. The  
7 local board shall elect a secretary who may, but need not, be a member of the  
8 local board. The secretary of the local board shall keep a record and  
9 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of  
10 this title and forward the minutes and all necessary communications to the  
11 board of trustees as prescribed by subsection G of this section.

12 N. The fees of the medical board and of the local board's independent  
13 legal counsel and all other expenses of the local board necessary for the  
14 administration of the system shall be paid by the employer and not the board  
15 of trustees or system at such rates and in such amounts as the local board  
16 shall approve. Legal counsel that is employed by the local board is  
17 independent of the employer and any employee organization or member and owes  
18 its duty of loyalty only to the local board in connection with its  
19 representation of the local board.

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

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

31 Sec. 8. Section 38-848, Arizona Revised Statutes, is amended to read:

32 38-848. Board of trustees; powers and duties; independent trust  
33 fund; administrator; agents and employees

34 A. The board of trustees shall consist of seven members and shall have  
35 the rights, powers and duties that are set forth in this section. The term  
36 of office of members shall be five years to expire on the third Monday in  
37 January of the appropriate year. Members are eligible to receive  
38 compensation in an amount of fifty dollars a day, but not to exceed one  
39 thousand dollars in any one fiscal year, and are eligible for reimbursement  
40 of expenses pursuant to chapter 4, article 2 of this title. The board  
41 consists of the following members appointed by the governor pursuant to  
42 section 38-211:

43 1. Two elected members from a local board to represent the employees.

1           2. One member to represent this state as an employer of public safety  
2 personnel. This member shall have the qualifications prescribed in  
3 subsection T of this section.

4           3. One member to represent the cities as employers of public safety  
5 personnel.

6           4. An elected county or state official or a judge of the superior  
7 court, court of appeals or supreme court.

8           5. Two public members. These members shall have the qualifications  
9 prescribed in subsection T of this section.

10          B. All monies in the fund shall be deposited and held in a public  
11 safety personnel retirement system depository. Monies in the fund shall be  
12 disbursed from the depository separate and apart from all monies or funds of  
13 this state and the agencies, instrumentalities and subdivisions of this  
14 state, except that the board may commingle the assets of the fund and the  
15 assets of all other plans entrusted to its management in one or more group  
16 trusts, subject to the crediting of receipts and earnings and charging of  
17 payments to the appropriate employer, system or plan. The monies shall be  
18 secured by the depository in which they are deposited and held to the same  
19 extent and in the same manner as required by the general depository law of  
20 this state. For purposes of making the decision to invest in securities  
21 owned by the fund or any plan OR TRUST administered by the board, the fund  
22 and assets of the plans AND THE PLANS' TRUSTS are subject to the sole  
23 management of the board for the purpose of this article except that, on the  
24 board's election to invest in a particular security or make a particular  
25 investment, the assets comprising the security or investment may be chosen  
26 and managed by third parties approved by the board. The board may invest in  
27 portfolios of securities chosen and managed by a third party. The board's  
28 decision to invest in securities such as mutual funds, commingled investment  
29 funds, exchange traded funds, private equity or venture capital limited  
30 partnerships, real estate limited partnerships or limited liability companies  
31 and real estate investment trusts whose assets are chosen and managed by  
32 third parties does not constitute an improper delegation of the board's  
33 investment authority.

34          C. All contributions under this system and other retirement plans that  
35 the board administers shall be forwarded to the board and shall be held,  
36 invested and reinvested by the board as provided in this article. All  
37 property and monies of the fund and other retirement plans that the board  
38 administers, including income from investments and from all other sources,  
39 shall be retained for the exclusive benefit of members, as provided in the  
40 system and other retirement plans that the board administers, and shall be  
41 used to pay benefits to members or their beneficiaries or to pay expenses of  
42 operation and administration of the system and fund and other retirement  
43 plans that the board administers.

44          D. The board shall have the full power in its sole discretion to  
45 invest and reinvest, alter and change the monies accumulated under the system

1 and other retirement plans AND TRUSTS that the board administers as provided  
2 in this article. In addition to its power to make investments managed by  
3 others, the board may delegate the authority the board deems necessary and  
4 prudent to investment management pursuant to section 38-848.03, as well as to  
5 the administrator, employed by the board pursuant to subsection K, paragraph  
6 6 of this section, and any assistant administrators to invest the monies of  
7 the system and other retirement plans AND TRUSTS that the board administers  
8 if the administrator, investment management and any assistant administrators  
9 follow the investment policies that are adopted by the board. The board may  
10 commingle securities and monies of the fund, the elected officials'  
11 retirement plan, the corrections officer retirement plan and other plans or  
12 monies entrusted to its care, subject to the crediting of receipts and  
13 earnings and charging of payments to the account of the appropriate employer,  
14 system or plan. In making every investment, the board shall exercise the  
15 judgment and care under the circumstances then prevailing that persons of  
16 ordinary prudence, discretion and intelligence exercise in the management of  
17 their own affairs, not in regard to speculation but in regard to the  
18 permanent disposition of their funds, considering the probable income from  
19 their funds as well as the probable safety of their capital, provided:

20 1. That not more than eighty per cent of the combined assets of the  
21 system or other plans that the board manages shall be invested at any given  
22 time in corporate stocks, based on cost value of such stocks irrespective of  
23 capital appreciation.

