

Senate Engrossed

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

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CHAPTER 78

## **SENATE BILL 1173**

AN ACT

AMENDING SECTIONS 38-881, 38-884, 38-886, 38-886.01, 38-891, 38-893, 38-895.02, 38-904, 38-906 AND 38-909.01, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-881, Arizona Revised Statutes, is amended to  
3 read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

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

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

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

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

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25 previously withdrawn accumulated member contributions that are repaid to the  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

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

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

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

35 6. "Annuitant" means a person who is receiving a benefit pursuant to  
36 section 38-911.

37 7. "Average monthly salary" means, for an employee who becomes a  
38 member of the plan before January 1, 2012, one-thirty-sixth of the aggregate  
39 amount of salary that is paid a member by a participating employer during a  
40 period of thirty-six consecutive months of service in which the member  
41 received the highest salary within the last one hundred twenty months of  
42 service and, for an employee who becomes a member of the plan on or after  
43 January 1, 2012, one-sixtieth of the aggregate amount of salary that is paid  
44 a member by a participating employer during a period of sixty consecutive  
45 months of service in which the member received the highest salary within the

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

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

11 9. "Board" means the board of trustees of the public safety personnel  
12 retirement system.

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

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

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

24 13. "Designated position" means:

25 (a) For a county:

26 (i) A county detention officer.

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

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

31 (i) Food service.

32 (ii) Nursing personnel.

33 (iii) Corrections physician assistant.

34 (iv) Therapist.

35 (v) Corrections dental assistant.

36 (vi) Hygienist.

37 (vii) Corrections medical assistant.

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

40 (ix) State correctional program officer.

41 (x) Parole or community supervision officers.

42 (xi) Investigators.

43 (xii) Teachers.

44 (xiii) Institutional maintenance workers.

45 (xiv) Youth corrections officer.

1 (xv) Youth program officer.

2 (xvi) Behavioral health treatment unit managers.

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

13           (f) An eligible deferred compensation plan described in section 457(b)  
14 of the internal revenue code that is maintained by a state, a political  
15 subdivision of a state or any agency or instrumentality of a state or a  
16 political subdivision of a state and that agrees to separately account for  
17 amounts transferred into the eligible deferred compensation plan from this  
18 plan.

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

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

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

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

30           22. "Employee" means a person employed by a participating employer in a  
31 designated position.

32           23. "Employer" means an agency or department of this state or a  
33 political subdivision of this state that has one or more employees in a  
34 designated position.

35           24. "Fund" means the corrections officer retirement plan fund.

36           25. "Juvenile detention officer" means a juvenile detention officer  
37 responsible for the direct custodial supervision of juveniles who are  
38 detained in a county juvenile detention center.

39           26. "Local board" means the retirement board of the employer that  
40 consists of persons appointed or elected to administer the plan as it applies  
41 to the employer's members in the plan.

42           27. "Member" means any employee who meets all of the following  
43 qualifications:

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

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

4 (c) Whose customary employment is at least forty hours each week.

5 28. "Normal retirement date" means:

6 (a) For an employee who becomes a member of the plan before January 1,  
7 2012, the first day of the calendar month immediately following the  
8 employee's completion of twenty years of service or, in the case of a  
9 dispatcher, twenty-five years of service, the employee's sixty-second  
10 birthday and completion of ten years of service or the month in which the sum  
11 of the employee's age and years of credited service equals eighty.

12 (b) For an employee who becomes a member of the plan on or after  
13 January 1, 2012, the first day of the calendar month immediately following  
14 the employee's completion of twenty-five years of service if the employee is  
15 at least fifty-two and one-half years of age or the employee's sixty-second  
16 birthday and completion of ten years of service.

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

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

26 31. "Participant" means a member who is subject to a domestic relations  
27 order.

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

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

34 34. "Pension" means a series of monthly payments by the retirement plan  
35 but does not include an annuity that is payable pursuant to section 38-911.

36 35. "Personal representative" means the personal representative of a  
37 deceased alternate payee.

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

40 ~~36-~~ 37. "Plan approved domestic relations order" means a domestic  
41 relations order that the plan approves as meeting all the requirements for a  
42 plan approved domestic relations order as otherwise prescribed in this  
43 article.

1       ~~37-~~ 38. "Probation or surveillance officer" means an officer appointed  
2 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
3 personnel, office assistants or support staff.

4       ~~38-~~ 39. "Retired member" means an individual who terminates employment  
5 and who is receiving a pension pursuant to either section 38-885 or 38-886.

6       ~~39-~~ 40. "Retirement" or "retired" means termination of employment  
7 after a member has fulfilled all requirements for a pension or, for an  
8 employee who becomes a member of the plan on or after January 1, 2012,  
9 attains the age and service requirements for a normal retirement date.

10       ~~40-~~ 41. "Retirement plan" or "plan" means the corrections officer  
11 retirement plan established by this article.

12       ~~41-~~ 42. "Salary" means the base salary, shift differential pay,  
13 military differential wage pay and holiday pay paid a member for personal  
14 services rendered in a designated position to a participating employer on a  
15 regular monthly, semimonthly or biweekly payroll basis. Salary includes  
16 amounts that are subject to deferred compensation or tax shelter agreements.  
17 Salary does not include payment for any remuneration or reimbursement other  
18 than as prescribed by this paragraph. For the purposes of this paragraph,  
19 "base salary" means the amount of compensation each member is regularly paid  
20 for personal services rendered to an employer before the addition of any  
21 extra monies, including overtime pay, shift differential pay, holiday pay,  
22 fringe benefit pay and similar extra payments.

