Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 217

HOUSE BILL 2608

AN ACT

AMENDING SECTIONS 38-651.01, 38-727, 38-782, 38-801, 38-804, 38-810 AND 38-810.04, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 3.1 AND 3.2; AMENDING SECTION 38-848, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO PUBLIC PENSIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-651.01, Arizona Revised Statutes, is amended to read:

38-651.01. Group health and accident coverage for retired public employees and elected officials and their dependents

A. The department of administration, by rule, shall adopt standards to establish group health and accident coverage for former employees who worked for the state of Arizona and who opt on retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona, or disabled, and receiving either income from a retirement program of this state or long-term disability income benefits pursuant to section 38-651.03 or chapter 5, article 2.1 of this title and their dependents and to establish eligibility for retired or disabled state employees to participate in the coverage. The department of administration may adopt rules that provide that if a retired or disabled insured dies before an insured surviving dependent, the insured surviving dependent is entitled to extended coverage at group rates if the insured surviving dependent elects to continue in the coverage within six months of the retired or disabled insured's death and the insured surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the retired or disabled insured's death, the department of administration shall immediately notify an insured surviving dependent of the provisions of this section. The department of administration may enter into agreements with disabled former state employees and their dependents who elect to obtain the coverage provided by this section. The agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage. The department of administration may adopt rules that provide that on the death of a state employee who at the time of death was eligible for normal retirement pursuant to section 38-757 under the Arizona state retirement system, the insured surviving spouse and eligible dependent children are entitled to continue coverage under group rates provided that the deceased insured state employee, spouse and dependent children were insured at the time of the employee's death. The insured surviving spouse shall be charged an amount sufficient to pay the full premium for the coverage.

B. The department of administration, by rule, may adopt standards to establish group health and accident coverage for former elected officials of this state or its political subdivisions and their dependents and to establish eligibility for former elected officials to participate in the coverage. Qualifications for eligibility shall include that the former elected official has at least five years of credited service in the elected officials' retirement plan pursuant to chapter 5 of this title, had been covered under a group health or group health and accident plan while serving

as an elected official and had been serving as an elected official on or after January 1, 1983. The department of administration may adopt rules that provide that on the death of an elected official or insured former elected official, the insured surviving spouse is entitled to coverage at group rates provided that the deceased insured former elected official met or would have met the qualifications for eligibility pursuant to this subsection or that the deceased elected official would have met the qualifications for eligibility had the deceased not been in office at the time of death. Except as provided in subsection J of this section, the insured former elected official or the insured surviving spouse shall be charged amounts that are sufficient to pay for the premium and state administrative expense of providing coverage. Notwithstanding subsection J of this section, the standards shall provide that all or any portion of the former state employees or former elected officials or their dependents shall be grouped with officers and employees of the state and its departments and agencies or their dependents as necessary to obtain health and accident coverage at favorable rates.

C. The Arizona state retirement system board may enter into agreements with retired and disabled state employee members of the system and plan AND RETIRED MEMBERS OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE who elect to obtain the coverage provided pursuant to subsection A of this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

D. Retired state employee or disabled state employee members of the public safety personnel retirement system, the elected officials' retirement plan, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE, the corrections officer retirement plan or the optional retirement programs authorized pursuant to section 15-1628 who opt on retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona and their dependents and who are receiving benefits from the public safety personnel retirement system, the elected officials' retirement plan, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE, the corrections officer retirement plan or the optional retirement programs authorized pursuant to section 15-1628 may participate in group health and accident coverage provided pursuant to this section. The department of administration shall adopt rules that are necessary for the implementation of this subsection.

E. The board of trustees of the public safety personnel retirement system may enter into agreements with retired state employee members and

their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

F. The board of trustees of the public safety personnel retirement system may enter into agreements with retired judges and retired elected officials and their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing coverage.

G. The board of trustees of the public safety personnel retirement system may contract with an insurance carrier and adopt standards to establish a group health and accident insurance coverage program for retired members of the public safety personnel retirement system, their dependents and their spouses. Any members or spouses who elect to obtain the group health and accident coverage provided under this subsection shall agree to a deduction from their monthly retirement benefits of an amount sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing coverage.

H. A county board of supervisors may enter into agreements to establish group health and accident coverage for retired or disabled county employees and their dependents who elect to obtain the coverage provided pursuant to section 11-263, subsection B. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing for the coverage.

I. Nonmedicare eligible retirees who live in this state, who enroll in a qualifying plan under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option to enroll with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the retiree.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the retiree living outside the area of the qualifying health maintenance organization.

J. Public funds shall not be expended to pay all or any part of the premium of insurance pursuant to this section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

K. A RETIRED MEMBER OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE MAY ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE SELECTED AND IS NOT ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR 38-817.

Sec. 2. Section 38-727, Arizona Revised Statutes, is amended to read:

38-727. Eligibility; options

A. The following provisions apply to all employees hired on or after the effective date:

1. All employees and officers of this state and all officers and employees of political subdivisions establishing a retirement plan administered by the board pursuant to this article who as a result of state service or service for the political subdivision are included in agreements providing for their coverage under the federal old age and survivors insurance system are subject to this article, except that membership is not mandatory:

(a) On the part of any employee who is eligible and who elects to participate in the optional retirement programs established by the Arizona board of regents pursuant to the authority conferred by section 15-1628 or by a community college district board pursuant to authority conferred by section 15-1451.

(b) For a state elected official who is subject to term limits, WHO IS ELECTED OR APPOINTED BEFORE JANUARY 1, 2014, who is eligible for participation in ASRS because the state elected official elected not to participate in the elected officials' retirement plan as provided in section 38-804, subsection A and who elects not to participate in ASRS as provided in paragraph 7 of this section.

(c) On the part of any employee or officer who is eligible to participate and who participates in the elected officials' retirement plan pursuant to article 3 of this chapter, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER, the public safety personnel retirement system pursuant to article 4 of this chapter or the corrections officer retirement plan pursuant to article 6 of this chapter.

2. All employees and officers of political subdivisions whose compensation is provided wholly or in part from state monies and who are declared to be state employees and officers by the legislature for retirement purposes are subject, on legislative enactment, to this article and are members of ASRS.

3. Any member whose service terminates other than by death or withdrawal from membership is deemed to be a member of ASRS until the member's death benefit is paid.

