

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1359

AN ACT

AMENDING SECTIONS 38-446, 38-718, 38-806, 38-809, 38-821, 38-842, 38-846, 38-848, 38-849, 38-850, 38-851 AND 38-853, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 335, SECTION 8; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 324, SECTION 1; AMENDING SECTIONS 38-886, 38-888, 38-897, 38-901, 38-902, 38-908 AND 38-922, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-923 AND 38-924; RELATING TO PUBLIC RETIREMENT PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-446, Arizona Revised Statutes, is amended to
3 read:

4 38-446. Acts based on written opinions; immunity

5 Notwithstanding any provision of law to the contrary, no public officer
6 or employee is personally liable for acts done in his official capacity in
7 good faith reliance on written opinions of the attorney general issued
8 pursuant to section 41-193, ~~or~~ written opinions of a county attorney of the
9 county, ~~or~~ written opinions of the city or town attorney of the city or town
10 OR WRITTEN OPINIONS OF ANY AUTHORIZED PRIVATE ATTORNEY FOR ANY INDEPENDENT
11 PUBLIC RETIREMENT TRUST FUND OR SYSTEM for which the officer or employee
12 serves or is employed.

13 Sec. 2. Section 38-718, Arizona Revised Statutes, is amended to read:

14 38-718. Investment management; qualifications; term; removal;
15 general powers and duties

16 A. The board shall appoint investment management. Investment
17 management shall have:

18 1. The highest professional and fiduciary recommendations.

19 2. Not less than three years' experience at handling institutional
20 investments of at least two hundred fifty million dollars and not less than
21 two hundred fifty million dollars currently under management. THIS PARAGRAPH
22 IS SATISFIED IF INVESTMENT MANAGEMENT OR THE INDIVIDUAL RETAINED BY
23 INVESTMENT MANAGEMENT MEETS THIS REQUIREMENT.

24 3. Had responsibility for investment decision making as an insurance
25 company investment fund, an investment division of a bank, a mutual fund, an
26 investment organization, a pension fund or an investment adviser who is
27 designated as a chartered financial analyst by the association for investment
28 management and research.

29 B. A bank serving as investment management does not have a conflict of
30 interest because it is also a depository in which ASRS monies are deposited.

31 C. The board shall appoint the investment management for a term of one
32 year and may appoint the investment management to succeeding terms. The
33 board may remove investment management for not complying with this article or
34 for failure to comply with or adhere to the board's investment goals,
35 objectives or policies.

36 D. Investment management:

37 1. Has the sole authority to invest and reinvest in the name of ASRS
38 all ASRS monies assigned to investment management and shall purchase and sell
39 in the name of ASRS any of the securities and investments held by ASRS under
40 this article.

41 2. Is responsible for making and executing all investment decisions.

42 3. Shall be multiple.

43 E. Investment management shall not directly or indirectly:

1 1. Have an interest in making an investment or purchasing annuities
2 from a private insurer or in the gains or profits accruing from an investment
3 or annuities.

4 2. As investment management or as agent or partner of others borrow
5 monies, funds or deposits of ASRS or use monies, funds or deposits in any
6 manner except as directed under this article.

7 3. Be an endorser, surety or obligor on investments made under this
8 article.

9 F. Subject to the limitations in section 38-719, the board may
10 authorize the director to make investments that are designated by the board
11 and that do not exceed fifty per cent of the assets of the investment account
12 measured at cost.

13 G. For the purpose of exercising the investment responsibilities
14 prescribed in this section, the board may enter into contracts to receive
15 market data and other market information from securities, commodities,
16 options and monetary exchanges. These contracts may be interpreted and
17 enforced under the laws of a jurisdiction other than this state and are not
18 subject to section 35-214 or 38-511 or title 41, chapter 23.

19 Sec. 3. Section 38-806, Arizona Revised Statutes, is amended to read:

20 38-806. Disability retirement pensions

21 A. A member who becomes permanently mentally or physically
22 incapacitated for the purpose of performing the duties of the member's office
23 may receive disability retirement benefits if the fund manager finds that all
24 of the following apply:

25 1. The member submits either personally or by a guardian an affidavit
26 as to the nature of the member's incapacity.