24 2. That no more than five per cent of the combined assets of the  
25 system or other plans that the board manages shall be invested in corporate  
26 stock issued by any one corporation, other than corporate stock issued by  
27 corporations chartered by the United States government or corporate stock  
28 issued by a bank or insurance company.

29 3. That not more than five per cent of the voting stock of any one  
30 corporation shall be owned by the system and other plans that the board  
31 administers, except that this limitation does not apply to membership  
32 interests in limited liability companies.

33 4. That corporate stocks and exchange traded funds eligible for DIRECT  
34 purchase shall be restricted to stocks and exchange traded funds that, except  
35 for bank stocks, insurance stocks, STOCKS ACQUIRED FOR COINVESTMENT IN  
36 CONNECTION WITH THE SYSTEM'S OR THE PLANS' OR TRUSTS' COMMINGLED INVESTMENTS  
37 and ~~membership~~ interests in limited liability companies AND MUTUAL FUNDS, are  
38 either:

39 (a) Listed or approved on issuance for listing on an exchange  
40 registered under the securities exchange act of 1934, as amended (15 United  
41 States Code sections 78a through 7811).

42 (b) Designated or approved on notice of issuance for designation on  
43 the national market system of a national securities association registered  
44 under the securities exchange act of 1934, as amended (15 United States Code  
45 sections 78a through 7811).

1 (c) Listed or approved on issuance for listing on an exchange  
2 registered under the laws of this state or any other state.

3 (d) Listed or approved on issuance for listing on an exchange of a  
4 foreign country with which the United States is maintaining diplomatic  
5 relations at the time of purchase, except that no more than twenty per cent  
6 of the combined assets of the system and other plans that the board manages  
7 shall be invested in foreign securities, based on the cost value of the  
8 stocks irrespective of capital appreciation.

9 (e) An exchange traded fund that is recommended by the chief  
10 investment officer of the system, that is registered under the investment  
11 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and  
12 that is both traded on a public exchange and based on a publicly recognized  
13 index.

14 E. Notwithstanding any other law, the board shall not be required to  
15 invest in any type of investment that is dictated or required by any entity  
16 of the federal government and that is intended to fund economic development  
17 projects, public works or social programs, but may consider such economically  
18 targeted investments pursuant to its fiduciary responsibility. The board, on  
19 behalf of the system and all other plans or trusts the board administers, may  
20 invest in, lend monies to or guarantee the repayment of monies by a limited  
21 liability company, limited partnership, joint venture, partnership, limited  
22 liability partnership or trust in which the system and plans or trusts have a  
23 financial interest, whether the entity is closely held or publicly traded and  
24 that, in turn, may be engaged in any lawful activity, including venture  
25 capital, private equity, the ownership, development, management, improvement  
26 or operation of real property and any improvements or businesses on real  
27 property or the lending of monies.

28 F. Conference call meetings of the board that are held for investment  
29 purposes only are not subject to chapter 3, article 3.1 of this title, except  
30 that the board shall maintain minutes of these conference call meetings and  
31 make them available for public inspection within twenty-four hours after the  
32 meeting. The board shall review the minutes of each conference call meeting  
33 and shall ratify all legal actions taken during each conference call meeting  
34 at the next scheduled meeting of the board.

35 G. The board shall not be held liable for the exercise of more than  
36 ordinary care and prudence in the selection of investments and performance of  
37 its duties under the system and shall not be limited to so-called "legal  
38 investments for trustees", but all monies of the system and other plans that  
39 the board administers shall be invested subject to all of the conditions,  
40 limitations and restrictions imposed by law.

41 H. Except as provided in subsection D of this section, the board may:

42 1. Invest and reinvest the principal and income of all assets that the  
43 board manages without distinction between principal and income.

1           2. Sell, exchange, convey, transfer or otherwise dispose of any  
2 investments made on behalf of the system or other plans the board administers  
3 in the name of the system or plans by private contract or at public auction.

4           3. Also:

5           (a) Vote on any stocks, bonds or other securities.

6           (b) Give general or special proxies or powers of attorney with or  
7 without power of substitution.

8           (c) Exercise any conversion privileges, subscription rights or other  
9 options and make any payments incidental to the exercise of the conversion  
10 privileges, subscription rights or other options.

11           (d) Consent to or otherwise participate in corporate reorganizations  
12 or other changes affecting corporate securities, delegate discretionary  
13 powers and pay any assessments or charges in connection therewith.

14           (e) Generally exercise any of the powers of an owner with respect to  
15 stocks, bonds, securities or other investments held in or owned by the system  
16 or other plans whose assets the board administers.

17           4. Make, execute, acknowledge and deliver any other instruments that  
18 may be necessary or appropriate to carry out the powers granted in this  
19 section.

20           5. Register any investment held by the system or other plans whose  
21 assets the board administers in the name of the system or plan or in the name  
22 of a nominee or trust.

23           6. At the expense of the system or other plans that the board  
24 administers, enter into an agreement with any bank or banks for the  
25 safekeeping and handling of securities and other investments coming into the  
26 possession of the board. The agreement shall be entered into under terms and  
27 conditions that secure the proper safeguarding, inventory, withdrawal and  
28 handling of the securities and other investments. No access to and no  
29 deposit or withdrawal of the securities from any place of deposit selected by  
30 the board shall be permitted or made except as the terms of the agreement may  
31 provide.

