



STATE OF ARIZONA  
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY  
GOVERNOR

EXECUTIVE OFFICE

February 16, 2016

The Honorable Michele Reagan  
Secretary of State  
1700 W. Washington, 7<sup>th</sup> Floor  
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bill from the Fifty-second Legislature, 2<sup>nd</sup> Regular Session, which I signed on February 16, 2016:

S.B. 1428 – PSPRS modifications

S.B. 1429 – public retirement systems; special election

Sincerely,

A handwritten signature in black ink that reads "Douglas A. Ducey".

Douglas A. Ducey  
Governor  
State of Arizona

cc: Senate Secretary  
Chief Clerk of the House of Representatives  
Arizona News Service

State of Arizona  
Senate  
Fifty-second Legislature  
Second Regular Session  
2016

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

CHAPTER 2

**SENATE BILL 1428**

AN ACT

AMENDING SECTIONS 38-651.01, 38-803 AND 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-842.01; AMENDING SECTIONS 38-843, 38-843.04, 38-844.05 AND 38-845, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.03; AMENDING SECTIONS 38-846.01 AND 38-848, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-848.04; REPEALING SECTIONS 38-856, 38-856.01, 38-856.02, 38-856.03 AND 38-856.04, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-856.05, 38-856.06 AND 38-861; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 4.1 AND 4.2; AMENDING SECTIONS 38-883 AND 38-952, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 38-651.01. Group health and accident coverage for retired  
5 public employees and elected officials and their  
6 dependents

7 A. The department of administration, by rule, shall adopt standards to  
8 establish group health and accident coverage for former employees who worked  
9 for the state of Arizona and who opt on retirement to enroll or continue  
10 enrollment in the group health and accident coverage for active employees  
11 working for the state of Arizona, or with a disability, and receiving either  
12 income from a retirement program of this state or long-term disability income  
13 benefits pursuant to section 38-651.03 or chapter 5, article 2.1 of this  
14 title and their dependents and to establish eligibility for retired STATE  
15 EMPLOYEES or state employees with a disability to participate in the  
16 coverage. The department of administration may adopt rules that provide that  
17 if a retired INSURED or insured person with a disability dies before an  
18 insured surviving dependent, the insured surviving dependent is entitled to  
19 extended coverage at group rates if the insured surviving dependent elects to  
20 continue in the coverage within six months of THE DEATH OF the retired  
21 INSURED or insured ~~person's~~ PERSON with a disability ~~death~~ and the insured  
22 surviving dependent agrees to pay the cost of the premium for group health  
23 and accident insurance. On notification of the ~~retired or with a disability~~  
24 ~~insured's~~ death, the department of administration shall immediately notify an  
25 insured surviving dependent of the provisions of this section. The  
26 department of administration may enter into agreements with former state  
27 employees with a disability and their dependents who elect to obtain the  
28 coverage provided by this section. The agreements may include provisions for  
29 the payment of amounts sufficient to pay for the premium and administrative  
30 expense of providing the coverage. The department of administration may  
31 adopt rules that provide that on the death of a state employee who at the  
32 time of death was eligible for normal retirement pursuant to section 38-757  
33 under the Arizona state retirement system, the insured surviving spouse and  
34 eligible dependent children are entitled to continue coverage under group  
35 rates provided that the deceased insured state employee, spouse and dependent  
36 children were insured at the time of the employee's death. The insured  
37 surviving spouse shall be charged an amount sufficient to pay the full  
38 premium for the coverage.

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

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

19 C. The Arizona state retirement system board may enter into agreements  
20 with ~~retired~~ and state employee members of the system and plan with WHO ARE  
21 RETIRED OR WHO HAVE a disability, ~~and~~ retired members of the elected  
22 officials' defined contribution retirement system established pursuant to  
23 chapter 5, article 3.1 of this title AND RETIRED PARTICIPANTS OF THE PUBLIC  
24 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
25 CHAPTER 5, ARTICLE 4.1 OF THIS TITLE who elect to obtain the coverage  
26 provided pursuant to subsection A of this section. The agreements may  
27 include provision for the deduction from the retirement benefits of  
28 participants of a retirement program of this state who elect to obtain  
29 coverage of amounts sufficient to pay for the premium not covered under  
30 retirement benefits and state administrative expense of providing coverage.

31 D. Retired state employee MEMBERS or state employee members with a  
32 disability of the public safety personnel retirement system, THE PUBLIC  
33 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
34 CHAPTER 5, ARTICLE 4.1 OF THIS TITLE, the elected officials' retirement plan,  
35 the elected officials' defined contribution retirement system established  
36 pursuant to chapter 5, article 3.1 of this title, the corrections officer  
37 retirement plan or the optional retirement programs authorized pursuant to  
38 section 15-1628 who opt on retirement to enroll or continue enrollment in the  
39 group health and accident coverage for active employees working for the state  
40 of Arizona and their dependents and who are receiving benefits from the  
41 public safety personnel retirement system, THE PUBLIC SAFETY PERSONNEL  
42 DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO CHAPTER 5,  
43 ARTICLE 4.1 OF THIS TITLE, the elected officials' retirement plan, the  
44 elected officials' defined contribution retirement system established  
45 pursuant to chapter 5, article 3.1 of this title, the corrections officer

1 retirement plan or the optional retirement programs authorized pursuant to  
2 section 15-1628 may participate in group health and accident coverage  
3 provided pursuant to this section. The department of administration shall  
4 adopt rules that are necessary for the implementation of this subsection.

5 E. The board of trustees of the public safety personnel retirement  
6 system may enter into agreements with retired state employee members and  
7 their dependents who elect to obtain the coverage provided pursuant to this  
8 section. The agreements may include provision for the deduction from the  
9 retirement benefits of participants of a retirement program of this state who  
10 elect to obtain coverage of amounts sufficient to pay for the premium not  
11 covered under retirement benefits and state administrative expense of  
12 providing coverage.

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

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

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

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

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

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

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

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

19           K. A retired member of the elected officials' defined contribution  
20 retirement system established pursuant to chapter 5, article 3.1 of this  
21 title may elect to obtain the coverage provided pursuant to subsection A of  
22 this section, but shall pay the premium for the coverage selected and is not  
23 eligible for benefits pursuant to section 38-783 or 38-817.

24           L. A RETIRED PARTICIPANT OF THE PUBLIC SAFETY PERSONNEL DEFINED  
25 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 4.1  
26 OF THIS TITLE MAY ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO  
27 SUBSECTION A OF THIS SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE  
28 SELECTED AND IS NOT ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR  
29 38-857.

30           Sec. 2. Section 38-803, Arizona Revised Statutes, is amended to read:  
31           38-803. Powers and duties of the board

32           A. The board, in the administration, management and operation of the  
33 plan and fund, shall:

34           1. Account for the operation, administration and investment expenses  
35 and allocate them against investment income.

36           2. Contract on a fee basis with an actuary to make an actuarial  
37 valuation of the plan based on the valuation method and valuation assumptions  
38 recommended by the actuary and approved by the board. The actuary shall be a  
39 member of the American academy of actuaries.

40           3. Contract on a fee basis with an independent auditing firm to make  
41 an annual audit of the accounting records of the fund and file a copy of the  
42 audit with the auditor general.

43           4. Invest the monies in the fund as provided in article 4 of this  
44 chapter.

1           5. Within a period of six months after the close of each fiscal year,  
2 submit a detailed report of the operation and the investment performance of  
3 the plan to the governor, the legislature and the members of the plan.

4           6. By November 1 of each year provide a preliminary report and by  
5 December 15 of each year provide a final report to the governor, the speaker  
6 of the house of representatives and the president of the senate on the  
7 contribution rate for the ensuing fiscal year.

8           B. The board, in the administration, management and operation of the  
9 plan and fund, may:

10           1. Employ services as it deems necessary.

11           2. Either keep invested monies separate or commingle invested monies  
12 as it deems appropriate.

13           3. Delegate authority as it deems necessary and prudent to the  
14 administrator employed pursuant to section 38-848, subsection K- M,  
15 paragraph 6.

16           4. Do all acts, whether expressly authorized, which may be deemed  
17 necessary or proper for the protection of the fund.

18           Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:  
19 38-842. Definitions

20           In this article, unless the context otherwise requires:

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

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

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

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

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

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

41           7. "Average monthly benefit compensation" means the result obtained by  
42 dividing the total compensation paid to an employee during a considered  
43 period by the number of months, including fractional months, in which such  
44 compensation was received. For an employee who becomes a member of the  
45 system:

1 (a) Before January 1, 2012, the considered period shall be the three  
2 consecutive years within the last twenty completed years of credited service  
3 that yield the highest average. ~~For an employee who becomes a member of the~~  
4 ~~system~~

5 (b) On or after January 1, 2012 AND BEFORE JULY 1, 2017, the  
6 considered period is the five consecutive years within the last twenty  
7 completed years of credited service that yield the highest average. In the  
8 computation under this paragraph, a period of nonpaid or partially paid  
9 industrial leave shall be considered based on the compensation the employee  
10 would have received in the employee's job classification if the employee was  
11 not on industrial leave.

12 (c) ON OR AFTER JULY 1, 2017, THE CONSIDERED PERIOD IS THE FIVE  
13 CONSECUTIVE YEARS WITHIN THE LAST FIFTEEN COMPLETED YEARS OF CREDITED SERVICE  
14 THAT YIELD THE HIGHEST AVERAGE. IN THE COMPUTATION UNDER THIS PARAGRAPH, A  
15 PERIOD OF NONPAID OR PARTIALLY PAID INDUSTRIAL LEAVE SHALL BE CONSIDERED  
16 BASED ON THE COMPENSATION THE EMPLOYEE WOULD HAVE RECEIVED IN THE EMPLOYEE'S  
17 JOB CLASSIFICATION IF THE EMPLOYEE WAS NOT ON INDUSTRIAL LEAVE.

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

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

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

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

28 12. "Compensation" means, for the purpose of computing retirement  
29 benefits, base salary, overtime pay, shift differential pay, military  
30 differential wage pay, compensatory time used by an employee in lieu of  
31 overtime not otherwise paid by an employer and holiday pay paid to an  
32 employee by the employer for the employee's performance of services in an  
33 eligible group on a regular monthly, semimonthly or biweekly payroll basis  
34 and longevity pay paid to an employee at least every six months for which  
35 contributions are made to the system pursuant to section 38-843,  
36 subsection D. Compensation does not include, for the purpose of computing  
37 retirement benefits, payment for unused sick leave, payment in lieu of  
38 vacation, payment for unused compensatory time or payment for any fringe  
39 benefits. In addition, compensation does not include, for the purpose of  
40 computing retirement benefits, payments made directly or indirectly by the  
41 employer to the employee for work performed for a third party on a contracted  
42 basis or any other type of agreement under which the third party pays or  
43 reimburses the employer for the work performed by the employee for that third  
44 party, except for third party contracts between public agencies for law  
45 enforcement, criminal, traffic and crime suppression activities training or

1 fire, wildfire, emergency medical or emergency management activities or where  
2 the employer supervises the employee's performance of law enforcement,  
3 criminal, traffic and crime suppression activities training or fire,  
4 wildfire, emergency medical or emergency management activities. For the  
5 purposes of this paragraph, "base salary" means the amount of compensation  
6 each employee is regularly paid for personal services rendered to an employer  
7 before the addition of any extra monies, including overtime pay, shift  
8 differential pay, holiday pay, longevity pay, fringe benefit pay and similar  
9 extra payments.

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

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

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

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

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

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

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

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

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

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

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

5           (a) Is under eighteen years of age.

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

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

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

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

14          (b) Municipal ~~fire fighters~~ FIREFIGHTERS.

15          (c) Paid full-time ~~fire fighters~~ FIREFIGHTERS employed directly by a  
16 fire district organized pursuant to section 48-803 or 48-804 or a joint  
17 powers authority pursuant to section 48-805.01 with three or more full-time  
18 ~~fire fighters~~ FIREFIGHTERS, but not including ~~fire fighters~~ FIREFIGHTERS  
19 employed by a fire district pursuant to a contract with a corporation.

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

21          (e) State ~~fire fighters~~ FIREFIGHTERS.

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

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

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

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

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

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

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

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

40          (n) ~~Fire fighters~~ FIREFIGHTERS who are employed by an Indian  
41 reservation ~~fire fighting~~ FIREFIGHTING agency.

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

44          (p) Arizona department of agriculture officers who are certified peace  
45 officers.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (d) Any distribution made to satisfy the requirements of section 415  
34 of the internal revenue code.

35 (e) Hardship distributions.

36 (f) Similar items designated by the commissioner of the United States  
37 internal revenue service in revenue rulings, notices and other guidance  
38 published in the internal revenue bulletin.

39 27. "Employee" means any person who is employed by a participating  
40 employer and who is a member of an eligible group but does not include any  
41 persons compensated on a contractual or fee basis. If an eligible group  
42 requires certified peace officer status or ~~fire fighter~~ FIREFIGHTER  
43 certification and at the option of the local board, employee may include a  
44 person who is training to become a certified peace officer or ~~fire fighter~~  
45 FIREFIGHTER.

1           28. "Employers" means:

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

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

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

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

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

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

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

27          31. "Member":

28          (a) Means any full-time employee who meets all of the following  
29 qualifications:

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

1 employees under a joinder agreement entered into by their employer after July  
2 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning  
3 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

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

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

22 (b) DOES NOT INCLUDE AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1,  
23 2017, WHO MAKES THE IRREVOCABLE ELECTION TO PARTICIPATE SOLELY IN THE PUBLIC  
24 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
25 ARTICLE 4.1 OF THIS CHAPTER AND WHO WAS NOT AN ACTIVE, AN INACTIVE OR A  
26 RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE SYSTEM WITH A DISABILITY ON  
27 JUNE 30, 2017.

28 32. "Normal retirement date" means:

29 (a) For an employee who becomes a member of the system before January  
30 1, 2012, the first day of the calendar month immediately following the  
31 employee's completion of twenty years of service or the employee's  
32 sixty-second birthday and the employee's completion of fifteen years of  
33 service.

34 (b) For an employee who becomes a member of the system on or after  
35 January 1, 2012 AND BEFORE JULY 1, 2017, the first day of the calendar month  
36 immediately following the employee's completion of twenty-five years of  
37 service if the employee is at least fifty-two and one-half years of age.

38 (c) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER  
39 JULY 1, 2017, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING THE  
40 EMPLOYEE'S COMPLETION OF FIFTEEN YEARS OF CREDITED SERVICE IF THE EMPLOYEE IS  
41 AT LEAST FIFTY-FIVE YEARS OF AGE.

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

1 that the domestic relations order is a plan approved domestic relations  
2 order.

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

8 35. "Participant" means a member who is subject to a domestic  
9 relations order.

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

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

15 38. "Personal representative" means the personal representative of a  
16 deceased alternate payee.

17 39. "Physician" means a physician who is licensed pursuant to title  
18 32, chapter 13 or 17.

19 40. "Plan approved domestic relations order" means a domestic  
20 relations order that the system approves as meeting all the requirements for  
21 a plan approved domestic relations order as otherwise prescribed in this  
22 article.