4. Employees and officers shall not become members of ASRS and, if they are members immediately before becoming employed as provided by this section, shall have their membership status suspended while they are employed by state departments paying the salaries of their officers and employees wholly or in part from monies received from sources other than appropriations from the state general fund for the period or periods payment of the employer contributions is not made by or on behalf of the departments.

5. Notwithstanding other provisions of this section, a temporary employee of the legislature whose projected term of employment is for not more than six months is ineligible for membership in ASRS. If the employment continues beyond six successive months, the employee may elect to either:

(a) Receive credit for service for the first six months of employment and establish membership in ASRS as of the beginning of the current term of employment if, within forty-five days after the first six months of employment, both the employer and the employee contribute to ASRS the amount that would have been required to be contributed to ASRS during the first six months of employment as if the employee had been a member of ASRS during those six months.

(b) Establish membership in ASRS as of the day following the completion of six months of employment.

6. A person who is employed in postgraduate training in an approved medical residency training program of an employer or a postdoctoral scholar who is employed by a university under the jurisdiction of the Arizona board of regents is ineligible for membership in ASRS.

7. A state elected official who is subject to term limits, WHO IS ELECTED OR APPOINTED BEFORE JANUARY 1, 2014 and who is eligible for participation in ASRS because the state elected official elected not to participate in the elected officials' retirement plan as provided in section 38-804, subsection A may elect not to participate in ASRS. The election not to participate is specific for that term of office. The state elected official who is subject to term limits shall make the election in writing and file the election with ASRS within thirty days after the elected official's retirement plan mails the notice to the state elected official of the state elected official's eligibility to participate in ASRS. The election is effective on the first day of the state elected official's eligibility. If a state elected official who is subject to term limits fails to make an election as provided in this paragraph, the state elected official is deemed

to have elected to participate in ASRS. The election not to participate in ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS for the state elected official's entire term, except for any benefits accrued by the state elected official in ASRS for periods of participation before being elected to an office subject to term limits or any benefits expressly provided by law.

~~8. Every full-time superior court commissioner who is appointed on or after July 1 of the first fiscal year after the social security administration approves the inclusion of superior court commissioners on this state's section 218 agreement is a member of ASRS and is subject to this article.~~

~~9.~~ 8. Before July 1, 2015, a person may elect not to participate in ASRS if the person becomes employed by an employer after the person has attained at least sixty-five years of age, is not an active member, inactive member, retired member or receiving benefits pursuant to article 2.1 of this chapter and does not have any credited service or prior service in ASRS. The employee shall make the election not to participate in writing and file the election with ASRS within thirty days of employment. The election not to participate is irrevocable for the remainder of the person's employment for which the person made the election and constitutes a waiver of all benefits provided by the Arizona state retirement system. The period the person works is not eligible for purchase under section 38-743 or 38-744.

B. THE FOLLOWING ELECTED OFFICIALS ARE SUBJECT TO THIS ARTICLE IF THE MEMBER'S EMPLOYER IS AN EMPLOYER UNDER ARTICLE 3 OF THIS CHAPTER AND THE MEMBER ELECTS TO PARTICIPATE IN ASRS PURSUANT TO SUBSECTION C OF THIS SECTION:

1. A STATE ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS, WHO IS ELECTED OR APPOINTED ON OR BEFORE DECEMBER 31, 2013 AND WHO IS AN ACTIVE OR INACTIVE MEMBER OF ASRS BECAUSE THE STATE ELECTED OFFICIAL HAD PREVIOUSLY ELECTED NOT TO PARTICIPATE IN THE ELECTED OFFICIALS' RETIREMENT PLAN AS PROVIDED IN SECTION 38-804, SUBSECTION A.

2. NOTWITHSTANDING ANY EXCLUSION FROM AN AGREEMENT PROVIDING FOR COVERAGE UNDER THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM, AN ELECTED OFFICIAL, AS DEFINED IN SECTION 38-831, WHO IS AN ACTIVE OR INACTIVE MEMBER OF ASRS, IF THE ELECTED OFFICIAL'S EMPLOYER IS A PARTICIPATING EMPLOYER UNDER THIS ARTICLE.

C. IF AN ELECTED OFFICIAL AS DESCRIBED IN SUBSECTION B OF THIS SECTION ELECTS TO CONTINUE OR RESUME THE MEMBER'S PARTICIPATION IN ASRS, THE ELECTION SHALL BE MADE IN WRITING AND FILED WITH ASRS WITHIN THIRTY DAYS AFTER THE ELECTED OFFICIAL'S TERM BEGINS. THE ELECTION IS IRREVOCABLE FOR THE REMAINDER OF THE ELECTED OFFICIAL'S TERM FOR WHICH THE ELECTION WAS MADE. IF THE ELECTED OFFICIAL DOES NOT MAKE AN ELECTION UNDER THIS SUBSECTION, THE ELECTED OFFICIAL SHALL BE ENROLLED IN THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER.

Sec. 3. Section 38-782, Arizona Revised Statutes, is amended to read:

38-782. Group health and accident coverage for retired public employees and elected officials and their dependents

A. The board shall establish group health and accident coverage for eligible retired and disabled members and their dependents. Eligible retired and disabled members are those members who are receiving retirement benefits from ASRS or long-term disability benefits pursuant to section 38-651.03 or article 2.1 of this chapter and who elect not to obtain health and accident insurance through their former employer. If an insured retired or disabled member dies before the insured member's dependent beneficiary or an insured surviving dependent, the dependent beneficiary or insured surviving dependent is entitled to coverage at group rates if the dependent beneficiary or surviving dependent elects to continue in the coverage within six months of the insured member's death and the dependent beneficiary or surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the insured member's death, the board shall immediately notify a dependent beneficiary or an insured surviving dependent of the provisions of this section.

B. Retired members of the public safety personnel retirement system, the elected officials' retirement plan, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who are receiving benefits from the public safety personnel retirement system, the elected officials' retirement plan, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and who are not covered by section 38-651.01 may participate in group health and accident coverage provided pursuant to this section. On the death of an insured member of the public safety personnel retirement system, the elected officials' retirement plan, THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER, the corrections officer retirement plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628, the insured surviving dependent is entitled to coverage at group rates. Except as provided in subsection H of this section, the surviving dependent shall be charged amounts that are sufficient to pay for the premium and administrative expense of providing the coverage.