23       ~~42-~~ 43. "Segregated funds" means the amount of benefits that would  
24 currently be payable to an alternate payee pursuant to a domestic relations  
25 order under review by the plan, or a domestic relations order submitted to  
26 the plan that failed to qualify as a plan approved domestic relations order,  
27 if the domestic relations order were determined to be a plan approved  
28 domestic relations order.

29       ~~43-~~ 44. "Service" means employment rendered to a participating  
30 employer as an employee in a designated position. Any absence that is  
31 authorized by an employer, including any periods during which the employee is  
32 on an employer sponsored long-term disability program, is considered as  
33 service if the employee returns or is deemed by the employer to have returned  
34 to a designated position within the period of the authorized absence.

35       ~~44-~~ 45. "Total and permanent disability" means a physical or mental  
36 condition that is not an accidental disability, that the local board finds  
37 totally and permanently prevents a member from engaging in any gainful  
38 employment and that is the direct and proximate result of the member's  
39 performance of the member's duty as an employee of a participating employer.

40       Sec. 2. Section 38-884, Arizona Revised Statutes, is amended to read:

41       38-884. Membership of retirement plan; termination; credited  
42                   service; redemption; reemployment; definition

43       A. Each employee of a participating employer is a member of the plan  
44 unless the employee is receiving a pension from the plan. A person employed  
45 shall undergo a medical examination performed by a ~~doctor~~ DESIGNATED

1 PHYSICIAN or A PHYSICIAN WORKING IN A clinic THAT IS appointed by the local  
2 board or, in the case of a state correctional officer who is employed by the  
3 state department of corrections, complete a physical examination pursuant to  
4 section 41-1822, subsection B. For the purposes of subsection B of this  
5 section, the ~~doctor~~ DESIGNATED PHYSICIAN or A PHYSICIAN WORKING IN A clinic  
6 THAT IS appointed by the local board may be the employer's regular employee  
7 or contractor.

8 B. The purpose of the medical examination authorized by this section  
9 is to identify a member's physical or mental condition or injury that existed  
10 or occurred before the member's date of membership in the plan. Any employee  
11 who fails or refuses to submit to the medical examination prescribed in this  
12 section is deemed to waive all rights to disability benefits under this  
13 article. Medical examinations conducted under this article SHALL BE  
14 CONDUCTED BY A PHYSICIAN AND shall not be conducted or used for purposes of  
15 hiring, advancement, discharge, job training or other terms, conditions and  
16 privileges of employment unrelated to receipt or qualification for pension  
17 benefits or service credits from the fund. This subsection does not affect  
18 or impair the right of an employer to prescribe medical or physical standards  
19 for employees or prospective employees.

20 C. If a member who becomes a member of the plan before January 1, 2012  
21 ceases to be an employee for any reason other than death or retirement,  
22 within twenty days after filing a completed application with the board, the  
23 member is entitled to receive the following amounts, less any benefit  
24 payments the member has received and any amount the member may owe to the  
25 plan:

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

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

32 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
33 member contributions deducted from the member's salary pursuant to section  
34 38-891, subsection B.

35 (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
36 contributions deducted from the member's salary pursuant to section 38-891,  
37 subsection B.

38 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
39 member contributions deducted from the member's salary pursuant to section  
40 38-891, subsection B.

41 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
42 member contributions deducted from the member's salary pursuant to section  
43 38-891, subsection B.

1 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
2 member contributions deducted from the member's salary pursuant to section  
3 38-891, subsection B.

4 (f) 10.0 or more years of credited service, one hundred per cent of  
5 all member contributions deducted from the member's salary pursuant to  
6 section 38-891, subsection B.

7 D. If a member who becomes a member of the plan before January 1, 2012  
8 has more than ten years of credited service with the plan, leaves the monies  
9 prescribed in subsection C of this section on account with the plan for more  
10 than thirty days after termination of employment and after that time period  
11 requests a refund of those monies, the member is entitled to receive the  
12 amount prescribed in subsection C of this section plus interest at a rate  
13 determined by the board for each year computed from and after the member's  
14 termination of employment.

15 E. The accumulated member contributions of a member who ceases to be  
16 an employee for a reason other than death or retirement and who becomes a  
17 member of the plan on or after January 1, 2012 shall be paid to the member  
18 plus interest at a rate determined by the board as of the date of termination  
19 within twenty days after filing with the plan a written application for  
20 payment.

21 F. If the refund includes monies that are an eligible rollover  
22 distribution and the member elects to have the distribution paid directly to  
23 an eligible retirement plan or individual retirement account or annuity and  
24 specifies the eligible retirement plan or individual retirement account or  
25 annuity to which the distribution is to be paid, the distribution shall be  
26 made in the form of a direct trustee-to-trustee transfer to the specified  
27 eligible retirement plan. The distribution shall be made in the form and at  
28 the time prescribed by the board.

29 G. Service shall be credited to a member's individual credited service  
30 account in accordance with rules the local board prescribes. In no case  
31 shall more than twelve months of credited service be credited on account of  
32 all service rendered by a member in any one year. In no case shall service  
33 be credited for any period during which the member is not employed in a  
34 designated position, except as provided by sections 38-921 and 38-922.

