



STATE OF ARIZONA
OFFICE OF THE GOVERNOR

DOUGLAS A. DUCEY
GOVERNOR

EXECUTIVE OFFICE

March 26, 2019

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

Dear Secretary Hobbs:

I am transmitting to you the following bills from the Fifty-fourth Legislature, 1st Regular Session, which I signed on March 26th, 2019:

HB 2078 local government investment pool (Kavanagh)
HB 2422 public retirement systems (Blackman)

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

House Engrossed
FILED
KATIE HOBBS
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 36
HOUSE BILL 2422

AN ACT

AMENDING SECTIONS 38-644, 38-803, 38-804.01, 38-820 AND 38-832, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-834; AMENDING SECTIONS 38-840.01, 38-843.04, 38-848, 38-848.02, 38-849, 38-858 AND 38-866, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-868.01; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5.1; AMENDING SECTIONS 38-881.01, 38-883, 38-884.01, 38-895.01 AND 38-907, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-644, Arizona Revised Statutes, is amended to
3 read:

4 38-644. Eligibility

5 A. Except as provided in subsections B, C and D of this section, to
6 qualify for covered benefits under the program, a person must satisfy all
7 of the following criteria:

8 1. Be an active or retired member of the public safety personnel
9 retirement system or the corrections officer retirement plan or a
10 participant in the public safety personnel defined contribution retirement
11 plan.

12 2. Be one of the following:

13 (a) A firefighter who is or was regularly assigned to hazardous
14 duty of the type normally expected of a firefighter.

15 (b) A peace officer.

16 (c) A corrections officer employed by the state department of
17 corrections or the department of juvenile corrections, a detention officer
18 employed by a county, city or town or any other member as defined in
19 section 38-881 if the department, county, city, town or participating
20 employer as defined in section 38-881 has voluntarily established a
21 program and the corrections officer, detention officer or other member as
22 defined in section 38-881 voluntarily enrolled in the program and made the
23 payments pursuant to section 38-642, subsection D.

24 3. Have cancer that was first diagnosed after the person's date of
25 membership in the public safety personnel retirement system or corrections
26 officer retirement plan or date of participation in the public safety
27 personnel defined contribution retirement plan.

28 B. Persons who terminate employment with a participating employer
29 are not eligible for benefits under the program unless the person has made
30 a valid claim for payment of expenses under the program before termination
31 of employment.

32 C. On retirement, persons who were either receiving benefits under
33 the program before retirement or who are diagnosed with cancer subsequent
34 to retirement remain eligible for coverage under the program for THE TOTAL
35 OF:

36 1. EITHER:

37 (a) Five months for each year of credited service accumulated
38 toward retirement under the public safety personnel retirement system or
39 corrections officer retirement plan. ~~OR~~

40 (b) For five months for each year of service under the public
41 safety personnel defined contribution retirement plan.

42 2. PLUS ACTUAL TIME SPENT IN THE DEFERRED RETIREMENT OPTION PLAN
43 PURSUANT TO SECTION 38-844.03 OR THE REVERSE DEFERRED RETIREMENT OPTION
44 PLAN PURSUANT TO SECTION 38-885.01.

1 D. A person whose eligibility to receive benefits under subsection
2 C of this section is expiring may continue to remain eligible for coverage
3 under the program if the person makes an election with the board and pays
4 to the board the cost of the premium as determined by the board at the
5 time determined by the board.

6 E. A person is not eligible for benefits under the program if there
7 is any evidence that the cancer that forms the basis for a benefit claim
8 under the program existed before the person's membership in the public
9 safety personnel retirement system or corrections officer retirement plan
10 or the person's participation in the public safety personnel defined
11 contribution retirement plan.

12 Sec. 2. Section 38-803, Arizona Revised Statutes, is amended to
13 read:

14 38-803. Powers and duties of the board

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

17 1. Account for the operation, administration and investment
18 expenses and allocate them against investment income.

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

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

26 4. Invest the monies in the fund as provided in article 4 of this
27 chapter.

28 5. Within a period of six months after the close of each fiscal
29 year, submit a detailed report of the operation and the investment
30 performance of the plan to the governor, the legislature and the members
31 of the plan.

32 6. By November 1 of each year provide a preliminary report and by
33 December ~~1~~ 31 of each year provide a final report to the governor, the
34 speaker of the house of representatives and the president of the senate on
35 the contribution rate for the ensuing fiscal year.

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

38 1. Employ services as it deems necessary.

39 2. Either keep invested monies separate or commingle invested
40 monies as it deems appropriate.

41 3. Delegate authority as it deems necessary and prudent to the
42 administrator employed pursuant to section 38-848, subsection M,
43 paragraph 6.

44 4. Do all acts, whether expressly authorized, that are deemed
45 necessary or proper for the protection of the fund.

1 3. Complies with the notice and return to work provisions of 38
2 United States Code section 4312.

3 C. Contributions made pursuant to subsection B of this section
4 shall be for the period of time beginning on the date the member began
5 military service and ending on the later of one of the following dates:

6 1. The date the member is separated from military service.

7 2. The date the member is released from ~~service related~~
8 SERVICE-RELATED hospitalization or two years after initiation of ~~service~~
9 ~~related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

10 3. The date the member dies as a result of or during military
11 service.

12 D. Notwithstanding any other law, on payment of the contributions
13 made pursuant to subsection B of this section, the member shall be
14 credited with service for retirement purposes for the period of military
15 service of not more than sixty months. The member shall submit a copy of
16 the military discharge certificate (DD-256A) and a copy of the military
17 service record (DD-214) or its equivalent with the member's application
18 when applying for credited service corresponding to the period of military
19 service.

20 E. The employer and the member shall make contributions pursuant to
21 subsection B of this section as follows:

22 1. Contributions shall be based on the compensation that the member
23 would have received but for the period that the member was ordered into
24 active military service.

25 2. If the employer cannot reasonably determine the member's rate of
26 compensation for the period that the member was ordered into military
27 service, contributions shall be based on the member's average rate of
28 compensation during the twelve-month period immediately preceding the
29 period of military service.

30 3. If a member has been employed less than twelve months before
31 being ordered into military service, contributions shall be based on the
32 member's compensation being earned immediately preceding the period of
33 military service.

34 4. The member has up to three times the length of military service,
35 not to exceed sixty months, to make the member contributions. Once the
36 member has made the member contributions or on receipt of the member's
37 death certificate, the employer shall make the employer contributions in a
38 lump sum. Death benefits shall be calculated as prescribed by law.

39 5. If the member's employer pays military differential wage pay to
40 members serving in the military, contributions shall be paid to the plan
41 pursuant to section 38-810 for any military differential wage pay paid to
42 the member while performing military service.

43 F. In computing the length of total credited service of a member
44 for the purpose of determining retirement benefits or eligibility, the

1 period of military service, as prescribed by this section, shall be
2 included.

3 G. If a member performs military service due to a presidential
4 call-up, not to exceed forty-eight months, the employer shall make the
5 employer and member contributions computed pursuant to subsection E of
6 this section on the member's return and in compliance with subsection B of
7 this section.

8 H. In addition to, but not in duplication of, subsection B of this
9 section, beginning December 12, 1994 contributions, benefits and credited
10 service provided pursuant to this section shall be provided pursuant to
11 section 414(u) of the internal revenue code, and this section shall be
12 interpreted in a manner consistent with that internal revenue code
13 section.

14 I. For plan years beginning after December 31, 2008, a member who
15 does not currently perform services for an employer by reason of qualified
16 military service as defined in section 414(u)(5) of the internal revenue
17 code is not considered having a severance from employment during that
18 qualified military service. Any payments by the employer to the member
19 during the qualified military service shall be considered compensation to
20 the extent those payments do not exceed the amounts the member would have
21 received if the member had continued to perform services for the employer
22 rather than entering qualified military service.

23 J. For deaths occurring from and after December 31, 2006, in the
24 case of a member who dies while performing qualified military service as
25 defined in section 414(u)(5) of the internal revenue code, the survivors
26 of the member are entitled to any benefits, other than benefit accruals
27 relating to the period of qualified military service, provided under the
28 plan as though the member resumed and then terminated employment on
29 account of death.