C. The board may enter into agreements with retired and disabled members of ASRS AND RETIRED MEMBERS OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER who elect to obtain the coverage provided pursuant to subsection A of this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of

amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing the coverage.

D. The board of trustees of the public safety personnel retirement system may enter into agreements with retired members of the public safety personnel retirement system, the elected officials' retirement plan, the corrections officer retirement plan and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under their retirement benefits and the administrative expense of providing the coverage.

E. The board may enter into agreements with retired members of the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage.

F. If an insured member receiving long-term disability benefits pursuant to article 2.1 of this chapter becomes ineligible for the long-term disability benefits, the member and the covered dependents of the member may continue to participate in the group health and accident coverage provided pursuant to this section subject to the following conditions:

1. Participation in the coverage is limited to twelve months from the date the member ceases eligibility for benefits under article 2.1 of this chapter or the member commences employment, whichever occurs first.

2. The member shall pay the full premium cost of the coverage selected, and the member is not eligible for benefits pursuant to section 38-783.

3. If a member who participates in the coverage dies during the twelve month period provided by this subsection, covered dependents of the member may continue coverage after the death of the member through the end of the twelve month period. Covered dependents of the member who continue coverage pursuant to this paragraph shall pay the full premium cost of the coverage selected and are not eligible for benefits pursuant to section 38-783.

G. Retired or disabled members who are not eligible for medicare, who live in this state, who enroll in a qualifying health maintenance organization under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option of enrolling with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.

2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the member.

3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the member living outside the area of the qualifying health maintenance organization.

H. Public monies shall not be spent to pay all or any part of the insurance premium pursuant to this section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

I. A RETIRED MEMBER OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER MAY ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE SELECTED AND IS NOT ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR 38-817.

Sec. 4. Section 38-801, Arizona Revised Statutes, is amended to read:

38-801. Definitions

In this article, unless the context otherwise requires:

1. "Accumulated contributions" means the sum of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A plus the amount transferred to the fund on behalf of the member plus the amount deposited in the fund pursuant to section 38-816.

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

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

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

5. "Average yearly salary" means the result obtained by dividing the total salary paid to an employee during a considered period by the number of years, including fractional years, in which the salary was received. The considered period shall be:

(a) For an elected official who becomes a member of the plan before January 1, 2012, the three consecutive years within the last ten completed years of credited service as an elected official that yield the highest average. If a member does not have three consecutive years of credited service as an elected official, the considered period is the member's last consecutive period of employment with a plan employer immediately before retirement.

(b) For an elected official who becomes a member of the plan on or after January 1, 2012, the five consecutive years within the last ten completed years of credited service as an elected official that yield the highest average. If a member does not have five consecutive years of credited service as an elected official, the considered period is the member's last consecutive period of employment with a plan employer immediately before retirement.

6. "Board" means the board of trustees of the system.

7. "Credited service" means the number of whole and fractional years of a member's service as an elected official after the elected official's effective date of participation for which member and employer contributions are on deposit with the fund, plus credited service transferred to the plan from another retirement system or plan for public employees of this state, plus service as an elected official before the elected official's effective date of participation that is being funded pursuant to a joinder agreement pursuant to ~~section 38-810, subsection C and~~ section 38-815 or service that was redeemed pursuant to section 38-816. Credited service does not include periods of service for which an active member is uncompensated by the employer and for which no contributions to the plan are made.

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

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

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

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

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

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

14. "Effective date of participation" means August 7, 1985, except with respect to employers and their elected officials whose contributions to the

plan commence after that date, in which case the effective date of their participation in the plan is specified in the applicable joinder agreement.

15. "Elected official" means:

(a) Every elected official of this state WHO WAS A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(b) Every elected official of each county of this state WHO WAS A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(c) Every justice of the supreme court, ~~.~~

~~(d)~~ every judge of the court of appeals, ~~.~~

~~(e)~~ every judge of the superior court~~.~~

~~(f)~~ AND every full-time superior court commissioner ~~who is a member of the plan before July 1 of the first fiscal year after the social security administration approves the inclusion of superior court commissioners on this state's section 218 agreement~~, except full-time superior court commissioners who failed to make a timely election of membership under the judges' retirement plan, repealed on August 7, 1985, WHO WAS A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

~~(g)~~ (d) The administrator of the board if the administrator is a natural person but only if the administrator is employed by the board before January 1, 2012.

~~(h)~~ (e) Each elected official of an incorporated city or town whose employer has executed a proper joinder agreement for coverage of its elected officials AND WHO WAS A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

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

(a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

(f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political

subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.

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

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

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

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

19. "Employer" means a department, agency or political subdivision of this state that makes employer contributions to the plan pursuant to section 38-810 on behalf of an elected official who participates in the plan.

20. "Fund" means the elected officials' retirement plan fund.

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

22. "Participant" means a member who is subject to a domestic relations order.

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

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

25. "Personal representative" means the personal representative of a deceased alternate payee.

26. "Plan" means the elected officials' retirement plan.

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

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

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

30. "System" means the public safety personnel retirement system.

Sec. 5. Section 38-804, Arizona Revised Statutes, is amended to read:

38-804. Membership; termination; definition

A. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, all elected officials are members of the plan, except that a state elected official who is subject to term limits may elect not to participate in the plan. The state elected official who is subject to term limits shall make the election in writing and file the election with the board within thirty days after the state elected official assumes office. The election is effective on the first day of the state elected official's eligibility for that term of office. The election not to participate is specific for that term of office. If a state elected official who is subject to term limits fails to make an election as provided in this subsection, the state elected official is deemed to have elected to participate in the plan. The election not to participate in the plan is irrevocable and constitutes a waiver of all benefits provided by the plan for the state elected official's entire term, except for any benefits accrued by the state elected official in the plan for periods of participation before being elected to an office subject to term limits or any benefits expressly provided by law. The state elected official who elects not to participate in the plan shall participate in the Arizona state retirement system unless the state elected official makes an irrevocable election not to participate in the Arizona state retirement system as provided in section 38-727.

B. ALL ELECTED OFFICIALS WHO ARE MEMBERS OF THE PLAN ON DECEMBER 31, 2013 MAY REMAIN MEMBERS OF THE PLAN UNDER THE TERMS AND LIMITATIONS OF THIS ARTICLE.