35 H. Credited service is forfeited if the amounts prescribed in  
36 subsection C, D or E of this section are paid or are transferred in  
37 accordance with this section.

38 I. If a former member becomes reemployed with the same employer within  
39 two years after the former member's termination date, a member may have  
40 forfeited credited service attributable to service rendered during a prior  
41 period of service as an employee restored on satisfaction of each of the  
42 following conditions:

1           1. The member files with the plan a written application for  
2 reinstatement of forfeited credited service within ninety days after again  
3 becoming an employee.

4           2. The retirement fund is paid the total amount previously withdrawn  
5 pursuant to subsection C, D or E of this section plus compound interest from  
6 the date of withdrawal to the dates of repayment. Interest shall be computed  
7 at the rate of nine per cent for each year compounded each year from the date  
8 of withdrawal to the date of repayment. Forfeited credited service shall not  
9 be restored until complete payment is received by the fund.

10          3. The required payment is completed within one year after returning  
11 to employee status.

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

32          K. A retired member may become employed by an employer in a designated  
33 position and continue to receive a pension if the employment occurs at least  
34 twelve months after retirement. The retired member shall not contribute to  
35 the fund and shall not accrue credited service. If a retired member becomes  
36 employed by an employer in a designated position before twelve months after  
37 retirement:

38           1. Payment of the retired member's pension shall be suspended until  
39 the retired member again ceases to be an employee. The amount of pension  
40 shall not be changed on account of service as an employee subsequent to  
41 retirement.

42           2. The retired member shall not contribute to the fund and shall not  
43 accrue credited service.

1           Sec. 3. Section 38-886, Arizona Revised Statutes, is amended to read:  
2           38-886. Accidental disability retirement; total and permanent  
3                     disability retirement; qualification; amount of  
4                     pension; conditions for continued payment of pension

5           A. A member may retire and receive an accidental disability pension or  
6 a total and permanent disability pension if the local board finds that all of  
7 the following conditions occur:

8           1. An application for disability retirement is filed with the  
9 retirement plan or the local board by either the member or the member's  
10 participating employer after the disabling incident or within one year after  
11 the date the member ceases to be an employee AND THE MEMBER'S EMPLOYMENT IS  
12 TERMINATED BY REASON OF ACCIDENTAL DISABILITY OR TOTAL AND PERMANENT  
13 DISABILITY. Timely application for an accidental or a total and permanent  
14 disability pension is a prerequisite to receipt of the pension.

15           2. The member undergoes all medical examinations and tests ordered by  
16 the local board and releases to the local board all medical reports and  
17 records requested by the local board.

18           3. The local board determines that an accidental disability or total  
19 and permanent disability condition exists which THAT meets the requirements  
20 for accidental disability retirement or total and permanent disability  
21 retirement.

22           B. The effective date of an accidental disability retirement or a  
23 total and permanent disability retirement shall not predate the date of  
24 disability or the date the member ceases to be an employee, AND THE  
25 DISABILITY PENSION PAYMENTS SHALL NOT VIOLATE SECTION 38-895.02.

26           C. The amount of an accidental disability pension or a total and  
27 permanent disability pension is equal to fifty per cent of the member's  
28 average monthly salary or the amount computed using the member's average  
29 monthly salary and the member's actual years of credited service, whichever  
30 is higher.

31           D. ~~During the period, if any, between the effective date of accidental~~  
32 ~~disability retirement or total and permanent disability retirement and the~~  
33 ~~date the disabled retired member attains sixty-two years of age~~ The local  
34 board may require a disabled retired member to undergo periodic reevaluation  
35 of the continuation of accidental disability or total and permanent  
36 disability. If the disabled retired member refuses to submit to  
37 reevaluation, the local board may suspend payment of the pension. If the  
38 refusal continues for one year, the local board may revoke the disabled  
39 retired member's rights to the pension. An accidental disability pension or  
40 a total and permanent disability pension is terminated if the local board  
41 finds the retired member no longer meets the requirements for accidental  
42 disability retirement or total and permanent disability retirement. THIS  
43 SUBSECTION DOES NOT APPLY AFTER A DISABLED RETIRED MEMBER REACHES THE  
44 MEMBER'S NORMAL RETIREMENT DATE. THE AMOUNT OF A DISABILITY PENSION SHALL  
45 NOT BE RECOMPUTED AT A DISABLED RETIRED MEMBER'S NORMAL RETIREMENT DATE.

1 E. A member does not qualify for an accidental disability pension or a  
2 total and permanent disability pension if the local board determines that the  
3 member's disability results from any of the following:

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

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

8 3. A physical or mental condition or injury that existed or occurred  
9 before the member's date of membership in the plan.

10 F. Local boards shall base a finding of total and permanent disability  
11 and accidental disability on medical evidence obtained by a ~~medical doctor~~  
12 DESIGNATED PHYSICIAN or A PHYSICIAN WORKING IN A clinic THAT IS selected by  
13 the local board and shall disregard any other medical evidence or opinions.  
14 If the local board retains more than one ~~medical doctor or clinic~~ PHYSICIAN  
15 in connection with any case, the local board shall resolve any material  
16 conflicts in the medical evidence that is presented by the local board's  
17 ~~medical doctors~~ DESIGNATED PHYSICIANS or clinics.