30 Sec. 5. Section 38-832, Arizona Revised Statutes, is amended to
31 read:

32 38-832. Defined contribution system; annual report; quarterly
33 statements

34 A. The board shall establish, design and administer a defined
35 contribution system to provide for the retirement of elected officials.

36 B. The purpose of this article is to provide a defined contribution
37 system that is fully funded on a current basis from employer and member
38 contributions.

39 C. The legislature intends that the defined contribution system for
40 members under this article be designed to be a qualified government plan
41 under section 401(a) of the internal revenue code, as amended, or
42 successor provisions of law, and be exempt from taxation under section 501
43 of the internal revenue code. The board may adopt any additional
44 provisions to the defined contribution system that are necessary to
45 fulfill this intent. On or before December 31, 2013, the board shall

1 submit to the internal revenue service a request for a determination
2 letter that the defined contribution system is a plan qualified under
3 section 401(a) of the internal revenue code and a private letter ruling
4 that all member contributions that are picked up by the employer as
5 provided in section 38-833 shall be treated as employer contributions
6 pursuant to section 414(h) of the internal revenue code.

7 D. The board may:

8 1. Employ the services of the third-party administrator that is
9 contracted on September 13, 2013 to administer the supplemental defined
10 contribution plan pursuant to article 8 of this chapter to also administer
11 the defined contribution system.

12 2. Employ other services it deems necessary, including legal
13 services, for the operation and administration of the defined contribution
14 system.

15 3. Perform all acts, whether or not expressly authorized, that it
16 deems necessary and proper for the operation and protection of the system.

17 E. The board shall adopt policies regarding the defined
18 contribution system, including the administration of the member and
19 employer contributions, investment options, termination in the defined
20 contribution system, the administration of the payout options under the
21 defined contribution system and the administration of the member
22 distributions.

23 F. On receipt of the determination letter and private letter ruling
24 from the internal revenue service, the board shall participate in a
25 competitive bid process at least once every five years to contract with a
26 private person or any qualified company or companies to administer the
27 defined contribution system established under this section.

28 G. Any contract for a third-party administrator of the defined
29 contribution system shall include competitive fees, quarterly meetings
30 with the public safety personnel retirement system, annual updates to the
31 board on the status of the defined contribution system and quarterly
32 statements to each member. On or before December ~~1~~ 31 of each year, the
33 board shall report the status of the defined contribution system to the
34 governor, the president of the senate, the speaker of the house of
35 representatives and the joint legislative budget committee.

36 Sec. 6. Title 38, chapter 5, article 3.1, Arizona Revised Statutes,
37 is amended by adding section 38-834, to read:

38 38-834. Credit for military service

39 A. AN ACTIVE MEMBER OF THE DEFINED CONTRIBUTION SYSTEM WHO
40 VOLUNTEERS OR IS ORDERED TO PERFORM MILITARY SERVICE MAY RECEIVE YEARS OF
41 SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE AS PROVIDED BY
42 THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994
43 (38 UNITED STATES CODE PART III, CHAPTER 43). THE MEMBER'S EMPLOYER SHALL
44 MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE THE MEMBER

1 CONTRIBUTIONS PURSUANT TO SUBSECTION B OF THIS SECTION IF THE MEMBER MEETS
2 THE FOLLOWING REQUIREMENTS:

- 3 1. WAS AN ACTIVE MEMBER OF THE DEFINED CONTRIBUTION SYSTEM ON THE
4 DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.
- 5 2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES
6 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE
7 UNITED STATES OR IS A MEMBER OF THE NATIONAL GUARD.
- 8 3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38
9 UNITED STATES CODE SECTION 4312.

10 B. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION A OF THIS SECTION ARE
11 FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY
12 SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

- 13 1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.
- 14 2. THE DATE THE MEMBER IS RELEASED FROM SERVICE-RELATED
15 HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE-RELATED
16 HOSPITALIZATION, WHICHEVER DATE IS EARLIER.
- 17 3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY
18 SERVICE.

19 C. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS
20 MADE PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE
21 CREDITED WITH SERVICE FOR VESTING PURPOSES FOR THE PERIOD OF MILITARY
22 SERVICE OF NOT MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF
23 THE MILITARY DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY
24 SERVICE RECORD (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION
25 WHEN APPLYING FOR SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

26 D. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO
27 SUBSECTION A OF THIS SECTION AS FOLLOWS:

28 1. CONTRIBUTIONS ARE BASED ON THE COMPENSATION THAT THE MEMBER
29 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO OR
30 VOLUNTEERED FOR MILITARY SERVICE.

31 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF
32 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO OR
33 VOLUNTEERED FOR MILITARY SERVICE, CONTRIBUTIONS ARE BASED ON THE MEMBER'S
34 AVERAGE RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY
35 PRECEDING THE PERIOD OF MILITARY SERVICE.

36 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE
37 BEING ORDERED INTO OR VOLUNTEERING FOR MILITARY SERVICE, CONTRIBUTIONS ARE
38 BASED ON THE MEMBER'S COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE
39 PERIOD OF MILITARY SERVICE.

40 4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE,
41 NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE
42 MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S
43 DEATH CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A
44 LUMP SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

1 B. The board may delegate authority to administer the program as it
2 deems necessary and prudent to the administrator employed pursuant to
3 section 38-848.

4 C. The board, in the administration, management and operation of
5 the program, shall:

6 1. Account for the operation, administration and investment
7 expenses and allocate them against investment income.

8 2. Contract on a fee basis with an actuary to make an actuarial
9 valuation of the program based on the valuation method and valuation
10 assumptions recommended by the actuary and approved by the board. The
11 actuary shall be a member of the American academy of actuaries.

12 3. Contract on a fee basis with an independent auditing firm to
13 make an annual audit of the accounting records of the EODC disability
14 program trust fund and file a copy of the audit with the auditor general.

15 4. Invest the monies in the EODC disability program trust fund as
16 provided in article 4 of this chapter.

17 5. On or before December ~~1~~ 31 of each year, submit to the
18 governor, the speaker of the house of representatives and the president of
19 the senate a detailed report of the operation and the investment
20 performance of the program that includes the contribution rate for the
21 ensuing fiscal year.

22 D. The board, in the administration, management and operation of
23 the program, may:

24 1. Employ services as it deems necessary.

25 2. Either keep invested monies separate or commingle invested
26 monies as it deems appropriate.

27 3. Do all acts, whether expressly authorized, that may be deemed
28 necessary or proper for the protection of the EODC disability program
29 trust fund.

30 4. Determine the rights, benefits or obligations of any person
31 under this article and afford any person dissatisfied with a determination
32 of the person's rights, benefits or obligations under this article with a
33 hearing on the determination.

34 Sec. 8. Section 38-843.04, Arizona Revised Statutes, is amended to
35 read:

36 38-843.04. Compensation limitation; adjustments; definition

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

39 1. Beginning January 1, 1996 through December 31, 2001, ~~one hundred~~
40 ~~fifty thousand dollars~~ \$150,000.

41 2. Except for members who are hired on or after July 1, 2017,
42 beginning January 1, 2002, ~~two hundred thousand dollars~~ \$200,000. The
43 board shall adjust the ~~two hundred thousand dollar~~ \$200,000 annual
44 compensation limit under this paragraph at the same time and in the same
45 manner as adjusted by the United States secretary of the treasury under

1 section 401(a)(17)(B) of the internal revenue code. The adjustment under
2 this paragraph for a calendar year applies to annual compensation for ~~the~~
3 ~~plan year that begins with or within the~~ THAT calendar year.