23 41. "Plan year" or "fiscal year" means the period beginning on July 1  
24 of any year and ending on June 30 of the next succeeding year.

25 42. "Regularly assigned to hazardous duty" means regularly assigned to  
26 duties of the type normally expected of municipal police officers, municipal  
27 or state ~~fire-fighters~~ FIREFIGHTERS, eligible fire district ~~fire-fighters~~  
28 FIREFIGHTERS, state highway patrol officers, county sheriffs and deputies,  
29 fish and game wardens, ~~fire-fighters~~ FIREFIGHTERS and police officers of a  
30 nonprofit corporation operating a public airport pursuant to sections 28-8423  
31 and 28-8424, police officers who are appointed by the Arizona board of  
32 regents or a community college district governing board, state attorney  
33 general investigators who are certified peace officers, county attorney  
34 investigators who are certified peace officers, department of liquor licenses  
35 and control investigators who are certified peace officers, Arizona  
36 department of agriculture officers who are certified peace officers, Arizona  
37 state parks board rangers and managers who are certified peace officers,  
38 county park rangers who are certified peace officers, police officers who are  
39 certified peace officers and who are employed by an Indian reservation police  
40 agency or ~~fire-fighters~~ FIREFIGHTERS who are employed by an Indian  
41 reservation ~~fire-fighting~~ FIREFIGHTING agency. Those individuals who are  
42 assigned solely to support duties such as secretaries, stenographers,  
43 clerical personnel, clerks, cooks, maintenance personnel, mechanics and  
44 dispatchers are not assigned to hazardous duty regardless of their position  
45 classification title. Since the normal duties of those jobs described in

1 this paragraph are constantly changing, questions as to whether a person is  
2 or was previously regularly assigned to hazardous duty shall be resolved by  
3 the local board on a case-by-case basis. Resolutions by local boards are  
4 subject to rehearing and appeal.

5 43. "Retirement" or "retired" means termination of employment after a  
6 member has fulfilled all requirements for a pension ~~or~~, for an employee who  
7 becomes a member of the system on or after January 1, 2012 AND BEFORE JULY 1,  
8 2017, attains the age and service requirements for a normal retirement date  
9 OR FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JULY 1,  
10 2017 ATTAINS THE AGE AND CREDITED SERVICE REQUIREMENTS FOR A NORMAL  
11 RETIREMENT DATE. Retirement shall be considered as commencing on the first  
12 day of the month immediately following a member's last day of employment or  
13 authorized leave of absence, if later.

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

20 45. "Service" means the last period of continuous employment of an  
21 employee by the employers before the employee's retirement, except that if  
22 such period includes employment during which the employee would not have  
23 qualified as a member had the system then been effective, such as employment  
24 as a volunteer ~~fire-fighter~~ FIREFIGHTER, then only twenty-five percent of  
25 such noncovered employment shall be considered as service. Any absence that  
26 is authorized by an employer shall not be considered as interrupting  
27 continuity of employment if the employee returns within the period of  
28 authorized absence. Transfers between employers also shall not be considered  
29 as interrupting continuity of employment. Any period during which a member  
30 is receiving sick leave payments or a temporary disability pension shall be  
31 considered as service. Notwithstanding any other provision of this  
32 paragraph, any period during which a person was employed as a full-time paid  
33 ~~fire-fighter~~ FIREFIGHTER for a corporation that contracted with an employer  
34 to provide firefighting services on behalf of the employer shall be  
35 considered as service if the employer has elected at its option to treat part  
36 or all of the period the firefighter worked for the company as service in its  
37 applicable joinder agreement. Any reference in this system to the number of  
38 years of service of an employee shall be deemed to include fractional  
39 portions of a year.

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

42 47. "System" means the public safety personnel retirement system  
43 established by this article.

44 48. "Temporary disability" means a physical or mental condition that  
45 the local board finds totally and temporarily prevents an employee from

1 performing a reasonable range of duties within the employee's department and  
2 that was incurred in the performance of the employee's duty.

3 Sec. 4. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
4 amended by adding section 38-842.01, to read:

5 38-842.01. Benefit election; eligibility; disability; employees  
6 hired on or after July 1, 2017

7 A. AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017 AND WHO WAS NOT  
8 AN ACTIVE, AN INACTIVE OR A RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE  
9 SYSTEM WITH A DISABILITY ON JUNE 30, 2017 IS ELIGIBLE TO PARTICIPATE IN THE  
10 SYSTEM OR THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN  
11 ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER, DEPENDING ON THE  
12 EMPLOYEE'S ELECTION UNDER THIS SECTION. THE EMPLOYEE'S PARTICIPATION IN  
13 EITHER THE SYSTEM OR THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION  
14 RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER BEGINS  
15 NINETY DAYS AFTER THE DATE THE EMPLOYEE IS HIRED. UNLESS THE ELECTIONS MADE  
16 UNDER THIS SECTION ARE MADE BEFORE THE NINETIETH DAY AFTER THE DATE OF  
17 EMPLOYMENT, THE EMPLOYEE IS AUTOMATICALLY ENROLLED IN THE SYSTEM FOR THE  
18 REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE SYSTEM.  
19 ANY ELECTION MADE UNDER THIS SECTION IS IRREVOCABLE AND IS THE EMPLOYEE'S  
20 ELECTION FOR THE REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER  
21 UNDER THE SYSTEM, REGARDLESS OF WHETHER THE EMPLOYEE'S EMPLOYMENT IS  
22 CONTINUOUS. THE EMPLOYEE MAY MAKE ONE OF THE FOLLOWING IRREVOCABLE  
23 ELECTIONS:

24 1. TO PARTICIPATE SOLELY IN THE SYSTEM.

25 2. TO PARTICIPATE SOLELY IN THE PUBLIC SAFETY PERSONNEL DEFINED  
26 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS  
27 CHAPTER.

28 B. AN EMPLOYEE WHO MAKES AN ELECTION TO PARTICIPATE SOLELY IN THE  
29 SYSTEM OR IS AUTOMATICALLY ENROLLED IN THE SYSTEM PURSUANT TO SUBSECTION A OF  
30 THIS SECTION AND WHO IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS  
31 INSURANCE SYSTEM IS ALSO ENROLLED IN THE PUBLIC SAFETY PERSONNEL DEFINED  
32 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS  
33 CHAPTER DURING ANY PERIOD THAT THE EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD  
34 AGE AND SURVIVORS INSURANCE SYSTEM THROUGH AN EMPLOYER UNDER THE SYSTEM. IF  
35 SUCH EMPLOYEE IS SUBSEQUENTLY COVERED BY THE FEDERAL OLD AGE AND SURVIVORS  
36 INSURANCE SYSTEM, THE EMPLOYEE MAY NOT MAKE ANY CONTRIBUTIONS TO THE PUBLIC  
37 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
38 ARTICLE 4.1 OF THIS CHAPTER THAT ARE DESCRIBED IN SECTION 38-867, SUBSECTION  
39 A, PARAGRAPH 1 OR SUBSECTION B DURING THE PERIOD THE EMPLOYEE IS COVERED BY  
40 THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM. IF AT ANY LATER TIME THE  
41 EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM  
42 THROUGH AN EMPLOYER UNDER THE SYSTEM, THE EMPLOYEE SHALL AGAIN BE REQUIRED TO  
43 CONTRIBUTE TO THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT  
44 PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER AS REQUIRED BY  
45 SECTION 38-867, SUBSECTION A, PARAGRAPH 1 AND, IF THE EMPLOYEE MADE AN

1 IRREVOCABLE ELECTION TO CONTRIBUTE MORE OF THE EMPLOYEE'S GROSS PENSIONABLE  
2 COMPENSATION TO THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN AS  
3 PROVIDED IN SECTION 38-867, SUBSECTION B, SUCH CONTRIBUTIONS SHALL BE  
4 REESTABLISHED FOR THE PERIOD THE EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD  
5 AGE AND SURVIVORS INSURANCE SYSTEM.

6 C. IF AN EMPLOYEE IN THE EMPLOYEE'S FIRST NINETY DAYS OF EMPLOYMENT IS  
7 DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL DISABILITY PENSION PURSUANT TO  
8 SECTION 38-844, THE EMPLOYEE SHALL BE AUTOMATICALLY ENROLLED IN THE SYSTEM  
9 FOR THE REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE  
10 SYSTEM COMMENCING ON THE EMPLOYEE'S DATE OF DISABILITY AND SHALL RECEIVE AN  
11 ACCIDENTAL DISABILITY PENSION AS PRESCRIBED IN THIS ARTICLE.

12 Sec. 5. Section 38-843, Arizona Revised Statutes, is amended to read:  
13 38-843. Contributions

14 A. Each employer who participates in the system on behalf of a group  
15 of employees who were covered under a prior public retirement system, other  
16 than the federal social security act, shall transfer all securities and  
17 monies attributable to the taxes and contributions of the state other than  
18 the state contribution to social security, the employer and the employees for  
19 the covered group of employees under the other system, such transfer to be  
20 made to the fund subject to all existing liabilities and on or within sixty  
21 days following the employer's effective date. All monies and securities  
22 transferred to the fund shall be credited to the employer's account in the  
23 fund. A record of the market value and the cost value of such transferred  
24 contributions shall be maintained for actuarial and investment purposes.

25 B. As determined by actuarial valuations reported to the employer and  
26 the local board by the board of trustees, each employer shall make ~~level per~~  
27 ~~cent of compensation~~ contributions sufficient under such actuarial valuations  
28 to meet both the normal cost FOR MEMBERS HIRED BEFORE JULY 1, 2017 plus the  
29 actuarially determined amount required to amortize the unfunded accrued  
30 liability ON A LEVEL PERCENT OF COMPENSATION BASIS FOR ALL EMPLOYEES OF THE  
31 EMPLOYER WHO ARE MEMBERS OF THE SYSTEM OR PARTICIPANTS AS DEFINED IN SECTION  
32 38-865, PARAGRAPH 7, SUBDIVISION (a) over, beginning July 1, ~~2005~~ 2017, a  
33 ~~rolling~~ CLOSED period of ~~at least~~ NOT MORE THAN twenty ~~and not more than~~  
34 ~~thirty~~ years that is established by the board of trustees taking into account  
35 the recommendation of the system's actuary, except that, beginning with  
36 fiscal year 2006-2007, except as otherwise provided, the employer  
37 contribution rate shall not be less than eight ~~per cent~~ PERCENT of  
38 compensation. For any employer whose actual contribution rate is less than  
39 eight ~~per cent~~ PERCENT of compensation for fiscal year 2006-2007, that  
40 employer's contribution rate is not subject to the eight ~~per cent~~ PERCENT  
41 minimum but, for fiscal year 2006-2007 and each year thereafter, shall be at  
42 least five ~~per cent~~ PERCENT and not more than the employer's actual  
43 contribution rate. An employer shall have the option of paying a higher  
44 level ~~per cent~~ PERCENT of compensation thereby reducing its unfunded past  
45 service liability. An employer shall also have the option of increasing its

1 contributions in order to reduce the contributions required from its members  
2 under subsection C of this section, except that if an employer elects this  
3 option the employer shall pay the same higher level percentage contribution  
4 for all members of the eligible group. A county employer that elected to pay  
5 a higher level percentage contribution rate may eliminate that higher level  
6 percentage contribution rate amount for members who are hired on or after  
7 January 1, 2015. During a period when an employee is on industrial leave and  
8 the employee elects to continue contributions during the period of industrial  
9 leave, the employer shall make the contributions based on the compensation  
10 the employee would have received in the employee's job classification if the  
11 employee was in normal employment status. All contributions made by the  
12 employers and all state taxes allocated to the fund shall be irrevocable and  
13 shall be used to pay benefits under the system or to pay expenses of the  
14 system and fund. The minimum employer contribution that is paid and that is  
15 in excess of the normal cost plus the actuarially determined amount required  
16 to amortize the unfunded accrued liability as calculated pursuant to this  
17 subsection shall be used to reduce future employer contribution increases and  
18 shall not be used to pay for an increase in benefits that are otherwise  
19 payable to members. The board shall separately account for these monies in  
20 the fund. Forfeitures arising because of severance of employment before a  
21 member becomes eligible for a pension or any other reason shall be applied to  
22 reduce the cost of the employer, not to increase the benefits otherwise  
23 payable to members. After the close of any fiscal year, if the system's  
24 actuary determines that the actuarial valuation of an employer's account  
25 contains excess valuation assets other than excess valuation assets that were  
26 in the employer's account as of fiscal year 2004-2005 and is more than one  
27 hundred ~~per-cent~~ PERCENT funded, the board shall account for fifty ~~per-cent~~  
28 PERCENT of the excess valuation assets in a stabilization reserve account.  
29 After the close of any fiscal year, if the system's actuary determines that  
30 the actuarial valuation of an employer's account has a valuation asset  
31 deficiency and an unfunded actuarial accrued liability, the board shall use  
32 any valuation assets in the stabilization reserve account for that employer,  
33 to the extent available, to limit the decline in that employer's funding  
34 ratio to not more than two ~~per-cent~~ PERCENT.

35 C. Each member WHO WAS HIRED BEFORE JULY 1, 2017, throughout the  
36 member's period of service from the member's effective date of participation,  
37 shall contribute to the fund an amount equal to the amount prescribed in  
38 subsection E of this section, except as provided in subsection B of this  
39 section. EACH MEMBER WHO WAS HIRED ON OR AFTER JULY 1, 2017, THROUGHOUT THE  
40 MEMBER'S PERIOD OF SERVICE FROM THE MEMBER'S EFFECTIVE DATE OF PARTICIPATION,  
41 SHALL CONTRIBUTE TO THE FUND AN AMOUNT EQUAL TO THE AMOUNT PRESCRIBED IN  
42 SUBSECTION G OF THIS SECTION. During a period when an employee is on  
43 industrial leave and the employee elects to continue contributions during the  
44 period of industrial leave, the employee shall make the employee's  
45 contribution based on the compensation the employee would have received in

1 the employee's job classification if the employee was in normal employment  
2 status. Contributions of members shall be required as a condition of  
3 employment and membership in the system and shall be made by payroll  
4 deductions. Every employee shall be deemed to consent to such deductions.  
5 Payment of an employee's compensation, less such payroll deductions, shall  
6 constitute a full and complete discharge and satisfaction of all claims and  
7 demands by the employee relating to remuneration for the employee's services  
8 rendered during the period covered by the payment, except with respect to the  
9 benefits provided under the system. A member may not, under any  
10 circumstance, borrow from, take a loan against or remove contributions from  
11 the member's account before the termination of membership in the plan or the  
12 receipt of a pension.

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

24 E. The amount contributed by a member WHO WAS HIRED BEFORE JULY 1,  
25 2017 pursuant to subsection C of this section is:

26 1. Through June 30, 2011, 7.65 ~~per cent~~ PERCENT of the member's  
27 compensation.

28 2. For fiscal year 2011-2012, 8.65 ~~per cent~~ PERCENT of the member's  
29 compensation.

30 3. For fiscal year 2012-2013, 9.55 ~~per cent~~ PERCENT of the member's  
31 compensation.

32 4. For fiscal year 2013-2014, 10.35 ~~per cent~~ PERCENT of the member's  
33 compensation.