32           7. Appear before local boards and the courts of this state and  
33 political subdivisions of this state through counsel or appointed  
34 representative to protect the fund or the assets of other plans that the  
35 board administers. The board is not responsible for the actions or omissions  
36 of the local boards under this system but may seek review or rehearing of  
37 actions or omissions of local boards. The board does not have a duty to  
38 review actions of the local boards but may do so in its discretion in order  
39 to protect the fund. No limitations period precludes the board or  
40 administrator from contesting, or requires the board or administrator to  
41 implement or comply with, a local board decision that violates the internal  
42 revenue code or that threatens to impair the tax qualified status of the  
43 system or any plan administered by the board or administrator.

44           8. Empower the fund administrator to take actions on behalf of the  
45 board that are necessary for the protection and administration of the fund or

1 the assets of other plans that the board administers pursuant to the  
2 guidelines of the board.

3 9. Do all acts, whether or not expressly authorized, that may be  
4 deemed necessary or proper for the protection of the investments held in the  
5 fund or owned by other plans or trusts that the board administers.

6 10. Settle threatened or actual litigation against any system or plan  
7 that the board administers.

8 I. Investment expenses and operation and administrative expenses of  
9 the board shall be accounted for separately and allocated against investment  
10 income.

11 J. The board, as soon as possible within a period of six months  
12 following the close of any fiscal year, shall transmit to the governor and  
13 the legislature a comprehensive annual financial report on the operation of  
14 the system and other plans that the board administers containing, among other  
15 things:

16 1. A balance sheet.

17 2. A statement of income and expenditures for the year.

18 3. A report on an actuarial valuation of its assets and liabilities.

19 4. A list of investments owned.

20 5. The total rate of return, yield on cost, and per cent of cost to  
21 market value of the fund and the assets of other plans that the board  
22 administers.

23 6. Any other statistical and financial data that may be necessary for  
24 the proper understanding of the financial condition of the system and other  
25 plans that the board administers and the results of their operations. A  
26 synopsis of the annual report shall be published for the information of  
27 members of the system, the elected officials' retirement plan or the  
28 corrections officer retirement plan.

29 K. The board shall:

30 1. Maintain the accounts of the system and other plans that the board  
31 administers and issue statements to each employer annually and to each member  
32 who may request it.

33 2. Report the results of the actuarial valuations to the local boards  
34 and employers.

35 3. Contract on a fee basis with an independent investment counsel to  
36 advise the board in the investment management of the fund and assets of other  
37 plans that the board administers and with an independent auditing firm to  
38 audit the board's accounting.

39 4. Permit the auditor general to make an annual audit and the results  
40 shall be transmitted to the governor and the legislature.

41 5. Contract on a fee basis with an actuary who shall make actuarial  
42 valuations of the system and other plans that the board administers, be the  
43 technical adviser of the board on matters regarding the operation of the  
44 funds created by the provisions of the system, the elected officials'  
45 retirement plan, the corrections officer retirement plan and the fire fighter

1 and peace officer cancer insurance policy program and perform other duties  
2 required in connection therewith. The actuary must be a member of a  
3 nationally recognized association or society of actuaries.

4 6. Employ, as administrator, a person, state department or other body  
5 to serve at the pleasure of the board.

6 7. Establish procedures and guidelines for contracts with actuaries,  
7 auditors, investment counsel and legal counsel and for safeguarding of  
8 securities.

9 L. The administrator, under the direction of the board, shall:

10 1. Administer this article.

11 2. Be responsible for the recruitment, hiring and day-to-day  
12 management of employees.

13 3. Invest the funds of the system and other plans that the board  
14 administers as the board deems necessary and prudent as provided in  
15 subsections D and H of this section and subject to the investment policies  
16 and fund objectives adopted by the board.

17 4. Establish and maintain an adequate system of accounts and records  
18 for the system and other plans that the board administers, which shall be  
19 integrated with the accounts, records and procedures of the employers so that  
20 the system and other plans that the board administers operates most  
21 effectively and at minimum expense and that duplication of records and  
22 accounts is avoided.

23 5. In accordance with the board's governance policy and procedures and  
24 the budget adopted by the board, hire such employees and services the  
25 administrator deems necessary and prescribe their duties, including the  
26 hiring of one or more assistant administrators to manage the system's  
27 operations, investments and legal affairs.

28 6. Be responsible for income, the collection of the income and the  
29 accuracy of all expenditures.

30 7. Recommend to the board annual contracts for the system's actuary,  
31 auditor, investment counsel, legal counsel and safeguarding of securities.

32 8. Perform additional duties and powers prescribed by the board and  
33 delegated to the administrator.

34 M. The system is an independent trust fund and the board is not  
35 subject to title 41, chapter 6. Contracts for goods and services approved by  
36 the board are not subject to title 41, chapter 23. As an independent trust  
37 fund whose assets are separate and apart from all other funds of this state,  
38 the system and the board are not subject to the restrictions prescribed in  
39 section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.  
40 Loans, guarantees, investment management agreements and investment contracts  
41 that are entered into by the board are contracts memorializing obligations or  
42 interests in securities that the board has concluded, after thorough due  
43 diligence, do not involve investments in Sudan or Iran or otherwise provide  
44 support to terrorists or in any way facilitate illegal immigration into the  
45 United States. These contracts do not involve the procurement, supply or

1 provision of goods, equipment, labor, materials or services that would  
2 require the certifications or warranties required by sections 35-391.06,  
3 35-393.06 and 41-4401.