27 2. The member is medically examined by a board of three physicians,
28 one designated by the administrator of the fund, one designated by the member
29 or the member's guardian and one designated by the governor.

30 3. **A MAJORITY OF** the board of physicians certifies to the fund manager
31 that:

32 (a) The member is mentally or physically incapacitated for the purpose
33 of performing the duties of the member's office. ~~and~~

34 (b) The member's incapacity **OCCURRED DURING THE MEMBER'S TERM OF**
35 **OFFICE AND** is expected to be of an indefinite duration. ~~and~~

36 (c) The member should be retired.

37 B. On retirement by reason of disability under this section, a retired
38 member shall receive a pension computed pursuant to section 38-808,
39 subsection B, paragraph 2 until the member's death or until the member's
40 pension is suspended, revoked or discontinued pursuant to this section.

41 C. If the fund manager has reason to believe that a member, retired
42 pursuant to this section but not yet eligible for normal retirement, may no
43 longer be mentally or physically incapacitated from performing the duties of
44 the public office from which the member retired, the fund manager may require
45 such retired member to be medically examined. The examination shall be

1 conducted by a board of three physicians, one designated by the administrator
2 of the fund, one designated by the retired member or the member's guardian
3 and one designated by the governor.

4 D. The fund manager shall discontinue pension payments to a member
5 retired pursuant to this section, if the board of physicians certifies that
6 the member is mentally and physically capable of performing the duties of the
7 public office from which the member retired.

8 E. If the retired member refuses to submit to the medical examination,
9 the administrator of the fund may suspend payment of the member's pension
10 until the member submits to the medical examination. If the retired member
11 refuses for one year or more to submit to medical examination, the fund
12 manager shall revoke the pension of a member retired under this section.

13 Sec. 4. Section 38-809, Arizona Revised Statutes, is amended to read:

14 38-809. Correction of pension payment errors; assignments
15 prohibited; liability

16 A. If the plan has made pension payments based on incorrect
17 information and a person or an estate has been paid more or less than ~~he~~ **THE**
18 **PERSON OR ESTATE** would have been paid if the information had been correct,
19 the fund manager shall adjust future payments so that the proper amount is
20 paid. The adjustment may be made in such a manner that the equivalent
21 actuarial present value of the benefit to which the person or estate is
22 correctly entitled is paid.

23 B. Notwithstanding any other statute, benefits, member contributions
24 or court fees including interest earnings and all other credits payable under
25 the plan are not subject in any manner to anticipation, alienation, sale,
26 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or
27 levy of any kind, either voluntary or involuntary, before actually being
28 received by the person entitled to the benefit, contribution, earning or
29 credit under the terms of the plan, and any attempt to dispose of any right
30 under the terms of the plan as proscribed in this subsection is void. The
31 fund is not liable for or subject to the debts, contracts, liabilities,
32 enlargements or torts of any person entitled to a benefit, contribution,
33 earning or credit under the terms of the plan.

34 C. Nothing in this section exempts employee benefits of any kind from
35 a writ of attachment, a writ of execution, a writ of garnishment and orders
36 of assignment issued by a court of record as the result of a judgment for
37 arrearages of child support or for child support debt.

38 **D. A PERSON WHO DEFRAUDS THE PLAN OR WHO TAKES, CONVERTS, STEALS OR**
39 **EMBEZZLES MONIES OWNED BY OR FROM THE PLAN AND WHO FAILS OR REFUSES TO RETURN**
40 **THE MONIES TO THE PLAN ON THE FUND MANAGER'S WRITTEN REQUEST IS SUBJECT TO A**
41 **CIVIL SUIT BY THE PLAN IN THE SUPERIOR COURT OF MARICOPA COUNTY. ON ENTRY OF**
42 **AN ORDER FINDING THE PERSON HAS DEFRAUDED THE PLAN OR TAKEN, CONVERTED,**
43 **STOLEN OR EMBEZZLED MONIES OWNED BY OR FROM THE PLAN, THE COURT SHALL ENTER**
44 **AN ORDER AGAINST THAT PERSON AND FOR THE PLAN AWARDING THE PLAN ALL OF ITS**
45 **COSTS AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY FEES, THAT WERE NECESSARY**