34 5. For fiscal year 2014-2015, 11.05 ~~per cent~~ PERCENT of the member's  
35 compensation.

36 6. For fiscal year 2015-2016 and each fiscal year thereafter, 11.65  
37 ~~per cent~~ PERCENT of the member's compensation or 33.3 ~~per cent~~ PERCENT of the  
38 sum of the member's contribution rate from the preceding fiscal year and the  
39 aggregate computed employer contribution rate that is calculated pursuant to  
40 subsection B of this section, whichever is lower, except that the member  
41 contribution rate shall not be less than 7.65 ~~per cent~~ PERCENT of the  
42 member's compensation and the employer contribution rate shall not be less  
43 than the rate prescribed in subsection B of this section.

44 F. For fiscal year 2011-2012 and each fiscal year thereafter, the  
45 amount of the member's contribution that exceeds 7.65 ~~per cent~~ PERCENT of the

1 member's compensation shall not be used to reduce the employer's  
2 contributions that are calculated pursuant to subsection B of this section.

3 G. FOR MEMBERS HIRED ON OR AFTER JULY 1, 2017, THE EMPLOYER AND MEMBER  
4 CONTRIBUTIONS ARE DETERMINED AS FOLLOWS:

5 1. AS DETERMINED BY ACTUARIAL VALUATIONS REPORTED TO THE EMPLOYER AND  
6 THE LOCAL BOARD BY THE BOARD OF TRUSTEES, EACH EMPLOYER SHALL MAKE  
7 CONTRIBUTIONS SUFFICIENT UNDER SUCH ACTUARIAL VALUATIONS TO PAY FIFTY PERCENT  
8 OF BOTH THE NORMAL COST PLUS THE ACTUARIALLY DETERMINED AMOUNT REQUIRED TO  
9 AMORTIZE THE TOTAL UNFUNDED ACCRUED LIABILITY FOR EACH EMPLOYER ATTRIBUTABLE  
10 ONLY TO THOSE MEMBERS HIRED ON OR AFTER JULY 1, 2017. FOR EACH YEAR THAT NEW  
11 UNFUNDED LIABILITIES ARE ATTRIBUTABLE TO THE EMPLOYER'S OWN MEMBERS HIRED ON  
12 OR AFTER JULY 1, 2017, A NEW AMORTIZATION BASE REPRESENTING THE MOST RECENT  
13 ANNUAL GAIN OR LOSS, SMOOTHED OVER A PERIOD NOT MORE THAN FIVE YEARS AS  
14 DETERMINED BY THE BOARD, SHALL BE CREATED ON A LEVEL-DOLLAR BASIS OVER A  
15 CLOSED PERIOD EQUAL TO THE AVERAGE EXPECTED REMAINING SERVICE LIVES OF ALL  
16 MEMBERS BUT NOT MORE THAN TEN YEARS, AS DETERMINED BY THE BOARD.

17 2. THE REMAINING FIFTY PERCENT OF BOTH THE NORMAL COST AND ACTUARIALLY  
18 DETERMINED AMOUNT REQUIRED TO AMORTIZE THE TOTAL UNFUNDED ACCRUED LIABILITY  
19 AS DETERMINED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION SHALL BE DIVIDED BY  
20 THE TOTAL NUMBER OF THE EMPLOYER'S MEMBERS WHO WERE HIRED ON OR AFTER JULY 1,  
21 2017 SUCH THAT EACH MEMBER CONTRIBUTES AN EQUAL PERCENTAGE OF THE MEMBER'S  
22 COMPENSATION. MEMBER CONTRIBUTIONS SHALL BEGIN SIMULTANEOUSLY WITH  
23 MEMBERSHIP IN THE SYSTEM AND SHALL BE MADE BY PAYROLL DEDUCTION.

24 H. IN ANY FISCAL YEAR, AN EMPLOYER'S CONTRIBUTION TO THE SYSTEM IN  
25 COMBINATION WITH MEMBER CONTRIBUTIONS MAY NOT BE LESS THAN THE ACTUARIALLY  
26 DETERMINED NORMAL COST FOR THAT FISCAL YEAR. THE BOARD MAY NOT SUSPEND  
27 CONTRIBUTIONS TO THE SYSTEM UNLESS BOTH OF THE FOLLOWING APPLY:

28 1. THE RETIREMENT SYSTEM ACTUARY, BASED ON THE ANNUAL VALUATION,  
29 DETERMINES THAT CONTINUING TO ACCRUE EXCESS EARNINGS COULD RESULT IN  
30 DISQUALIFICATION OF THE SYSTEM'S TAX-EXEMPT STATUS UNDER THE PROVISIONS OF  
31 THE UNITED STATES INTERNAL REVENUE CODE.

32 2. THE BOARD DETERMINES THAT THE RECEIPT OF ANY ADDITIONAL  
33 CONTRIBUTIONS REQUIRED UNDER THIS SECTION WOULD CONFLICT WITH ITS FIDUCIARY  
34 RESPONSIBILITY.

35 I. IF A MEMBER'S EMPLOYMENT IS TERMINATED WITH AN EMPLOYER BY EITHER  
36 PARTY, THE TOTAL LIABILITY UNDER THE SYSTEM ASSOCIATED WITH THE MEMBER'S  
37 SERVICE WITH THE EMPLOYER REMAINS WITH THE EMPLOYER.

38 Sec. 6. Section 38-843.04, Arizona Revised Statutes, is amended to  
39 read:

40 38-843.04. Compensation limitation; adjustments; definition

41 A. The annual compensation of each member taken into account for  
42 purposes of the system shall not exceed the following:

43 1. Beginning January 1, 1996 through December 31, 2001, one hundred  
44 fifty thousand dollars.

1           2. EXCEPT FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017,  
2 beginning January 1, 2002, two hundred thousand dollars. THE BOARD SHALL  
3 ADJUST THE TWO HUNDRED THOUSAND DOLLAR ANNUAL COMPENSATION LIMIT UNDER THIS  
4 PARAGRAPH AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE UNITED  
5 STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE INTERNAL  
6 REVENUE CODE. THE ADJUSTMENT UNDER THIS PARAGRAPH FOR A CALENDAR YEAR  
7 APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR WITHIN  
8 THE CALENDAR YEAR.

9           3. FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017, ONE HUNDRED TEN  
10 THOUSAND DOLLARS. THE BOARD SHALL ADJUST THE ONE HUNDRED TEN THOUSAND DOLLAR  
11 ANNUAL COMPENSATION LIMIT UNDER THIS PARAGRAPH AS PRESCRIBED IN SUBSECTION C  
12 OF THIS SECTION. NOTWITHSTANDING THE ADJUSTMENTS MADE UNDER SUBSECTION C OF  
13 THIS SECTION, THE LIMIT UNDER THIS PARAGRAPH, AS ADJUSTED BY THE BOARD, MAY  
14 NOT EXCEED THE MAXIMUM COMPENSATION LIMIT OF SECTION 401(a)(17) OF THE  
15 INTERNAL REVENUE CODE, AS ADJUSTED BY THE UNITED STATES SECRETARY OF THE  
16 TREASURY.

17           B. If compensation under the system is determined on a period of time  
18 that contains fewer than twelve calendar months, the compensation limit for  
19 that period of time is equal to the dollar limit for the calendar year during  
20 which the period of time begins, multiplied by the fraction in which the  
21 numerator is the number of full months in that period of time and the  
22 denominator is twelve.

23           ~~C. The board shall adjust the annual compensation limits under this~~  
24 ~~section at the same time and in the same manner as adjusted by the United~~  
25 ~~States secretary of the treasury under section 401(a)(17)(B) of the internal~~  
26 ~~revenue code. The adjustment under this subsection for a calendar year~~  
27 ~~applies to annual compensation for the plan year that begins with or within~~  
28 ~~the calendar year.~~

29           C. BEGINNING IN FISCAL YEAR 2020-2021, AND EVERY THIRD FISCAL YEAR  
30 THEREAFTER, THE BOARD SHALL ADJUST THE ANNUAL COMPENSATION LIMIT SPECIFIED IN  
31 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION BY THE AVERAGE CHANGE IN THE PUBLIC  
32 SAFETY WAGE INDEX AS DETERMINED IN THIS SUBSECTION. THE BOARD SHALL ANNUALLY  
33 PUBLISH THE PUBLIC SAFETY WAGE INDEX IN JANUARY. TO DETERMINE THE PUBLIC  
34 SAFETY WAGE INDEX:

35           1. EMPLOYERS REPRESENTED IN THE PUBLIC SAFETY WAGE INDEX SHALL PROVIDE  
36 THE BOARD PAY SCALES FOR THE MONTH OF JULY FOR THE ENFORCEMENT  
37 CLASSIFICATIONS OF PUBLIC SAFETY OFFICERS ANNUALLY IN JULY.

38           2. THE BOARD SHALL DETERMINE THE WEIGHTED AVERAGE OF THE CHANGE IN THE  
39 TOP OF THE PAY SCALE FOR PUBLIC SAFETY OFFICERS OF THE EMPLOYERS REPRESENTED  
40 IN THE PUBLIC SAFETY WAGE INDEX. THE AVERAGE CHANGE SHALL BE WEIGHTED BY  
41 MEASURING EACH EMPLOYER'S TOTAL NUMBER OF MEMBERS DIVIDED BY THE TOTAL NUMBER  
42 OF MEMBERS OF ALL EMPLOYERS REPRESENTED IN THE PUBLIC SAFETY WAGE INDEX.

43           D. THE BOARD SHALL ESTABLISH A PUBLIC SAFETY WAGE INDEX THAT IS  
44 COMPOSED OF A GROUP OF EMPLOYERS THAT REPRESENT GEOGRAPHIC DIVERSITY ACROSS  
45 THIS STATE AND THAT REPRESENT:

1           1. SEVEN LARGE EMPLOYERS, EACH OF WHICH HAS ONE THOUSAND OR MORE TOTAL  
2 SYSTEM MEMBERS, COMPOSED OF ONE STATE LAW ENFORCEMENT AGENCY, ONE COUNTY LAW  
3 ENFORCEMENT AGENCY, THREE MUNICIPAL LAW ENFORCEMENT AGENCIES AND TWO  
4 MUNICIPAL FIRE AGENCIES.

5           2. NINE MIDSIZED EMPLOYERS, EACH OF WHICH HAS MORE THAN TWO HUNDRED  
6 BUT LESS THAN ONE THOUSAND TOTAL SYSTEM MEMBERS, COMPOSED OF ONE STATE LAW  
7 ENFORCEMENT AGENCY, TWO COUNTY LAW ENFORCEMENT AGENCIES, FOUR MUNICIPAL LAW  
8 ENFORCEMENT AGENCIES, ONE MUNICIPAL FIRE AGENCY AND ONE FIRE DISTRICT.

9           3. TEN SMALL EMPLOYERS, EACH OF WHICH HAS TWO HUNDRED OR LESS TOTAL  
10 SYSTEM MEMBERS, COMPOSED OF THREE MUNICIPAL LAW ENFORCEMENT AGENCIES, FOUR  
11 MUNICIPAL FIRE AGENCIES AND THREE FIRE DISTRICTS.

12           E. THE BOARD MAY NOT CHANGE THE EMPLOYERS REPRESENTED IN THE PUBLIC  
13 SAFETY WAGE INDEX MORE FREQUENTLY THAN EVERY TEN YEARS, UNLESS REQUIRED TO  
14 MAINTAIN THE COMPOSITION OF EMPLOYERS AS PRESCRIBED IN SUBSECTION D OF THIS  
15 SECTION.

16           F. FOR THE PURPOSES OF THIS SECTION, "PUBLIC SAFETY OFFICERS" MEANS  
17 THE CLASSIFICATION OF POLICE OFFICERS, SHERIFF'S DEPUTIES, FIREFIGHTERS OR  
18 WILDLIFE MANAGERS OR THEIR EQUIVALENT ENFORCEMENT CLASSIFICATIONS.

19           Sec. 7. Section 38-844.05, Arizona Revised Statutes, is amended to  
20 read:

21           38-844.05. Deferred retirement option benefits and  
22 participation accounts

23           A. A deferred retirement option plan participation account is an  
24 account established within the system on behalf of each deferred retirement  
25 option plan participant. All benefits accrued pursuant to this article shall  
26 be accounted for in the deferred retirement option plan participation  
27 account. A deferred retirement option plan participant does not have a claim  
28 on the assets of the system with respect to the member's deferred retirement  
29 option plan participation account and assets shall not be set aside for any  
30 deferred retirement option plan participant that are separate from all other  
31 system assets.

32           B. All amounts credited to a member's deferred retirement option plan  
33 participation account are fully vested.

34           C. A member's deferred retirement option plan participation account  
35 shall be credited with the following:

36           1. An amount, credited monthly, that is computed in the same manner as  
37 a normal retirement benefit using the factors of credited service and average  
38 monthly benefit compensation in effect on the date of deferred retirement  
39 option plan participation.

40           2. An amount, credited monthly, that represents interest on the amount  
41 credited pursuant to paragraph 1 of this subsection at a rate equal to the  
42 assumed rate of return determined by the board, except that for a member who  
43 has less than twenty years of credited service on January 1, 2012 and who  
44 elects to participate in the deferred retirement option plan on or after  
45 January 1, 2012, the amount credited monthly is the amount that represents

1 interest at a rate equal to the average annual return of the system over the  
2 period of years established by the board for use in the calculation of the  
3 actuarial value of assets for the previous year, but not to exceed the  
4 system's assumed investment rate of return but at least two ~~per cent~~ PERCENT.

5 3. If applicable, employee contributions made pursuant to section  
6 38-844.06, subsection B.

7 D. The participant is not entitled to receive any amount prescribed by  
8 section ~~38-856, 38-856.02~~ 38-856.05 or 38-857 during the deferred retirement  
9 option plan participation period.

10 Sec. 8. Section 38-845, Arizona Revised Statutes, is amended to read:  
11 38-845. Amount of retirement benefit

12 A. A member who meets the requirements for a normal pension, who  
13 becomes a member of the system before January 1, 2012 and who has twenty  
14 years of credited service shall receive a monthly amount that equals fifty  
15 percent of the member's average monthly benefit compensation. If the member  
16 retires with other than twenty years of credited service, the foregoing  
17 amount shall be:

18 1. Reduced by four percent for each year of credited service under  
19 twenty years, with pro rata reduction for any fractional year.

20 2. Increased by a monthly amount equal to two percent of the member's  
21 average monthly benefit compensation multiplied by the number of the member's  
22 years of credited service in excess of twenty years, with pro rata increase  
23 for any fractional year, except that if a member retires with twenty-five or  
24 more years of credited service the amount shall be increased by a monthly  
25 amount equal to two and one-half percent of the member's average monthly  
26 benefit compensation multiplied by the number of the member's years of  
27 credited service in excess of twenty years, with pro rata increase for any  
28 fractional year. Notwithstanding this subsection, the maximum amount payable  
29 as a normal pension shall be eighty percent of the average monthly benefit  
30 compensation.

31 B. A member who meets the requirements for an accidental disability  
32 pension shall receive a monthly amount, which shall be computed in the same  
33 manner as a normal pension, using the member's average monthly benefit  
34 compensation before termination of employment and the member's actual  
35 credited service or twenty years of credited service, whichever is greater.

