STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

March 20, 2018

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

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 2nd Regular Session, which I signed on March 20, 2018:

HB 2016 Arizona beef council; continuation (Mitchell)
HB 2038 drug overdose review teams; records (Carter)
HB 2044 physician assistants board; continuation (Carter)
HB 2046 department of economic security; continuation (Carter)
HB 2082 insurance producers; convictions; reporting (Livingston)
HB 2123 insurance department; director; residency (Toma)
HB 2149 pharmacies; remote dispensing (Weninger)
HB 2155 notaries public; immigration law; prohibition (Shope)
HB 2170 boxing; mixed martial arts; continuation (Toma)
HB 2240 judgment renewal; time period (Farnsworth, E.)
HB 2261 veterinary faculty members; licensure requirements (Toma)
SB 1114 joint power authorities; fingerprinting (Fann)
SB 1162 silver alert notification; developmental disability (Brophy McGee)
SB 1209 scrap metal dealers; DPS report (Borrelli)
SB 1215 WICHE; continuation (Allen, S.)
SB 1251 PSPRS; CORP; modifications (Farnsworth, D.)

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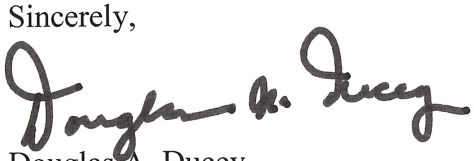
Sincerely,



Douglas A. Ducey
Governor
State of Arizona

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

Senate Engrossed

FILED

MICHELE REAGAN

SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 42

SENATE BILL 1251

AN ACT

AMENDING SECTIONS 38-842.01, 38-842.02, 38-846.04, 38-848, 38-850, 38-865, 38-865.01, 38-867, 38-867.01, 38-868 AND 38-881.01, ARIZONA REVISED STATUTES; AMENDING SECTION 38-885.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 74, SECTION 1; AMENDING SECTION 38-885.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 163, SECTION 14; AMENDING SECTION 38-891, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-842.01, Arizona Revised Statutes, is amended to read:

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

A. An employee who is hired on or after July 1, 2017 and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017 is eligible to participate in the system or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter, depending on the employee's election under this section. The employee's participation in either the system or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter begins ninety days after the date the employee is hired. Unless the elections made under this section are made before the ninetieth day after the date of employment, the employee is automatically enrolled in the system for the remainder of the employee's employment with any employer under the system. Any election made under this section is irrevocable and is the employee's election for the remainder of the employee's employment with any employer under the system, regardless of whether the employee's employment is continuous. The employee may make one of the following irrevocable elections:

1. To participate solely in the system.

2. To participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter.

B. An employee who makes an election to participate solely in the system or is automatically enrolled in the system pursuant to subsection A of this section and who is not covered by the federal old age and survivors insurance system is also enrolled in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter during any period that the employee is not covered by the federal old age and survivors insurance system through an employer under the system. If such employee is subsequently covered by the federal old age and survivors insurance system, the employee AND THE EMPLOYER may not make any contributions ON THE EMPLOYEE'S BEHALF to the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter that are described in section 38-867, subsection A, paragraph 1 or subsection B during the period the employee is covered by the federal old age and survivors insurance system. If at any later time the employee is not covered by the federal old age and survivors insurance system through an employer under the system, the employee AND THE EMPLOYER shall again be required to contribute ON BEHALF OF THE EMPLOYEE to the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter as

required by section 38-867, subsection A, paragraph 1 and, if the employee made an irrevocable election to contribute more of the employee's gross pensionable compensation to the public safety personnel defined contribution retirement plan as provided in section 38-867, subsection B, such contributions shall be reestablished for the period the employee is not covered by the federal old age and survivors insurance system.

C. If an employee in the employee's first ninety days of employment is determined to be eligible for an accidental or catastrophic disability pension pursuant to section 38-844, the employee shall be automatically enrolled in the system for the remainder of the employee's employment with any employer under the system commencing on the employee's date of disability and shall receive an accidental or catastrophic disability pension as prescribed in this article.

D. If an employee in the employee's first ninety days of employment is killed in the line of duty or dies from injuries suffered in the line of duty, the employee shall be considered as having been enrolled in the system and the surviving spouse of the deceased employee is eligible for survivor benefits as prescribed in this article.

Sec. 2. Section 38-842.02, Arizona Revised Statutes, is amended to read:

38-842.02. Public safety employer risk pool

A. The public safety employer risk pool is established for members hired on or after July 1, 2017 and consists of, for actuarial purposes in the system and to determine contribution rates pursuant to section 38-843, any employer of an eligible group that has on May 1, 2017 two hundred fifty or fewer active members who were hired before July 1, 2017.

B. If an employer has more than two hundred fifty active members who were hired before July 1, 2017 in any eligible group on May 1, 2017, the employer may not participate in the risk pool for any of the employer's eligible groups, except that:

1. Each state agency's eligibility for the risk pool is not affected by another state agency's ineligibility for the risk pool.

2. For a county with multiple eligible groups in the system, the eligibility of each eligible group of a county for the risk pool is not affected by the ineligibility for the risk pool of another eligible group of that county.

C. Any Indian tribe that has elected to participate in the system and that qualifies for the public safety employer risk pool pursuant to subsection A of this section may elect to opt out of the risk pool before ~~January 1, 2018~~ JANUARY 1, 2019. The Indian tribe shall notify the administrator of the system in writing before ~~January 1, 2018~~ JANUARY 1, 2019 of the Indian tribe's decision not to participate in the public safety employer risk pool. If an Indian tribe is a new employer in the system pursuant to subsection D of this section, the Indian tribe shall have ninety days after the date of participation to elect to opt out of

the risk pool and to notify the administrator of the system in writing of the Indian tribe's decision not to participate in the public safety employer risk pool.