4 N. The board, the administrator, the assistant administrators and all  
5 persons employed by them are subject to title 41, chapter 4, article 4. The  
6 administrator, assistant administrators and other employees of the board are  
7 entitled to receive compensation pursuant to section 38-611.

8 O. In consultation with the director of the department of  
9 administration, the board may enter into employment agreements and establish  
10 the terms of those agreements with persons holding any of the following  
11 system positions:

- 12 1. Administrator.
- 13 2. Deputy or assistant administrator.
- 14 3. Chief investment officer.
- 15 4. Deputy chief investment officer.
- 16 5. Fiduciary or investment counsel.

17 P. The attorney general or an attorney approved by the attorney  
18 general and paid by the fund shall be the attorney for the board and shall  
19 represent the board in any legal proceeding or forum that the board deems  
20 appropriate. The board, administrator, assistant administrators and  
21 employees of the board are not personally liable for any acts done in their  
22 official capacity in good faith reliance on the written opinions of the  
23 board's attorney.

24 Q. At least once in each five-year period after the effective date,  
25 the actuary shall make an actuarial investigation into the mortality, service  
26 and compensation experience of the members and beneficiaries of the system  
27 and other plans that the board administers and shall make a special valuation  
28 of the assets and liabilities of the monies of the system and plans. Taking  
29 into account the results of the investigation and special valuation, the  
30 board shall adopt for the system and other plans that the board administers  
31 those mortality, service and other tables deemed necessary.

32 R. On the basis of the tables the board adopts, the actuary shall make  
33 a valuation of the assets and liabilities of the funds of the system and  
34 other plans that the board administers not less frequently than every year.  
35 By November 1 of each year the board shall provide a preliminary report and  
36 by December 15 of each year provide a final report to the governor, the  
37 speaker of the house of representatives and the president of the senate on  
38 the contribution rate for the ensuing fiscal year.

39 S. Neither the board nor any member or employee of the board shall  
40 directly or indirectly, for himself or as an agent, in any manner use the  
41 monies or deposits of the fund except to make current and necessary payments,  
42 nor shall the board or any member or employee become an endorser or surety or  
43 in any manner an obligor for monies loaned by or borrowed from the fund or  
44 the assets of any other plans that the board administers.

1 T. The members of the board who are appointed pursuant to subsection  
2 A, paragraphs 2 and 5 of this section shall have at least ten years'  
3 substantial experience as any one or a combination of the following:

4 1. A portfolio manager acting in a fiduciary capacity.

5 2. A securities analyst.

6 3. An employee or principal of a trust institution, investment  
7 organization or endowment fund acting either in a management or an investment  
8 related capacity.

9 4. A chartered financial analyst in good standing as determined by the  
10 association for investment management and research.

11 5. A professor at the university level teaching economics or  
12 investment related subjects.

13 6. An economist.

14 7. Any other professional engaged in the field of public or private  
15 finances.

16 U. Financial or commercial information that is provided to the board,  
17 employees of the board and attorneys of the board in connection with  
18 investments in which the board has invested or investments the board has  
19 considered for investment is confidential, proprietary and not a public  
20 record if the information is information that would customarily not be  
21 released to the public by the person or entity from whom the information was  
22 obtained.

23 Sec. 9. Section 38-849, Arizona Revised Statutes, is amended to read:

24 38-849. Limitations on receiving pension; violation;  
25 classification; reemployment after severance;  
26 reinstatement of service credits; reemployment of  
27 retired or disabled member; definition

28 A. If a member is convicted of, or discharged because of, theft,  
29 embezzlement, fraud or misappropriation of an employer's property or property  
30 under the control of the employer, the member shall be subject to restitution  
31 and fines imposed by a court of competent jurisdiction. The court may order  
32 the restitution or fines to be paid from any payments otherwise payable to  
33 the member from the retirement system.

34 B. A person who knowingly makes any false statement or who falsifies  
35 or permits to be falsified any record of the system with an intent to defraud  
36 the system is guilty of a class 5 felony. If any change or error in the  
37 records results in any member or beneficiary receiving from the system more  
38 or less than the member or beneficiary would have been entitled to receive  
39 had the records been correct, the local board shall correct such error, and  
40 as far as practicable shall adjust the payments in such manner that the  
41 actuarial equivalent of the benefit to which such member or beneficiary was  
42 correctly entitled shall be paid. If a member is convicted of a crime  
43 specified in this subsection, section 13-713 applies.

44 C. If a member who received a severance refund on termination of  
45 employment pursuant to section 38-846.02 becomes reemployed with the same

1 employer within two years after the former member's termination date, the  
2 member may have forfeited credited service attributable to service rendered  
3 during a prior period of service as an employee restored on satisfaction of  
4 each of the following conditions:

5 1. The member files with the system a written application for  
6 reinstatement of forfeited credited service within ninety days after again  
7 becoming an employee.