36 C. A member who meets the requirements for an ordinary disability  
37 pension shall receive a monthly amount that is equal to a fraction times the  
38 member's normal pension that is computed according to subsection A, ~~or~~ G OR H  
39 of this section if the member had twenty years of credited service. The  
40 fraction is the result obtained by dividing the member's actual years of  
41 credited service, not to exceed twenty years of credited service, by twenty.

42 D. A member who meets the requirements for a temporary disability  
43 pension shall receive a monthly amount that is equal to one-twelfth of fifty  
44 percent of the member's annual compensation received immediately prior to the  
45 date on which the member's disability was incurred.

1 E. A member who meets the requirements for a catastrophic disability  
2 pension is entitled to receive a monthly amount computed as follows:

3 1. For the first sixty months, ninety percent of the member's average  
4 monthly benefit compensation before termination of employment.

5 2. After sixty months, sixty-two and one-half percent of the member's  
6 average monthly benefit compensation before termination of employment or  
7 computed in the same manner as a normal pension using the member's average  
8 monthly benefit compensation before termination of employment and the  
9 member's actual credited service, whichever is greater.

10 F. A member who was employed before September 15, 1989 by an employer  
11 participating in the system and who retires on or after November 1, 2001 is  
12 entitled to receive a tax equity benefit allowance consisting of a permanent  
13 increase of two percent of the member's base benefit retroactive to the day  
14 of retirement.

15 G. A member who meets the requirements for a normal pension, who  
16 becomes a member of the system on or after January 1, 2012 AND BEFORE JULY 1,  
17 2017 and who has twenty-five years of credited service shall receive a  
18 monthly amount that equals sixty-two and one-half percent of the member's  
19 average monthly benefit compensation. If the member retires with other than  
20 twenty-five years of credited service, the foregoing amount shall be:

21 1. Reduced by four percent for each year of credited service under  
22 twenty-five years, with pro rata reduction for any fractional year.

23 2. Increased by a monthly amount equal to two and one-half percent of  
24 the member's average monthly benefit compensation multiplied by the number of  
25 the member's years of credited service in excess of twenty-five years, with  
26 pro rata increase for any fractional year. Notwithstanding this subsection,  
27 the maximum amount payable as a normal pension shall be eighty percent of the  
28 average monthly benefit compensation.

29 H. A MEMBER WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JULY 1,  
30 2017 AND WHO RETIRES ON OR AFTER THE MEMBER'S NORMAL RETIREMENT DATE SHALL  
31 RECEIVE A MONTHLY AMOUNT EQUAL TO THE MEMBER'S AVERAGE MONTHLY BENEFIT  
32 COMPENSATION MULTIPLIED BY THE NUMBER OF WHOLE AND FRACTIONAL YEARS OF  
33 CREDITED SERVICE MULTIPLIED BY THE FOLLOWING:

34 1. 1.50 PERCENT IF THE MEMBER HAS AT LEAST FIFTEEN YEARS OF CREDITED  
35 SERVICE BUT LESS THAN SEVENTEEN YEARS OF CREDITED SERVICE.

36 2. 1.75 PERCENT IF THE MEMBER HAS AT LEAST SEVENTEEN YEARS OF CREDITED  
37 SERVICE BUT LESS THAN NINETEEN YEARS OF CREDITED SERVICE.

38 3. 2.00 PERCENT IF THE MEMBER HAS AT LEAST NINETEEN YEARS OF CREDITED  
39 SERVICE BUT LESS THAN TWENTY-TWO YEARS OF CREDITED SERVICE.

40 4. 2.25 PERCENT IF THE MEMBER HAS AT LEAST TWENTY-TWO YEARS OF  
41 CREDITED SERVICE BUT LESS THAN TWENTY-FIVE YEARS OF CREDITED SERVICE.

42 5. 2.50 PERCENT IF THE MEMBER HAS AT LEAST TWENTY-FIVE YEARS OF  
43 CREDITED SERVICE.

1 I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, THE MAXIMUM AMOUNT  
2 PAYABLE AS A NORMAL PENSION IS EIGHTY PERCENT OF THE AVERAGE MONTHLY BENEFIT  
3 COMPENSATION.

4 Sec. 9. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
5 amended by adding section 38-845.03, to read:

6 38-845.03. Early retirement

7 MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 AND WHO HAVE EARNED AT  
8 LEAST FIFTEEN YEARS OF CREDITED SERVICE MAY RETIRE AT FIFTY-TWO AND ONE-HALF  
9 YEARS OF AGE AND WILL RECEIVE AN ACTUARIALLY EQUIVALENT RETIREMENT BENEFIT TO  
10 THE BENEFIT AMOUNT PRESCRIBED IN SECTION 38-845, SUBSECTION H.

11 Sec. 10. Section 38-846.01, Arizona Revised Statutes, is amended to  
12 read:

13 38-846.01. Deferred annuity; exception

14 A. If any member who has at least ten years of credited service  
15 terminates employment for reasons other than retirement or disability, the  
16 member may elect to receive a deferred annuity, except that if the annuitant  
17 withdraws all or part of the annuitant's accumulated contributions in the  
18 system all rights in and to a deferred annuity shall be forfeited by the  
19 annuitant. A deferred annuity is a lifetime monthly payment actuarially  
20 equivalent to the annuitant's accumulated contributions in the system plus an  
21 equal amount paid by the employer and shall commence on application on or  
22 after the sixty-second birthday of the annuitant. The annuity is not a  
23 retirement benefit and annuitants are not entitled to receive any amount  
24 prescribed by section 38-845, subsection F or section 38-846, 38-856,  
25 38-856.02 or 38-857.

26 B. This section does not apply to a member who becomes a member of the  
27 system on or after January 1, 2012. ~~Such~~ FOR A MEMBER WHO IS HIRED ON OR  
28 AFTER JANUARY 1, 2012 AND BEFORE JULY 1, 2017, a ~~person~~ MEMBER who attains a  
29 normal retirement date is eligible for retirement and a retirement benefit  
30 even if the member terminates employment with an employer before the age  
31 requirement for normal retirement if the member attains the service  
32 requirement for normal retirement. FOR A MEMBER WHO IS HIRED ON OR AFTER  
33 JULY 1, 2017, A MEMBER WHO ATTAINS A NORMAL RETIREMENT DATE IS ELIGIBLE FOR  
34 RETIREMENT AND A RETIREMENT BENEFIT EVEN IF THE MEMBER TERMINATES EMPLOYMENT  
35 WITH AN EMPLOYER BEFORE THE AGE REQUIREMENT FOR NORMAL RETIREMENT IF THE  
36 MEMBER ATTAINS THE CREDITED SERVICE REQUIREMENT FOR NORMAL RETIREMENT. ONCE  
37 A MEMBER DESCRIBED IN THIS SUBSECTION REACHES THE NORMAL RETIREMENT AGE, THE  
38 MEMBER MAY RECEIVE PAYMENTS MADE UNDER SECTION 38-845.

39 Sec. 11. Section 38-848, Arizona Revised Statutes, is amended to read:

40 38-848. Board of trustees; powers and duties; independent trust  
41 fund; administrator; agents and employees; advisory  
42 committee

43 A. BEGINNING JANUARY 1, 2017, the board of trustees shall consist of  
44 ~~seven~~ NINE members and shall have the rights, powers and duties that are set  
45 forth in this section. The term of office of members shall be five years to

1 expire on the third Monday in January of the appropriate year. THE BOARD  
2 SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS EACH CALENDAR YEAR.  
3 Members are eligible to receive compensation in an amount of fifty dollars a  
4 day, but not to exceed one thousand dollars in any one fiscal year, and are  
5 eligible for reimbursement of expenses pursuant to chapter 4, article 2 of  
6 this title. BEGINNING JANUARY 1, 2017, the board consists of the following  
7 members appointed by the governor pursuant to section 38-211 AS FOLLOWS:

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

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

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

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

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

18 1. TWO MEMBERS REPRESENTING LAW ENFORCEMENT, ONE OF WHOM IS APPOINTED  
19 BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR.  
20 A STATEWIDE ASSOCIATION REPRESENTING LAW ENFORCEMENT IN THIS STATE SHALL  
21 FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT LEAST  
22 THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE MEMBERS APPOINTED  
23 UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD MEMBER.

24 2. TWO MEMBERS REPRESENTING FIREFIGHTERS, ONE OF WHOM IS APPOINTED BY  
25 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY  
26 THE GOVERNOR. A STATEWIDE ASSOCIATION REPRESENTING FIREFIGHTERS IN THIS  
27 STATE SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS,  
28 PROVIDING AT LEAST THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE  
29 MEMBERS APPOINTED UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD  
30 MEMBER.

31 3. THREE MEMBERS REPRESENTING CITIES AND TOWNS IN THIS STATE, ONE OF  
32 WHOM IS APPOINTED BY THE PRESIDENT OF THE SENATE, ONE OF WHOM IS APPOINTED BY  
33 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY  
34 THE GOVERNOR. AN ASSOCIATION REPRESENTING CITIES AND TOWNS IN THIS STATE  
35 SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT  
36 LEAST THREE NOMINEES FOR EACH POSITION. THESE NOMINEES SHALL REPRESENT  
37 TAXPAYERS OR EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

38 4. ONE MEMBER WHO REPRESENTS COUNTIES IN THIS STATE AND WHO IS  
39 APPOINTED BY THE GOVERNOR. AN ASSOCIATION REPRESENTING COUNTY SUPERVISORS IN  
40 THIS STATE SHALL FORWARD NOMINATIONS TO THE GOVERNOR, PROVIDING AT LEAST  
41 THREE NOMINEES FOR THE POSITION. THESE NOMINEES SHALL REPRESENT TAXPAYERS OR  
42 EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

43 5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE  
44 NOMINEES FORWARDED BY THE BOARD. THE BOARD SHALL SELECT THE NOMINEES TO

1 FORWARD TO THE GOVERNOR FROM A LIST OF AT LEAST FIVE NOMINEES RECEIVED FROM  
2 THE ADVISORY COMMITTEE.

3 B. EACH APPOINTMENT MADE PURSUANT TO SUBSECTION A OF THIS SECTION  
4 SHALL BE CHOSEN FROM THE LIST OF NOMINEES PROVIDED TO THE APPOINTING ELECTED  
5 OFFICIAL. A BOARD MEMBER MAY BE REAPPOINTED. NOTWITHSTANDING SECTION  
6 38-295, A BOARD MEMBER MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE BY THE  
7 APPOINTING POWER OR BECAUSE THE BOARD MEMBER HAS VACATED THE MEMBER'S SEAT ON  
8 THE BOARD. A BOARD MEMBER WHO IS REMOVED FOR CAUSE SHALL BE PROVIDED WRITTEN  
9 NOTICE AND AN OPPORTUNITY FOR A RESPONSE. THE APPOINTING POWER MAY REMOVE A  
10 BOARD MEMBER BASED ON WRITTEN FINDINGS THAT SPECIFY THE REASON FOR REMOVAL.  
11 ANY VACANCY THAT OCCURS OTHER THAN BY EXPIRATION OF A TERM SHALL BE FILLED  
12 FOR THE BALANCE OF THE TERM. ALL VACANCIES SHALL BE FILLED IN THE SAME  
13 MANNER AS THE INITIAL APPOINTMENT. A BOARD MEMBER VACATES THE OFFICE IF THE  
14 MEMBER EITHER:

15 1. IS ABSENT WITHOUT EXCUSE FROM THREE CONSECUTIVE REGULAR MEETINGS OF  
16 THE BOARD.

17 2. RESIGNS, DIES OR BECOMES UNABLE TO PERFORM BOARD MEMBER DUTIES.

18 C. THE MEMBERS OF THE BOARD WHO ARE APPOINTED PURSUANT TO SUBSECTION A  
19 OF THIS SECTION AND WHO ARE NOT MEMBERS OF THE SYSTEM SHALL BE INDEPENDENT,  
20 QUALIFIED PROFESSIONALS WHO ARE RESPONSIBLE FOR THE PERFORMANCE OF FIDUCIARY  
21 DUTIES AND OTHER RESPONSIBILITIES REQUIRED TO PRESERVE AND PROTECT THE FUND  
22 AND SHALL HAVE AT LEAST TEN YEARS' SUBSTANTIAL EXPERIENCE AS ANY ONE OR A  
23 COMBINATION OF THE FOLLOWING:

24 1. A PORTFOLIO MANAGER ACTING IN A FIDUCIARY CAPACITY.

25 2. A SECURITIES ANALYST.

26 3. A SENIOR EXECUTIVE OR PRINCIPAL OF A TRUST INSTITUTION, INVESTMENT  
27 ORGANIZATION OR ENDOWMENT FUND ACTING EITHER IN A MANAGEMENT OR AN  
28 INVESTMENT-RELATED CAPACITY.

29 4. A CHARTERED FINANCIAL ANALYST IN GOOD STANDING AS DETERMINED BY THE  
30 CHARTERED FINANCIAL ANALYST INSTITUTE.

31 5. A CURRENT OR FORMER PROFESSOR OR INSTRUCTOR AT THE COLLEGE OR  
32 UNIVERSITY LEVEL IN THE FIELD OF ECONOMICS, FINANCE, ACTUARIAL SCIENCE,  
33 ACCOUNTING OR PENSION-RELATED SUBJECTS.

34 6. AN ECONOMIST.

35 7. ANY OTHER SENIOR EXECUTIVE ENGAGED IN THE FIELD OF PUBLIC OR  
36 PRIVATE FINANCES OR WITH EXPERIENCE WITH PUBLIC PENSION SYSTEMS.

37 8. A SENIOR EXECUTIVE IN INSURANCE, BANKING, UNDERWRITING, AUDITING,  
38 HUMAN RESOURCES OR RISK MANAGEMENT.

39 ~~B-~~ D. All monies in the fund shall be deposited and held in a public  
40 safety personnel retirement system depository. Monies in the fund shall be  
41 disbursed from the depository separate and apart from all monies or funds of  
42 this state and the agencies, instrumentalities and subdivisions of this  
43 state, except that the board may commingle the assets of the fund and the  
44 assets of all other plans entrusted to its management in one or more group  
45 trusts, subject to the crediting of receipts and earnings and charging of

1 payments to the appropriate employer, system or plan. The monies shall be  
2 secured by the depository in which they are deposited and held to the same  
3 extent and in the same manner as required by the general depository law of  
4 this state. For purposes of making the decision to invest in securities  
5 owned by the fund or any plan or trust administered by the board, the fund  
6 and assets of the plans and the plans' trusts are subject to the sole  
7 management of the board for the purpose of this article except that, on the  
8 board's election to invest in a particular security or make a particular  
9 investment, the assets comprising the security or investment may be chosen  
10 and managed by third parties approved by the board. The board may invest in  
11 portfolios of securities chosen and managed by a third party. The board's  
12 decision to invest in securities such as mutual funds, commingled investment  
13 funds, exchange traded funds, private equity or venture capital limited  
14 partnerships, real estate limited partnerships or limited liability companies  
15 and real estate investment trusts whose assets are chosen and managed by  
16 third parties does not constitute an improper delegation of the board's  
17 investment authority.