D. This state or any political subdivision of this state, Indian tribe or public organization that becomes a new employer in the system and that has two hundred fifty or fewer employees, on the effective date of participation in the system pursuant to section 38-851, ~~that~~ WHO are in an eligible group shall participate in the public safety employer risk pool unless subsection B or C of this section applies.

E. If any individual employer in the public safety employer risk pool experiences a deviation in reported active member payroll of greater than twenty percent of the average of all participating employers in the risk pool in a twenty-four-month period, the system actuary shall prepare a financial impact report to determine whether the deviation creates an increased or decreased unfunded liability within the risk pool. If the deviation in reported active member payroll creates an increase to the unfunded liability within the risk pool, the responsible individual employer shall pay into the system, within sixty days after being notified of the amount due, one hundred percent of the cost of the increase in the unfunded liability. If the deviation in reported active member payroll creates a decrease to the unfunded liability within the risk pool, the system shall immediately credit the responsible individual employer one hundred percent of the cost of the decrease in the unfunded liability.

Sec. 3. Section 38-846.04, Arizona Revised Statutes, is amended to read:

38-846.04. Reinstatement of credited service; effect of prior law

A. A member who received a severance refund on termination of employment as provided in section 38-846.02, who is subsequently reemployed by an employer and who ~~redeposits~~ MAY HAVE REDEPOSITED the amount withdrawn with interest as provided in section 38-849 or a member who redeems prior service pursuant to statute is subject to the benefits and duties in effect at the following times for the specified situations:

1. At the time of the member's reemployment if the member is reemployed by an employer other than the same employer.

2. At the time of the member's reemployment if the member is reemployed by the same employer at least ninety days after the date of termination.

3. At the time of the member's most recent termination if the member is reemployed by the same employer in any capacity within ninety days after the date of termination.

B. Subsection A of this section does not apply if a court of competent jurisdiction orders reinstatement of benefits and duties under a prior law.

C. If a member was initially employed on or after July 1, 2017, regardless of whether the member received a severance refund or redeposits the amount withdrawn with interest, the member shall return to the system as irrevocably elected pursuant to section 38-842.01.

D. A member who transfers credited service from one employer to another employer pursuant to section 38-853 retains the benefits and duties in effect at the time of the member's transfer.

Sec. 4. Section 38-848, Arizona Revised Statutes, is amended to read:

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

A. Beginning January 1, 2017, the board of trustees shall consist of nine members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be five years to expire on the third Monday in January of the appropriate year. The board shall select a chairperson from among its members each calendar year. Members are eligible to receive compensation in an amount of fifty dollars a day, but not to exceed one thousand dollars in any one fiscal year, and are eligible for reimbursement of expenses pursuant to chapter 4, article 2 of this title. Beginning January 1, 2017, the board consists of the following members appointed as follows:

1. Two members representing law enforcement, one of whom is appointed by the president of the senate and one of whom is appointed by the governor. A statewide association representing law enforcement in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.

2. Two members representing firefighters, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the governor. A statewide association representing firefighters in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.

3. Three members representing cities and towns in this state, one of whom is appointed by the president of the senate, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the governor. An association representing cities and towns in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. These nominees shall represent taxpayers or employers and may not be members of the system.

4. One member who represents counties in this state and who is appointed by the governor. An association representing county supervisors in this state shall forward nominations to the governor, providing at least three nominees for the position. These nominees shall represent taxpayers or employers and may not be members of the system.

5. One member who is appointed by the governor from a list of three nominees forwarded by the board. The board shall select the nominees to forward to the governor from a list of at least five nominees received from the advisory committee.

B. Each appointment made pursuant to subsection A of this section shall be chosen from the list of nominees provided to the appointing elected official. For any appointment made by the governor pursuant to subsection A of this section, before appointment by the governor, a prospective member of the board shall submit a full set of fingerprints to the governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. A board member may be reappointed. Notwithstanding section 38-295, a board member may be removed from office only for cause by the appointing power or because the board member has vacated the member's seat on the board. A board member who is removed for cause shall be provided written notice and an opportunity for a response. The appointing power may remove a board member based on written findings that specify the reason for removal. Any vacancy that occurs other than by expiration of a term shall be filled for the balance of the term. All vacancies shall be filled in the same manner as the initial appointment. A board member vacates the office if the member either:

1. Is absent without excuse from three consecutive regular meetings of the board.

2. Resigns, dies or becomes unable to perform board member duties.

C. The members of the board who are appointed pursuant to subsection A of this section and who are not members of the system shall be independent, qualified professionals who are responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the fund and shall have at least ten years' substantial experience as any one or a combination of the following:

1. A portfolio manager acting in a fiduciary capacity.

2. A securities analyst.

3. A senior executive or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment-related capacity.

4. A chartered financial analyst in good standing as determined by the chartered financial analyst institute.

5. A current or former professor or instructor at the college or university level in the field of economics, finance, actuarial science, accounting or pension-related subjects.

6. An economist.

7. Any other senior executive engaged in the field of public or private finances or with experience with public pension systems.

8. A senior executive in insurance, banking, underwriting, auditing, human resources or risk management.

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

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

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

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

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

2. ~~That no~~ NOT more than five percent of the combined assets of the system or other plans that the board manages ~~shall be~~ IS invested in corporate stock issued by any one corporation, other than corporate stock issued by corporations chartered by the United States government or corporate stock issued by a bank or insurance company.

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

4. ~~That~~ Corporate stocks and exchange traded funds eligible for direct purchase ~~shall be~~ ARE restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks, stocks acquired for coinvestment in connection with the system's or the plans' or trusts' commingled investments and interests in limited liability companies and mutual funds, are ~~either~~ ANY OF THE FOLLOWING:

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

(b) Designated or approved on notice of issuance for designation on the national market system of a national securities association registered

under the securities exchange act of 1934, as amended (15 United States Code sections 78a through 78pp).