~~B.~~ C. If a member who becomes a member of the plan before January 1, 2012 ceases to hold office for any reason other than death or retirement, within twenty days after filing a completed application with the board, the member is entitled to receive the following amounts, less any benefit payments the member has received and any amount the member may owe to the plan:

1. If the member has less than five years of credited service with the plan, the member may withdraw the member's accumulated contributions from the plan.

2. If the member has five or more years of credited service with the plan, the member may withdraw the member's accumulated contributions plus an amount equal to the amount determined as follows:

(a) 5.0 to 5.9 years of credited service, twenty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(b) 6.0 to 6.9 years of credited service, forty per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(c) 7.0 to 7.9 years of credited service, fifty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

(f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-810, subsection A.

~~C.~~ D. If a member has more than ten years of credited service with the plan, leaves the monies prescribed in subsection ~~B~~ C of this section on account with the plan for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the amount prescribed in subsection B of this section plus interest at a rate determined by the board for each year computed from and after the member's termination of employment.

~~D.~~ E. If an elected official who becomes a member of the plan on or after January 1, 2012 ceases to hold office for any reason other than death or retirement, within twenty days after filing a completed application with the board, the member may withdraw the member's accumulated contributions from the plan and shall be paid the member's accumulated contributions plus interest at a rate determined by the board as of the date of termination, less any benefit payments the member has received and any amount the member may owe to the plan.

~~E.~~ F. If the amount prescribed in subsection ~~B,~~ C, ~~or~~ D OR E of this section includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the board. A member who receives the amount prescribed in subsection ~~B,~~ C, ~~or~~ D OR E of this section from the plan or who elects a transfer pursuant to this subsection forfeits the member's credited service, and all rights to benefits under the plan and membership in the plan terminate.

~~F.~~ G. In no case shall more than twelve months of credited service be credited on account of all service rendered by a member in any one year.

~~G.~~ H. If an elected official who has terminated the member's membership in the plan pursuant to subsection ~~B~~ C of this section is subsequently elected ~~or otherwise becomes eligible for membership in the plan pursuant to subsection A of this section, credited service only accrues from the date of the member's most recent eligibility as an elected official~~, APPOINTED OR HIRED ON OR AFTER JANUARY 1, 2014, THE ELECTED OFFICIAL IS NOT

ELIGIBLE TO BECOME A MEMBER OF THE PLAN BUT IS SUBJECT TO ARTICLE 3.1 OF THIS CHAPTER.

~~H.~~ I. Notwithstanding subsection ~~G~~ H of this section, if an elected official files a written election form with the board within ninety days after the day of the member's reemployment as an elected official and repays the amount previously withdrawn pursuant to subsection ~~B or~~ C OR D of this section within one year after the date of the member's reemployment as an elected official, with interest on that amount at the rate of nine per cent for each year, compounded each year from the date of withdrawal to the date of repayment, credited service shall be restored. Credited service shall not be restored until complete repayment is made to the fund.

J. AN ELECTED OFFICIAL WHO IS ELECTED, APPOINTED OR HIRED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013 IS NOT ELIGIBLE TO BECOME A MEMBER OF THE PLAN BUT IS SUBJECT TO ARTICLE 3.1 OF THIS CHAPTER.

~~I.~~ K. If a retired member subsequently becomes an elected official, contributions shall not be made by the retired member and credited service shall not accrue while the retired member is holding office.

~~J.~~ L. In addition to subsection ~~I~~ K of this section, if a retired member subsequently becomes, by reason of election or reelection, an elected official of the same office from which the member retired within a time period following the member's retirement that is less than one full term for that office, the member shall not receive a pension. If the elected official ceases to hold the same office, the elected official is entitled to receive the same pension the elected official was receiving when the elected official's pension was discontinued pursuant to this subsection. Nothing in this subsection prohibits a retired judge called by the supreme court to active duties of a judge pursuant to section 38-813 from receiving retirement benefits.

Sec. 6. Section 38-810, Arizona Revised Statutes, is amended to read:

38-810. <u>Contributions; appropriations</u>

A. Each member shall contribute to the fund an amount equal to the amount prescribed in subsection ~~F~~ G of this section. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for the member's services rendered during the period covered by the payment, except with respect to the benefits provided under the plan.

B. The board's office shall be credited monthly with monies collected pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31, subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6, section 22-281, subsection C, paragraph 3 and section 41-178. The monies credited to the fund pursuant to this subsection shall be deposited in the

fund on a monthly basis, and there shall be a complete accounting of the determination of these monies deposited in the fund.

C. BEGINNING ON JANUARY 1, 2014 THROUGH JUNE 30, 2044, EACH EMPLOYER SHALL MAKE LEVEL PER CENT COMPENSATION CONTRIBUTIONS OF TWENTY-THREE AND ONE-HALF PER CENT OF THE COMPENSATION OF ALL EMPLOYEES OF THE EMPLOYER WHO ARE EITHER MEMBERS UNDER THIS ARTICLE, ARTICLE 3.1 OF THIS CHAPTER OR ARTICLE 2 OF THIS CHAPTER PURSUANT TO SECTION 38-727, SUBSECTION B TO MEET THE NORMAL COST PLUS AN AMOUNT TO AMORTIZE THE UNFUNDED ACCRUED LIABILITY AND THE EMPLOYER'S CONTRIBUTION UNDER THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER AND THE EMPLOYER'S CONTRIBUTION UNDER ARTICLE 2 OF THIS CHAPTER FOR MEMBERS ELIGIBLE PURSUANT TO SECTION 38-727, SUBSECTION B. THE EMPLOYER ALSO SHALL PAY THE AMOUNT REQUIRED BY SECTION 38-797.05 FOR MEMBERS UNDER ARTICLE 2 OF THIS CHAPTER WHO ARE ELIGIBLE PURSUANT TO SECTION 38-727, SUBSECTION B AND THE AMOUNT REQUIRED BY ARTICLE 3.2 OF THIS CHAPTER FOR MEMBERS UNDER ARTICLE 3.1 OF THIS CHAPTER. THE MONIES DEPOSITED IN THE FUND PURSUANT TO SUBSECTION B OF THIS SECTION SHALL BE USED TO SUPPLEMENT THE CONTRIBUTIONS REQUIRED OF ALL EMPLOYERS UNDER THE PLAN. THE EMPLOYER LEVEL PER CENT COMPENSATION CONTRIBUTION THAT IS PAID PURSUANT TO THIS SUBSECTION, LESS THE AMOUNT CONTRIBUTED BY THE EMPLOYER PURSUANT TO SECTION 38-833 AND SECTION 38-737 FOR MEMBERS ELIGIBLE PURSUANT TO SECTION 38-727, SUBSECTION B, SHALL NOT BE USED TO PAY FOR AN INCREASE IN BENEFITS THAT IS OTHERWISE PAYABLE TO MEMBERS BUT SHALL BE USED TO MEET THE NORMAL COST PLUS AN AMOUNT TO AMORTIZE THE UNFUNDED ACCRUED LIABILITY.