18 ~~G.~~ E. All contributions under this system and other retirement plans  
19 that the board administers shall be forwarded to the board and shall be held,  
20 invested and reinvested by the board as provided in this article. All  
21 property and monies of the fund and other retirement plans that the board  
22 administers, including income from investments and from all other sources,  
23 shall be retained for the exclusive benefit of members, as provided in the  
24 system and other retirement plans that the board administers, and shall be  
25 used to pay benefits to members or their beneficiaries or to pay expenses of  
26 operation and administration of the system and fund and other retirement  
27 plans that the board administers.

28 ~~D.~~ F. The board shall have the full power in its sole discretion to  
29 invest and reinvest, alter and change the monies accumulated under the system  
30 and other retirement plans and trusts that the board administers as provided  
31 in this article. In addition to its power to make investments managed by  
32 others, the board may delegate the authority the board deems necessary and  
33 prudent to investment management pursuant to section 38-848.03, as well as to  
34 the administrator, employed by the board pursuant to subsection ~~K~~ M,  
35 paragraph 6 of this section, and any assistant administrators to invest the  
36 monies of the system and other retirement plans and trusts that the board  
37 administers if the administrator, investment management and any assistant  
38 administrators follow the investment policies that are adopted by the board.  
39 The board may commingle securities and monies of the fund, the elected  
40 officials' retirement plan, the corrections officer retirement plan and other  
41 plans or monies entrusted to its care, subject to the crediting of receipts  
42 and earnings and charging of payments to the account of the appropriate  
43 employer, system or plan. In making every investment, the board shall  
44 exercise the judgment and care under the circumstances then prevailing that  
45 persons of ordinary prudence, discretion and intelligence exercise in the

1 management of their own affairs, not in regard to speculation but in regard  
2 to the permanent disposition of their funds, considering the probable income  
3 from their funds as well as the probable safety of their capital, provided:

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

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

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

17 4. That corporate stocks and exchange traded funds eligible for direct  
18 purchase shall be restricted to stocks and exchange traded funds that, except  
19 for bank stocks, insurance stocks, stocks acquired for coinvestment in  
20 connection with the system's or the plans' or trusts' commingled investments  
21 and interests in limited liability companies and mutual funds, are either:

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

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

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

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

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

42 ~~E.~~ G. Notwithstanding any other law, the board shall not be required  
43 to invest in any type of investment that is dictated or required by any  
44 entity of the federal government and that is intended to fund economic  
45 development projects, public works or social programs, but may consider such

1 economically targeted investments pursuant to its fiduciary responsibility.  
2 The board, on behalf of the system and all other plans or trusts the board  
3 administers, may invest in, lend monies to or guarantee the repayment of  
4 monies by a limited liability company, limited partnership, joint venture,  
5 partnership, limited liability partnership or trust in which the system and  
6 plans or trusts have a financial interest, whether the entity is closely held  
7 or publicly traded and that, in turn, may be engaged in any lawful activity,  
8 including venture capital, private equity, the ownership, development,  
9 management, improvement or operation of real property and any improvements or  
10 businesses on real property or the lending of monies.

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

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

24 ~~H.~~ J. Except as provided in subsection ~~D.~~ F of this section, the  
25 board may:

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

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

31 3. Also:

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

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

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

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

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

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

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

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

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

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

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

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

37           ~~I~~. K. Investment expenses and operation and administrative expenses  
38 of the board shall be accounted for separately and allocated against  
39 investment income.

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

- 1           1. A balance sheet.
- 2           2. A statement of income and expenditures for the year.
- 3           3. A report on an actuarial valuation of its assets and liabilities.
- 4           4. A list of investments owned.
- 5           5. The total rate of return, yield on cost, and ~~per-cent~~ PERCENT of
- 6 cost to market value of the fund and the assets of other plans that the board
- 7 administers.
- 8           6. Any other statistical and financial data that may be necessary for
- 9 the proper understanding of the financial condition of the system and other
- 10 plans that the board administers and the results of their operations. A
- 11 synopsis of the annual report shall be published for the information of
- 12 members of the system, the elected officials' retirement plan or the
- 13 corrections officer retirement plan.
- 14           7. An analysis of the long-term level ~~per-cent~~ PERCENT of employer
- 15 contributions and compensation structure and whether the funding methodology
- 16 is sufficient to pay one hundred ~~per-cent~~ PERCENT of the unfunded accrued
- 17 liability under the elected officials' retirement plan.
- 18           8. An estimate of the aggregate employer contribution rate for the
- 19 public safety personnel retirement system for the next ten fiscal years and
- 20 an estimate of the aggregate employer contribution rate for the corrections
- 21 officer retirement plan for the next ten fiscal years.
- 22           9. An estimate of the employer contribution rates for the next ten
- 23 fiscal years for each of the following employers within the public safety
- 24 personnel retirement system:
  - 25           (a) Department of liquor licenses and control.
  - 26           (b) Department of public safety.
  - 27           (c) Northern Arizona university.
  - 28           (d) University of Arizona.
  - 29           (e) Arizona state university.
  - 30           (f) Arizona game and fish department.
  - 31           (g) Department of law.
  - 32           (h) Department of emergency and military affairs.
  - 33           (i) Arizona state parks board.
- 34           10. An estimate of the employer contribution rates for the next ten
- 35 fiscal years for each of the following employers within the corrections
- 36 officer retirement plan:
  - 37           (a) State department of corrections.
  - 38           (b) Department of public safety.
  - 39           (c) The judiciary.
  - 40           (d) Department of juvenile corrections.
- 41           ~~K~~ M. The board shall:
  - 42           1. Maintain the accounts of the system and other plans that the board
  - 43 administers and issue statements to each employer annually and to each member
  - 44 who may request it.

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

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

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

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

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

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

22           ~~H~~ N. The administrator, under the direction of the board, shall:

23           1. Administer this article.

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

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

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

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

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

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

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

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

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

21           ~~Q.~~ Q. In consultation with the director of the department of  
22 administration, the board may enter into employment agreements and establish  
23 the terms of those agreements with persons holding any of the following  
24 system positions:

- 25           1. Administrator.
- 26           2. Deputy or assistant administrator.
- 27           3. Chief investment officer.
- 28           4. Deputy chief investment officer.
- 29           5. Fiduciary or investment counsel.

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

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

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

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

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

17           ~~1.~~ A portfolio manager acting in a fiduciary capacity.

18           ~~2.~~ A securities analyst.

19           ~~3.~~ An employee or principal of a trust institution, investment  
20 organization or endowment fund acting either in a management or an investment  
21 related capacity.

22           ~~4.~~ A chartered financial analyst in good standing as determined by the  
23 association for investment management and research.

24           ~~5.~~ A professor at the university level teaching economics or  
25 investment related subjects.

26           ~~6.~~ An economist.

27           ~~7.~~ Any other professional engaged in the field of public or private  
28 finances.

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

36           W. A PERSON WHO IS A DEALER AS DEFINED IN SECTION 44-1801 AND WHO IS  
37 INVOLVED IN SECURITIES OR INVESTMENTS RELATED TO THE BOARD'S INVESTMENTS IS  
38 NOT ELIGIBLE TO SERVE ON THE BOARD.

39           X. BEGINNING JANUARY 1, 2017, THE PUBLIC SAFETY PERSONNEL RETIREMENT  
40 SYSTEM ADVISORY COMMITTEE IS ESTABLISHED AND SHALL SERVE AS A LIAISON BETWEEN  
41 THE BOARD AND THE MEMBERS AND EMPLOYERS OF THE SYSTEM. THE COMMITTEE SHALL  
42 BE APPOINTED BY THE CHAIRPERSON OF THE BOARD FROM NAMES SUBMITTED TO THE  
43 CHAIRPERSON BY ASSOCIATIONS REPRESENTING LAW ENFORCEMENT, FIREFIGHTERS, STATE  
44 GOVERNMENT, COUNTIES, CITIES AND TOWNS AND TRIBAL GOVERNMENTS. THE COMMITTEE

1 SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS EACH CALENDAR YEAR. THE  
2 COMMITTEE SHALL CONSIST OF THE FOLLOWING TEN MEMBERS:

- 3 1. A MEMBER WHO IS A LAW ENFORCEMENT OFFICER.
- 4 2. A MEMBER WHO IS A FIREFIGHTER.
- 5 3. A MEMBER OF THE ELECTED OFFICIALS' RETIREMENT PLAN.
- 6 4. A MEMBER OF THE CORRECTIONS OFFICER RETIREMENT PLAN.
- 7 5. A RETIREE FROM THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.
- 8 6. A REPRESENTATIVE FROM A CITY OR TOWN IN THIS STATE.
- 9 7. A REPRESENTATIVE FROM A COUNTY IN THIS STATE.
- 10 8. A REPRESENTATIVE FROM A FIRE DISTRICT IN THIS STATE.
- 11 9. A REPRESENTATIVE FROM A STATE EMPLOYER.
- 12 10. A REPRESENTATIVE FROM A TRIBAL GOVERNMENT LOCATED IN THIS STATE.

13 Sec. 12. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
14 amended by adding section 38-848.04, to read:

15 38-848.04. Board fiduciary obligations and duties; enforcement;  
16 definitions

17 A. THE BOARD AND ANY OTHER FIDUCIARY OF THE SYSTEM SHALL DISCHARGE  
18 THEIR DUTIES:

- 19 1. SOLELY IN THE INTEREST OF THE MEMBERS AND BENEFICIARIES.
- 20 2. FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO MEMBERS AND  
21 BENEFICIARIES AND PAYING REASONABLE EXPENSES IN ADMINISTERING THE PLANS AND  
22 SYSTEMS ADMINISTERED BY THE BOARD.
- 23 3. WITH THE CARE, SKILL AND CAUTION UNDER THE CIRCUMSTANCES THEN  
24 PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH  
25 THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ACTIVITY OF LIKE CHARACTER AND  
26 PURPOSE.
- 27 4. IMPARTIALLY, TAKING INTO ACCOUNT ANY DIFFERING INTERESTS OF MEMBERS  
28 AND BENEFICIARIES.
- 29 5. INCURRING ONLY COSTS THAT ARE APPROPRIATE AND REASONABLE.
- 30 6. PURSUANT TO A GOOD-FAITH INTERPRETATION OF THE LAW GOVERNING THE  
31 RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE BOARD.

32 B. IN INVESTING AND MANAGING ASSETS OF THE RETIREMENT PLANS AND  
33 SYSTEMS ADMINISTERED BY THE BOARD, A TRUSTEE WITH AUTHORITY TO INVEST AND  
34 MANAGE ASSETS:

- 35 1. SHALL CONSIDER AT LEAST THE FOLLOWING:
  - 36 (a) THE GENERAL ECONOMIC CONDITIONS.
  - 37 (b) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION.
  - 38 (c) THE ROLE THAT EACH INVESTMENT OR COURSE OF ACTION PLAYS WITHIN THE  
39 OVERALL PORTFOLIO OF THE RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE  
40 BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS.
  - 41 (d) THE EXPECTED TOTAL RETURN FROM INCOME AND THE APPRECIATION OF  
42 CAPITAL.
  - 43 (e) THE NEEDS FOR LIQUIDITY, REGULARITY OF INCOME AND PRESERVATION OR  
44 APPRECIATION OF CAPITAL.

1 (f) FOR DEFINED BENEFIT PLANS, THE ADEQUACY OF FUNDING FOR THE PLAN  
2 BASED ON REASONABLE ACTUARIAL FACTORS.

3 2. SHALL DIVERSIFY THE INVESTMENTS OF THE RETIREMENT PLANS AND SYSTEMS  
4 ADMINISTERED BY THE BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS UNLESS  
5 THE TRUSTEE REASONABLY DETERMINES THAT, BECAUSE OF SPECIAL CIRCUMSTANCES, IT  
6 IS CLEARLY PRUDENT NOT TO DO SO.

7 3. SHALL MAKE A REASONABLE EFFORT TO VERIFY FACTS RELEVANT TO THE  
8 INVESTMENT AND MANAGEMENT OF ASSETS OF A RETIREMENT PLAN OR SYSTEM.

9 4. MAY INVEST IN ANY KIND OF PROPERTY OR TYPE OF INVESTMENT CONSISTENT  
10 WITH THIS ARTICLE.

11 5. MAY CONSIDER BENEFITS CREATED BY AN INVESTMENT IN ADDITION TO  
12 INVESTMENT RETURN ONLY IF THE TRUSTEE DETERMINES THAT THE INVESTMENT  
13 PROVIDING THESE COLLATERAL BENEFITS WOULD BE PRUDENT EVEN WITHOUT THE  
14 COLLATERAL BENEFITS.

15 C. A TRUSTEE WITH AUTHORITY TO INVEST AND MANAGE ASSETS OF A  
16 RETIREMENT PLAN OR SYSTEM SHALL ADOPT A STATEMENT OF INVESTMENT OBJECTIVES  
17 AND POLICIES FOR EACH RETIREMENT PLAN AND SYSTEM ADMINISTERED BY THE BOARD OR  
18 APPROPRIATE GROUPING OF PLANS OR SYSTEMS. THE STATEMENT MUST INCLUDE THE  
19 DESIRED RATE OF RETURN ON ASSETS OVERALL, THE DESIRED RATES OF RETURN AND  
20 ACCEPTABLE LEVELS OF RISK FOR EACH ASSET CLASS, ASSET-ALLOCATION GOALS,  
21 GUIDELINES FOR THE DELEGATION OF AUTHORITY AND INFORMATION ON THE TYPES OF  
22 REPORTS TO BE USED TO EVALUATE INVESTMENT PERFORMANCE. AT LEAST ANNUALLY,  
23 THE TRUSTEE SHALL REVIEW THE STATEMENT AND CHANGE OR REAFFIRM IT.

24 D. IN EVALUATING THE PERFORMANCE OF A TRUSTEE OR ANY OTHER FIDUCIARY  
25 OF THE PLAN OR SYSTEM:

26 1. COMPLIANCE WITH THIS SECTION MUST BE DETERMINED IN LIGHT OF THE  
27 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE TRUSTEE'S OR FIDUCIARY'S  
28 DECISION OR ACTION AND NOT BY HINDSIGHT.

29 2. THE TRUSTEE'S INVESTMENT AND MANAGEMENT DECISIONS MUST BE EVALUATED  
30 NOT IN ISOLATION BUT IN THE CONTEXT OF THE TRUST PORTFOLIO AS A WHOLE AND AS  
31 A PART OF AN OVERALL INVESTMENT STRATEGY HAVING RISK AND RETURN OBJECTIVES  
32 REASONABLY SUITED TO THE RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE  
33 BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS.

34 E. AN EMPLOYER, MEMBER, BENEFICIARY OR FIDUCIARY MAY MAINTAIN AN  
35 ACTION IN WHICH THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND COSTS TO  
36 EITHER PARTY:

37 1. TO ENJOIN AN ACT, PRACTICE OR OMISSION THAT VIOLATES THIS SECTION.

38 2. FOR APPROPRIATE EQUITABLE RELIEF TO REDRESS THE VIOLATION OF OR TO  
39 ENFORCE THIS SECTION.