18 G. IF AN ACCIDENTAL DISABILITY CEASES BEFORE A RETIRED MEMBER REACHES  
19 THE MEMBER'S NORMAL RETIREMENT DATE AND THE MEMBER IS REEMPLOYED BY AN  
20 EMPLOYER UNDER THE PLAN, THE PENSION PAYABLE ON THE MEMBER'S SUBSEQUENT  
21 RETIREMENT SHALL BE DETERMINED AS PROVIDED IN SECTION 38-885.

22 Sec. 4. Section 38-886.01, Arizona Revised Statutes, is amended to  
23 read:

24 38-886.01. Ordinary disability retirement; qualifications;  
25 amount of pension; conditions for continued  
26 payment of pension; definition

27 A. A member may retire and receive an ordinary disability pension if  
28 the local board finds that all of the following conditions occur:

29 1. An application for disability retirement is filed with the  
30 retirement plan or the local board by either the member or the member's  
31 participating employer after the disabling incident or within one year after  
32 the date the member ceases to be an employee AND THE MEMBER'S EMPLOYMENT IS  
33 TERMINATED BEFORE THE MEMBER'S NORMAL RETIREMENT DATE BY REASON OF ORDINARY  
34 DISABILITY. Timely application for an ordinary disability pension is a  
35 prerequisite to receipt of the pension.

36 2. The member undergoes all medical examinations and tests ordered by  
37 the local board and releases to the local board all medical reports and  
38 records requested by the local board.

39 3. The local board determines that an ordinary disability condition  
40 exists that meets the requirements for an ordinary disability.

41 4. The member is not participating in the reverse deferred retirement  
42 option plan pursuant to section 38-885.01.

43 B. The effective date of an ordinary disability retirement shall not  
44 predate the date of disability or the date the member ceases to be an

1 employee, AND THE DISABILITY PENSION PAYMENTS SHALL NOT VIOLATE SECTION  
2 38-895.02.

3 C. Except for a full-time dispatcher or a person who becomes a member  
4 of the plan on or after January 1, 2012, the amount of an ordinary disability  
5 pension is equal to a fraction times the member's normal retirement pension  
6 that is computed pursuant to section 38-885, subsection C as if the member  
7 had twenty years of credited service. The fraction is the result obtained by  
8 dividing the member's actual years of credited service, not to exceed twenty  
9 years of credited service, by twenty. For a full-time dispatcher or a person  
10 who becomes a member of the plan on or after January 1, 2012, the amount of  
11 an ordinary disability pension is equal to a fraction times the member's  
12 normal retirement pension that is computed pursuant to section 38-885,  
13 subsection C or E as if the member had twenty-five years of credited service.  
14 The fraction is the result obtained by dividing the member's actual years of  
15 credited service, not to exceed twenty-five years of credited service, by  
16 twenty-five.

17 D. ~~During the period, if any, between the effective date of ordinary~~  
18 ~~disability retirement and the date the disabled retired member attains~~  
19 ~~sixty-two years of age~~ The local board may require a disabled retired member  
20 to undergo periodic reevaluation of the continuation of ordinary disability.  
21 If the disabled retired member refuses to submit to reevaluation, the local  
22 board may suspend payment of the pension. If the refusal continues for one  
23 year, the local board may revoke the disabled retired member's rights to the  
24 pension. An ordinary disability pension is terminated if the local board  
25 finds the retired member no longer meets the requirements for ordinary  
26 disability retirement. THIS SUBSECTION DOES NOT APPLY AFTER A DISABLED  
27 RETIRED MEMBER REACHES THE MEMBER'S NORMAL RETIREMENT DATE. THE AMOUNT OF A  
28 DISABILITY PENSION SHALL NOT BE RECOMPUTED AT A DISABLED RETIRED MEMBER'S  
29 NORMAL RETIREMENT DATE.

30 E. A member does not qualify for an ordinary disability pension if the  
31 local board determines that the member's disability results from any of the  
32 following:

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

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

37 3. A physical or mental condition or injury that existed or occurred  
38 before the member's date of membership in the plan.

39 F. Local boards shall base a finding of ordinary disability on medical  
40 evidence that is obtained by a ~~medical doctor~~ DESIGNATED PHYSICIAN or A  
41 PHYSICIAN WORKING IN A clinic selected by the local board and shall disregard  
42 any other medical evidence or opinions. If the local board retains more than  
43 one ~~medical doctor~~ PHYSICIAN or clinic in connection with the application,  
44 the local board shall resolve any material conflicts presented in the medical

1 evidence that is presented by the ~~medical doctors~~ DESIGNATED PHYSICIANS or  
2 clinics.

3 G. IF AN ORDINARY DISABILITY CEASES BEFORE A RETIRED MEMBER REACHES  
4 THE MEMBER'S NORMAL RETIREMENT DATE AND THE MEMBER IS REEMPLOYED BY AN  
5 EMPLOYER UNDER THE PLAN, THE PENSION PAYABLE ON THE MEMBER'S SUBSEQUENT  
6 RETIREMENT SHALL BE DETERMINED AS PROVIDED IN SECTION 38-885.

7 ~~G.~~ H. For the purposes of this section, "ordinary disability" means a  
8 physical condition that the local board determines will prevent an employee  
9 from totally and permanently performing a reasonable range of duties within  
10 the employee's department or a mental condition that the local board  
11 determines will prevent an employee from totally and permanently engaging in  
12 any substantial gainful activity.