~~C.~~ D. BEGINNING JULY 1, 2044, as determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over~~, beginning July 1, 2005,~~ a rolling period of at least twenty and not more than thirty years that is established by the board taking into account the recommendation of the plan's actuary, except that~~, beginning with fiscal year 2006-2007,~~ the employer contribution rate shall not be less than ten per cent of salary. The monies deposited in the fund pursuant to subsection B of this section shall be used to ~~reduce~~ SUPPLEMENT the contributions required of ~~state and county~~ ALL employers ~~only~~ UNDER THE PLAN. ~~Employers that entered the plan under a joinder agreement shall also contribute an amount equal to the unfunded accrued liability for that employer. The unfunded liability for each new employer shall be actuarially determined by the plan's actuary as of the effective date of participation of each employer and shall be payable on the effective date of participation.~~ The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in

benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund contains excess valuation assets and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of the fund has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account, to the extent available, to limit the decline in the fund's funding ratio to not more than two per cent.

~~D.~~ E. The department of administration and the treasurer of each county and participating city and town shall transfer to the board the contributions provided for in subsections A, ~~and~~ C AND D of this section within ten working days after each payroll date. The state, county treasurers and clerks of the superior court shall transfer the monies credited under subsection B of this section to the board on or before the fifteenth day of each calendar month that follows the month in which the court fees were collected. Contributions and monies credited under subsection B of this section and transferred after these dates shall include a penalty equal to ten per cent a year, compounded annually, for each day that the contributions or monies credited under subsection B of this section are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or, at the request of the board, may be deducted from any other monies, including excise revenue taxes, payable to a political subdivision by any department or agency of this state. If requested by the board, the state, county treasurers or clerks of the superior court shall transfer the monies credited under subsection B of this section, in an amount determined by the board, directly to the qualified governmental excess benefit arrangement established pursuant to section 38-803.01.

~~E.~~ F. The employer shall pay the member contributions required of members on account of compensation earned after August 7, 1985. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the United States internal revenue code. The effective date of the employer payment shall not be before the date the retirement plan has received notification from the United States internal revenue service that pursuant to section 414(h) of the United States internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or pension payments. The employer shall pay the member contributions from monies established and available in the retirement deduction account, which monies would otherwise have been designated as

member contributions and paid to the retirement plan. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before August 7, 1985.

~~F.~~ G. The amount contributed by a member pursuant to subsection A of this section is:

1. Through June 30, 2011, seven per cent of the member's gross salary.

2. For fiscal year 2011-2012, ten per cent of the member's gross salary.

3. For fiscal year 2012-2013, eleven and one-half per cent of the member's gross salary.

4. For fiscal year 2013-2014 and each fiscal year thereafter, thirteen per cent of the member's gross salary. ~~or 33.3 per cent of the sum of the member's contribution rate from the preceding fiscal year and the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability for the employer as calculated pursuant to subsection C of this section, whichever is lower, except that the member contribution rate shall not be less than seven per cent of the member's compensation and the employer contribution rate shall not be less than the rate prescribed in subsection C of this section.~~

~~G.~~ H. For fiscal year 2011-2012 and each fiscal year thereafter, the amount of the member's contribution that exceeds seven per cent of the member's compensation shall not be used to reduce the employer's contributions that are calculated pursuant to subsection C of this section.

I. IN FISCAL YEARS 2013-2014 THROUGH 2042-2043, THE SUM OF $5,000,000 IS APPROPRIATED IN EACH FISCAL YEAR FROM THE STATE GENERAL FUND TO THE ELECTED OFFICIALS' RETIREMENT PLAN FUND TO SUPPLEMENT THE NORMAL COST PLUS AN AMOUNT TO AMORTIZE THE UNFUNDED ACCRUED LIABILITY PURSUANT TO SUBSECTION C OF THIS SECTION. MONIES APPROPRIATED PURSUANT TO THIS SUBSECTION SHALL NOT BE USED TO PAY FOR AN INCREASE IN BENEFITS THAT IS OTHERWISE PAYABLE TO MEMBERS AND SHALL ONLY BE USED AS SPECIFIED IN THIS SUBSECTION. MONIES APPROPRIATED PURSUANT TO THIS SUBSECTION ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

Sec. 7. Section 38-810.04, Arizona Revised Statutes, is amended to read:

38-810.04. <u>Retired member; return to work; employer contributions</u>

A. An employer shall pay contributions at an alternate contribution rate on behalf of a retired member who returns to work in any capacity in a position ordinarily filled by an elected official of the employer. This section applies to a retired member who has been retired for more than one full term for that office.

B. The alternate contribution rate shall be equal to that portion of the total required contribution that is applied to the amortization of the unfunded actuarial accrued liability for the fiscal year beginning July 1,

based on the plan's actuary's calculation of the total required contribution for the preceding fiscal year ended on June 30. The alternate contribution rate shall be applied to the compensation, gross salary or contract fee of a retired member who meets the requirements of this section.

C. The alternate contribution rate shall not be less than ten per cent in any fiscal year.

D. All contributions made by the employer and allocated to the fund established by section 38-802 are irrevocable and shall be used as benefits under this article or to pay the expenses of the plan. Payments made pursuant to this section by employers become delinquent after the due date prescribed in SECTION 38-810, subsection ~~D~~ E, and thereafter shall be increased by interest from and after that date until payment is received by the plan.

E. An employer of a retired member shall submit any reports, data, paperwork or materials that are requested by the board and that are necessary to determine the compensation, gross salary or contract fee associated with a retired member who returns to work or to determine the function, use, efficacy or operation of the return to work program.