4 3. For members who are hired on or after July 1, 2017, ~~one hundred~~
5 ~~ten thousand dollars~~ \$110,000. The board shall adjust the ~~one hundred ten~~
6 ~~thousand dollar~~ \$110,000 annual compensation limit under this paragraph as
7 prescribed in subsection C of this section. Notwithstanding the
8 adjustments made under subsection C of this section, the limit under this
9 paragraph, as adjusted by the board, may not exceed the maximum
10 compensation limit of section 401(a)(17) of the internal revenue code, as
11 adjusted by the United States secretary of the treasury.

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

18 C. Beginning in fiscal year 2020-2021, and every third fiscal year
19 thereafter, the board shall adjust the annual compensation limit specified
20 in subsection A, paragraph 3 of this section by the average change in the
21 public safety wage index as determined in this subsection. The board
22 shall annually publish the public safety wage index in January. THE
23 ANNUAL COMPENSATION LIMIT ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR
24 YEAR APPLIES TO THE ANNUAL COMPENSATION FOR THAT CALENDAR YEAR. To
25 determine the public safety wage index:

26 1. Employers represented in the public safety wage index shall
27 provide the board pay scales for the month of July for the enforcement
28 classifications of public safety officers annually in July.

29 2. The board shall determine the weighted average of the change in
30 the top of the pay scale for public safety officers of the employers
31 represented in the public safety wage index. The average change shall be
32 weighted by measuring each employer's total number of members divided by
33 the total number of members of all employers represented in the public
34 safety wage index.

35 D. The board shall establish a public safety wage index that is
36 composed of a group of employers that ~~represent~~ REPRESENTS geographic
37 diversity across this state and that ~~represent~~ REPRESENTS:

38 1. Seven large employers, each of which has one thousand or more
39 total system members, composed of one state law enforcement agency, one
40 county law enforcement agency, three municipal law enforcement agencies
41 and two municipal fire agencies.

42 2. Nine midsized employers, each of which has more than two hundred
43 but ~~less~~ FEWER than one thousand total system members, composed of one
44 state law enforcement agency, two county law enforcement agencies, four

1 municipal law enforcement agencies, one municipal fire agency and one fire
2 district.

3 3. Ten small employers, each of which has two hundred or ~~less~~ FEWER
4 total system members, composed of three municipal law enforcement
5 agencies, four municipal fire agencies and three fire districts.

6 E. The board may not change the employers represented in the public
7 safety wage index more frequently than every ten years, unless required to
8 maintain the composition of employers as prescribed in subsection D of
9 this section.

10 F. For the purposes of this section, "public safety officers" means
11 the classification of police officers, sheriff's deputies, firefighters or
12 wildlife managers or their equivalent enforcement classifications.

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

15 38-848. Board of trustees; powers and duties; independent
16 trust fund; administrator; agents and employees;
17 advisory committee

18 A. Beginning January 1, 2017, the board of trustees shall consist
19 of nine members and shall have the rights, powers and duties that are set
20 forth in this section. The term of office of members shall be five years
21 to expire on the third Monday in January of the appropriate year. The
22 board shall select a chairperson from among its members each calendar
23 year. Members are eligible to receive compensation in an amount of ~~fifty~~
24 ~~dollars~~ \$50 a day, but not to exceed ~~one thousand dollars~~ \$1,000 in any
25 one fiscal year, and are eligible for reimbursement of expenses pursuant
26 to chapter 4, article 2 of this title. Beginning January 1, 2017, the
27 board consists of the following members appointed as follows:

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

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

42 3. Three members representing cities and towns in this state, one
43 of whom is appointed by the president of the senate, one of whom is
44 appointed by the speaker of the house of representatives and one of whom
45 is appointed by the governor. An association representing cities and

1 towns in this state shall forward nominations to the appointing elected
2 officials, providing at least three nominees for each position. These
3 nominees shall represent taxpayers or employers and may not be members of
4 the system.

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

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

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

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

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

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

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

42 2. A securities analyst.

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

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

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

6 6. An economist.

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

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

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

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

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

24 1. Not more than eighty percent of the combined assets of the
25 system or other plans that the board manages is invested at any given time
26 in corporate stocks, based on the cost value of the stocks irrespective of
27 capital appreciation.

28 2. Not more than five percent of the combined assets of the system
29 or other plans that the board manages is invested in corporate stock
30 issued by any one corporation, other than corporate stock issued by
31 corporations chartered by the United States government or corporate stock
32 issued by a bank or insurance company.

33 3. Not more than five percent of the voting stock of any one
34 corporation is owned by the system and other plans that the board
35 administers, except that this limitation does not apply to membership
36 interests in limited liability companies.

37 4. Corporate stocks and exchange traded funds eligible for direct
38 purchase are restricted to stocks and exchange traded funds that, except
39 for bank stocks, insurance stocks, stocks acquired for coinvestment in
40 connection with the system's or the plans' or trusts' commingled
41 investments and interests in limited liability companies and mutual funds,
42 are any of the following:

43 (a) Listed or approved on issuance for listing on an exchange
44 registered under the securities exchange act of 1934, as amended
45 (15 United States Code sections 78a through 78pp).

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

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

7 (d) Listed or approved on issuance for listing on an exchange of a
8 foreign country with which the United States is maintaining diplomatic
9 relations at the time of purchase, except that not more than twenty
10 percent of the combined assets of the system and other plans that the
11 board manages is invested in foreign securities, based on the cost value
12 of the stocks irrespective of capital appreciation.

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

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

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

41 I. The board is not liable for the exercise of more than ordinary
42 care and prudence in the selection of investments and performance of its
43 duties under the system and is not limited to so-called "legal investments
44 for trustees", but all monies of the system and other plans that the board

1 administers shall be invested subject to all of the conditions,
2 limitations and restrictions imposed by law.

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

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

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

11 3. Also:

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

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

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

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

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

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

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

31 6. At the expense of the system or other plans that the board
32 administers, enter into an agreement with any bank or banks for the
33 safekeeping and handling of securities and other investments coming into
34 the possession of the board. The agreement shall be entered into under
35 terms and conditions that secure the proper safeguarding, inventory,
36 withdrawal and handling of the securities and other investments. Access
37 to and deposit or withdrawal of the securities from any place of deposit
38 selected by the board is not allowed and may not be made except as the
39 terms of the agreement provide.

40 7. Appear before local boards and the courts of this state and
41 political subdivisions of this state through counsel or an appointed
42 representative to protect the fund or the assets of other plans that the
43 board administers. The board is not responsible for the actions or
44 omissions of the local boards under this system but may seek a review or
45 rehearing of actions or omissions of local boards. The board does not

1 have a duty to review actions of the local boards but may do so in its
2 discretion in order to protect the fund. ~~No limitations~~ A LIMITATION
3 period ~~precludes~~ DOES NOT PROHIBIT the board or administrator from
4 contesting, ~~or requires~~ REQUIRE the board or administrator to implement
5 or comply with, a local board decision that violates the internal revenue
6 code or that threatens to impair the tax-qualified status of the system or
7 any plan administered by the board or administrator.

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

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

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

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

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

25 1. A balance sheet.

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

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

29 4. A list of investments owned.

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

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

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

43 8. An estimate of the aggregate employer contribution rate for the
44 public safety personnel retirement system for the next ten fiscal years

1 and an estimate of the aggregate employer contribution rate for the
2 corrections officer retirement plan for the next ten fiscal years.

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

- 6 (a) Department of liquor licenses and control.
- 7 (b) Department of public safety.
- 8 (c) Northern Arizona university.
- 9 (d) University of Arizona.
- 10 (e) Arizona state university.
- 11 (f) Arizona game and fish department.
- 12 (g) Department of law.
- 13 (h) Department of emergency and military affairs.
- 14 (i) Arizona state parks board.

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

- 18 (a) State department of corrections.
- 19 (b) Department of public safety.
- 20 (c) The judiciary.
- 21 (d) Department of juvenile corrections.

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

24 M. The board shall:

25 1. Maintain the accounts of the system and other plans that the
26 board administers and issue statements to each employer annually and to
27 each member who requests a statement.