13 Sec. 5. Section 38-891, Arizona Revised Statutes, is amended to read:  
14 38-891. Employer and member contributions

15 A. As determined by actuarial valuations reported to the employers and  
16 the local boards by the board, each employer shall make level per cent of  
17 salary contributions sufficient under the actuarial valuations to meet both  
18 the normal cost plus the actuarially determined amount required to amortize  
19 the unfunded accrued liability over, beginning July 1, 2005, a rolling period  
20 of at least twenty and not more than thirty years that is established by the  
21 board taking into account the recommendation of the plan's actuary, except  
22 that, beginning with fiscal year 2006-2007, except as otherwise provided, the  
23 employer contribution rate shall not be less than six per cent of salary.  
24 For any employer whose actual contribution rate is less than six per cent of  
25 salary for fiscal year 2006-2007 and each year thereafter, that employer's  
26 contribution rate shall be at least five per cent and not more than the  
27 employer's actual contribution rate. An employer may pay a higher level per  
28 cent of salary thereby reducing its unfunded past service liability. All  
29 contributions made by the employers and all state taxes allocated to the fund  
30 shall be irrevocable and shall be used to pay benefits under the plan or to  
31 pay expenses of the plan and fund. The minimum employer contribution that is  
32 paid and that is in excess of the normal cost plus the actuarially determined  
33 amount required to amortize the unfunded accrued liability as calculated  
34 pursuant to this subsection shall be used to reduce future employer  
35 contribution increases and shall not be used to pay for an increase in  
36 benefits that are otherwise payable to members. The board shall separately  
37 account for these monies in the fund. Forfeitures arising because of  
38 severance of employment before a member becomes eligible for a pension or for  
39 any other reason shall be applied to reduce the cost to the employer, not to  
40 increase the benefits otherwise payable to members. After the close of any  
41 fiscal year, if the plan's actuary determines that the actuarial valuation of  
42 an employer's account contains excess valuation assets other than excess  
43 valuation assets that were in the employer's account as of fiscal year  
44 2004-2005 and is more than one hundred per cent funded, the board shall  
45 account for fifty per cent of the excess valuation assets in a stabilization

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

7 B. Each member shall contribute the amount prescribed in subsection H  
8 OF THIS SECTION to the retirement plan. Member contributions shall be made  
9 by payroll deduction. Continuation of employment by the member constitutes  
10 consent and agreement to the deduction of the applicable member contribution.  
11 Payment of the member's salary less the deducted contributions constitutes  
12 full and complete discharge and satisfaction of all claims and demands of the  
13 member relating to salary for services rendered during the period covered by  
14 the payment. A MEMBER MAY NOT, UNDER ANY CIRCUMSTANCE, BORROW FROM, TAKE A  
15 LOAN AGAINST OR REMOVE CONTRIBUTIONS FROM THE MEMBER'S ACCOUNT BEFORE THE  
16 TERMINATION OF MEMBERSHIP IN THE PLAN OR THE RECEIPT OF A PENSION.

17 C. Each employer shall transfer to the board the employer and employee  
18 contributions provided for in this section within ten working days after each  
19 payroll date. Contributions transferred after that date shall include a  
20 penalty of ten per cent per annum, compounded annually, for each day the  
21 contributions are late. The employer shall pay this penalty. Delinquent  
22 payments due under this subsection, together with interest charges as  
23 provided in this subsection, may be recovered by action in a court of  
24 competent jurisdiction against an employer liable for the payments or, at the  
25 request of the board, may be deducted from any other monies, including excise  
26 revenue taxes, payable to the employer by any department or agency of this  
27 state.

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

33 E. The local board of the state department of corrections or the local  
34 board of the department of juvenile corrections may specify a position within  
35 that department as a designated position if the position is filled by an  
36 employee who has at least five years of credited service under the plan, who  
37 is transferred to temporarily fill the position and who makes a written  
38 request to the local board to specify the position as a designated position  
39 within ninety days of being transferred. On the employee leaving the  
40 position, the position is no longer a designated position.

41 F. The local board of the state department of corrections or the local  
42 board of the department of juvenile corrections may specify a designated  
43 position within the department as a nondesignated position if the position is  
44 filled by an employee who has at least five years of credited service under  
45 the Arizona state retirement system and who makes a written request to the

1 local board to specify the position as a nondesignated position within ninety  
2 days of accepting the position. On the employee leaving the position, the  
3 position reverts to a designated position.

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

15 H. The amount contributed by a member pursuant to subsection B OF THIS  
16 SECTION is:

17 1. Through June 30, 2011, 8.41 per cent of the member's salary, except  
18 for a full-time dispatcher. The amount contributed by a full-time dispatcher  
19 through June 30, 2011 is 7.96 per cent of the member's salary.

20 2. For fiscal year 2011-2012 and each fiscal year thereafter, 8.41 per  
21 cent of the member's salary or fifty per cent of the sum of the member's  
22 contribution rate from the preceding fiscal year and the aggregate computed  
23 employer contribution rate that is calculated pursuant to subsection A OF  
24 THIS SECTION, whichever is lower, except that the member contribution rate  
25 shall not be less than 7.65 per cent of the member's salary and the employer  
26 contribution rate shall not be less than the rate prescribed in subsection A  
27 OF THIS SECTION.