Sec. 8. Title 38, chapter 5, Arizona Revised Statutes, is amended by adding articles 3.1 and 3.2, to read:

ARTICLE 3.1. ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM

38-831. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ANNUITY ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED FOR EACH MEMBER TO RECORD THE DEPOSIT OF MEMBER CONTRIBUTIONS, EMPLOYER CONTRIBUTIONS AND INTEREST, DIVIDENDS OR OTHER ACCUMULATIONS CREDITED ON BEHALF OF THE MEMBER.

2. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ESTABLISHED BY SECTION 38-848.

3. "DEFINED CONTRIBUTION SYSTEM" MEANS THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO THIS ARTICLE.

4. "ELECTED OFFICIAL" MEANS:

(a) EVERY ELECTED OFFICIAL OF THIS STATE WHO WAS ELECTED OR APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(b) EVERY ELECTED OFFICIAL OF EACH COUNTY OF THIS STATE WHO WAS ELECTED OR APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(c) EVERY JUSTICE OF THE SUPREME COURT WHO WAS APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(d) EVERY JUDGE OF THE COURT OF APPEALS WHO WAS APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(e) EVERY JUDGE OF THE SUPERIOR COURT WHO WAS ELECTED OR APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(f) EVERY FULL-TIME SUPERIOR COURT COMMISSIONER, EXCEPT FULL-TIME SUPERIOR COURT COMMISSIONERS WHO FAILED TO MAKE A TIMELY ELECTION OF MEMBERSHIP UNDER THE JUDGES' RETIREMENT PLAN, REPEALED ON AUGUST 7, 1985, WHO WAS HIRED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

(g) EACH ELECTED OFFICIAL OF AN INCORPORATED CITY OR TOWN WHOSE EMPLOYER HAS EXECUTED A PROPER JOINDER AGREEMENT FOR COVERAGE OF ITS ELECTED OFFICIALS, WHO WAS ELECTED OR APPOINTED ON OR AFTER JANUARY 1, 2014 AND WHO WAS NOT A MEMBER OF THE PLAN ON DECEMBER 31, 2013.

5. "EMPLOYER" MEANS A DEPARTMENT OR POLITICAL SUBDIVISION OF THIS STATE THAT MAKES EMPLOYER CONTRIBUTIONS TO THE DEFINED CONTRIBUTION SYSTEM ON BEHALF OF A MEMBER.

6. "EMPLOYER CONTRIBUTION" MEANS AN AMOUNT DEPOSITED BY AN EMPLOYER, FROM THE EMPLOYER'S OWN MONIES, IN THE MEMBER'S ANNUITY ACCOUNT ON A PERIODIC BASIS COINCIDING WITH THE MEMBER'S REGULAR PAY PERIOD.

7. "MEMBER" MEANS AN ELECTED OFFICIAL UNDER THE DEFINED CONTRIBUTION SYSTEM.

8. "PLAN" MEANS THE ELECTED OFFICIALS' RETIREMENT PLAN ESTABLISHED IN ARTICLE 3 OF THIS CHAPTER.

38-832. <u>Defined contribution system; annual report; quarterly statements</u>

A. THE BOARD SHALL ESTABLISH, DESIGN AND ADMINISTER A DEFINED CONTRIBUTION SYSTEM TO PROVIDE FOR THE RETIREMENT OF ELECTED OFFICIALS.

B. THE PURPOSE OF THIS ARTICLE IS TO PROVIDE A DEFINED CONTRIBUTION SYSTEM THAT IS FULLY FUNDED ON A CURRENT BASIS FROM EMPLOYER AND MEMBER CONTRIBUTIONS.

C. THE LEGISLATURE INTENDS THAT THE DEFINED CONTRIBUTION SYSTEM FOR MEMBERS UNDER THIS ARTICLE BE DESIGNED TO BE A QUALIFIED GOVERNMENT PLAN UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE, AS AMENDED, OR SUCCESSOR PROVISIONS OF LAW, AND BE EXEMPT FROM TAXATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE BOARD MAY ADOPT ANY ADDITIONAL PROVISIONS TO THE DEFINED CONTRIBUTION SYSTEM THAT ARE NECESSARY TO FULFILL THIS INTENT. ON OR BEFORE DECEMBER 31, 2013, THE BOARD SHALL SUBMIT TO THE INTERNAL REVENUE SERVICE A REQUEST FOR A DETERMINATION LETTER THAT THE DEFINED CONTRIBUTION SYSTEM IS A PLAN QUALIFIED UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE AND A PRIVATE LETTER RULING THAT ALL MEMBER CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN SECTION 38-833 SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE CODE.

D. THE BOARD MAY:

1. EMPLOY THE SERVICES OF THE THIRD-PARTY ADMINISTRATOR THAT IS CONTRACTED ON THE EFFECTIVE DATE OF THIS SECTION TO ADMINISTER THE

SUPPLEMENTAL DEFINED CONTRIBUTION PLAN PURSUANT TO ARTICLE 8 OF THIS CHAPTER TO ALSO ADMINISTER THE DEFINED CONTRIBUTION SYSTEM.

2. EMPLOY OTHER SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR THE OPERATION AND ADMINISTRATION OF THE DEFINED CONTRIBUTION SYSTEM.

3. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE SYSTEM.

E. THE BOARD SHALL ADOPT POLICIES REGARDING THE DEFINED CONTRIBUTION SYSTEM, INCLUDING THE ADMINISTRATION OF THE MEMBER AND EMPLOYER CONTRIBUTIONS, INVESTMENT OPTIONS, TERMINATION IN THE DEFINED CONTRIBUTION SYSTEM, THE ADMINISTRATION OF THE PAYOUT OPTIONS UNDER THE DEFINED CONTRIBUTION SYSTEM AND THE ADMINISTRATION OF THE MEMBER DISTRIBUTIONS.

F. ON RECEIPT OF THE DETERMINATION LETTER AND PRIVATE LETTER RULING FROM THE INTERNAL REVENUE SERVICE, THE BOARD SHALL PARTICIPATE IN A COMPETITIVE BID PROCESS AT LEAST ONCE EVERY FIVE YEARS TO CONTRACT WITH A PRIVATE PERSON OR ANY QUALIFIED COMPANY OR COMPANIES TO ADMINISTER THE DEFINED CONTRIBUTION SYSTEM ESTABLISHED UNDER THIS SECTION.