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

(d) Listed or approved on issuance for listing on an exchange of a foreign country with which the United States is maintaining diplomatic relations at the time of purchase, except that ~~no~~ NOT more than twenty percent of the combined assets of the system and other plans that the board manages ~~shall be~~ IS invested in foreign securities, based on the cost value of the stocks irrespective of capital appreciation.

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

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

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

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

J. Except as provided in subsection F of this section, the board may:

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

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

3. Also:

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

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

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

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

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

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

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

6. At the expense of the system or other plans that the board administers, enter into an agreement with any bank or banks for the safekeeping and handling of securities and other investments coming into the possession of the board. The agreement shall be entered into under terms and conditions that secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments. ~~No~~ Access to and ~~no~~ deposit or withdrawal of the securities from any place of deposit selected by the board ~~shall be permitted or made~~ IS NOT ALLOWED AND MAY NOT BE MADE except as the terms of the agreement ~~may~~ provide.

7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or AN appointed representative to protect the fund or the assets of other plans that the board administers. The board is not responsible for the actions or omissions of the local boards under this system but may seek a review or rehearing of actions or omissions of local boards. The board does not have a duty to review actions of the local boards but may do so in its discretion in order to protect the fund. No limitations period precludes

the board or administrator from contesting, or requires the board or administrator to implement or comply with, a local board decision that violates the internal revenue code or that threatens to impair the ~~tax qualified~~ TAX-QUALIFIED status of the system or any plan administered by the board or administrator.

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

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

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

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

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

1. A balance sheet.

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

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

4. A list of investments owned.

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

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

7. An analysis of the long-term level percent of employer contributions and compensation structure and whether the funding methodology is sufficient to pay one hundred percent of the unfunded accrued liability under the elected officials' retirement plan.

8. An estimate of the aggregate employer contribution rate for the public safety personnel retirement system for the next ten fiscal years and an estimate of the aggregate employer contribution rate for the corrections officer retirement plan for the next ten fiscal years.

9. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the public safety personnel retirement system:

(a) Department of liquor licenses and control.

(b) Department of public safety.

(c) Northern Arizona university.

(d) University of Arizona.

(e) Arizona state university.

(f) Arizona game and fish department.

(g) Department of law.

(h) Department of emergency and military affairs.

(i) Arizona state parks board.

10. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the corrections officer retirement plan:

(a) State department of corrections.

(b) Department of public safety.

(c) The judiciary.

(d) Department of juvenile corrections.

11. An estimate of the aggregate fees paid for private equity investments, including management fees and performance fees.

M. The board shall:

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

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

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

4. Permit the auditor general to make an annual audit and transmit the results to the governor and the legislature.

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

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

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

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

1. Administer this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

W. A person who is a dealer as defined in section 44-1801 and who is involved in securities or investments related to the board's investments is not eligible to serve on the board.

X. ~~Beginning January 1, 2017,~~ The public safety personnel retirement system advisory committee is established and shall serve as a liaison between the board and the members and employers of the system. The committee shall be appointed by the chairperson of the board from names submitted to the chairperson by associations representing law enforcement, firefighters, state government, counties, cities and towns and tribal governments. The committee shall select a chairperson from among its members each calendar year. The committee shall consist of the following ten members:

1. A member who is a law enforcement officer.
2. A member who is a firefighter.
3. A member of the elected officials' retirement plan.
4. A member of the corrections officer retirement plan.
5. A retiree from the public safety personnel retirement system.
6. A representative from a city or town in this state.
7. A representative from a county in this state.
8. A representative from a fire district in this state.
9. A representative from a state employer.
10. A representative from a tribal government located in this state.

Sec. 5. Section 38-850, Arizona Revised Statutes, is amended to read:

38-850. <u>Assurances and liabilities; board of trustee discretion; overpayments; underpayments</u>

A. Nothing contained in the system shall be construed as a contract of employment between an employer and any employee, or as a right of any employee to be continued in the employment of an employer, or as a limitation of the rights of an employer to discharge any of its employees, with or without cause.

B. No employee shall have any right to, or interest in, any assets of the fund on termination of his employment or otherwise, except as provided from time to time under the system, and then only to the extent of the benefits payable to such employee out of the assets of the fund. All payments of benefits as provided for in the system shall be made solely out of the assets of the fund, and the employers, the board

and any member of the board are not liable for payment of benefits in any manner.

C. Benefits, employee contributions or employer contributions, including interest, earnings and all other credits, payable under this system shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit, contribution, earning or credit, under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any such right hereunder shall be void. The fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to such rights hereunder. This subsection does not preclude arrangements for the withholding of taxes from benefit payments, arrangements for the recovery of benefit overpayments, arrangements for the transfer of benefit rights to another plan or arrangements for direct deposit of benefit payments in an account in a bank, savings and loan association or credit union if the arrangement is not part of an arrangement constituting an assignment or alienation.

D. The employers, the board of trustees, the board of trustees' administrator, DEPUTY OR assistant administrators and employees and any member of a local board do not guarantee the fund in any manner against loss or depreciation, and none of them shall be liable for any act or failure to act, that is made in good faith pursuant to the provisions of the system. The employers ~~shall not be~~ ARE NOT responsible for any act or failure to act of a local board or any of its members or for any act or failure to act of the board of trustees. A local board and the individual members of a local board ~~shall not be~~ ARE NOT responsible for any act or failure to act of any employer or the board of trustees.

E. The board, in its discretion, may make payment to a person entitled to any payment under the system who is under a legal disability in any one or more of the following ways:

1. Directly to such person.

2. To his legal guardian or conservator.

3. To his spouse or to any other person charged with his support to be expended for his benefit.

F. If, through misstatement or computation error, benefits are underpaid or overpaid, there is no liability for any more than the correct benefit sums under the system. Overpayments may be deducted from future payments under the system, and underpayments may be added to future payments under the system. A member or other benefit recipient may elect to repay in a lump sum any overpayment in lieu of receiving reduced benefits under the system.