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

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

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

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

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

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

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

5 1. Administer this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 T. On the basis of the tables the board adopts, the actuary shall
32 make a valuation of the assets and liabilities of the funds of the system
33 and other plans that the board administers at least every year. By
34 November 1 of each year the board shall provide a preliminary report and
35 by December ~~1~~ 31 of each year provide a final report to the governor, the
36 speaker of the house of representatives and the president of the senate on
37 the contribution rate for the ensuing fiscal year.

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

44 V. Financial or commercial information that is provided to the
45 board, employees of the board and attorneys of the board in connection

1 with investments in which the board has invested or investments the board
2 has considered for investment is confidential, proprietary and not a
3 public record if the information is information that would customarily not
4 be released to the public by the person or entity from whom the
5 information was obtained.

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

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

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

27 state.

28 Sec. 10. Section 38-848.02, Arizona Revised Statutes, is amended to
29 read:

30 38-848.02. Board of trustees; report on employer and employee
31 costs; posting funding ratio

32 A. On or before December ~~1~~ 31 of each year, the board of trustees
33 shall provide to the legislature and the joint legislative budget
34 committee and shall post on its website the shared cost structure of
35 employees and employers, the funding status and the rate of return. The
36 report to the legislature shall include when the trigger to the reduction
37 in the employee rates is being met.

38 B. The board of trustees shall post on its website for each plan
39 the board administers each employer's funding ratio.

1 Sec. 11. Section 38-849, Arizona Revised Statutes, is amended to
2 read:

3 38-849. Limitations on receiving pension; violation;
4 classification; reemployment after severance;
5 reinstatement of service credits; reemployment of
6 retired member or member with a disability;
7 definition

8 A. If a member is convicted of, or discharged because of, theft,
9 embezzlement, fraud or misappropriation of an employer's property or
10 property under the control of the employer, the member shall be subject to
11 restitution and fines imposed by a court of competent jurisdiction. The
12 court may order the restitution or fines to be paid from any payments
13 otherwise payable to the member from the retirement system.

14 B. A person who knowingly makes any false statement or who
15 falsifies or permits to be falsified any record of the system with an
16 intent to defraud the system is guilty of a class 5 felony. If any change
17 or error in the records results in any member or beneficiary receiving
18 from the system more or less than the member or beneficiary would have
19 been entitled to receive had the records been correct, the local board
20 shall correct such error, and as far as practicable shall adjust the
21 payments in such manner that the actuarial equivalent of the benefit to
22 which such member or beneficiary was correctly entitled shall be paid. If
23 a member is convicted of a crime specified in this subsection, section
24 13-713 applies.

25 C. If a member who received a severance refund on termination of
26 employment pursuant to section 38-846.02 becomes reemployed with the same
27 employer within two years after the former member's termination date, the
28 member may have forfeited credited service attributable to service
29 rendered during a prior period of service as an employee restored on
30 satisfaction of each of the following conditions:

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

34 2. The retirement fund is paid the total amount previously
35 withdrawn pursuant to section 38-846.02 plus compound interest from the
36 date of withdrawal to the date of repayment. Interest shall be computed
37 at the rate of nine percent for each year compounded each year from the
38 date of withdrawal to the date of repayment. Forfeited credited service
39 shall not be restored until complete payment is received by the fund.

40 3. The required payment is completed within one year after
41 returning to employee status.

42 D. If a member who received a severance refund on termination of
43 employment, as provided in section 38-846.02, is subsequently reemployed
44 by an employer, the member's prior service credits shall be cancelled and
45 service shall be credited only from the date the member's most recent

1 reemployment period commenced. However, a present active member of the
2 system who forfeited credited service, received a severance refund
3 pursuant to section 38-846.02 and becomes reemployed with the same
4 employer two years or more after the member's termination date or becomes
5 reemployed with another employer may elect to redeem any part of that
6 forfeited credited service by paying into the system any amounts required
7 pursuant to this subsection. A present active member who elects to redeem
8 any part of forfeited credited service for which the member is deemed
9 eligible by the board shall pay into the system the amounts previously
10 paid or transferred to the member as a severance refund plus an amount,
11 computed by the system's actuary that is necessary to equal the increase
12 in the actuarial present value of projected benefits resulting from the
13 redemption calculated using the actuarial methods and assumptions
14 prescribed by the system's actuary. On satisfaction of this obligation
15 the member's prior service credits shall be reinstated.

16 E. If a retired member becomes reemployed in any capacity by the
17 employer from which the member retired before one year ~~from~~ AFTER the date
18 of retirement or in the same position at any time following retirement:

19 1. The following apply:

20 (a) Within ten days after the retired member is reemployed, the
21 local board shall advise the system in writing of the retired member's
22 reemployment.

23 (b) The system shall not make pension payments to the retired
24 member during the period of reemployment.

25 (c) Employee contributions shall not be made on the retired
26 member's account, nor shall any service be credited during the period of
27 reemployment. On subsequent termination of employment by the retired
28 member, the retired member is entitled to receive a pension based on the
29 member's service and compensation before the date of the member's
30 reemployment. The employer shall pay the alternate contribution rate
31 pursuant to section 38-843.05.

32 2. Paragraph 1, subdivisions (a) and (b) of this subsection do not
33 apply if any of the following ~~occur~~ OCCURS:

34 (a) The retired member becomes reemployed after sixty consecutive
35 days from the member's retirement date as a result of participating in an
36 open competitive new hire process for an entry level, nonsupervisory
37 position, except if the retired member is hired for the same position.

38 (b) The retired member is hired as a fire inspector or arson
39 investigator.

40 (c) NOTWITHSTANDING SECTION 38-844, the retired member WHO IS
41 RECEIVING AN ACCIDENTAL DISABILITY, ORDINARY DISABILITY, CATASTROPHIC
42 DISABILITY OR TEMPORARY DISABILITY AND WHO accepts a job reassignment as
43 an accommodation in accordance with the Americans with disabilities act of
44 1990 due to a disability that is directly related to the retired member

1 being awarded an accidental disability, ordinary disability, catastrophic
2 disability or temporary disability benefit.

3 F. If a retired member is assigned voluntary duties acting as a
4 limited authority peace officer, pursuant to the Arizona peace officer
5 standards and training board rules, employee contributions shall not be
6 made on the retired member's account, and any service shall not be
7 credited during the period of reemployment. The employer shall not pay
8 the alternate contribution rate pursuant to section 38-843.05.

9 G. If after one year from the date of retirement a retired member
10 becomes reemployed by the employer from which the member retired in a
11 position other than the same position from which the member retired,
12 employee contributions shall not be made on the retired member's account,
13 and any service shall not be credited during the period of reemployment.
14 The employer shall pay the alternate contribution rate pursuant to section
15 38-843.05.

16 H. At any time following retirement, if the retired member becomes
17 employed by an employer, other than the employer from which the member
18 retired, in a position ordinarily filled by an employee of an eligible
19 group, employee contributions shall not be made on the retired member's
20 account, and any service shall not be credited during the period of
21 reemployment. The employer shall pay the alternate contribution rate
22 pursuant to section 38-843.05.

23 I. If a member who retired under an accidental or ordinary
24 disability becomes reemployed as an employee of an eligible group, section
25 38-844 applies and a determination shall be made by the local board as to
26 whether subsection E, F, G or H of this section applies.

27 J. The local board shall review all reemployment determinations and
28 voluntary assignments as described in subsection F of this section. If
29 the local board or the system is not provided the necessary information
30 required by the system to make a reemployment determination, the local
31 board and the system shall suspend pension payments until information is
32 received and a determination is made regarding whether the reemployment
33 meets the requirements of subsection E, F, G, H or I of this section.

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

1 the system, plus interest at the rate prescribed by section 44-1201, until
2 all amounts owed are paid to the system.

3 L. Notwithstanding any other provision of this article, the board
4 may offset against any benefits otherwise payable by the system to an
5 active or retired member or survivor any court ordered amounts awarded to
6 the board and system and assessed against the member or survivor.

7 M. Notwithstanding any other provision of this article, a member
8 who retires having met all of the qualifications for retirement and who
9 subsequently becomes an elected official, by election or appointment, is
10 not considered reemployed by the same employer.