8 2. The retirement fund is paid the total amount previously withdrawn  
9 pursuant to section 38-846.02 plus compound interest from the date of  
10 withdrawal to the date of repayment. Interest shall be computed at the rate  
11 of nine per cent for each year compounded each year from the date of  
12 withdrawal to the date of repayment. Forfeited credited service shall not be  
13 restored until complete payment is received by the fund.

14 3. The required payment is completed within one year after returning  
15 to employee status.

16 D. If a member who received a severance refund on termination of  
17 employment, as provided in section 38-846.02, is subsequently reemployed by  
18 an employer, the member's prior service credits shall be cancelled and  
19 service shall be credited only from the date the member's most recent  
20 reemployment period commenced. However, a present active member of the  
21 system who forfeited credited service, received a severance refund pursuant  
22 to section 38-846.02 and becomes reemployed with the same employer two years  
23 or more after the member's termination date or becomes reemployed with  
24 another employer may elect to redeem any part of that forfeited credited  
25 service by paying into the system any amounts required pursuant to this  
26 subsection. A present active member who elects to redeem any part of  
27 forfeited credited service for which the member is deemed eligible by the  
28 board shall pay into the system the amounts previously paid or transferred to  
29 the member as a severance refund plus an amount, computed by the system's  
30 actuary that is necessary to equal the increase in the actuarial present  
31 value of projected benefits resulting from the redemption calculated using  
32 the actuarial methods and assumptions prescribed by the system's actuary. On  
33 satisfaction of this obligation the member's prior service credits shall be  
34 reinstated.

35 E. If a retired member becomes employed REEMPLOYED in any capacity by  
36 the employer from which the member retired before one year ~~after the member's~~  
37 FROM THE date of retirement, ~~OR IN THE SAME POSITION AT ANY TIME FOLLOWING~~  
38 RETIREMENT:

39 1. THE FOLLOWING APPLY:

40 (a) WITHIN TEN DAYS AFTER THE RETIRED MEMBER IS REEMPLOYED, THE LOCAL  
41 BOARD SHALL ADVISE THE SYSTEM IN WRITING OF THE RETIRED MEMBER'S  
42 REEMPLOYMENT.

43 (b) The system shall not make pension payments to the retired member  
44 during the period of reemployment. ~~If a retired member is reemployed by an~~  
45 ~~employer, no employee contributions shall be made on the retired member's~~

1 account, nor any service credited, during the period of the reemployment.  
2 This subsection does not apply to a retired member who is assigned voluntary  
3 duties acting as a limited authority peace officer for an employer pursuant  
4 to the Arizona peace officer standards and training board rules, to a retired  
5 member who subsequently becomes employed by an employer from which the member  
6 retired after no less than sixty consecutive days from the member's  
7 retirement date if the retired member is hired as a result of participating  
8 in an open competitive new hire process for an entry level nonsupervisory  
9 position or if the retired member is hired as a fire inspector or arson  
10 investigator. Notwithstanding this subsection, if a retired member  
11 subsequently becomes employed in the same position by the employer from which  
12 the member retired, the system shall not make pension payments to the retired  
13 member during the period of reemployment. On subsequent termination of  
14 employment by the retired member, the retired member is entitled to receive a  
15 pension based on the member's service and compensation before the date of the  
16 member's reemployment. If a member who retired under disability is  
17 reemployed by an employer as an employee, that member shall be treated as if  
18 the member had been on an uncompensated leave of absence during the period of  
19 the member's disability retirement and shall be a contributing member of the  
20 system. Within ten days after a retired member is reemployed by the employer  
21 from which the member retired, the employer shall advise the board in writing  
22 as to whether the retired member has been reemployed in the same position  
23 from which the member retired. The board shall review all reemployment  
24 determinations. If the board is not provided the necessary information to  
25 make a reemployment determination, the board shall suspend pension payments  
26 until information is received and a determination is made that the  
27 reemployment meets the requirements of this subsection. For the purposes of  
28 this subsection, "same position" means the member is in a position where the  
29 member performs substantially similar duties that were performed and  
30 exercises substantially similar authority that was exercised by the retired  
31 member before retirement.

32 (c) EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S  
33 ACCOUNT, NOR SHALL ANY SERVICE BE CREDITED DURING THE PERIOD OF REEMPLOYMENT.  
34 ON SUBSEQUENT TERMINATION OF EMPLOYMENT BY THE RETIRED MEMBER, THE RETIRED  
35 MEMBER IS ENTITLED TO RECEIVE A PENSION BASED ON THE MEMBER'S SERVICE AND  
36 COMPENSATION BEFORE THE DATE OF THE MEMBER'S REEMPLOYMENT. THE EMPLOYER  
37 SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION 38-843.05.

38 2. PARAGRAPH 1, SUBDIVISIONS (a) AND (b) OF THIS SUBSECTION DO NOT  
39 APPLY IF EITHER:

40 (a) THE RETIRED MEMBER BECOMES REEMPLOYED AFTER SIXTY CONSECUTIVE DAYS  
41 FROM THE MEMBER'S RETIREMENT DATE AS A RESULT OF PARTICIPATING IN AN OPEN  
42 COMPETITIVE NEW HIRE PROCESS FOR AN ENTRY LEVEL, NONSUPERVISORY POSITION,  
43 EXCEPT IF THE RETIRED MEMBER IS HIRED FOR THE SAME POSITION.