G. ~~Nothing in~~ This section ~~exempts~~ DOES NOT EXEMPT employee benefits of any kind from a writ of attachment, a writ of execution, a writ of garnishment and orders of assignment issued by a court of record ~~which~~ THAT are the result of a judgment taken for arrearages for child support or for a child support debt or restitution or fines imposed in accordance with section 38-849, subsection A.

Sec. 6. Section 38-865, Arizona Revised Statutes, is amended to read:

38-865. Definitions

In this article, unless the context otherwise requires:

1. "Annuity account" means an account that is established for each participant to record the deposit of participant contributions, employer contributions and interest, dividends or other accumulations credited on behalf of the participant.

2. "Board" means the board of trustees of the public safety personnel retirement system established by section 38-848.

3. "Compensation":

(a) For participants as defined in paragraph 7, subdivision (a) of this section AND SECTION 38-865.01, has the same meaning prescribed in section 38-842.

(b) For participants as defined in paragraph 7, subdivision (b) of this section, means salary as defined in section 38-881.

4. "Defined contribution plan" means the public safety personnel defined contribution retirement plan established pursuant to this article.

5. "Employer" has the same meaning prescribed in section 38-842 or 38-881, as applicable.

6. "Employer contribution" means an amount deposited by an employer, from the employer's own monies, in the participant's annuity account on a periodic basis coinciding with the participant's regular pay period.

7. "Participant" means:

(a) A member as defined in section 38-842, paragraph 31, subdivision (a), excluding subdivision (a), item (vi), who is one of the following:

(i) An employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the defined contribution plan established pursuant to this article and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.

(ii) An employee who is hired on or after July 1, 2017, who is not covered by the federal old age and survivors insurance system and who makes the irrevocable election to participate in the system or is enrolled in the system pursuant to section 38-842.01, subsection A.

(b) A member as defined in section 38-881, paragraph 27, subdivision (a) ~~or (b)~~ who is one of the following:

(i) An employee who is hired on or after July 1, 2018, WHO IS NOT IN A DESIGNATED POSITION AS DEFINED IN SECTION 38-881, PARAGRAPH 13, SUBDIVISION (g) and who was not an active, an inactive or a retired member of the corrections officer retirement plan or a member of the corrections officer retirement plan with a disability on June 30, 2018.

(ii) An employee who is hired on or after July 1, 2018, who is in a designated position as defined in section 38-881, paragraph 13, subdivision (g), who makes the irrevocable election pursuant to section 38-881.01 to participate solely in the defined contribution plan established pursuant to this article and who was not an active, an inactive or a retired member of the corrections officer retirement plan or a member of the corrections officer retirement plan with a disability on June 30, 2018.

8. "Pensionable compensation" means the amount of the participant's annual compensation that does not exceed the limitation specified in section 38-843.04 or 38-895.01, as applicable.

9. "System" means the public safety personnel retirement system established by article 4 of this chapter.

Sec. 7. Section 38-865.01, Arizona Revised Statutes, is amended to read:

38-865.01. Definition of participant

For the purposes of this article, "participant" includes a member as defined in section 38-842, paragraph 31, SUBDIVISION (a), excluding subdivision (a), item (vi), who is hired on or after January 1, 2012 and before July 1, 2017, who is not covered by the federal old age and survivors insurance system and who is a member of the system.

Sec. 8. Section 38-867, Arizona Revised Statutes, is amended to read:

38-867. Contributions; member; employer; pickup

A. Each participant in the defined contribution plan shall contribute the following percentage of the participant's gross pensionable compensation by salary reduction that shall be deposited in the participant's annuity account:

1. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (ii), three percent.

2. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i), nine percent.

3. For a participant as defined in section 38-865, paragraph 7, subdivision (b), seven percent.

B. A participant as defined in section 38-865 may make a one-time irrevocable election, before the participant is eligible to participate in any qualified plan of the employer, to contribute more than the percentage of the participant's gross pensionable compensation specified in this section, up to the amount allowable under section 415(c) of the internal revenue code. A participant as defined in section 38-865, paragraph 7,

subdivision (b) may make a onetime irrevocable election, before the participant is eligible to participate in any qualified plan of the employer, to contribute less than the percentage of the participant's gross pensionable compensation specified in this section but may not elect to contribute less than five percent of the participant's gross pensionable compensation. The election made pursuant to this subsection shall be the participant's contribution rate for the remainder of the participant's employment with any employer under the system or the corrections officer retirement plan, as applicable.

C. Although designated as employee contributions, all participant contributions made to the defined contribution plan shall be picked up and paid by the employer in lieu of contributions by the employee. The contributions picked up by an employer may be made through a reduction in the participant's compensation. A participant in the defined contribution plan may not choose to receive the contributed amounts directly instead of the employer paying the amounts to the defined contribution plan. All participant contributions that are picked up by the employer as provided in this subsection shall be treated as employer contributions under section 414(h) of the internal revenue code, shall be excluded from the participant's gross income for federal and state income tax purposes and are includable in the gross income of the participant or the participant's beneficiaries only in the taxable year in which they are distributed.

D. Each employer shall annually make a contribution equal to the following percentages of each participant's gross pensionable compensation:

1. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (ii), three percent.

2. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i), nine percent.

3. For a participant as defined in section 38-865, paragraph 7, subdivision (b), five percent.

E. The pro rata share of the amount paid in subsection D of this section shall be paid on each date that a participant contribution is made and shall be credited to the participant's annuity account.

F. A participant of the defined contribution plan may not take loans on any portion of the accumulated assets in the participant's annuity account.

G. Each participant as defined in section 38-865, paragraph 7, subdivision (a), item (i) and subdivision (b) and each employer shall contribute to the public safety personnel defined contribution retirement plan disability program established by article 4.2 of this chapter.