11 N. For the purposes of this section, "same position" means a
12 position in which the member performs substantially similar duties that
13 were performed and exercises substantially similar authority that was
14 exercised by the retired member before retirement.

15 Sec. 12. Section 38-858, Arizona Revised Statutes, is amended to
16 read:

17 38-858. Credit for military service

18 A. A member of the system who has at least five years of service
19 with the system may receive credited service for periods of active
20 military service performed before employment with the member's current
21 employer if:

22 1. The member was honorably separated from the military service.

23 2. The period of military service for which the member receives
24 credited service does not exceed sixty months.

25 3. The period of military service for which the member receives
26 credited service is not on account with any other retirement system,
27 except as provided by 10 United States Code section 12736 or except if the
28 member is not yet eligible for a military retirement benefit.

29 4. The member pays the cost to purchase the prior active military
30 service. The cost is the amount necessary to equal the increase in the
31 actuarial present value of projected benefits resulting from the
32 additional credited service.

33 5. The amount of benefits purchased pursuant to this subsection is
34 subject to limits established by section 415 of the internal revenue code.

35 B. An active member of the system who volunteers or is ordered to
36 perform military service may receive credited service for not more than
37 sixty months of military service as provided by the uniformed services
38 employment and reemployment rights act of 1994 (38 United States Code part
39 III, chapter 43). The member's employer shall make employer contributions
40 and the member shall make the member contributions pursuant to subsection
41 C of this section if the member meets the following requirements:

42 1. Was an active member of the system on the day before the member
43 began military service.

1 2. Entered into and served in the armed forces of the United States
2 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE
3 UNITED STATES or is a member of the national guard.

4 3. Complies with the notice and return to work provisions of 38
5 United States Code section 4312.

6 C. Contributions made pursuant to subsection B of this section
7 shall be for the period of time beginning on the date the member began
8 military service and ending on the later of one of the following dates:

9 1. The date the member is separated from military service.

10 2. The date the member is released from ~~service-related~~
11 SERVICE-RELATED hospitalization or two years after initiation of ~~service~~
12 ~~related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

13 3. The date the member dies as a result of or during military
14 service.

15 D. Notwithstanding any other law, on payment of the contributions
16 made pursuant to subsection B of this section, the member shall be
17 credited with service for retirement purposes for the period of military
18 service of not more than sixty months. The member shall submit a copy of
19 the military discharge certificate (DD-256A) and a copy of the military
20 service record (DD-214) or its equivalent with the member's application
21 when applying for credited service corresponding to the period of military
22 service.

23 E. The employer and the member shall make contributions pursuant to
24 subsection B of this section as follows:

25 1. Contributions shall be based on the compensation that the member
26 would have received but for the period that the member was ordered into
27 active military service.

28 2. If the employer cannot reasonably determine the member's rate of
29 compensation for the period that the member was ordered into military
30 service, contributions shall be based on the member's average rate of
31 compensation during the twelve-month period immediately preceding the
32 period of military service.

33 3. If a member has been employed less than twelve months before
34 being ordered into military service, contributions shall be based on the
35 member's compensation being earned immediately preceding the period of
36 military service.

37 4. The member has up to three times the length of military service,
38 not to exceed sixty months, to make the member contributions. Once the
39 member has made the member contributions or on receipt of the member's
40 death certificate, the employer shall make the employer contributions in a
41 lump sum. Death benefits shall be calculated as prescribed by law.

42 5. If the member's employer pays military differential wage pay to
43 members serving in the military, contributions shall be paid to the system
44 pursuant to section 38-843 for any military differential wage pay paid to
45 the member while performing military service.

1 F. In computing the length of total credited service of a member
2 for the purpose of determining retirement benefits or eligibility, the
3 period of military service, as prescribed by this section, shall be
4 included.

5 G. If a member performs military service due to a presidential
6 call-up, not to exceed forty-eight months, the employer shall make the
7 employer and member contributions computed pursuant to subsection E of
8 this section on the member's return and in compliance with subsection B of
9 this section.

10 H. In addition to, but not in duplication of, the provisions of
11 subsection B of this section, beginning December 12, 1994 contributions,
12 benefits and credited service provided pursuant to this section shall be
13 provided pursuant to section 414(u) of the internal revenue code, and this
14 section shall be interpreted in a manner consistent with that internal
15 revenue code section.

16 I. For plan years beginning after December 31, 2008, a member who
17 does not currently perform services for an employer by reason of qualified
18 military service as defined in section 414(u)(5) of the internal revenue
19 code is not considered having a severance from employment during that
20 qualified military service. Any payments by the employer to the member
21 during the qualified military service shall be considered compensation to
22 the extent those payments do not exceed the amounts the member would have
23 received if the member had continued to perform services for the employer
24 rather than entering qualified military service.

25 J. For deaths occurring from and after December 31, 2006, in the
26 case of a member who dies while performing qualified military service as
27 defined in section 414(u)(5) of the internal revenue code, the survivors
28 of the member are entitled to any benefits, other than benefit accruals
29 relating to the period of qualified military service, provided under the
30 system as though the member resumed and then terminated employment on
31 account of death.

32 Sec. 13. Section 38-866, Arizona Revised Statutes, is amended to
33 read:

34 38-866. Defined contribution plan design; purpose; powers and
35 duties of the board; administration

36 A. The board shall establish, design and administer a defined
37 contribution plan to provide for the retirement of specified participants
38 beginning July 1, 2017.

39 B. The purpose of this article is to provide a defined contribution
40 plan that is fully funded on a current basis from employer and participant
41 contributions.

42 C. The legislature intends that the defined contribution plan for
43 participants under this article be designed to be a qualified governmental
44 plan under section 401(a) of the internal revenue code, as amended, or
45 successor provisions of law, and be exempt from taxation under section 501

1 of the internal revenue code. The board may adopt any additional
2 provision to the defined contribution plan that is necessary to fulfill
3 this intent. Consistent with this intent, the board may submit to the
4 internal revenue service a request for a determination letter that the
5 defined contribution plan is a plan qualified under section 401(a) of the
6 internal revenue code and a private letter ruling that all participant
7 contributions that are picked up by the employer as provided in section
8 38-867 shall be treated as employer contributions pursuant to section
9 414(h) of the internal revenue code.

10 D. The board shall:

11 1. Enter into a contract with a provider or providers to provide
12 retirement plan investments, plan administration and services to
13 participants in the defined contribution plan. The plan shall provide for
14 appropriate long-term retirement-oriented investments and shall include
15 both fixed and variable deferred annuity options. The board shall
16 consider all of the following when determining a company with which to
17 contract:

18 (a) The financial stability of the company and the ability of the
19 company to provide the contracted rights and benefits to the participants.

20 (b) The cost of the investments, plan administration and services
21 to the participants.

22 (c) The experience of the company in providing defined contribution
23 retirement plans in lieu of defined benefit plan participation to public
24 employees.

25 (d) The experience of the company in paying retirement income to
26 public employees.

27 (e) The experience of the company in providing plan education,
28 counseling and advice to participants in public employee retirement plans
29 that are offered in lieu of state defined benefit plan participation.

30 2. Require under a contract that a provider provide education,
31 counseling and objective participant-specific plan advice to participants.
32 Any participant-specific advice and counseling shall be administered by a
33 federally registered investment advisor. The federally registered
34 investment advisor shall act as a fiduciary to participants and is
35 required to act in the participant's best interest.

36 3. Require under the contract that the defined contribution plan
37 include not less than five and not more than twenty-five predetermined
38 investment portfolio options to participants. The predetermined
39 investment portfolio options shall include options that reflect different
40 risk profiles and options that automatically reallocate and rebalance
41 contributions as a participant ages. In addition, the defined
42 contribution plan may permit participants to construct investment
43 portfolios using some or all of the investment options comprising the
44 predetermined investment portfolio options.

1 4. Require under a contract that the defined contribution
2 retirement plan offer participants a menu of lifetime annuity options,
3 either fixed or variable or a combination of both.