G. ANY CONTRACT FOR A THIRD-PARTY ADMINISTRATOR OF THE DEFINED CONTRIBUTION SYSTEM SHALL INCLUDE COMPETITIVE FEES, QUARTERLY MEETINGS WITH THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, ANNUAL UPDATES TO THE BOARD ON THE STATUS OF THE DEFINED CONTRIBUTION SYSTEM AND QUARTERLY STATEMENTS TO EACH MEMBER. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE BOARD SHALL REPORT THE STATUS OF THE DEFINED CONTRIBUTION SYSTEM TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE JOINT LEGISLATIVE BUDGET COMMITTEE.

38-833. Member and employer contributions; disability

A. BEGINNING JANUARY 1, 2014, THE DEFINED CONTRIBUTION SYSTEM IS THE RETIREMENT PROGRAM FOR ELECTED OFFICIALS, UNLESS THE ELECTED OFFICIAL CONTINUES OR RESUMES PARTICIPATION IN ASRS PURSUANT TO SECTION 38-727, SUBSECTION C. ELECTED OFFICIALS SHALL BE ENROLLED IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED BY THE BOARD PURSUANT TO THIS ARTICLE.

B. EACH ELECTED OFFICIAL WHO IS A MEMBER OF THE DEFINED CONTRIBUTION SYSTEM SHALL CONTRIBUTE EIGHT PER CENT OF THE MEMBER'S GROSS COMPENSATION BY SALARY REDUCTION THAT SHALL BE DEPOSITED IN THE MEMBER'S ANNUITY ACCOUNT. EACH MEMBER SHALL ALSO CONTRIBUTE TO THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM DISABILITY PROGRAM PURSUANT TO ARTICLE 3.2 OF THIS CHAPTER.

C. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL MEMBER CONTRIBUTIONS MADE TO THE DEFINED CONTRIBUTION SYSTEM SHALL BE PICKED UP AND PAID BY THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE CONTRIBUTIONS PICKED UP BY AN EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE MEMBER'S COMPENSATION. A MEMBER PARTICIPATING IN THE DEFINED CONTRIBUTION SYSTEM DOES NOT HAVE THE OPTION OF CHOOSING TO RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE EMPLOYER PAYING THE AMOUNTS TO THE DEFINED CONTRIBUTION SYSTEM. ALL MEMBER CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN THIS SUBSECTION SHALL BE TREATED AS EMPLOYER

CONTRIBUTIONS UNDER SECTION 414(h) OF THE INTERNAL REVENUE CODE, SHALL BE EXCLUDED FROM MEMBERS' GROSS INCOME FOR FEDERAL AND STATE INCOME TAX PURPOSES AND ARE INCLUDABLE IN THE GROSS INCOME OF THE MEMBERS OR THE MEMBERS' BENEFICIARIES ONLY IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED.

D. EACH EMPLOYER SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO SIX PER CENT OF EACH MEMBER'S GROSS COMPENSATION. THE PRO RATA SHARE OF THIS AMOUNT SHALL BE PAID ON EACH DATE THAT A MEMBER CONTRIBUTION IS MADE AND SHALL BE CREDITED TO THE MEMBER'S ANNUITY ACCOUNT. EACH EMPLOYER SHALL ALSO CONTRIBUTE TO THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM DISABILITY PROGRAM PURSUANT TO ARTICLE 3.2 OF THIS CHAPTER.

E. MEMBER AND EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS ARE IMMEDIATELY VESTED. A MEMBER MAY RECEIVE BENEFITS PURSUANT TO ARTICLE 3.2 OF THIS CHAPTER IF THE MEMBER BECOMES TOTALLY DISABLED.

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

38-840. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. EMPLOY SERVICES AS IT DEEMS NECESSARY.

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

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

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

38-840.02. <u>EODC disability program trust fund</u>

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

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

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

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

2. BEFORE MONIES ARE PRESUMED ABANDONED, THE SYSTEM SHALL ATTEMPT TO CONTACT THE APPARENT OWNER IN WRITING. IF THIS NOTICE IS RETURNED BY THE

POSTAL AUTHORITY AS UNDELIVERABLE, THEN EACH YEAR FOR THREE YEARS FROM THE DATE THAT DISTRIBUTIONS SHOULD HAVE BEGUN, THE SYSTEM SHALL MAKE A GOOD FAITH ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN BENEFICIARY ON RECORD WITH THE SYSTEM, SEARCHING PUBLIC DATABASES TO IDENTIFY THE ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY ADDRESS VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE APPARENT OWNER FAILS, MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS SUBSECTION.

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

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

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

38-840.03. Eligibility

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

38-840.04. Employer and member contributions

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

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

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

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

E. THE DEPARTMENT OF ADMINISTRATION AND THE TREASURER OF EACH COUNTY AND PARTICIPATING CITY AND TOWN SHALL TRANSFER TO THE BOARD THE CONTRIBUTIONS PROVIDED FOR IN SUBSECTIONS A AND B OF THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THESE DATES SHALL INCLUDE A PENALTY EQUAL TO TEN PER CENT PER ANNUM, COMPOUNDED DAILY, FOR EACH DAY THAT THE CONTRIBUTIONS ARE LATE. DELINQUENT PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION AND COURT COSTS, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION

AGAINST THE PERSON OR PERSONS RESPONSIBLE FOR THE PAYMENTS OR, AT THE REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE TAXES, PAYABLE TO A POLITICAL SUBDIVISION BY ANY DEPARTMENT OR AGENCY OF THIS STATE.

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

G. MEMBER CONTRIBUTIONS ARE NOT REFUNDABLE.

38-840.05. Contribution rate

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

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

38-840.06. EODC disability program benefits

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

38-840.07. Errors; benefit recomputation

IF ANY CHANGE OR ERROR IN THE RECORDS RESULTS IN ANY MEMBER RECEIVING FROM THE EODC DISABILITY PROGRAM MORE OR LESS THAN THE MEMBER WOULD HAVE BEEN ENTITLED TO RECEIVE IF THE RECORDS HAD BEEN CORRECT, THE BOARD SHALL CORRECT THE ERROR AND SHALL ADJUST THE PAYMENTS IN A MANNER SO THAT THE EQUIVALENT OF THE BENEFIT TO WHICH THE MEMBER WAS CORRECTLY ENTITLED IS PAID. THE BOARD SHALL CORRECT ANY CHANGE OR ERROR AND SHALL PAY THE APPROPRIATE MONIES TO A MEMBER OR SHALL RECOVER MONIES FROM THE MEMBER IF THE MEMBER WAS OVERPAID. THE BOARD SHALL RECOVER MONIES BY REDUCING ANY BENEFIT THAT IS OTHERWISE PAYABLE BY THE EODC DISABILITY PROGRAM TO A DISABLED MEMBER.