H. A participant's contributions and earnings on those contributions are immediately vested.

I. A participant as defined in section 38-865, paragraph 7, subdivision (a) OR SECTION 38-865.01 is fully vested in the defined

contribution plan after ten years of service, with employer contributions vesting at a rate of ten percent per year. If a participant DESCRIBED IN THIS SUBSECTION dies OR IS DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL OR CATASTROPHIC DISABILITY PENSION PURSUANT TO SECTION 38-844 before completing ten years of service, the employer contributions are immediately fully vested.

J. A participant as defined in section 38-865, paragraph 7, subdivision (b) is fully vested in the defined contribution plan after three years of service, with the employer contributions vesting at the following rates:

1. Twenty-five percent after the first year of service.

2. Fifty percent after the second year of service.

3. One hundred percent after the third year of service.

K. If a participant as defined in section 38-865, paragraph 7, subdivision (b) dies OR IS DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL OR TOTAL AND PERMANENT DISABILITY PENSION PURSUANT TO SECTION 38-886 before completing three years of service, the employer contributions are immediately fully vested.

Sec. 9. Section 38-867.01, Arizona Revised Statutes, is amended to read:

38-867.01. <u>Rollover distributions and contributions; definitions</u>

A. A lump sum distribution made pursuant to section 38-844.08, subsection B OR SECTION 38-885.01, SUBSECTION J shall be deposited in ~~the~~ A SEPARATE ROLLOVER account ~~of~~ FOR the participant as defined in SUBSECTION C, PARAGRAPH 2, SUBDIVISION (a) OR (b) OF this section and made immediately available for the participant to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by section 401(a)(31) of the internal revenue code.

B. A PARTICIPANT AS DEFINED IN SUBSECTION C, PARAGRAPH 2, SUBDIVISION (c) OF THIS SECTION MAY MAKE A ROLLOVER CONTRIBUTION FROM A QUALIFIED PLAN OR AN IRA THAT SHALL BE DEPOSITED IN A SEPARATE ROLLOVER ACCOUNT FOR THE PARTICIPANT AND MADE IMMEDIATELY AVAILABLE FOR THE PARTICIPANT TO EITHER WITHDRAW ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT TO AN ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE.

~~B.~~ C. For the purposes of this section: ~~,~~

1. "IRA" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT OR AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTIONS 408(a) OR 408(b) OF THE INTERNAL REVENUE CODE.

2. "Participant" means ANY OF THE FOLLOWING:

(a) A member as defined in section 38-842, paragraph 31, excluding subdivision (a), item (vi), who is hired before January 1, 2012 and who

has elected to enter the deferred retirement option plan established by section 38-844.02.

(b) A MEMBER AS DEFINED IN SECTION 38-881 WHO HAS ELECTED TO ENTER THE REVERSE DEFERRED RETIREMENT OPTION PLAN ESTABLISHED BY SECTION 38-885.01.

(c) AN INDIVIDUAL WHO HAS MADE A ROLLOVER CONTRIBUTION PURSUANT TO SUBSECTION B OF THIS SECTION AND WHO IS EITHER:

(i) A CURRENT EMPLOYEE OF AN EMPLOYER AS DEFINED IN SECTION 38-842 OR SECTION 38-881.

(ii) CURRENTLY RECEIVING OR ENTITLED TO RECEIVE A PENSION FROM THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM OR THE CORRECTIONS OFFICER RETIREMENT PLAN.

(iii) A FORMER EMPLOYEE WHO WAS AN ACTIVE PARTICIPANT, AS DEFINED IN SECTION 38-865 OR 38-865.01, IN THE DEFINED CONTRIBUTION PLAN WHO HAS AN ANNUITY ACCOUNT BALANCE OR A SEPARATE ROLLOVER ACCOUNT BALANCE.

3. "QUALIFIED PLAN" MEANS AN ELIGIBLE DEFERRED COMPENSATION PLAN UNDER SECTION 457(b) OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, A POLITICAL SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A POLITICAL SUBDIVISION OF A STATE, A TAX-QUALIFIED RETIREMENT PLAN DESCRIBED IN SECTION 401(a) OR 403(a) OF THE INTERNAL REVENUE CODE OR AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE INTERNAL REVENUE CODE.

4. "SEPARATE ROLLOVER ACCOUNT" MEANS A FULLY VESTED AND NONFORFEITABLE SEPARATE ACCOUNT MAINTAINED UNDER THE DEFINED CONTRIBUTION PLAN FOR THE BENEFIT OF A PARTICIPANT WHO HAS MADE A ROLLOVER CONTRIBUTION TO THE PLAN AS AUTHORIZED BY SUBSECTION A OR B OF THIS SECTION.

Sec. 10. Section 38-868, Arizona Revised Statutes, is amended to read:

38-868. <u>Contributions; member; employer; applicability of article</u>

A. On or before June 30, 2017, a participant as defined in section 38-865.01 may make an irrevocable election to opt out of the defined contribution plan established by this article, which shall be the participant's election for the remainder of the participant's employment with any employer under the system.

B. Beginning July 1, 2017, a participant as defined in section 38-865.01 in the defined contribution plan shall contribute three percent of the participant's gross pensionable compensation by salary reduction that shall be deposited in the participant's annuity account.

C. Each employer of a participant as defined in section 38-865.01 shall annually make a contribution equal to the following percentages of the participant's gross pensionable compensation:

1. For a participant that is hired in 2012, for fiscal years 2017-2018 through 2023-2024, four percent and three percent for each fiscal year thereafter.

2. For a participant that is hired in 2013, for fiscal years 2017-2018 through 2022-2023, four percent and three percent for each fiscal year thereafter.

3. For a participant that is hired in 2014, for fiscal years 2017-2018 through 2021-2022, four percent and three percent for each fiscal year thereafter.