44 (b) THE RETIRED MEMBER IS HIRED AS A FIRE INSPECTOR OR ARSON  
45 INVESTIGATOR.

1 F. IF A RETIRED MEMBER IS ASSIGNED VOLUNTARY DUTIES ACTING AS A  
2 LIMITED AUTHORITY PEACE OFFICER, PURSUANT TO THE ARIZONA PEACE OFFICER  
3 STANDARDS AND TRAINING BOARD RULES, EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE  
4 ON THE RETIRED MEMBER'S ACCOUNT, AND ANY SERVICE SHALL NOT BE CREDITED DURING  
5 THE PERIOD OF REEMPLOYMENT. THE EMPLOYER SHALL NOT PAY THE ALTERNATE  
6 CONTRIBUTION RATE PURSUANT TO SECTION 38-843.05.

7 G. IF AFTER ONE YEAR FROM THE DATE OF RETIREMENT A RETIRED MEMBER  
8 BECOMES REEMPLOYED BY THE EMPLOYER FROM WHICH THE MEMBER RETIRED IN A  
9 POSITION OTHER THAN THE SAME POSITION FROM WHICH THE MEMBER RETIRED, EMPLOYEE  
10 CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S ACCOUNT, AND ANY  
11 SERVICE SHALL NOT BE CREDITED DURING THE PERIOD OF REEMPLOYMENT. THE  
12 EMPLOYER SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION  
13 38-843.05.

14 H. AT ANY TIME FOLLOWING RETIREMENT, IF THE RETIRED MEMBER BECOMES  
15 EMPLOYED BY AN EMPLOYER, OTHER THAN THE EMPLOYER FROM WHICH THE MEMBER  
16 RETIRED, IN A POSITION ORDINARILY FILLED BY AN EMPLOYEE OF AN ELIGIBLE GROUP,  
17 EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S ACCOUNT, AND  
18 ANY SERVICE SHALL NOT BE CREDITED DURING THE PERIOD OF REEMPLOYMENT. THE  
19 EMPLOYER SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION  
20 38-843.05.

21 I. IF A MEMBER WHO RETIRED UNDER AN ACCIDENTAL OR ORDINARY DISABILITY  
22 BECOMES REEMPLOYED AS AN EMPLOYEE OF AN ELIGIBLE GROUP, SECTION 38-844  
23 APPLIES AND A DETERMINATION SHALL BE MADE BY THE LOCAL BOARD AS TO WHETHER  
24 SUBSECTION E, F, G OR H OF THIS SECTION APPLIES.

25 J. THE LOCAL BOARD SHALL REVIEW ALL REEMPLOYMENT DETERMINATIONS AND  
26 VOLUNTARY ASSIGNMENTS AS DESCRIBED IN SUBSECTION F OF THIS SECTION. IF THE  
27 LOCAL BOARD OR THE SYSTEM IS NOT PROVIDED THE NECESSARY INFORMATION REQUIRED  
28 BY THE SYSTEM TO MAKE A REEMPLOYMENT DETERMINATION, THE LOCAL BOARD AND THE  
29 SYSTEM SHALL SUSPEND PENSION PAYMENTS UNTIL INFORMATION IS RECEIVED AND A  
30 DETERMINATION IS MADE REGARDING WHETHER THE REEMPLOYMENT MEETS THE  
31 REQUIREMENTS OF SUBSECTION E, F, G, H OR I OF THIS SECTION.

32 ~~F.~~ K. A person who defrauds the system or who takes, converts, steals  
33 or embezzles monies owned by or from the system and who fails or refuses to  
34 return the monies to the system on the board's written request is subject to  
35 civil suit by the system in the superior court in Maricopa county. On entry  
36 of an order finding the person has defrauded the system or taken, converted,  
37 stolen or embezzled monies owned by or from the system, the court shall enter  
38 an order against that person and for the system awarding the system all of  
39 its costs and expenses of any kind, including attorney fees, that were  
40 necessary to successfully prosecute the action. The court shall also grant  
41 the system a judicial lien on all of the nonexempt property of the person  
42 against whom judgment is entered pursuant to this subsection in an amount  
43 equal to all amounts awarded to the system, plus interest at the rate  
44 prescribed by section 44-1201, until all amounts owed are paid to the system.



1 or administered by a participating employer of the system. The board shall  
2 pay up to:

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

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

7 B. Upon notification, the board shall pay from assets of the fund  
8 SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of  
9 the family coverage premium of any group health and accident insurance each  
10 month for a benefit recipient who elects family coverage and otherwise  
11 qualifies for payment pursuant to subsection A of this section. The board  
12 shall pay up to:

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

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

18 3. Two hundred fifteen dollars per month if either:

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

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

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

26 D. A retired member or survivor of the system may elect to purchase  
27 individual health care coverage and receive a payment pursuant to this  
28 section through the retired member's former employer if that former employer  
29 assumes the administrative functions associated with the payment, including  
30 verification that the payment is used to pay for health insurance coverage if  
31 the payment is made to the retired member or survivor of the system. This  
32 ~~provision does not apply to a retired member or survivor of the system who is~~  
33 ~~reemployed and who participates in health care coverage provided by the~~  
34 ~~member's or survivor's new employer.~~

35 E. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OF THE SYSTEM WHO  
36 BECOMES A MEMBER ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
37 SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH CARE COVERAGE  
38 PROVIDED BY THE MEMBER'S NEW EMPLOYER.