4 E. The board may:

5 1. Employ other services it deems necessary, including legal
6 services, for the operation and administration of the defined contribution
7 plan.

8 2. Perform all acts, whether or not expressly authorized, that it
9 deems necessary and proper for the operation and protection of the plan.

10 F. The board shall adopt policies regarding the defined
11 contribution plan, including the administration of the participant and
12 employer contributions, investment options, termination of participation
13 in the defined contribution plan, administration of the payout options
14 under the defined contribution plan and administration of the participant
15 distributions.

16 G. The board shall participate in a competitive bid process at
17 least once every five years to contract with a private person or any
18 qualified company or companies to administer the defined contribution plan
19 established pursuant to this article.

20 H. Any contract for a third-party administrator of the defined
21 contribution plan shall include competitive fees and provisions requiring
22 quarterly meetings with the system, annual updates to the board on the
23 status of the defined contribution plan and quarterly statements to each
24 participant. On or before December ~~1~~ 31 of each year, the board shall
25 report the status of the defined contribution plan to the governor, the
26 president of the senate, the speaker of the house of representatives and
27 the joint legislative budget committee.

28 Sec. 14. Title 38, chapter 5, article 4.1, Arizona Revised
29 Statutes, is amended by adding section 38-868.01, to read:

30 38-868.01. Credit for military service

31 A. AN ACTIVE MEMBER OF THE DEFINED CONTRIBUTION SYSTEM WHO
32 VOLUNTEERS OR IS ORDERED TO PERFORM MILITARY SERVICE MAY RECEIVE YEARS OF
33 SERVICE FOR NOT MORE THAN SIXTY MONTHS OF MILITARY SERVICE AS PROVIDED BY
34 THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994
35 (38 UNITED STATES CODE PART III, CHAPTER 43). THE MEMBER'S EMPLOYER SHALL
36 MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL MAKE THE MEMBER
37 CONTRIBUTIONS PURSUANT TO SUBSECTION B OF THIS SECTION IF THE MEMBER MEETS
38 THE FOLLOWING REQUIREMENTS:

39 1. WAS AN ACTIVE MEMBER OF THE DEFINED CONTRIBUTION SYSTEM ON THE
40 DAY BEFORE THE MEMBER BEGAN MILITARY SERVICE.

41 2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES
42 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE
43 UNITED STATES OR IS A MEMBER OF THE NATIONAL GUARD.

44 3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF
45 38 UNITED STATES CODE SECTION 4312.

1 B. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION A OF THIS SECTION ARE
2 FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY
3 SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

4 1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

5 2. THE DATE THE MEMBER IS RELEASED FROM SERVICE-RELATED
6 HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE-RELATED
7 HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

8 3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY
9 SERVICE.

10 C. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS
11 MADE PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE
12 CREDITED WITH SERVICE FOR VESTING PURPOSES FOR THE PERIOD OF MILITARY
13 SERVICE OF NOT MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF
14 THE MILITARY DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY
15 SERVICE RECORD (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION
16 WHEN APPLYING FOR SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

17 D. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO
18 SUBSECTION A OF THIS SECTION AS FOLLOWS:

19 1. CONTRIBUTIONS ARE BASED ON THE COMPENSATION THAT THE MEMBER
20 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO OR
21 VOLUNTEERED FOR MILITARY SERVICE.

22 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF
23 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO OR
24 VOLUNTEERED FOR MILITARY SERVICE, CONTRIBUTIONS ARE BASED ON THE MEMBER'S
25 AVERAGE RATE OF COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY
26 PRECEDING THE PERIOD OF MILITARY SERVICE.

27 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE
28 BEING ORDERED INTO OR VOLUNTEERING FOR MILITARY SERVICE, CONTRIBUTIONS ARE
29 BASED ON THE MEMBER'S COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE
30 PERIOD OF MILITARY SERVICE.

31 4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE,
32 NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE
33 MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S
34 DEATH CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A
35 LUMP SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

36 5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO
37 MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS ARE PAID TO THE DEFINED
38 CONTRIBUTION SYSTEM PURSUANT TO SECTION 38-843 FOR ANY MILITARY
39 DIFFERENTIAL WAGE PAY PAID TO THE MEMBER WHILE PERFORMING MILITARY
40 SERVICE.

41 E. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER
42 FOR THE PURPOSE OF DETERMINING VESTING PURSUANT TO SECTION 38-867 OR
43 DISABILITY PURSUANT TO ARTICLE 4.2 OF THIS CHAPTER, THE PERIOD OF MILITARY
44 SERVICE, AS PRESCRIBED BY THIS SECTION, IS INCLUDED.

1 F. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL
2 CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE
3 EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION D OF
4 THIS SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION A OF
5 THIS SECTION.

6 G. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF
7 SUBSECTION A OF THIS SECTION, BEGINNING JULY 1, 2017, CONTRIBUTIONS,
8 BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION ARE
9 PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS
10 SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL
11 REVENUE CODE SECTION.

12 H. FOR PLAN YEARS BEGINNING AFTER JULY 1, 2017, A MEMBER WHO DOES
13 NOT CURRENTLY PERFORM SERVICES FOR AN EMPLOYER BY REASON OF QUALIFIED
14 MILITARY SERVICE AS DEFINED IN SECTION 414(u)(5) OF THE INTERNAL REVENUE
15 CODE IS NOT CONSIDERED HAVING A SEVERANCE FROM EMPLOYMENT DURING THAT
16 QUALIFIED MILITARY SERVICE. ANY PAYMENTS BY THE EMPLOYER TO THE MEMBER
17 DURING THE QUALIFIED MILITARY SERVICE SHALL BE CONSIDERED COMPENSATION TO
18 THE EXTENT THOSE PAYMENTS DO NOT EXCEED THE AMOUNTS THE MEMBER WOULD HAVE
19 RECEIVED IF THE MEMBER HAD CONTINUED TO PERFORM SERVICES FOR THE EMPLOYER
20 RATHER THAN ENTERING QUALIFIED MILITARY SERVICE.

21 I. FOR DEATHS OCCURRING FROM AND AFTER JULY 1, 2017, IN THE CASE OF
22 A MEMBER WHO DIES WHILE PERFORMING QUALIFIED MILITARY SERVICE AS DEFINED
23 IN SECTION 414(u)(5) OF THE INTERNAL REVENUE CODE, THE SURVIVORS OF THE
24 MEMBER ARE ENTITLED TO ANY BENEFITS, OTHER THAN BENEFIT ACCRUALS RELATING
25 TO THE PERIOD OF QUALIFIED MILITARY SERVICE, PROVIDED UNDER THE DEFINED
26 CONTRIBUTION SYSTEM AS THOUGH THE MEMBER RESUMED AND THEN TERMINATED
27 EMPLOYMENT ON ACCOUNT OF DEATH.

28 Sec. 15. Title 38, chapter 5, Arizona Revised Statutes, is amended
29 by adding article 5.1, to read:

30 ARTICLE 5.1. PSPRS DEFERRED COMPENSATION PLAN

31 38-875. Definitions

32 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

35 2. "DEFERRED COMPENSATION PLAN" MEANS AN ELIGIBLE DEFERRED
36 COMPENSATION PLAN AS DEFINED IN SECTION 457(b) OF THE INTERNAL REVENUE
37 CODE.

38 3. "EMPLOYER" MEANS ANY ENTITY THAT PARTICIPATES AS AN EMPLOYER IN
39 A RETIREMENT SYSTEM OR PLAN THAT IS ADMINISTERED BY THE BOARD.

40 4. "PARTICIPANT" MEANS ANY INDIVIDUAL WHO IS EMPLOYED BY AN
41 EMPLOYER AND WHO IS ENROLLED IN ONE OF THE RETIREMENT SYSTEMS OR PLANS
42 ADMINISTERED BY THE BOARD.

43 38-876. Deferred compensation plan; administration

44 A. THE BOARD SHALL ESTABLISH, DESIGN AND ADMINISTER A DEFERRED
45 COMPENSATION PLAN IN WHICH A PARTICIPANT MAY PARTICIPATE.