40 F. FOR THE PURPOSES OF THIS SECTION:

41 1. "FIDUCIARY" MEANS A PERSON WHO DOES ANY OF THE FOLLOWING:

42 (a) EXERCISES ANY DISCRETIONARY AUTHORITY TO MANAGE A RETIREMENT PLAN  
43 OR SYSTEM ADMINISTERED BY THE BOARD.

44 (b) EXERCISES ANY AUTHORITY TO INVEST OR MANAGE ASSETS OF A RETIREMENT  
45 PLAN OR SYSTEM ADMINISTERED BY THE BOARD.

1 (c) PROVIDES INVESTMENT ADVICE FOR A FEE OR OTHER DIRECT OR INDIRECT  
2 COMPENSATION WITH RESPECT TO ASSETS OF THE SYSTEM OR HAS ANY AUTHORITY OR  
3 RESPONSIBILITY TO DO SO.

4 (d) SERVES AS A TRUSTEE OR MEMBER OF THE BOARD.

5 2. "TRUSTEE" MEANS A PERSON WHO HAS ULTIMATE AUTHORITY TO MANAGE A  
6 RETIREMENT SYSTEM OR PLAN OR TO INVEST OR MANAGE ITS ASSETS.

7 Sec. 13. Repeal

8 Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04, Arizona  
9 Revised Statutes, are repealed.

10 Sec. 14. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
11 amended by adding sections 38-856.05, 38-856.06 and 38-861, to read:

12 38-856.05. Cost-of-living adjustment; members hired on or  
13 before June 30, 2017

14 A. FOR MEMBERS HIRED ON OR BEFORE JUNE 30, 2017, EACH RETIRED MEMBER  
15 OR SURVIVOR OF A RETIRED MEMBER IS ELIGIBLE TO RECEIVE A COMPOUNDING  
16 COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT AS PROVIDED IN THIS SECTION.  
17 THE FIRST PAYMENT UNDER THIS SECTION SHALL BE MADE IMMEDIATELY FOLLOWING THE  
18 FIRST YEAR THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION C OF THIS  
19 SECTION IS PAID. THE COST-OF-LIVING ADJUSTMENT SHALL BE MADE ON JULY 1 EACH  
20 YEAR THEREAFTER.

21 B. A RETIRED MEMBER OR A SURVIVOR OF A RETIRED MEMBER SHALL RECEIVE  
22 ANNUALLY A COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT BASED ON THE AVERAGE  
23 ANNUAL PERCENTAGE CHANGE IN THE METROPOLITAN PHOENIX-MESA CONSUMER PRICE  
24 INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR  
25 STATISTICS, WITH THE IMMEDIATELY PRECEDING YEAR AS THE BASE YEAR FOR MAKING  
26 THE DETERMINATION, NOT TO EXCEED ANNUALLY TWO PERCENT OF THE RETIRED MEMBER'S  
27 OR SURVIVOR'S BASE BENEFIT.

28 C. IN THE FIRST YEAR OF A MEMBER'S RETIREMENT, THE COST-OF-LIVING  
29 ADJUSTMENT SPECIFIED IN SUBSECTION B OF THIS SECTION SHALL BE PRORATED BASED  
30 ON THE DATE OF RETIREMENT.

31 D. THE SYSTEM ACTUARY SHALL INCLUDE THE PROJECTED COST OF PROVIDING  
32 THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION B OF THIS SECTION IN  
33 THE CALCULATION OF NORMAL COST AND ACCRUED LIABILITY.

34 38-856.06. Cost-of-living adjustment; members hired on or after  
35 July 1, 2017; definition

36 A. FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017, EACH ELIGIBLE  
37 RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER MAY RECEIVE A COMPOUNDING  
38 COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT AS PROVIDED IN THIS SECTION.

39 B. A RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER IS ELIGIBLE TO  
40 RECEIVE A COST-OF-LIVING ADJUSTMENT UNDER THIS SECTION BEGINNING THE EARLIER  
41 OF THE FIRST CALENDAR YEAR AFTER THE SEVENTH ANNIVERSARY OF THE RETIRED  
42 MEMBER'S RETIREMENT OR WHEN THE RETIRED MEMBER IS OR WOULD HAVE BEEN SIXTY  
43 YEARS OF AGE.

1 C. A COST-OF-LIVING ADJUSTMENT SHALL BE PAID ON JULY 1 EACH YEAR THAT  
2 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS  
3 SEVENTY PERCENT OR MORE, AS REPORTED IN THE MOST RECENT ACTUARIAL VALUATION.

4 D. AN ELIGIBLE RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER SHALL  
5 RECEIVE ANNUALLY A COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT BASED ON THE  
6 AVERAGE ANNUAL PERCENTAGE CHANGE IN THE METROPOLITAN PHOENIX-MESA CONSUMER  
7 PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF  
8 LABOR STATISTICS, WITH THE IMMEDIATELY PRECEDING YEAR AS THE BASE YEAR FOR  
9 MAKING THE DETERMINATION, NOT TO EXCEED ANNUALLY THE FOLLOWING:

10 1. TWO PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE BENEFIT IF  
11 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS NINETY  
12 PERCENT OR MORE, AS REPORTED IN THE MOST RECENT ACTUARIAL VALUATION.

13 2. ONE AND ONE-HALF PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE  
14 BENEFIT IF THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1,  
15 2017 IS EIGHTY PERCENT OR MORE BUT LESS THAN NINETY PERCENT, AS REPORTED IN  
16 THE MOST RECENT ACTUARIAL VALUATION.

17 3. ONE PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE BENEFIT IF  
18 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS  
19 SEVENTY PERCENT OR MORE BUT LESS THAN EIGHTY PERCENT, AS REPORTED IN THE MOST  
20 RECENT ACTUARIAL VALUATION.

21 E. THE SYSTEM ACTUARY SHALL INCLUDE THE PROJECTED COST OF PROVIDING  
22 THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION D OF THIS SECTION IN  
23 THE CALCULATION OF NORMAL COST AND ACCRUED LIABILITY.

24 F. FOR THE PURPOSES OF THIS SECTION, "FUNDED RATIO" MEANS THE RATIO OF  
25 THE MARKET VALUE OF ASSETS TO THE ACTUAL ACCRUED LIABILITIES.

26 38-861. Future benefit increases; payment; cost calculation;  
27 definition

28 A. ANY FUTURE BENEFIT INCREASE ADOPTED BY THE LEGISLATURE FOR ANY  
29 MEMBER OF THE SYSTEM SHALL BE FULLY PAID IN THE YEAR OF ENACTMENT OF THE  
30 BENEFIT AND MAY NOT BE AMORTIZED OVER ANY PERIOD OF YEARS. A BENEFIT FOR  
31 MEMBERS HIRED BEFORE JULY 1, 2017 SHALL BE PAID BY THE EMPLOYER AND THE COST  
32 OF THE BENEFIT FOR MEMBERS HIRED ON OR AFTER JULY 1, 2017 SHALL BE SPLIT  
33 EQUALLY BETWEEN THE EMPLOYER AND THE MEMBER PURSUANT TO SECTION 38-843,  
34 SUBSECTION G.

35 B. THE PLAN ACTUARY SHALL CALCULATE THE COST OF THE BENEFIT INCREASE  
36 USING ALL OF THE FOLLOWING:

37 1. A DISCOUNT RATE EQUAL TO THE TEN-YEAR TREASURY CONSTANT MATURITY  
38 RATE FOR THE FISCAL YEAR IN WHICH THE BENEFIT IS ENACTED.

39 2. AN EXPECTED RATE OF RETURN ON ASSETS EQUAL TO THE TEN-YEAR TREASURY  
40 CONSTANT MATURITY RATE FOR THE FISCAL YEAR IN WHICH THE BENEFIT IS ENACTED.

41 3. A MORTALITY TABLE BASED ON THE MOST RECENT PROPOSAL FROM THE  
42 RETIREMENT PLANS EXPERIENCE COMMITTEE OF THE SOCIETY OF ACTUARIES THAT IS NOT  
43 OLDER THAN THE RP-2014 MORTALITY TABLE.

44 4. ALL OTHER ACTUARIAL ASSUMPTIONS APPROVED BY THE BOARD FOR THE MOST  
45 RECENT FISCAL YEAR VALUATION.

1 C. FOR THE PURPOSES OF THIS SECTION, "FUTURE BENEFIT INCREASE"  
2 INCLUDES ANY BENEFIT INCREASE THAT LEADS TO A CHANGE IN THE PRESENT VALUE OF  
3 FUTURE BENEFITS OR A CHANGE TO ACCRUED LIABILITIES.

4 Sec. 15. Title 38, chapter 5, Arizona Revised Statutes, is amended by  
5 adding articles 4.1 and 4.2, to read:

6 ARTICLE 4.1. PUBLIC SAFETY PERSONNEL DEFINED  
7 CONTRIBUTION RETIREMENT PLAN

8 38-865. Definitions

9 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

16 3. "COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

17 4. "DEFINED CONTRIBUTION PLAN" MEANS THE PUBLIC SAFETY PERSONNEL  
18 DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO THIS ARTICLE.

19 5. "EMPLOYER" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

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

23 7. "PARTICIPANT" MEANS A MEMBER AS DEFINED IN SECTION 38-842,  
24 PARAGRAPH 31, EXCLUDING SUBDIVISION (a), ITEM (vi), WHO IS ONE OF THE  
25 FOLLOWING:

26 (a) AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017, WHO MAKES THE  
27 IRREVOCABLE ELECTION TO PARTICIPATE SOLELY IN THE DEFINED CONTRIBUTION PLAN  
28 ESTABLISHED PURSUANT TO THIS ARTICLE AND WHO WAS NOT AN ACTIVE, AN INACTIVE  
29 OR A RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE SYSTEM WITH A DISABILITY  
30 ON JUNE 30, 2017.

31 (b) AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017, WHO IS NOT  
32 COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM AND WHO MAKES  
33 THE IRREVOCABLE ELECTION TO PARTICIPATE IN THE SYSTEM OR IS ENROLLED IN THE  
34 SYSTEM PURSUANT TO SECTION 38-842.01, SUBSECTION A.

35 8. "PENSIONABLE COMPENSATION" MEANS THE AMOUNT OF THE PARTICIPANT'S  
36 ANNUAL COMPENSATION THAT DOES NOT EXCEED THE LIMITATION SPECIFIED IN SECTION  
37 38-843.04.

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

40 38-865.01. Definition of participant

41 FOR THE PURPOSES OF THIS ARTICLE, "PARTICIPANT" INCLUDES A MEMBER AS  
42 DEFINED IN SECTION 38-842, PARAGRAPH 31, EXCLUDING SUBDIVISION (a), ITEM  
43 (vi), WHO IS HIRED ON OR AFTER JANUARY 1, 2012 AND BEFORE JULY 1, 2017, WHO  
44 IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM AND WHO  
45 IS A MEMBER OF THE SYSTEM.



1 OPTIONS SHALL INCLUDE OPTIONS THAT REFLECT DIFFERENT RISK PROFILES AND  
2 OPTIONS THAT AUTOMATICALLY REALLOCATE AND REBALANCE CONTRIBUTIONS AS A  
3 PARTICIPANT AGES. IN ADDITION, THE DEFINED CONTRIBUTION PLAN MAY PERMIT  
4 PARTICIPANTS TO CONSTRUCT INVESTMENT PORTFOLIOS USING SOME OR ALL OF THE  
5 INVESTMENT OPTIONS COMPRISING THE PREDETERMINED INVESTMENT PORTFOLIO OPTIONS.

6 4. REQUIRE UNDER THE CONTRACT THAT THE DEFINED CONTRIBUTION RETIREMENT  
7 PLAN OFFER PARTICIPANTS A MENU OF LIFETIME ANNUITY OPTIONS, EITHER FIXED OR  
8 VARIABLE OR A COMBINATION OF BOTH.

9 E. THE BOARD MAY:

10 1. EMPLOY OTHER SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES,  
11 FOR THE OPERATION AND ADMINISTRATION OF THE DEFINED CONTRIBUTION PLAN.

12 2. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT  
13 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

14 F. THE BOARD SHALL ADOPT POLICIES REGARDING THE DEFINED CONTRIBUTION  
15 PLAN, INCLUDING THE ADMINISTRATION OF THE PARTICIPANT AND EMPLOYER  
16 CONTRIBUTIONS, INVESTMENT OPTIONS, TERMINATION OF PARTICIPATION IN THE  
17 DEFINED CONTRIBUTION PLAN, ADMINISTRATION OF THE PAYOUT OPTIONS UNDER THE  
18 DEFINED CONTRIBUTION PLAN AND ADMINISTRATION OF THE PARTICIPANT  
19 DISTRIBUTIONS.

20 G. THE BOARD SHALL PARTICIPATE IN A COMPETITIVE BID PROCESS AT LEAST  
21 ONCE EVERY FIVE YEARS TO CONTRACT WITH A PRIVATE PERSON OR ANY QUALIFIED  
22 COMPANY OR COMPANIES TO ADMINISTER THE DEFINED CONTRIBUTION PLAN ESTABLISHED  
23 PURSUANT TO THIS ARTICLE.

24 H. ANY CONTRACT FOR A THIRD-PARTY ADMINISTRATOR OF THE DEFINED  
25 CONTRIBUTION PLAN SHALL INCLUDE COMPETITIVE FEES AND PROVISIONS REQUIRING  
26 QUARTERLY MEETINGS WITH THE SYSTEM, ANNUAL UPDATES TO THE BOARD ON THE STATUS  
27 OF THE DEFINED CONTRIBUTION PLAN AND QUARTERLY STATEMENTS TO EACH  
28 PARTICIPANT. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE BOARD SHALL REPORT  
29 THE STATUS OF THE DEFINED CONTRIBUTION PLAN TO THE GOVERNOR, THE PRESIDENT OF  
30 THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE JOINT  
31 LEGISLATIVE BUDGET COMMITTEE.

32 38-867. Contributions; member; employer; pick-up

33 A. EACH PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE  
34 THE FOLLOWING PERCENTAGE OF THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION  
35 BY SALARY REDUCTION THAT SHALL BE DEPOSITED IN THE PARTICIPANT'S ANNUITY  
36 ACCOUNT:

37 1. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,  
38 SUBDIVISION (b), THREE PERCENT.

39 2. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,  
40 SUBDIVISION (a), NINE PERCENT.

41 B. A PARTICIPANT AS DEFINED IN SECTION 38-865 MAY MAKE A ONE-TIME  
42 IRREVOCABLE ELECTION, BEFORE THE PARTICIPANT IS ELIGIBLE TO PARTICIPATE IN  
43 ANY QUALIFIED PLAN OF THE EMPLOYER, TO CONTRIBUTE MORE THAN THE PERCENTAGE OF  
44 THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION SPECIFIED IN THIS SECTION,  
45 UP TO THE AMOUNT ALLOWABLE UNDER SECTION 415(c) OF THE INTERNAL REVENUE CODE,

1 WHICH SHALL BE THE PARTICIPANT'S CONTRIBUTION RATE FOR THE REMAINDER OF THE  
2 PARTICIPANT'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE SYSTEM.