28 I. Notwithstanding subsection H, paragraph 2 OF THIS SECTION, the  
29 contribution rate for a full-time dispatcher is forty-five basis points less  
30 than the member contribution amount calculated pursuant to subsection H,  
31 paragraph 2 OF THIS SECTION, except that after the close of any fiscal year,  
32 if the plan's actuary determines that the aggregate ratio of the funding  
33 value of the accrued assets to the accrued liabilities of the fund is at  
34 least one hundred per cent, from and after June 30 of the following year the  
35 member contribution rate for a full-time dispatcher is equal to the member  
36 contribution rate for a member who is not a full-time dispatcher.

37 J. For fiscal year 2011-2012 and each fiscal year thereafter, the  
38 amount of the member's contribution that exceeds 8.41 per cent of the  
39 member's salary for a member other than a full-time dispatcher or 7.96 per  
40 cent of the member's salary for a full-time dispatcher shall not be used to  
41 reduce the employer's contributions that are calculated pursuant to  
42 subsection A OF THIS SECTION.

1           Sec. 6. Section 38-893, Arizona Revised Statutes, is amended to read:  
2           38-893. Local boards; powers and duties; rules; hearings;  
3                           administrative review

4           A. The administration of the plan and the responsibility for making  
5 the provisions of the plan effective for each employer are vested in a local  
6 board. The state department of corrections, the department of juvenile  
7 corrections, the department of public safety, each participating county  
8 sheriff's department, each participating city or town, each participating  
9 employer of full-time dispatchers for eligible groups as defined in section  
10 38-842 and the judiciary shall have a local board. Each local board is  
11 constituted as follows:

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

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

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

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

37           B. The appointments and elections of local board members shall take  
38 place with one elective and one appointive board member, as designated by the  
39 appointing authority, serving a term ending two years after the date of  
40 appointment or election and the other local board members serving a term  
41 ending four years after the date of appointment or election. Thereafter,  
42 every second year, and as a vacancy occurs, an office shall be filled for a  
43 term of four years in the same manner as provided in this section. EACH  
44 LOCAL BOARD SHALL MEET AT LEAST TWICE EACH YEAR.

1 C. Each local board shall be fully constituted pursuant to subsection  
2 A of this section within sixty days after the employer's effective date of  
3 participation in the plan. If the deadline is not met, on the written  
4 request of any member who is covered by the local board or the employer to  
5 the board of trustees, the board of trustees shall appoint all vacancies of  
6 the local board pursuant to subsection A of this section and designate  
7 whether each appointive position is for a two year or four year term. If the  
8 board of trustees cannot find individuals to serve on the local board who  
9 meet the requirements of subsection A of this section, the board of trustees  
10 may appoint individuals to serve as interim local board members until  
11 qualified individuals are appointed or elected. Within ten days after the  
12 member's appointment or election, each member of a local board shall take an  
13 oath of office that, so far as it devolves on the member, the member shall  
14 diligently and honestly administer the affairs of the local board and shall  
15 not knowingly violate or willingly permit to be violated any of the  
16 provisions of law applicable to the plan.

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

19 1. Decide all questions of eligibility and service credits and  
20 determine the amount, manner and time of payment of any benefit under the  
21 plan.

22 2. Make a determination as to the right of a claimant to a benefit and  
23 afford a claimant or the board of trustees, or both, a right to a rehearing  
24 on the original determination. Except as otherwise required by law, unless  
25 all parties involved in a matter presented to the local board for  
26 determination otherwise agree, the local board shall commence a hearing on  
27 the matter within ninety days after the date the matter is presented to the  
28 local board for determination. If a local board fails to commence a hearing  
29 as provided in this paragraph, on a matter presented to the local board for  
30 determination, the relief demanded by the party petitioning the local board  
31 is deemed granted and approved by the local board. The granting and approval  
32 of this relief is considered final and binding unless a timely request for  
33 rehearing or appeal is made as provided in this article, unless the board of  
34 trustees determines that granting the relief requested would violate the  
35 internal revenue code or threaten to impair the plan's status as a qualified  
36 plan under the internal revenue code. If the board of trustees determines  
37 that granting the requested relief would violate the internal revenue code or  
38 threaten to impair the plan's status as a qualified plan, the board of  
39 trustees may refuse to grant the relief by issuing a written determination to  
40 the local board and the party petitioning the local board for relief. The  
41 decision by the board of trustees is subject to judicial review pursuant to  
42 title 12, chapter 7, article 6.

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

1           4. Distribute, in the manner the local board determines to be  
2 appropriate, information explaining the plan that is received from the board  
3 of trustees.

4           5. Furnish the employer, the board of trustees and the legislature, on  
5 request, with annual reports with respect to the administration of the plan  
6 that are reasonable and appropriate.

7           6. Appoint a medical board, ~~which~~ THAT is composed of a designated  
8 physician or PHYSICIANS WORKING IN A clinic other than the employer's regular  
9 employee or contractor. If required, the local board may employ other  
10 physicians to report on special cases. The examining physician or clinic  
11 shall report the results of examinations made to the local board, and the  
12 secretary of the local board shall preserve the report as a permanent record.

13           7. Sue and be sued to effectuate the duties and responsibilities set  
14 forth in this article.

15           8. Prescribe procedures to be followed by claimants in filing  
16 applications for benefits.

17           9. Receive and review the actuarial valuation of the plan for its  
18 group of members.

19           10. Receive and review reports of the financial condition and of the  
20 receipts and disbursements of the fund from the board of trustees.