1 B. THE BOARD, IN THE ADMINISTRATION, MANAGEMENT AND OPERATION OF
2 THE DEFERRED COMPENSATION PLAN, MAY:

3 1. EMPLOY SERVICES AS IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES,
4 FOR THE OPERATION AND ADMINISTRATION OF THE DEFERRED COMPENSATION PLAN.

5 2. ADMINISTER THE DEFERRED COMPENSATION PLAN THROUGH CONTRACTS WITH
6 MULTIPLE VENDORS.

7 3. PERFORM ALL ACTS THAT IT DEEMS NECESSARY AND PROPER FOR THE
8 OPERATION AND PROTECTION OF THE DEFERRED COMPENSATION PLAN.

9 38-877. Voluntary participation; authorization; payroll

10 salary deductions; employer contributions

11 A. A PARTICIPANT MAY PARTICIPATE IN THE DEFERRED COMPENSATION PLAN
12 ESTABLISHED PURSUANT TO THIS ARTICLE. A PARTICIPANT IN THE DEFERRED
13 COMPENSATION PLAN SHALL AUTHORIZE THE PARTICIPANT'S EMPLOYER IN WRITING TO
14 MAKE REDUCTIONS OR DEDUCTIONS IN THE PARTICIPANT'S REMUNERATION AS
15 PROVIDED IN AN EXECUTED DEFERRED COMPENSATION AGREEMENT.

16 B. EACH EMPLOYER SHALL INITIATE PAYROLL SALARY REDUCTIONS OR
17 DEDUCTIONS FOR THE DEFERRED COMPENSATION PLAN AS DIRECTED BY THEIR
18 EMPLOYEES WHO ARE PARTICIPATING IN THE DEFERRED COMPENSATION PLAN.

19 C. AN EMPLOYER MAY MAKE CONTRIBUTIONS TO THE DEFERRED COMPENSATION
20 PLAN AS SELECTED BY THE EMPLOYER AND ALLOWED BY LAW.

21 38-878. Effect of participation

22 A. ANY BENEFITS PROVIDED PURSUANT TO THIS ARTICLE ARE IN ADDITION
23 TO ANY OTHER BENEFITS PROVIDED FOR THE PARTICIPANTS AND ARE SUPPLEMENTAL
24 TO ANY OTHER RETIREMENT PLAN UNDER WHICH SUCH PARTICIPANTS PARTICIPATE.

25 B. ANY INCOME DEFERRED UNDER THE DEFERRED COMPENSATION PLAN ARE
26 INCLUDED AS REGULAR COMPENSATION FOR THE PURPOSE OF COMPUTING THE
27 RETIREMENT AND PENSION BENEFITS EARNED BY AN EMPLOYEE PARTICIPATING IN THE
28 DEFERRED COMPENSATION PLAN AND IN ANY OTHER PLAN MAINTAINED BY THE
29 EMPLOYEE'S EMPLOYER, UNLESS SPECIFICALLY EXCLUDED UNDER THE OTHER PLAN OR
30 THE STATE LAWS GOVERNING SUCH OTHER PLAN.

31 Sec. 16. Section 38-881.01, Arizona Revised Statutes, is amended to
32 read:

33 38-881.01. Employees hired on or after July 1, 2018; defined

34 contribution plan; benefit election; disability

35 A. Except as provided in subsection B of this section, an employee
36 who is hired on or after July 1, 2018, who is a member as defined in
37 section 38-881, paragraph 27, subdivision (a) and who was not an active,
38 an inactive or a retired member of the plan or a member of the plan with a
39 disability on June 30, 2018 shall participate in the public safety
40 personnel defined contribution retirement plan established pursuant to
41 article 4.1 of this chapter. FOR AN EMPLOYEE WHO IS HIRED ON OR AFTER
42 SEPTEMBER 1, 2019, THE EMPLOYEE'S PARTICIPATION IN THE PUBLIC SAFETY
43 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO
44 ARTICLE 4.1 OF THIS CHAPTER BEGINS NINETY DAYS AFTER THE DATE THE EMPLOYEE
45 IS HIRED.

1 B. An employee who is hired on or after July 1, 2018, who is in a
2 designated position as defined in section 38-881, paragraph 13,
3 subdivision (g) and who was not an active, an inactive or a retired member
4 of the plan or a member of the plan with a disability on June 30, 2018 is
5 eligible to participate in the corrections officer retirement plan or the
6 public safety personnel defined contribution retirement plan established
7 pursuant to article 4.1 of this chapter, depending on the employee's
8 election under this section. During the first sixty days of an employee's
9 employment and before the employee makes a decision regarding the
10 individual's retirement plan, the board shall provide each probation and
11 surveillance officer who is hired on or after July 1, 2018 ~~five~~
12 INTERACTIVE, objective educational training, counseling and
13 participant-specific plan information about both the corrections officer
14 retirement plan and the public safety personnel defined contribution
15 retirement plan options. The employee's participation in either the plan
16 or the public safety personnel defined contribution retirement plan
17 established pursuant to article 4.1 of this chapter begins ninety days
18 after the date the employee is hired. Unless the elections made under
19 this section are made before the ninetieth day after the date of
20 employment, the employee is automatically enrolled in the plan for the
21 remainder of the employee's employment with any employer under the plan.
22 Any election made under this section is irrevocable and is the employee's
23 election for the remainder of the employee's employment with any employer
24 under the plan, regardless of whether the employee's employment is
25 continuous. The employee may make one of the following irrevocable
26 elections:

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

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

32 C. If an employee specified in subsection B of this section in the
33 employee's first ninety days of employment is determined to be eligible
34 for an accidental or total and permanent disability pension pursuant to
35 section 38-886, the employee shall be automatically enrolled in the
36 corrections officer retirement plan for the remainder of the employee's
37 employment with any employer under the plan commencing on the employee's
38 date of disability and shall receive an accidental or total and permanent
39 disability pension as prescribed in this article.

40 D. If an employee specified in subsection B of this section in the
41 employee's first ninety days of employment is killed in the line of duty
42 or dies from injuries suffered in the line of duty, the employee shall be
43 considered as having been enrolled in the corrections officer retirement
44 plan and the surviving spouse of the deceased employee is eligible for
45 survivor benefits as prescribed in this article.

1 Sec. 17. Section 38-883, Arizona Revised Statutes, is amended to
2 read:

3 38-883. Board of trustees; powers and duties

4 A. The board shall:

5 1. Maintain records of the operation and administration of the plan
6 and fund.

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

10 3. Employ on a fee basis an independent firm of actuaries to
11 perform annual actuarial valuations for each participating employer of the
12 plan and fund based on an actuarial cost method and actuarial assumptions
13 recommended by the actuary and adopted by the board. The actuarial
14 valuations shall be performed by or under the direct supervision of an
15 actuary who is a member of the American academy of actuaries. By
16 November 1 of each year, the board shall provide a preliminary report and
17 by December ~~1~~ 31 of each year provide a final report to the governor, the
18 speaker of the house of representatives and the president of the senate on
19 the contribution rate for the ensuing fiscal year.

20 4. Invest and reinvest the monies and assets of the fund in
21 accordance with the investment provisions of the public safety personnel
22 retirement system. The board may commingle securities and monies of the
23 fund subject to the crediting of receipts and earnings and charging of
24 payments to the account of the appropriate employer.

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

29 B. The board of trustees may:

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

32 2. Utilize separate or commingled investment vehicles.

33 3. Delegate authority to the administrator employed pursuant to
34 section 38-848, subsection M, paragraph 6.

35 4. Appear before local boards and the courts and political
36 subdivisions of this state through counsel or appointed representatives to
37 protect the fund. The board of trustees is not responsible for the
38 actions or omissions of the local boards under this plan but may seek
39 review or a rehearing of actions or omissions of local boards. The board
40 of trustees does not have a duty to review actions of the local boards but
41 may do so, in its discretion, in order to protect the fund.