3 C. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL PARTICIPANT  
4 CONTRIBUTIONS MADE TO THE DEFINED CONTRIBUTION PLAN SHALL BE PICKED UP AND  
5 PAID BY THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE  
6 CONTRIBUTIONS PICKED UP BY AN EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE  
7 PARTICIPANT'S COMPENSATION. A PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN  
8 MAY NOT CHOOSE TO RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE  
9 EMPLOYER PAYING THE AMOUNTS TO THE DEFINED CONTRIBUTION PLAN. ALL  
10 PARTICIPANT CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN  
11 THIS SUBSECTION SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS UNDER SECTION  
12 414(h) OF THE INTERNAL REVENUE CODE, SHALL BE EXCLUDED FROM PARTICIPANT'S  
13 GROSS INCOME FOR FEDERAL AND STATE INCOME TAX PURPOSES AND ARE INCLUDABLE IN  
14 THE GROSS INCOME OF THE PARTICIPANT OR THE PARTICIPANT'S BENEFICIARIES ONLY  
15 IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED.

16 D. EACH EMPLOYER SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO THE  
17 FOLLOWING PERCENTAGES OF EACH PARTICIPANT'S GROSS PENSIONABLE COMPENSATION:

18 1. FOR A PARTICIPANT DEFINED IN SECTION 38-865, PARAGRAPH 7,  
19 SUBDIVISION (b), THREE PERCENT.

20 2. FOR A PARTICIPANT DEFINED IN SECTION 38-865, PARAGRAPH 7,  
21 SUBDIVISION (a), NINE PERCENT.

22 E. THE PRO RATA SHARE OF THE AMOUNT PAID IN SUBSECTION D OF THIS  
23 SECTION SHALL BE PAID ON EACH DATE THAT A PARTICIPANT CONTRIBUTION IS MADE  
24 AND SHALL BE CREDITED TO THE PARTICIPANT'S ANNUITY ACCOUNT.

25 F. A PARTICIPANT OF THE DEFINED CONTRIBUTION PLAN MAY NOT TAKE LOANS  
26 ON ANY PORTION OF THE ACCUMULATED ASSETS IN THE PARTICIPANT'S ANNUITY  
27 ACCOUNT.

28 G. EACH PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,  
29 SUBDIVISION (a) AND EACH EMPLOYER SHALL CONTRIBUTE TO THE PUBLIC SAFETY  
30 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN DISABILITY PROGRAM ESTABLISHED  
31 BY ARTICLE 4.2 OF THIS CHAPTER.

32 H. A PARTICIPANT'S CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS  
33 ARE IMMEDIATELY VESTED. A PARTICIPANT IS FULLY VESTED IN THE DEFINED  
34 CONTRIBUTION PLAN AFTER TEN YEARS OF SERVICE, WITH EMPLOYER CONTRIBUTIONS  
35 VESTING AT A RATE OF TEN PERCENT PER YEAR.

36 38-868. Contributions; member; employer; applicability of  
37 article

38 A. ON OR BEFORE JUNE 30, 2017, A PARTICIPANT AS DEFINED IN SECTION  
39 38-865.01 MAY MAKE AN IRREVOCABLE ELECTION TO OPT OUT OF THE DEFINED  
40 CONTRIBUTION PLAN ESTABLISHED BY THIS ARTICLE, WHICH SHALL BE THE  
41 PARTICIPANT'S ELECTION FOR THE REMAINDER OF THE PARTICIPANT'S EMPLOYMENT WITH  
42 ANY EMPLOYER UNDER THE SYSTEM.

43 B. BEGINNING JULY 1, 2017, A PARTICIPANT AS DEFINED IN SECTION  
44 38-865.01 IN THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE THREE PERCENT OF

1 THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION BY SALARY REDUCTION THAT  
2 SHALL BE DEPOSITED IN THE PARTICIPANT'S ANNUITY ACCOUNT.

3 C. EACH EMPLOYER OF A PARTICIPANT AS DEFINED IN SECTION 38-865.01  
4 SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO THE FOLLOWING PERCENTAGES OF THE  
5 PARTICIPANT'S GROSS PENSIONABLE COMPENSATION:

6 1. FOR A PARTICIPANT THAT IS HIRED IN 2012, FOR FISCAL YEARS 2017-2018  
7 THROUGH 2023-2024, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR  
8 THEREAFTER.

9 2. FOR A PARTICIPANT THAT IS HIRED IN 2013, FOR FISCAL YEARS 2017-2018  
10 THROUGH 2022-2023, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR  
11 THEREAFTER.

12 3. FOR A PARTICIPANT THAT IS HIRED IN 2014, FOR FISCAL YEARS 2017-2018  
13 THROUGH 2021-2022, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR  
14 THEREAFTER.

15 4. FOR A PARTICIPANT THAT IS HIRED IN 2015, FOR FISCAL YEARS 2017-2018  
16 THROUGH 2020-2021, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR  
17 THEREAFTER.

18 5. FOR A PARTICIPANT THAT IS HIRED IN 2016, FOR FISCAL YEARS 2017-2018  
19 THROUGH 2019-2020, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR  
20 THEREAFTER.

21 6. FOR A PARTICIPANT THAT IS HIRED ON OR AFTER JANUARY 1, 2017 AND  
22 BEFORE JULY 1, 2017, FOR FISCAL YEAR 2017-2018, FOUR PERCENT AND THREE  
23 PERCENT FOR EACH FISCAL YEAR THEREAFTER.

24 D. ALL OF THE PROVISIONS OF THIS ARTICLE APPLY TO A PARTICIPANT AS  
25 DEFINED IN SECTION 38-865.01.

26 E. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865.01, AN EMPLOYER MAY  
27 CHOOSE TO PAY A PORTION OF THE PARTICIPANT'S CONTRIBUTIONS UNDER THIS SECTION  
28 IN AN AMOUNT OF NOT MORE THAN THE DIFFERENCE BETWEEN THE CONTRIBUTION RATE  
29 SPECIFIED UNDER SECTION 38-843 FOR EMPLOYEES HIRED ON OR AFTER JANUARY 1,  
30 2012 AND BEFORE JULY 1, 2017 AND FOR ANY EMPLOYEE HIRED BEFORE JANUARY 1,  
31 2012.

32 ARTICLE 4.2. PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION  
33 RETIREMENT PLAN DISABILITY PROGRAM

34 38-870. Definitions

35 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

37 2. "BOARD" MEANS THE BOARD OF TRUSTEES ESTABLISHED BY SECTION 38-848.

38 3. "COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

39 4. "DISABILITY PROGRAM" OR "PROGRAM" MEANS THE PUBLIC SAFETY PERSONNEL  
40 DEFINED CONTRIBUTION RETIREMENT PLAN DISABILITY PROGRAM ESTABLISHED BY THIS  
41 ARTICLE.

42 5. "PARTICIPANT" MEANS A PARTICIPANT WHO IS IN THE PUBLIC SAFETY  
43 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN AND WHO IS A PARTICIPANT AS  
44 DEFINED IN SECTION 38-865, PARAGRAPH 7, SUBDIVISION (a).

1           6. "PENSIONABLE COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN  
2 SECTION 38-865.

3           38-870.01. Disability program; administration; power and duties  
4                                   of the board; hearing

5           A. THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN  
6 DISABILITY PROGRAM IS ESTABLISHED FOR PARTICIPANTS IN THE PUBLIC SAFETY  
7 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN WHO HAVE ELECTED TO  
8 PARTICIPATE SOLELY IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO  
9 ARTICLE 4.1 OF THIS CHAPTER. THE BOARD SHALL ADMINISTER THE DISABILITY  
10 PROGRAM.

11           B. THE BOARD MAY DELEGATE AUTHORITY TO ADMINISTER THE PROGRAM AS IT  
12 DEEMS NECESSARY AND PRUDENT TO THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION  
13 38-848.

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

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

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

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

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

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

29           1. EMPLOY SERVICES AS IT DEEMS NECESSARY.

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

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

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

38           38-870.02. Disability program trust fund

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

42           B. THE DISABILITY PROGRAM TRUST FUND CONSISTS OF ALL MONIES PAID INTO  
43 THE TRUST FUND PURSUANT TO THIS ARTICLE, WHETHER IN THE FORM OF CASH,  
44 SECURITIES OR OTHER ASSETS, AND ALL MONIES RECEIVED FROM ANY OTHER SOURCE.

1 EXCEPT AS PROVIDED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, THE  
2 DISABILITY PROGRAM TRUST FUND IS EXEMPT FROM TITLE 44, CHAPTER 3.

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

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

11 2. BEFORE MONIES ARE PRESUMED ABANDONED, THE SYSTEM SHALL ATTEMPT TO  
12 CONTACT THE APPARENT OWNER IN WRITING. IF THIS NOTICE IS RETURNED BY THE  
13 POSTAL AUTHORITY AS UNDELIVERABLE, EACH YEAR FOR THREE YEARS FROM THE DATE  
14 THAT DISTRIBUTIONS SHOULD HAVE BEGUN, THE SYSTEM SHALL MAKE A GOOD FAITH  
15 ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN  
16 BENEFICIARY ON RECORD WITH THE SYSTEM, SEARCHING PUBLIC DATABASES TO IDENTIFY  
17 THE ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY  
18 ADDRESS VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE  
19 APPARENT OWNER FAILS, MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS  
20 SUBSECTION.

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

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

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

29 38-870.03. Eligibility

30 ALL PARTICIPANTS ARE SUBJECT TO THIS ARTICLE AND SHALL PARTICIPATE IN  
31 THE DISABILITY PROGRAM.

32 38-870.04. Employer and participant contributions

33 A. BEGINNING JULY 1, 2017, EMPLOYERS SHALL CONTRIBUTE THE PERCENTAGE  
34 OF THE GROSS PENSIONABLE COMPENSATION OF ALL OF THE PARTICIPANTS UNDER THEIR  
35 EMPLOYMENT SO THAT THE TOTAL EMPLOYER CONTRIBUTIONS EQUALS THE AMOUNT THAT  
36 THE BOARD DETERMINES IS NECESSARY TO PAY ONE-HALF OF ALL BENEFITS UNDER AND  
37 COSTS OF ADMINISTERING THE DISABILITY PROGRAM.

38 B. BEGINNING JULY 1, 2017, A PARTICIPANT SHALL CONTRIBUTE A PERCENTAGE  
39 OF THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION EQUAL TO THE EMPLOYER  
40 CONTRIBUTION FOR THE PARTICIPANT REQUIRED PURSUANT TO SUBSECTION A OF THIS  
41 SECTION.

42 C. THE EMPLOYER SHALL PAY THE PARTICIPANT CONTRIBUTIONS REQUIRED OF  
43 PARTICIPANTS ON ACCOUNT OF GROSS PENSIONABLE COMPENSATION EARNED. ALL  
44 EMPLOYER AND PARTICIPANT CONTRIBUTIONS SHALL BE PAID TO THE BOARD. THE BOARD

1 SHALL ALLOCATE THE CONTRIBUTIONS TO THE DISABILITY PROGRAM TRUST FUND AND  
2 SHALL PLACE THE CONTRIBUTIONS IN THE DISABILITY PROGRAM'S DEPOSITORY.

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

6 E. THE DEPARTMENT OF ADMINISTRATION AND THE TREASURER OF EACH COUNTY  
7 AND PARTICIPATING CITY AND TOWN SHALL TRANSFER TO THE BOARD THE CONTRIBUTIONS  
8 PROVIDED FOR IN SUBSECTIONS A AND B OF THIS SECTION WITHIN TEN WORKING DAYS  
9 AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THESE DATES SHALL  
10 INCLUDE A PENALTY EQUAL TO TEN PERCENT PER ANNUM, COMPOUNDED DAILY, FOR EACH  
11 DAY THAT THE CONTRIBUTIONS ARE LATE. DELINQUENT PAYMENTS DUE UNDER THIS  
12 SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION AND  
13 COURT COSTS, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION  
14 AGAINST THE PERSON OR PERSONS RESPONSIBLE FOR THE PAYMENTS OR, AT THE REQUEST  
15 OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE  
16 TAXES, PAYABLE TO A POLITICAL SUBDIVISION BY ANY DEPARTMENT OR AGENCY OF THIS  
17 STATE.

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

23 G. PARTICIPANT CONTRIBUTIONS ARE NOT REFUNDABLE.

24 38-870.05. Contribution rate

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

36 B. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE  
37 DISABILITY PROGRAM TRUST FUND ESTABLISHED BY SECTION 38-870.02 ARE  
38 IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS ARTICLE OR TO PAY  
39 EXPENSES OF THE DISABILITY PROGRAM.

40 38-870.06. Disability program benefit

41 A. THE BOARD SHALL FOLLOW THE SAME PROCEDURES AND METHOD AS PRESCRIBED  
42 IN SECTION 38-844 TO DETERMINE ELIGIBILITY FOR AND CONTINUATION OF A  
43 DISABILITY BENEFIT AND IN COMPUTING THE AMOUNT AVAILABLE TO THE PARTICIPANT.

44 B. A PARTICIPANT WHO MEETS THE REQUIREMENTS FOR A DISABILITY PENSION  
45 AS PRESCRIBED IN SECTION 38-844 SHALL RECEIVE A MONTHLY DISABILITY BENEFIT

1 EQUAL TO A MONTHLY DISABILITY PENSION THAT WOULD BE PROVIDED TO A PUBLIC  
2 SAFETY PERSONNEL RETIREMENT SYSTEM MEMBER WHO IS HIRED ON OR AFTER JULY 1,  
3 2017, REDUCED BY AN AMOUNT EQUAL TO THE MONTHLY ANNUITIZED VALUE OF THE  
4 PARTICIPANT'S ANNUITY ACCOUNT UNDER ARTICLE 4.1 OF THIS CHAPTER THAT DOES NOT  
5 INCLUDE A COST-OF-LIVING ADJUSTMENT, AS DETERMINED BY THE BOARD. IN  
6 DETERMINING THE MONTHLY ANNUITIZED OFFSET VALUE OF THE PARTICIPANT'S ANNUITY  
7 ACCOUNT UNDER ARTICLE 4.1 OF THIS CHAPTER TO BE USED IN REDUCING THE  
8 DISABILITY BENEFIT PAID PURSUANT TO THIS SECTION, THE BOARD SHALL INSTRUCT  
9 THE ACTUARY FOR THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM TO CALCULATE  
10 THE MONTHLY PAYMENT THAT WOULD BE PAID TO THE PARTICIPANT ASSUMING THE  
11 PARTICIPANT HAD ELECTED A STRAIGHT LIFE ANNUITY COMMENCING ON THE  
12 PARTICIPANT'S DATE OF DISABILITY, USING THE MORTALITY AND INTEREST FACTORS  
13 THEN USED BY THE ACTUARY IN DETERMINING THE VALUATION OF THE PUBLIC SAFETY  
14 PERSONNEL RETIREMENT SYSTEM.

15 Sec. 16. Section 38-883, Arizona Revised Statutes, is amended to read:  
16 38-883. Board of trustees: powers and duties

17 A. The board shall:

18 1. Maintain records of the operation and administration of the plan  
19 and fund.