38-840.08. Facility of payment

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

38-840.09. Assurances and liabilities

A. THIS ARTICLE DOES NOT ESTABLISH:

1. A CONTRACT OF EMPLOYMENT BETWEEN AN EMPLOYER AND ANY EMPLOYEE.

2. A RIGHT OF ANY MEMBER TO CONTINUE IN THE EMPLOYMENT OF AN EMPLOYER.

3. A LIMITATION OF THE RIGHTS OF AN EMPLOYER TO DISCHARGE ANY OF ITS EMPLOYEES, WITH OR WITHOUT CAUSE.

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

C. BENEFITS, EMPLOYER AND MEMBER CONTRIBUTIONS, EARNINGS AND ALL OTHER CREDITS PAYABLE UNDER THIS ARTICLE ARE NOT SUBJECT IN ANY MANNER TO ANTICIPATION, ALIENATION, SALE, TRANSFER, ASSIGNMENT, PLEDGE, ENCUMBRANCE, CHARGE, GARNISHMENT, EXECUTION OR LEVY OF ANY KIND, EITHER VOLUNTARY OR INVOLUNTARY, BEFORE ACTUALLY BEING RECEIVED BY A PERSON ENTITLED TO THE BENEFIT, EARNING OR CREDIT, AND ANY ATTEMPT TO ANTICIPATE, ALIENATE, SELL, TRANSFER, ASSIGN, PLEDGE, ENCUMBER, CHARGE, GARNISH, EXECUTE OR LEVY OR OTHERWISE DISPOSE OF ANY BENEFIT, EARNING OR CREDIT UNDER THIS ARTICLE IS VOID. THE EODC DISABILITY PROGRAM TRUST FUND IS NOT IN ANY MANNER LIABLE FOR, OR SUBJECT TO, THE DEBTS, CONTRACTS, LIABILITIES, ENGAGEMENTS OR TORTS OF ANY PERSON ENTITLED TO ANY BENEFIT, EARNING OR CREDIT UNDER THIS ARTICLE.

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

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

38-840.10. Exemption from execution and attachment; taxation

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

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

38-840.11. Violation; classification

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

38-840.12. Reservation to legislature

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

38-840.13. Liquidation of the EODC disability program

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

Sec. 9. Section 38-848, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

D. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system and other retirement plans that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the

administrator, employed by the board pursuant to subsection K, paragraph 6 of this section, and any assistant administrators to invest the monies of the system and other retirement plans that the board administers if the administrator, investment management and any assistant administrators follow the investment policies that are adopted by the board. The board may commingle securities and monies of the fund, the elected officials' retirement plan, the corrections officer retirement plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, provided:

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

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

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

4. That corporate stocks and exchange traded funds eligible for purchase shall be restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks and membership interests in limited liability companies, are either:

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

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

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

(d) Listed or approved on issuance for listing on an exchange of a foreign country with which the United States is maintaining diplomatic relations at the time of purchase, except that no more than twenty per cent of the combined assets of the system and other plans that the board manages

shall be invested in foreign securities, based on the cost value of the stocks irrespective of capital appreciation.

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

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

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

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

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

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

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

3. Also:

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

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

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

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

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

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

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

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

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

8. Empower the fund administrator to take actions on behalf of the board that are necessary for the protection and administration of the fund or the assets of other plans that the board administers pursuant to the guidelines of the board.

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

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

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

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

1. A balance sheet.

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

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

4. A list of investments owned.

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

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

7. AN ANALYSIS OF THE LONG-TERM LEVEL PER CENT OF EMPLOYER CONTRIBUTIONS AND COMPENSATION STRUCTURE AND WHETHER THE FUNDING METHODOLOGY IS SUFFICIENT TO PAY ONE HUNDRED PER CENT OF THE UNFUNDED ACCRUED LIABILITY UNDER THE ELECTED OFFICIALS' RETIREMENT PLAN.

K. The board shall:

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

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

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

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

5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system and other plans that the board administers, be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of the system, the elected officials' retirement plan, the corrections officer retirement plan and the fire fighter and peace officer cancer insurance policy program and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.

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

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

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

1. Administer this article.

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

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

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

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

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

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

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

M. The system is an independent trust fund and the board is not subject to title 41, chapter 6. Contracts for goods and services approved by the board are not subject to title 41, chapter 23. As an independent trust fund whose assets are separate and apart from all other funds of this state, the system and the board are not subject to the restrictions prescribed in section 35-154 or article IX, sections 5 and 8, Constitution of Arizona. Loans, guarantees, investment management agreements and investment contracts that are entered into by the board are contracts memorializing obligations or interests in securities that the board has concluded, after thorough due diligence, do not involve investments in Sudan or Iran or otherwise provide support to terrorists or in any way facilitate illegal immigration into the United States. These contracts do not involve the procurement, supply or provision of goods, equipment, labor, materials or services that would require the certifications or warranties required by sections 35-391.06, 35-393.06 and 41-4401.

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

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

1. Administrator.
2. Deputy or assistant administrator.
3. Chief investment officer.
4. Deputy chief investment officer.
5. Fiduciary or investment counsel.

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

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

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

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

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

1. A portfolio manager acting in a fiduciary capacity.
2. A securities analyst.
3. An employee or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment related capacity.
4. A chartered financial analyst in good standing as determined by the association for investment management and research.
5. A professor at the university level teaching economics or investment related subjects.
6. An economist.
7. Any other professional engaged in the field of public or private finances.

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

APPROVED BY THE GOVERNOR JUNE 19, 2013.

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

Passed the House February 28, 20 13

by the following vote: 35 Ayes,

22 Nays, 3 Not Voting

without emergency

Speaker of the House

Chief Clerk of the House

Passed the Senate May 8, 20 13

ON reconsideration

by the following vote: 16 Ayes,

13 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2608

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

June 13, 2013,

by the following vote: 35 Ayes,

24 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

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.

Mikhaila Howard

Secretary to the Governor

Approved this 19th day of

June, 2013,

at 11:50 o'clock A M.

Janice K. Brewer

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.

Ken Bennett

Secretary of State

H.B. 2608