21           E. A local board has no power to add to, subtract from, modify or  
22 waive any of the terms of the plan, change or add to any benefits provided by  
23 the plan or waive or fail to apply any requirement of eligibility for  
24 membership or benefits under the plan. Notwithstanding any limitations  
25 periods imposed in this article, including subsections G and H of this  
26 section, if the board of trustees determines a local board decision violates  
27 the internal revenue code or threatens to impair the plan's status as a  
28 qualified plan under the internal revenue code, the local board's decision is  
29 not final and binding and the board of trustees may refrain from implementing  
30 or complying with the local board decision.

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

40           G. Except as otherwise provided in this article, an action by a  
41 majority vote of the members of a local board that is not inconsistent with  
42 the provisions of the plan and the internal revenue code is final, conclusive  
43 and binding on all persons affected by it, unless a timely application for a  
44 rehearing or appeal is filed as provided in this article. No later than  
45 twenty days after taking action, the local board shall submit to the board of

1 trustees the minutes from the local board meeting that include the name of  
2 the member affected by its decision, a description of the action taken and an  
3 explanation of the reasons and all documents submitted to the local board for  
4 the action taken, including the reports of a medical board. The board of  
5 trustees may not implement and comply with any local board action that does  
6 not comply with the internal revenue code or that threatens to jeopardize the  
7 plan's status as a qualified plan under the internal revenue code.

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

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

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

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

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

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

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

33 M. The local board shall adopt bylaws as it deems necessary. The  
34 local board shall elect a secretary who may, but need not, be a member of the  
35 local board. The secretary of the local board shall keep a record and  
36 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of  
37 this title and forward the minutes and all necessary communications to the  
38 board of trustees as prescribed by subsection G of this section.

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

43 O. The local board shall issue directions to the board of trustees  
44 concerning all benefits that are to be paid from the employer's account  
45 pursuant to the provisions of the fund. The local board shall keep on file,

1 in the manner it deems convenient and proper, all reports from the board of  
2 trustees and the actuary.

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

8 Sec. 7. Section 38-895.02, Arizona Revised Statutes, is amended to  
9 read:

10 38-895.02. Payment of pension

11 The board shall not make a retroactive payment of a pension to a person  
12 for a period of more than ~~ninety~~ ONE HUNDRED EIGHTY days before the date of  
13 the person's application for benefits.

14 Sec. 8. Section 38-904, Arizona Revised Statutes, is amended to read:

15 38-904. Death benefits; amount

16 A. If an active or inactive member dies and no pension is payable on  
17 account of the member's death, an amount equal to two times the member's  
18 accumulated contributions to the retirement plan is payable to the person  
19 designated by the deceased member in writing and filed with the board. If  
20 the designated person or persons do not survive the deceased member or if the  
21 designated person does not claim the benefit, the payment is payable, at the  
22 election of the local board, to the designated person's nearest of kin as  
23 determined by the local board or to the estate of the deceased member. The  
24 beneficiary or person who is claiming to be the nearest of kin shall file a  
25 written application in order to receive the refund. For the purposes of this  
26 subsection, "inactive member" means a person who previously made  
27 contributions to the plan, who has not retired, who is not currently making  
28 contributions to the plan and who has not withdrawn contributions from the  
29 plan.

30 B. If the deceased retired or active member does not have an eligible  
31 surviving spouse or the pension of the eligible surviving spouse is  
32 terminated, each eligible child is entitled to a child's pension. A child's  
33 pension terminates if the child is adopted. In the case of a disabled child,  
34 the child's pension terminates if the child ceases to be under a disability  
35 or ceases to be a dependent of the surviving spouse or guardian. The amount  
36 of the pension of each eligible child is an equal share of the amount of the  
37 surviving spouse's pension. The board shall pay the surviving minor or  
38 disabled child's pension to the person who is the legally appointed guardian  
39 or custodian of the eligible child UNTIL THE ELIGIBLE CHILD REACHES EIGHTEEN  
40 YEARS OF AGE, AT WHICH TIME THE ELIGIBLE CHILD'S PENSION SHALL BE PAID  
41 DIRECTLY TO THE ELIGIBLE CHILD IF THE PERSON REMAINS ELIGIBLE TO RECEIVE THE  
42 PENSION AND IS NOT SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO  
43 DISABILITY OR INCAPACITY. THE PENSION OF A DISABLED CHILD WHO IS EIGHTEEN  
44 YEARS OF AGE OR OLDER AND WHO IS SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP

1 DUE TO DISABILITY OR INCAPACITY SHALL CONTINUE TO BE PAID TO THE GUARDIAN OR  
2 CONSERVATOR IF THE CHILD REMAINS ELIGIBLE FOR THE PENSION PAYMENT.

3 Sec. 9. Section 38-906, Arizona Revised Statutes, is amended to read:

4 38-906. Group health and accident coverage for retired members;  
5 payment

6 A. Upon notification, the board shall pay from the assets of the fund  
7 SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of  
8 the single coverage premium of any group health and accident insurance for  
9 each retired member or survivor of the plan who receives a pension and who  
10 has elected to participate in coverage provided by section 38-651.01 or  
11 38-782 or any other RETIREE health and accident insurance coverage provided  
12 or administered by a participating employer in the plan. The board shall pay  
13 up to:

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

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

18 B. Upon notification, the board shall pay from the assets of the fund  
19 SEPARATE ACCOUNT ESTABLISHED PURSUANT TO SUBSECTION G OF THIS SECTION part of  
20 the family coverage premium of any group health and accident insurance for  
21 each retired member or survivor of the plan who elects family coverage and  
22 who otherwise qualifies for payment pursuant to subsection A of this section.  
23 Payment under this subsection is in the following amounts:

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

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

29 3. Up to two hundred fifteen dollars if either:

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

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

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

36 D. A retired member or survivor of the plan may elect to purchase  
37 individual health care coverage and receive a payment pursuant to this  
38 section through the retired member's former employer if that former employer  
39 assumes the administrative functions associated with the payment, including  
40 verification that the payment is used to pay for health insurance coverage if  
41 the payment is made to the retired member or survivor of the plan. This  
42 provision ~~does not apply to a retired member or survivor of the system who is~~  
43 ~~reemployed and who participates in health care coverage provided by the~~  
44 ~~member's or survivor's new employer.~~

1 E. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OF THE PLAN WHO  
2 BECOMES A MEMBER ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS  
3 SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH CARE COVERAGE  
4 PROVIDED BY THE MEMBER'S NEW EMPLOYER.

5 F. THIS SECTION DOES NOT APPLY TO A SURVIVOR OF THE PLAN WHOSE  
6 DECEASED SPOUSE BECOMES A MEMBER ON OR AFTER THE EFFECTIVE DATE OF THIS  
7 AMENDMENT TO THIS SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH  
8 CARE COVERAGE PROVIDED BY THE SURVIVOR'S NEW EMPLOYER.

9 G. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT THAT CONSISTS OF THE  
10 BENEFITS PROVIDED PURSUANT TO THIS SECTION. THE BOARD SHALL DEPOSIT THE  
11 BENEFITS PROVIDED BY THIS SECTION IN THE ACCOUNT. THE BOARD SHALL NOT USE OR  
12 DIVERT ANY PART OF THE CORPUS OR INCOME OF THE ACCOUNT FOR ANY PURPOSE OTHER  
13 THAN THE PROVISION OF BENEFITS PURSUANT TO THIS SECTION UNLESS THE  
14 LIABILITIES TO PROVIDE THE BENEFITS PURSUANT TO THIS SECTION ARE SATISFIED.  
15 IF THE LIABILITIES TO PROVIDE THE BENEFITS DESCRIBED IN THIS SECTION ARE  
16 SATISFIED, THE BOARD SHALL RETURN ANY AMOUNT REMAINING IN THE ACCOUNT TO THE  
17 EMPLOYER.

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

20 1. THE PAYMENT OF THE BENEFITS IS SUBORDINATE TO THE PAYMENT OF  
21 RETIREMENT BENEFITS PAYABLE BY THE PLAN.

22 2. THE TOTAL OF CONTRIBUTIONS FOR THE BENEFITS AND ACTUAL  
23 CONTRIBUTIONS FOR LIFE INSURANCE PROTECTION, IF ANY, SHALL NOT EXCEED  
24 TWENTY-FIVE PER CENT OF THE TOTAL ACTUAL EMPLOYER AND EMPLOYEE CONTRIBUTIONS  
25 TO THE PLAN, MINUS THE CONTRIBUTIONS TO FUND PAST SERVICE CREDITS, AFTER THE  
26 DAY THE ACCOUNT IS ESTABLISHED.

27 3. THE CONTRIBUTIONS BY THE EMPLOYER TO THE ACCOUNT SHALL BE  
28 REASONABLE AND ASCERTAINABLE.

29 Sec. 10. Section 38-909.01, Arizona Revised Statutes, is amended to  
30 read:

31 38-909.01. Purchase of service; payment

32 A member who purchases service pursuant to this article or section  
33 38-922 OR 38-924 shall make payments directly to the plan in whole or in part  
34 by any one or a combination of the following methods:

35 1. In lump sum payments.

36 2. Through an arrangement with the plan that the payments be made in  
37 installment payments over a period of time.

38 3. Subject to the limitations prescribed in sections 401(a)(31) and  
39 402(c) of the internal revenue code, accepting a direct transfer of any  
40 eligible rollover distribution or a contribution by a member of an eligible  
41 rollover distribution from one or more:

42 (a) Retirement programs that are qualified under section 401(a) or  
43 403(a) of the internal revenue code.

44 (b) Annuity contracts described in section 403(b) of the internal  
45 revenue code.

1 (c) Eligible deferred compensation plans described in section 457(b)  
2 of the internal revenue code that are maintained by a state, a political  
3 subdivision of a state or any agency or instrumentality of a state or a  
4 political subdivision of a state.

5 4. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)  
6 of the internal revenue code, accepting from a member a rollover contribution  
7 of that portion of a distribution from an individual retirement account or  
8 individual retirement annuity described in section 408(a) or 408(b) of the  
9 internal revenue code that is eligible to be rolled over and would otherwise  
10 be includable as gross income.

APPROVED BY THE GOVERNOR APRIL 10, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 10, 2013.

Passed the House April 3, 2013,

by the following vote: 60 Ayes,

0 Nays, 0 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate February 25, 2013,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

Charmen Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8 day of April, 2013,

at 2:10 o'clock P M.

Mikhaila Howard  
Secretary to the Governor

Approved this 10<sup>th</sup> day of

April, 2013,

at 1:30 o'clock P M.

Janai H. Brewer  
Governor of Arizona

S.B. 1173

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10<sup>th</sup> day of April, 2013,

at 4:58 o'clock P M.

[Signature]  
Secretary of State