4. For a participant that is hired in 2015, for fiscal years 2017-2018 through 2020-2021, four percent and three percent for each fiscal year thereafter.

5. For a participant that is hired in 2016, for fiscal years 2017-2018 through 2019-2020, four percent and three percent for each fiscal year thereafter.

6. For a participant that is hired on or after January 1, 2017 and before July 1, 2017, for fiscal year 2017-2018, four percent and three percent for each fiscal year thereafter.

D. IF A PARTICIPANT AS DEFINED IN SECTION 38-865.01 IS SUBSEQUENTLY COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM, THE PARTICIPANT AND THE PARTICIPANT'S EMPLOYER MAY NOT MAKE ANY CONTRIBUTIONS ON THE PARTICIPANT'S BEHALF PURSUANT TO THIS SECTION DURING THE PERIOD THE PARTICIPANT IS COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM. IF AT A LATER TIME THE PARTICIPANT IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM THROUGH AN EMPLOYER UNDER THE SYSTEM, THE PARTICIPANT AND THE PARTICIPANT'S EMPLOYER SHALL AGAIN BE REQUIRED TO CONTRIBUTE ON BEHALF OF THE EMPLOYEE PURSUANT TO THIS SECTION.

~~D.~~ E. All of the provisions of this article apply to a participant as defined in section 38-865.01.

~~E.~~ F. For a participant as defined in section 38-865.01, an employer may choose to pay a portion of the participant's contributions under this section in an amount of not more than the difference between the contribution rate specified under section 38-843 for employees hired on or after January 1, 2012 and before July 1, 2017 and for any employee hired before January 1, 2012.

Sec. 11. Section 38-881.01, Arizona Revised Statutes, is amended to read:

38-881.01. <u>Employees hired on or after July 1, 2018; defined contribution plan; benefit election; disability</u>

A. Except as provided in subsection B of this section, an employee who is hired on or after July 1, 2018, who is a member as defined in section 38-881, paragraph 27, subdivision (a) and who was not an active, an inactive or a retired member of the plan or a member of the plan with a disability on June 30, 2018 shall participate in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter.

B. An employee who is hired on or after July 1, 2018, who is in a designated position as defined in section 38-881, paragraph 13,

subdivision (g) and who was not an active, an inactive or a retired member of the plan or a member of the plan with a disability on June 30, 2018 is eligible to participate in the corrections officer retirement plan or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter, depending on the employee's election under this section. During the first sixty days of an employee's employment and before the employee makes a decision regarding the individual's retirement plan, the board shall provide each probation and surveillance officer who is hired on or after July 1, 2018 live, objective educational training, counseling and participant-specific plan information about both the corrections officer retirement plan and the public safety personnel defined contribution retirement plan options. The employee's participation in either the plan or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter begins ninety days after the date the employee is hired. Unless the elections made under this section are made before the ninetieth day after the date of employment, the employee is automatically enrolled in the plan for the remainder of the employee's employment with any employer under the plan. Any election made under this section is irrevocable and is the employee's election for the remainder of the employee's employment with any employer under the plan, regardless of whether the employee's employment is continuous. The employee may make one of the following irrevocable elections:

1. To participate solely in the corrections officer retirement plan.

2. To participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter.

C. If an employee specified in subsection B of this section in the employee's first ninety days of employment is determined to be eligible for an accidental OR TOTAL AND PERMANENT disability pension pursuant to section 38-886, the employee shall be automatically enrolled in the corrections officer retirement plan for the remainder of the employee's employment with any employer under the plan commencing on the employee's date of disability and shall receive an accidental OR TOTAL AND PERMANENT disability pension as prescribed in this article.

D. IF AN EMPLOYEE SPECIFIED IN SUBSECTION B OF THIS SECTION IN THE EMPLOYEE'S FIRST NINETY DAYS OF EMPLOYMENT IS KILLED IN THE LINE OF DUTY OR DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY, THE EMPLOYEE SHALL BE CONSIDERED AS HAVING BEEN ENROLLED IN THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE SURVIVING SPOUSE OF THE DECEASED EMPLOYEE IS ELIGIBLE FOR SURVIVOR BENEFITS AS PRESCRIBED IN THIS ARTICLE.

Sec. 12. Section 38-885.01, Arizona Revised Statutes, as amended by Laws 2016, chapter 74, section 1, is amended to read:

38-885.01. Reverse deferred retirement option plan; purpose

A. A reverse deferred retirement option plan is established. The purpose of the reverse deferred retirement option plan is to add flexibility to the plan and to provide members who elect to participate in the reverse deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.

B. The board shall offer the reverse deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the plan.

C. Any member who is eligible for a normal pension pursuant to section 38-885, who is not awarded an accidental, ordinary or total and permanent disability pension and who has at least twenty-four years of credited service, or in the case of a dispatcher, who has at least twenty-five years of credited service, is eligible to participate in the reverse deferred retirement option plan.

D. A member who elects to participate in the reverse deferred retirement option plan shall voluntarily and irrevocably:

1. Designate a reverse deferred retirement option plan date that is the first day of the calendar month immediately following a member's completion of twenty-four years of credited service or a date not more than sixty consecutive months before the date the member elects to participate in the reverse deferred retirement option plan, whichever is later.

2. Agree to terminate employment on the date the member elects to participate in the reverse deferred retirement option plan.

3. Receive benefits from the plan on termination of employment at the same time and in the same manner as otherwise prescribed in this article using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

E. On election, a reverse deferred retirement option plan participation account is established within the plan on behalf of each reverse deferred retirement option plan participant. All benefits accrued pursuant to this article shall be accounted for in the reverse deferred retirement option plan participation account. A reverse deferred retirement option plan participant does not have a claim on the assets of the plan with respect to the member's reverse deferred retirement option plan participation account and assets shall not be set aside for any reverse deferred retirement option plan participant that are separate from all other system assets.