39 F. THIS SECTION DOES NOT APPLY TO A SURVIVOR OF THE SYSTEM WHOSE  
40 DECEASED SPOUSE BECOMES A MEMBER ON OR AFTER THE EFFECTIVE DATE OF THIS  
41 AMENDMENT TO THIS SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH  
42 CARE COVERAGE PROVIDED BY THE SURVIVOR'S NEW EMPLOYER.

43 G. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT THAT CONSISTS OF THE  
44 BENEFITS PROVIDED IN THIS SECTION. THE BOARD SHALL DEPOSIT THE BENEFITS  
45 PROVIDED BY THIS SECTION IN THE ACCOUNT. THE BOARD SHALL NOT USE OR DIVERT

1 ANY PART OF THE CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER THAN  
2 THE PROVISION OF BENEFITS PURSUANT TO THIS SECTION UNLESS THE LIABILITIES TO  
3 PROVIDE THE BENEFITS PURSUANT TO THIS SECTION ARE SATISFIED. IF THE  
4 LIABILITIES TO PROVIDE THE BENEFITS DESCRIBED IN THIS SECTION ARE SATISFIED,  
5 THE BOARD SHALL RETURN ANY AMOUNT REMAINING IN THE ACCOUNT TO THE EMPLOYER.

6 H. PAYMENT OF THE BENEFITS PROVIDED BY THIS SECTION IS SUBJECT TO THE  
7 FOLLOWING CONDITIONS:

8 1. THE PAYMENT OF THE BENEFITS IS SUBORDINATE TO THE PAYMENT OF  
9 RETIREMENT BENEFITS PAYABLE BY THE SYSTEM.

10 2. THE TOTAL OF THE CONTRIBUTIONS FOR THE BENEFITS AND ACTUAL  
11 CONTRIBUTIONS FOR LIFE INSURANCE PROTECTION, IF ANY, SHALL NOT EXCEED  
12 TWENTY-FIVE PER CENT OF THE TOTAL ACTUAL EMPLOYER AND EMPLOYEE CONTRIBUTIONS  
13 TO THE SYSTEM, MINUS THE CONTRIBUTIONS TO FUND PAST SERVICE CREDITS, AFTER  
14 THE DAY THE ACCOUNT IS ESTABLISHED.

15 3. THE CONTRIBUTIONS BY THE EMPLOYER TO THE ACCOUNT SHALL BE  
16 REASONABLE AND ASCERTAINABLE.

17 Sec. 12. Section 38-859, Arizona Revised Statutes, is amended to read:

18 38-859. Medical boards; purposes; composition; medical  
19 examinations

20 A. The purposes of a medical board are to:

21 1. Identify a physical or mental condition or injury that existed or  
22 occurred prior to the member's date of membership in the system and for which  
23 benefits may otherwise be limited by section 38-844, subsection D.

24 2. Evaluate a member's eligibility for an accidental disability  
25 pension.

26 3. Evaluate a member's eligibility for an ordinary disability pension.

27 4. Evaluate a member's eligibility for a temporary disability pension.

28 5. Evaluate a member's eligibility for a catastrophic disability  
29 pension.

30 6. For the purposes of section 38-846, determine through appropriate  
31 medical evidence the proximate cause of death for members who are killed in  
32 the line of duty if the death occurs more than one year after the date of  
33 injury.

34 B. For the purpose of determining a disability, the medical board  
35 shall be composed of a designated physician or PHYSICIANS WORKING IN a clinic  
36 other than the employer's regular employee or contractee. Employees employed  
37 after October 1, 1992 shall undergo a medical examination for the purpose of  
38 identifying a physical or mental condition or injury that existed or occurred  
39 prior to a member's date of membership in the system and for which benefits  
40 may otherwise be limited by section 38-844, subsection D, and for this  
41 purpose, the medical board shall be composed of a designated physician or  
42 PHYSICIANS WORKING IN a clinic that may be the employer's regular employee or  
43 contractee.

44 C. A finding of accidental, ordinary, temporary or catastrophic  
45 disability shall be based on medical evidence by a DESIGNATED physician or A

1 PHYSICIAN WORKING IN A clinic THAT IS appointed by the local board pursuant  
2 to section 38-847, subsection D, paragraph 9 that established the disability.  
3 The local board shall resolve material conflicts in medical evidence. If  
4 required, the local board may employ other physicians or clinics to report on  
5 special cases. With the approval of the local board, a DESIGNATED physician  
6 or PHYSICIANS WORKING IN A clinic THAT IS employed by the local board may  
7 employ occupational specialists to assist the DESIGNATED physician or  
8 PHYSICIANS WORKING IN A clinic in rendering an opinion.

9 D. All employees shall undergo medical examinations before a  
10 DESIGNATED physician or A PHYSICIAN WORKING IN A clinic THAT IS appointed by  
11 the local board pursuant to and for the reasons prescribed in this article.  
12 An employee who fails to comply with this subsection waives all rights to  
13 disability benefits under this article.