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

1 calendar year applies to annual compensation for ~~the plan year that begins~~
2 ~~with or within the~~ THAT calendar year.

3 3. For members who are hired on or after July 1, 2018, ~~seventy~~
4 ~~thousand dollars~~ \$70,000. The board shall adjust the ~~seventy thousand~~
5 ~~dollar~~ \$70,000 annual compensation limit under this paragraph as
6 prescribed in subsection C of this section. Notwithstanding the
7 adjustments made under subsection C of this section, the limit under this
8 paragraph, as adjusted by the board, may not exceed the maximum
9 compensation limit of section 401(a)(17) of the internal revenue code, as
10 adjusted by the United States secretary of the treasury.

11 B. If compensation under the plan is determined on a period of time
12 that contains fewer than twelve calendar months, the compensation limit
13 for that period of time is equal to the dollar limit for the calendar year
14 during which the period of time begins, multiplied by the fraction in
15 which the numerator is the number of full months in that period of time
16 and the denominator is twelve.

17 C. Beginning in fiscal year 2021-2022, and every third fiscal year
18 thereafter, the board shall adjust the annual compensation limit specified
19 in subsection A, paragraph 3 of this section by the average change in the
20 probation wage index as determined pursuant to this subsection. The board
21 shall annually publish the probation wage index in January. THE ANNUAL
22 COMPENSATION LIMIT ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR YEAR
23 APPLIES TO THE ANNUAL COMPENSATION FOR THAT CALENDAR YEAR. To determine
24 the probation wage index:

25 1. The administrative office of the courts shall provide to the
26 board pay scales for the month of July for the classifications of
27 probation officers, by county, annually in July.

28 2. The board shall determine the weighted average of the change in
29 the top of the pay scale for probation officers. The average change shall
30 be weighted by measuring each county's total number of members divided by
31 the total number of members of all counties represented in the probation
32 wage index.

33 D. The board shall establish a probation wage index that reflects
34 the calculation made pursuant to subsection C of this section.

35 E. For the purposes of this section, "probation officers" means the
36 classifications of probation officers or surveillance officers or their
37 equivalent classifications.

38 Sec. 20. Section 38-907, Arizona Revised Statutes, is amended to
39 read:

40 38-907. Credit for military service

41 A. A member of the plan who has at least five years of credited
42 service with the plan may receive credited service for periods of active
43 military service performed before employment with the member's current
44 employer if:

45 1. The member was honorably separated from the military service.

1 2. The period of military service for which the member receives
2 credited service does not exceed sixty months.

3 3. The period of military service for which the member receives
4 credited service is not on account with any other retirement system,
5 except as provided by 10 United States Code section 12736 or except if the
6 member is not yet eligible for a military retirement benefit.

7 4. The member pays the cost to purchase the prior active military
8 service. The cost is the amount necessary to equal the increase in the
9 actuarial present value of projected benefits resulting from the
10 additional credited service.

11 5. The amount of benefits purchased pursuant to this subsection is
12 subject to limits established by section 415 of the internal revenue code.

13 B. An active member of the plan who volunteers or is ordered to
14 perform military service may receive credited service for not more than
15 sixty months of military service as provided by the uniformed services
16 employment and reemployment rights act of 1994 (38 United States Code part
17 III, chapter 43). The member's employer shall make employer contributions
18 and the member shall make the member contributions pursuant to subsection
19 C of this section if the member meets the following requirements:

20 1. Was an active member of the plan on the day before the member
21 began military service.

22 2. Entered into and served in the armed forces of the United States
23 OR ANY MILITARY RESERVE UNIT OF ANY BRANCH OF THE ARMED FORCES OF THE
24 UNITED STATES or is a member of the national guard.

25 3. Complies with the notice and return to work provisions of 38
26 United States Code section 4312.

27 C. Contributions made pursuant to subsection B of this section
28 shall be for the period of time beginning on the date the member began
29 military service and ending on the later of one of the following dates:

30 1. The date the member is separated from military service.

31 2. The date the member is released from ~~service related~~
32 SERVICE-RELATED hospitalization or two years after initiation of ~~service~~
33 ~~related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

34 3. The date the member dies as a result of or during military
35 service.

36 D. Notwithstanding any other law, on payment of the contributions
37 made pursuant to subsection B of this section, the member shall be
38 credited with service for retirement purposes for the period of military
39 service of not more than sixty months. The member shall submit a copy of
40 the military discharge certificate (DD-256A) and a copy of the military
41 service record (DD-214) or its equivalent with the member's application
42 when applying for credited service corresponding to the period of military
43 service.

44 E. The employer and the member shall make contributions pursuant to
45 subsection B of this section as follows:

1 1. Contributions shall be based on the compensation that the member
2 would have received but for the period that the member was ordered into
3 active military service.

4 2. If the employer cannot reasonably determine the member's rate of
5 compensation for the period that the member was ordered into military
6 service, contributions shall be based on the member's average rate of
7 compensation during the twelve-month period immediately preceding the
8 period of military service.

9 3. If a member has been employed less than twelve months before
10 being ordered into military service, contributions shall be based on the
11 member's compensation being earned immediately preceding the period of
12 military service.

13 4. The member has up to three times the length of military service,
14 not to exceed sixty months, to make the member contributions. Once the
15 member has made the member contributions or on receipt of the member's
16 death certificate, the employer shall make the employer contributions in a
17 lump sum. Death benefits shall be calculated as prescribed by law.

18 5. If the member's employer pays military differential wage pay to
19 members serving in the military, contributions shall be paid to the plan
20 pursuant to section 38-891 for any military differential wage pay paid to
21 the member while performing military service.

22 F. In computing the length of total credited service of a member
23 for the purpose of determining retirement benefits or eligibility, the
24 period of military service, as prescribed by this section, shall be
25 included.

26 G. If a member performs military service due to a presidential
27 call-up, not to exceed forty-eight months, the employer shall make the
28 employer and member contributions computed pursuant to subsection E of
29 this section on the member's return and in compliance with subsection B of
30 this section.

31 H. In addition to, but not in duplication of, subsection B of this
32 section, beginning December 12, 1994 contributions, benefits and credited
33 service provided pursuant to this section shall be provided pursuant to
34 section 414(u) of the internal revenue code, and this section shall be
35 interpreted in a manner consistent with that internal revenue code
36 section.

37 I. For plan years beginning after December 31, 2008, a member who
38 does not currently perform services for an employer by reason of qualified
39 military service as defined in section 414(u)(5) of the internal revenue
40 code is not considered having a severance from employment during that
41 qualified military service. Any payments by the employer to the member
42 during the qualified military service shall be considered compensation to
43 the extent those payments do not exceed the amounts the member would have
44 received if the member had continued to perform services for the employer
45 rather than entering qualified military service.

1 J. For deaths occurring from and after December 31, 2006 in the
2 case of a member who dies while performing qualified military service as
3 defined in section 414(u)(5) of the internal revenue code, the survivors
4 of the member are entitled to any benefits, other than benefit accruals
5 relating to the period of qualified military service, provided under the
6 plan as though the member resumed and then terminated employment on
7 account of death.

8 Sec. 21. Retroactivity

9 A. Section 38-834, Arizona Revised Statutes, as amended by this
10 act, applies retroactively to from and after December 31, 2013.

11 B. Section 38-868.01, Arizona Revised Statutes, as added by this
12 act, applies retroactively to from and after June 30, 2017.

13 C. Section 38-884.01, Arizona Revised Statutes, as amended by this
14 act, applies retroactively to from and after June 30, 2018.

APPROVED BY THE GOVERNOR MARCH 26, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 26, 2019.



Passed the House February 27, 2019

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

Pro Tempore

[Signature]
Chief Clerk of the House

Passed the Senate March 28, 2019

by the following vote: 29 Ayes,

0 Nays, 1 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

20th day of March, 20 19

at 4:38 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 26th day of

March 2019

at 2:27 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 26 day of March, 20 19

at 3:59 o'clock P M.

[Signature]
Secretary of State

H.B. 2422