F. All amounts credited to a member's reverse deferred retirement option plan participation account are fully vested.

G. A member's reverse deferred retirement option plan participation account shall be credited with the following:

1. An amount that is credited as though accrued monthly from the reverse deferred retirement option plan date to the date the member elected to participate in the reverse deferred retirement option plan and that is computed in the same manner as a normal retirement benefit using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

2. An amount that is credited as though accrued monthly and that represents interest at a rate equal to the yield on a five year treasury note as of the first day of the month as published by the federal reserve board.

H. Employee and employer contributions pursuant to section 38-891 that are deposited during the period of the reverse deferred retirement option plan are not eligible to be refunded to the employer or member.

I. The participant is not entitled to receive any amount prescribed by section 38-905 or 38-906 during the reverse deferred retirement option plan participation period.

J. The form of payment shall be a lump sum distribution~~. The member or the member's beneficiary may make a direct rollover of the lump sum distribution to an eligible retirement plan under the same rules specified in section 38-884, subsections G, H and I~~ THAT IS DIRECTLY DEPOSITED IN AN ACCOUNT CREATED FOR THE MEMBER IN THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER. ON DEPOSIT OF THE LUMP SUM PAYMENT, THE MEMBER SHALL IMMEDIATELY BE ABLE TO EITHER WITHDRAW ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT TO AN ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE.

K. The reverse deferred retirement option plan shall not jeopardize in any way the tax qualified status of the plan under the rules of the internal revenue service. The board may adopt additional provisions to the extent necessary or appropriate for the reverse deferred retirement option plan to comply with applicable federal laws or rules.

Sec. 13. Section 38-885.01, Arizona Revised Statutes, as amended by Laws 2017, chapter 163, section 14, is amended to read:

38-885.01. <u>Reverse deferred retirement option plan; purpose</u>

A. A reverse deferred retirement option plan is established. The purpose of the reverse deferred retirement option plan is to add flexibility to the plan and to provide members who elect to participate in the reverse deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.

B. The board shall offer the reverse deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the plan.

C. Any member who is eligible for a normal pension pursuant to section 38-885, who is not awarded an accidental, ordinary or total and permanent disability pension and who has at least twenty-four years of credited service, or in the case of a dispatcher, who has at least twenty-five years of credited service, is eligible to participate in the reverse deferred retirement option plan.

D. A member who elects to participate in the reverse deferred retirement option plan shall voluntarily and irrevocably:

1. Designate a reverse deferred retirement option plan date that is the first day of the calendar month immediately following a member's completion of twenty-four years of credited service or a date not more than sixty consecutive months before the date the member elects to participate in the reverse deferred retirement option plan, whichever is later.

2. Agree to terminate employment on the date the member elects to participate in the reverse deferred retirement option plan.

3. Receive benefits from the plan on termination of employment at the same time and in the same manner as otherwise prescribed in this article using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

E. On election, a reverse deferred retirement option plan participation account is established within the plan on behalf of each reverse deferred retirement option plan participant. All benefits accrued pursuant to this article shall be accounted for in the reverse deferred retirement option plan participation account. A reverse deferred retirement option plan participant does not have a claim on the assets of the plan with respect to the member's reverse deferred retirement option plan participation account and assets shall not be set aside for any reverse deferred retirement option plan participant that are separate from all other system assets.

F. All amounts credited to a member's reverse deferred retirement option plan participation account are fully vested.

G. A member's reverse deferred retirement option plan participation account shall be credited with the following:

1. An amount that is credited as though accrued monthly from the reverse deferred retirement option plan date to the date the member elected to participate in the reverse deferred retirement option plan and that is computed in the same manner as a normal retirement benefit using the factors of credited service and average monthly salary in effect on the reverse deferred retirement option plan date.

2. An amount that is credited as though accrued monthly and that represents interest at a rate equal to the yield on a five year treasury

note as of the first day of the month as published by the federal reserve board.

H. Employee and employer contributions pursuant to section 38-891 that are deposited during the period of the reverse deferred retirement option plan are not eligible to be refunded to the employer or member.

I. The participant is not entitled to receive any amount prescribed by section 38-906 during the reverse deferred retirement option plan participation period.

J. The form of payment shall be a lump sum distribution~~. The member or the member's beneficiary may make a direct rollover of the lump sum distribution to an eligible retirement plan under the same rules specified in section 38-884, subsections G, H and I~~ THAT IS DIRECTLY DEPOSITED IN AN ACCOUNT CREATED FOR THE MEMBER IN THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER. ON DEPOSIT OF THE LUMP SUM PAYMENT, THE MEMBER SHALL IMMEDIATELY BE ABLE TO EITHER WITHDRAW ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT TO AN ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE.

K. The reverse deferred retirement option plan shall not jeopardize in any way the tax qualified status of the plan under the rules of the internal revenue service. The board may adopt additional provisions to the extent necessary or appropriate for the reverse deferred retirement option plan to comply with applicable federal laws or rules.

Sec. 14. Section 38-891, Arizona Revised Statutes, is amended to read:

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the board, each employer shall make contributions sufficient under the actuarial valuations to meet both the normal cost for members hired before July 1, 2018 plus the actuarially determined amount required to amortize the unfunded accrued liability on a level percent of salary basis for all employees of the employer who are members of the plan or participants as defined in section 38-865, paragraph 7, subdivision (b) over, beginning July 1, 2018, a closed period of not more than twenty years, except as provided in subsection M or O of this section, that is established by the board taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than six percent of salary. For any employer whose actual contribution rate is less than six percent of salary for fiscal year 2006-2007 and each year thereafter, that employer's contribution rate shall be at least five percent and not more than the employer's actual contribution rate. An employer may pay a higher level percent of salary thereby reducing its unfunded past service liability. All contributions made by the employers

and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred percent funded, the board shall account for fifty percent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two percent.