14 E. The examining physician or clinic shall report the results of  
15 examinations to the local board, and the secretary of the local board shall  
16 preserve the report as a permanent record. Medical examinations conducted  
17 pursuant to this article SHALL BE CONDUCTED BY A PHYSICIAN AND shall not be  
18 conducted or utilized for the purposes of hiring, advancement, discharge, job  
19 training or other terms, conditions and privileges of employment unrelated to  
20 the receipt of or qualification for pension benefits or service credits under  
21 the system.

22 F. This section does not affect or impair the right of an employer to  
23 prescribe medical or physical standards for employees or prospective  
24 employees.

25 Sec. 13. Section 38-961, Arizona Revised Statutes, is amended to read:

26 38-961. Public safety officer; duty-related injury;  
27 supplemental benefits plan; definitions

28 A. This state or a political subdivision of this state that employs a  
29 public safety employee on a full-time basis shall establish a supplemental  
30 benefits plan for a public safety employee who is injured while on duty to  
31 the extent that the public safety employee cannot perform the functions of  
32 the position. To become eligible for the supplemental benefits plan, the  
33 public safety employee must be receiving workers' compensation benefits  
34 pursuant to title 23, chapter 6. This state or a political subdivision of  
35 this state shall design the supplemental benefits plan so that, with the  
36 addition of other benefits being paid ~~by the worker's compensation fund~~ to  
37 the public safety employee PURSUANT TO TITLE 23, CHAPTER 6, the public safety  
38 employee will receive approximately the identical base salary less the amount  
39 of taxes the public safety employee was paying.

40 B. If a public safety employee is accepted into the supplemental  
41 benefits plan, the public safety employee's employer shall continue to pay  
42 the employer portion of the health care benefits that ~~were~~ WAS being paid to  
43 the public safety employee on the date of the employee's injury.

44 C. If a public safety employee is accepted into the supplemental  
45 benefits plan, the public safety employee's employer shall pay the employee

1 contribution to the public safety personnel retirement system or corrections  
2 officer retirement plan, as applicable, and shall continue to pay the  
3 employer contribution to the respective retirement system or plan. The  
4 public safety employee is entitled to accrue credited service for the period  
5 of time enrolled in the supplemental benefits plan.

6 D. A public safety employee who is eligible for the supplemental  
7 benefits plan shall apply for benefits to this state or a political  
8 subdivision of this state. This state or a political subdivision of this  
9 state, on an individual basis, shall determine if the public safety employee  
10 is entitled to the benefits in the plan. This state or a political  
11 subdivision of this state may establish injury standards for eligibility into  
12 the plan that may include the exclusion of a public safety employee whose  
13 injury is a result of the public safety employee's gross negligence, or any  
14 other condition that this state or the political subdivision chooses to  
15 consider within the plan.

16 E. A public safety employee who is accepted into the plan shall comply  
17 with all risk management requirements, including evaluation for light duty  
18 options and rehabilitation programs. If a public safety employee fails to  
19 comply with risk management decisions, the public safety employee's  
20 participation in the supplemental benefits plan will be terminated. The  
21 public safety employee who is accepted into the plan is responsible for the  
22 public safety employee's portion of the health care benefit costs the public  
23 safety employee was paying on the date of the injury. The public safety  
24 employee remains responsible for any elective health care plan deductions,  
25 health related optional deductions or optional life insurance deductions.

26 F. If a public safety employee is accepted into the supplemental  
27 benefits plan, the public safety employee shall not accrue any additional  
28 sick or annual leave and any sick or annual leave amount on the public safety  
29 employee's account shall not be decreased while the public safety employee is  
30 participating in the plan.

31 G. A public safety employee who is accepted into the supplemental  
32 benefits plan is not precluded from disciplinary action, including  
33 termination of employment, pursuant to chapter 8 of this title or any  
34 agreements that supplant, revise or otherwise alter the provisions of this  
35 title, including preexisting agreements between the employer and the public  
36 safety employee's lawful representative association.

37 H. This section shall not supersede any plan or policy that provides a  
38 greater benefit being offered by this state or a political subdivision of  
39 this state to a public safety employee who is injured while on duty. This  
40 state or a political subdivision of this state shall offer the supplemental  
41 benefits plan for an initial six-month period. This state or the political  
42 subdivision may determine if the plan shall be extended, on an individual  
43 basis, an additional six months, for a maximum of one year.

1 I. For the purposes of this section: ~~—~~  
2 1. "MEMBER" INCLUDES A RETIRED MEMBER OF THE PUBLIC SAFETY PERSONNEL  
3 RETIREMENT SYSTEM WHO IS A CERTIFIED PEACE OFFICER.  
4 2. "Public safety employee" means:  
5 ~~1-~~ (a) An individual who is a member of the public safety personnel  
6 retirement system or the corrections officer retirement plan.  
7 ~~2-~~ (b) A probation officer, surveillance officer or juvenile  
8 detention officer who is employed by this state or a political subdivision of  
9 this state.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.

Passed the House February 18, 2013

Passed the Senate May 14, 2013

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
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

H.B. 2056

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

June 13, 2013,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of June, 2013,

at 4:45 o'clock P M.



Secretary to the Governor

Approved this 19th day of

June, 2013,

at 11:38 o'clock A M.



Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of June, 2013,

at 2:05 o'clock P M.



Secretary of State

H.B. 2056