20 2. Contract on a fee basis for an independent annual audit of the  
21 accounting records of the plan and fund and file a copy of the audit report  
22 with the auditor general.

23 3. Employ on a fee basis an independent firm of actuaries to perform  
24 annual actuarial valuations for each participating employer of the plan and  
25 fund based on an actuarial cost method and actuarial assumptions recommended  
26 by the actuary and adopted by the board. The actuarial valuations shall be  
27 performed by or under the direct supervision of an actuary who is a member of  
28 the American academy of actuaries. By November 1 of each year, the board  
29 shall provide a preliminary report and by December 15 of each year provide a  
30 final report to the governor, the speaker of the house of representatives and  
31 the president of the senate on the contribution rate for the ensuing fiscal  
32 year.

33 4. Invest and reinvest the monies and assets of the fund in accordance  
34 with the investment provisions of the public safety personnel retirement  
35 system. The board may commingle securities and monies of the fund subject to  
36 the crediting of receipts and earnings and charging of payments to the  
37 account of the appropriate employer.

38 5. Submit a detailed annual report of the operation and investment  
39 performance of the plan and fund to the governor, the legislature and the  
40 members of the plan. The board shall submit the annual report no later than  
41 six months after the end of the fiscal year to which it pertains.

42 B. The board of trustees may:

43 1. Employ services it deems necessary, including legal services, for  
44 the operation and administration of the plan and fund.

45 2. Utilize separate or commingled investment vehicles.

1           3. Delegate authority to the administrator employed pursuant to  
2 section 38-848, subsection ~~K~~ M, paragraph 6.

3           4. Appear before local boards and the courts and political  
4 subdivisions of this state through counsel or appointed representatives to  
5 protect the fund. The board of trustees is not responsible for the actions  
6 or omissions of the local boards under this plan but may seek review or a  
7 rehearing of actions or omissions of local boards. The board of trustees  
8 does not have a duty to review actions of the local boards but may do so, in  
9 its discretion, in order to protect the fund.

10          5. Perform all acts, whether or not expressly authorized, that it  
11 deems necessary and proper for the protection of the plan and fund.

12          Sec. 17. Section 38-952, Arizona Revised Statutes, is amended to read:  
13 38-952. Supplemental defined contribution plan; establishment;

14                   administration

15          A. The board or employer of an eligible group may establish,  
16 administer, manage and operate a supplemental defined contribution plan. The  
17 board of trustees established by section 38-848 may establish a single  
18 supplemental defined contribution plan for all contributing members of the  
19 retirement system and plans it administers.

20          B. If a board or employer establishes a supplemental defined  
21 contribution plan:

22           1. The Arizona state retirement system board may delegate authority to  
23 implement the plan to its director appointed pursuant to section 38-715.

24           2. The employer may delegate authority to implement the plan to its  
25 internal benefits administrator or designee.

26           3. The board of trustees may delegate authority to implement the plan  
27 to the administrator employed pursuant to section 38-848, subsection ~~K~~ M,  
28 paragraph 6.

29           4. The board or employer may:

30           (a) Employ services it deems necessary, including legal services, for  
31 the operation and administration of the plan.

32           (b) Administer the plan through contracts with multiple vendors.

33           (c) Perform all acts, whether or not expressly authorized, that it  
34 deems necessary and proper for the operation and protection of the plan.

35           (d) For the purposes of this article, enter into intergovernmental  
36 agreements pursuant to title 11, chapter 7, article 3.

37          C. A supplemental defined contribution plan shall be designed to be a  
38 qualified governmental plan under section 401(a) of the internal revenue  
39 code. The legislature intends that a supplemental defined contribution plan  
40 is a qualified plan under section 401 of the internal revenue code, as  
41 amended, or successor provisions of law, and that a plan is exempt from  
42 taxation under section 501 of the internal revenue code. The board or  
43 employer may adopt any additional provisions to a plan that are necessary to  
44 fulfill this intent.

1 D. Although designated as employee contributions, all employee  
2 contributions made to a plan shall be picked up and paid by the employer in  
3 lieu of contributions by the employee. The contributions picked up by an  
4 employer may be made through a reduction in the employee's compensation or an  
5 offset against future compensation increases, or a combination of both. An  
6 employee participating in a plan does not have the option of choosing to  
7 receive the contributed amounts directly instead of the employer paying the  
8 amounts to the plan. It is intended that all employee contributions that are  
9 picked up by the employer as provided in this subsection shall be treated as  
10 employer contributions under section 414(h) of the internal revenue code,  
11 shall be excluded from employees' gross income for federal and state income  
12 tax purposes and are includable in the gross income of the employees or their  
13 beneficiaries only in the taxable year in which they are distributed. The  
14 specified effective date of the pickup pursuant to this subsection shall not  
15 be before the date the plan receives notification from the internal revenue  
16 service that all employee contributions that are picked up by the employer as  
17 provided in this subsection shall be treated as employer contributions  
18 pursuant to section 414(h) of the internal revenue code. Until notification  
19 is received, any employee contributions made under section 38-953 are made  
20 with after-tax contributions.

21 Sec. 18. Study; risk pooling; local board consolidation and  
22 structure; recommendations

23 A. Within fifteen days after the effective date of this act, the  
24 public safety personnel retirement system shall commence a study to determine  
25 various methods in which risk pooling may be structured and local board  
26 consolidation and structure may be accomplished and to determine which  
27 methods, if any, are in the best interests of the public safety personnel  
28 retirement system's fund, members, beneficiaries and employers.

29 B. The study shall be presented to the board of trustees of the public  
30 safety personnel retirement system on or before January 15, 2017. The board  
31 shall consider the study and report its recommendations for legislation to  
32 the president of the senate, the speaker of the house of representatives and  
33 the governor on or before February 15, 2017.

34 Sec. 19. Initial appointments of the board of trustees of the  
35 public safety personnel retirement system; initial  
36 terms

37 A. For the initial appointments to the board of trustees of the public  
38 safety personnel retirement system, on or before August 1, 2016, associations  
39 representing public safety personnel, cities and towns in this state and  
40 counties in this state shall establish a list of nominees who are qualified  
41 pursuant to section 38-848, Arizona Revised Statutes, and willing to serve on  
42 the board. The list shall include at least three nominees for each position  
43 on the board, which will be forwarded to the appointing elected officials.

44 B. Each member of the board of trustees of the public safety personnel  
45 retirement system shall be selected from the list of nominees presented to

1 the appointing elected officials for each position on the board. The  
2 following elected officials shall make the following appointments:

3 1. The governor shall appoint:

4 (a) One member representing law enforcement in this state.

5 (b) One member representing firefighters in this state.

6 (c) One member representing cities and towns in this state.

7 (d) One member representing counties in this state.

8 (e) One member as specified in section 38-848, subsection A, paragraph  
9 5, Arizona Revised Statutes.

10 2. The president of the senate shall appoint:

11 (a) One member representing law enforcement in this state.

12 (b) One member representing cities and towns in this state.

13 3. The speaker of the house of representatives shall appoint:

14 (a) One member representing firefighters in this state.

15 (b) One member representing cities and towns in this state.

16 C. The appointments shall be made in the following order:

17 1. On or before November 1, 2016, the governor shall make one  
18 appointment to the board from the list of nominees followed by one  
19 appointment made in turn from the president of the senate and the speaker of  
20 the house of representatives until eight members are appointed to the board.

21 2. The eight members initially appointed to the board pursuant to  
22 paragraph 1 of this subsection shall elect a chairperson who shall appoint  
23 the advisory committee pursuant to section 38-848, subsection X, Arizona  
24 Revised Statutes. The advisory committee shall forward to the newly  
25 appointed board of trustees of the public safety personnel retirement system  
26 at least five nominees who are qualified pursuant to section 38-848, Arizona  
27 Revised Statutes, and willing to serve on the board for the appointment of  
28 the ninth member of the board. From that list of nominees, the newly  
29 appointed board of trustees of the public safety personnel retirement system  
30 shall forward to the governor at least three nominees for the appointment of  
31 the ninth member of the board, which shall be made on or before December 1,  
32 2016.

33 D. If the board members specified in subsection B of this section,  
34 except the board member specified in section 38-848, subsection A, paragraph  
35 5, Arizona Revised Statutes, are not appointed by November 1, 2016, the  
36 elected official who fails to make an appointment forfeits the appointment  
37 and the appointment will be made within fifteen days by the next elected  
38 official in the rotation specified in subsection C, paragraph 1 of this  
39 section. This rotation shall continue until the eight board members are  
40 appointed.

41 E. Notwithstanding section 38-848, Arizona Revised Statutes, the  
42 initial terms of the public safety personnel retirement system board members  
43 are:

44 1. Four terms ending on January 1, 2019 that include:

1 (a) One member representing law enforcement who is appointed by the  
2 governor.

3 (b) One member representing firefighters who is appointed by the  
4 governor.

5 (c) Two members representing cities and towns in this state, one of  
6 whom is appointed by the speaker of the house of representatives and one of  
7 whom is appointed by the president of the senate.

8 2. Five terms ending on January 1, 2021 that include:

9 (a) One member representing law enforcement who is appointed by the  
10 president of the senate.

11 (b) One member representing firefighters who is appointed by the  
12 speaker of the house of representatives.

13 (c) One member representing cities and towns in this state who is  
14 appointed by the governor.

15 (d) One member representing counties in this state who is appointed by  
16 the governor.

17 (e) The member specified in section 38-848, subsection A, paragraph 5,  
18 Arizona Revised Statutes.

19 F. The subsequent appointments shall be made as prescribed in section  
20 38-848, Arizona Revised Statutes.

21 Sec. 20. Annual compensation adjustment; employers; public  
22 safety wage index

23 Notwithstanding section 38-843.04, subsection D, Arizona Revised  
24 Statutes, as added by this act, beginning July 1, 2017, the employers for the  
25 purposes of the public safety wage index are the central Yavapai fire  
26 district, department of public safety, Drexel heights fire district,  
27 Flagstaff fire department, Flagstaff police department, Arizona game and fish  
28 department, Gilbert police department, Glendale police department, Golder  
29 ranch fire district, Kingman fire department, Kingman police department,  
30 Maricopa county sheriff's department, Mesa police department, Nogales fire  
31 department, Nogales police department, Northwest fire district, Phoenix fire  
32 department, Phoenix police department, Pima county sheriff's department,  
33 Pinal county sheriff's department, Prescott fire department, Prescott police  
34 department, Scottsdale police department, Tempe fire department, Tucson fire  
35 department and Tucson police department.

36 Sec. 21. Legislative findings and intent

37 A. The legislature recognizes that in order to have a sound public  
38 retirement system that benefits this state, taxpayers and members of the  
39 retirement system, pursuant to article XXIX, Constitution of Arizona, the  
40 public retirement system must be funded with contributions and investment  
41 earnings based on actuarial methods and assumptions that are consistent with  
42 generally accepted actuarial standards. The legislature finds that the  
43 current structure of the public safety personnel retirement system does not  
44 achieve this goal and that the current system imperils the retirement  
45 security that the members of that system have come to expect. For these

1 reasons, the legislature intends to modify and amend the provisions of the  
2 current system for both current and new members to make the system viable and  
3 sustainable now and into the future.

4 B. The legislature further finds:

5 1. That the current structure of the public safety personnel  
6 retirement system does not lead to the goal of attaining one hundred percent  
7 funded status and jeopardizes the future payment of benefits to current and  
8 future retirees of the retirement program.

9 2. That the current structure of the public safety personnel  
10 retirement system, which requires a fixed employee contribution rate,  
11 requires a contribution rate from employees that is insufficient in relation  
12 to the cost associated with the benefits required by the plan design and  
13 therefore places a greater financial burden on employers. By moving to a  
14 shared cost structure, public safety employees will bear increased  
15 responsibility for the fiscal health of the fund and, as the fund improves  
16 its funded status and approaches fully funded or overfunded status, the  
17 employees will realize decreased contribution costs that will be lower than  
18 currently required.

19 3. That the current method of funding benefit increases to retirees of  
20 the public safety personnel retirement system is flawed and makes it highly  
21 unlikely that this fund will achieve its actuarially assumed earning rates  
22 during positive and negative investment environments and creates an  
23 undesirable possibility of greater investment risk on the part of the fund's  
24 trustees. It is fundamentally unsound to provide a benefit increase during  
25 periods when the funded status of the retirement program is less than seventy  
26 percent. Changing the manner of funding these benefit increases is intended  
27 to improve the funded status of the public safety personnel retirement system  
28 and is in the best interests of the members and beneficiaries of this  
29 retirement program in that it will preserve future benefits for plan  
30 participants.

31 4. It is necessary to change the future plan and system structures for  
32 nonvested members to take into consideration the increased life expectancy of  
33 members and future employees and make the reforms necessary to preserve the  
34 funded status of the retirement program in future years.

35 5. To protect the future benefits of retired, active and future  
36 employees, it is necessary to make the changes outlined in this act to  
37 preserve the funded status of this retirement program and return the program  
38 to fiscal solvency.

39 C. It is the legislature's intent that this act does not impair or  
40 amend any agreement between an employee and employer that addresses  
41 participation in or contributions to alternative retirement plans or  
42 compensation arrangements not administered through the public safety  
43 personnel retirement system.

1           Sec. 22. Conditional enactment

2           A. Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04,  
3 Arizona Revised Statutes, as repealed by this act, section 38-844.05, Arizona  
4 Revised Statutes, as amended by this act, and sections 38-856.05, 38-865.01  
5 and 38-868, Arizona Revised Statutes, as added by this act, do not become  
6 effective unless the Constitution of Arizona is amended as prescribed in  
7 Senate concurrent resolution 1019, fifty-second legislature, second regular  
8 session, by vote of the people at the special election conducted on May 17,  
9 2016.

10          B. The enactment of any provision of this act conditioned on the  
11 results of the election does not constitute a submission of any provision of  
12 this act to the voters under the power of referendum.

13           Sec. 23. Severability

14          If a provision of this act or its application to any person or  
15 circumstance is held invalid, the invalidity does not affect other provisions  
16 or applications of the act that can be given effect without the invalid  
17 provision or application, and to this end the provisions of this act are  
18 severable.

APPROVED BY THE GOVERNOR FEBRUARY 16, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 16, 2016.

Passed the House February 11, 2016,

Passed the Senate February 4, 2016,

by the following vote: 49 Ayes,

by the following vote: 28 Ayes,

10 Nays, 1 Not Voting

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House  
*pro tempore*

[Signature]  
Secretary of the Senate

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR~~

~~This Bill was received by the Governor this~~

~~\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary to the Governor~~

~~Approved this \_\_\_\_\_ day of~~

~~\_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Governor of Arizona~~

~~EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE~~

~~This Bill was received by the Secretary of State~~

~~this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,~~

~~at \_\_\_\_\_ o'clock \_\_\_\_\_ M.~~

~~\_\_\_\_\_  
Secretary of State~~

S.B. 1428

SENATE CONCURS IN HOUSE  
AMENDMENTS AND FINAL PASSAGE

Passed the Senate February 15, 20 16

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

15th day of February, 20 16

at 3:34 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 16th day of

February

at 2:11 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 16th day of February, 20 16

at 3:25 o'clock P M.

[Signature]  
Secretary of State