B. Each member who was hired before July 1, 2018, shall contribute the amount prescribed in subsection H of this section to the retirement plan. Each member who was hired on or after July 1, 2018, through the member's period of service from the member's effective date of participation, shall contribute an amount equal to the amount prescribed in subsection K of this section. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution. Payment of the member's salary less the deducted contributions constitutes full and complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment. A member may not, under any circumstance, borrow from, take a loan against or remove contributions from the member's account before the termination of membership in the plan or the receipt of a pension.

C. Each employer shall transfer to the board the employer and employee contributions provided for in this section within ten working days after each payroll date. Contributions transferred after that date shall include a penalty of ten percent per annum, compounded annually, for each day the contributions are late. The employer shall pay this penalty. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by

action in a court of competent jurisdiction against an employer liable for the payments or, at the request of the board, may be deducted from any other monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

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

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

F. The local board of the state department of corrections, the local board of the department of juvenile corrections, THE LOCAL BOARD OF THE JUDICIARY or the local board of a county, city or town that operates detention facilities may specify a designated position within the department or facility as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety days after accepting the position. On the employee leaving the position, the position reverts to a designated position.

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

H. The amount contributed by a member who was hired before July 1, 2018 pursuant to subsection B of this section is:

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

2. For fiscal year 2011-2012 and each fiscal year thereafter, 8.41 percent of the member's salary or fifty percent of the sum of the member's contribution rate from the preceding fiscal year and the aggregate computed employer contribution rate that is calculated pursuant to subsection A of this section, whichever is lower, except that the member contribution rate shall not be less than 7.65 percent of the member's salary and the employer contribution rate shall not be less than the rate prescribed in subsection A of this section.

I. Notwithstanding subsection H, paragraph 2 of this section, the contribution rate for a full-time dispatcher is forty-five basis points less than the member contribution amount calculated pursuant to subsection H, paragraph 2 of this section, except that after the close of any fiscal year, if the plan's actuary determines that the aggregate ratio of the funding value of the accrued assets to the accrued liabilities of the fund is at least one hundred percent, from and after June 30 of the following year the member contribution rate for a full-time dispatcher is equal to the member contribution rate for a member who is not a full-time dispatcher.

J. For fiscal year 2011-2012 and each fiscal year thereafter, the amount of the member's contribution that exceeds 8.41 percent of the member's salary for a member other than a full-time dispatcher or 7.96 percent of the member's salary for a full-time dispatcher shall not be used to reduce the employer's contributions that are calculated pursuant to subsection A of this section.

K. For members hired on or after July 1, 2018, the employer and member contributions are determined as follows:

1. As determined by actuarial valuations reported to the employer and the local board by the board of trustees, each employer shall make contributions sufficient under such actuarial valuations to pay 33.3 percent of the normal cost plus 50 percent of the actuarially determined amount required to amortize the total unfunded accrued liability for each employer attributable only to those members hired on or after July 1, 2018. For each year that new unfunded liabilities are attributable to the employer's own members hired on or after July 1, 2018, a new amortization base representing the most recent annual gain or loss, smoothed over a period not more than five years as determined by the board, shall be created on a level-dollar basis over a closed period equal to the average expected remaining service lives of all members but not more than ten years, as determined by the board.

2. The remaining 66.7 percent of the normal cost and the remaining 50 percent of the actuarially determined amount required to amortize the total unfunded accrued liability as determined pursuant to paragraph 1 of this subsection shall be divided by the total number of the employer's members who were hired on or after July 1, 2018 such that each member contributes an equal percentage of the member's compensation. Member

contributions shall begin simultaneously with membership in the plan and shall be made by payroll deduction.

L. In any fiscal year, an employer's contribution to the plan in combination with member contributions may not be less than the actuarially determined normal cost for that fiscal year. The board may not suspend contributions to the plan unless both of the following apply:

1. The plan's actuary, based on the annual valuation, determines that continuing to accrue excess earnings could result in disqualification of the plan's tax-exempt status under the provisions of the United States internal revenue code.

2. The board determines that the receipt of any additional contributions required under this section would conflict with its fiduciary responsibility.

M. For the purposes of calculating unfunded liability amortization payments pursuant to subsection A of this section, an employer may make a onetime election to request that the board use a closed period of not more than thirty years if the employer meets both of the following requirements:

1. The governing body of the employer adopts a resolution requesting the longer amortization period and specifying the actuarial valuation date for which the new amortization period is to begin. The actuarial valuation date chosen must be the plan's fiscal year end either immediately before or immediately after the date of the resolution.

2. The employer submits a written request for the longer amortization period along with the adopted resolution to the administrator of the board.

N. For the purposes of subsection M of this section, employer does not include this state or any state agency.

O. For the purposes of calculating unfunded liability amortization payments pursuant to subsection A of this section, the board may use a closed period of not more than thirty years for the judiciary.

P. If a member's employment is terminated with an employer by either party, the total liability under the plan associated with the member's service with the employer remains with the employer.

Sec. 15. Retroactivity

Section 38-842.02, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 2017.

Sec. 16. Conditional enactment

Section 38-885.01, Arizona Revised Statutes, as amended by Laws 2017, chapter 163, section 14 and this act, becomes effective on the date prescribed by Laws 2017, chapter 163, section 24 but only on the occurrence of the condition prescribed by Laws 2017, chapter 163, section 24.

APPROVED BY THE GOVERNOR MARCH 20, 2018

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 20, 2018

Passed the House March 15, 2018,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate February 12, 2018,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Accrso

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of March, 2018,

at 2:25 o'clock P. M.

Secretary to the Governor

Approved this 20th day of

March, 2018,

at 10:59 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20th day of March, 2018,

at 1:54 o'clock P. M.

Michele Reagan

Secretary of State

S.B. 1251