1 TO SUCCESSFULLY PROSECUTE THE ACTION. THE COURT SHALL ALSO GRANT THE PLAN A
2 JUDICIAL LIEN ON ALL OF THE NONEXEMPT PROPERTY OF THE PERSON AGAINST WHOM
3 JUDGMENT IS ENTERED PURSUANT TO THIS SUBSECTION IN AN AMOUNT EQUAL TO ALL
4 AMOUNTS AWARDED TO THE PLAN, PLUS INTEREST AT THE RATE PRESCRIBED BY SECTION
5 44-1201, SUBSECTION A, UNTIL ALL AMOUNTS OWED ARE PAID TO THE PLAN.

6 E. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE FUND
7 MANAGER MAY OFFSET AGAINST ANY BENEFITS OTHERWISE PAYABLE BY THE PLAN TO AN
8 ACTIVE OR RETIRED MEMBER OR SURVIVOR ANY COURT ORDERED AMOUNTS AWARDED TO THE
9 FUND MANAGER AND PLAN AND ASSESSED AGAINST THE MEMBER OR SURVIVOR.

10 Sec. 5. Section 38-821, Arizona Revised Statutes, is amended to read:

11 38-821. Charter city retirement system service credits;
12 transfers

13 A. A member of a charter city retirement system who is an elected
14 official may apply for a transfer of service credits from the charter city
15 retirement system to the elected officials' retirement plan pursuant to this
16 section if all of the following conditions are met:

17 1. The member initiates the transfer by making written application to
18 the elected officials' retirement plan.

19 2. The charter city retirement system and the elected officials'
20 retirement plan agree regarding the terms of the transfer.

21 3. The transfer does not cause either the charter city retirement
22 system or the elected officials' retirement plan to incur any unfunded
23 accrued liabilities as a result of the transfer.

24 B. Service credits qualified in accordance with subsection A may be
25 transferred or redeemed in accordance with the following:

26 1. If a member's contributions remain on deposit with the charter city
27 retirement system, the following shall be calculated:

28 (a) The charter city retirement system shall calculate the amount
29 equal to the actuarial present value of a member's projected benefits **TO THE**
30 **EXTENT FUNDED ON A MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL**
31 **VALUATION** under the charter city retirement system as calculated by the
32 system's actuary using the actuarial method and assumptions recommended by
33 the system's actuary and based on the transferring member's service credits
34 at the time of transfer.

35 (b) The elected officials' retirement plan shall calculate the
36 increase in the actuarial present value of the projected benefits provided as
37 a result of the transfer of the member's service credits. This calculation
38 shall be performed by the plan's actuary using the actuarial method and
39 assumptions recommended by the plan's actuary and based on the transferring
40 member's service credits at the time of transfer.

41 2. If a member decides to transfer:

42 (a) If the amount calculated in paragraph 1, subdivision (b) of this
43 subsection is greater than the amount calculated in paragraph 1, subdivision
44 (a) of this subsection:

1 (i) The charter city retirement system shall transfer to the elected
2 officials' retirement plan the greater of the amount calculated in paragraph
3 1, subdivision (a) of this subsection or the member's accumulated
4 contribution account balance.

5 (ii) If the amount transferred is less than the amount calculated
6 under paragraph 1, subdivision (b) of this subsection, the transferring
7 member shall elect either to pay the difference or to accept a reduced
8 transfer of service credits. If the member elects to pay the difference, the
9 amount paid shall be added to the member's accumulated contribution account
10 balance. If the member elects to accept a reduced transfer of service
11 credits, the amount of service credits transferred shall be equal to the
12 amount of service credits used in making the calculation under paragraph 1,
13 subdivision (a) of this subsection multiplied by the ratio of the amount
14 calculated under paragraph 1, subdivision (a) of this subsection to the
15 amount calculated under paragraph 1, subdivision (b) of this subsection.

16 (b) If the amount calculated in paragraph 1, subdivision (b) of this
17 subsection is less than or equal to the amount calculated in paragraph 1,
18 subdivision (a) of this subsection, the charter city retirement system shall
19 transfer to the elected officials' retirement plan the greater of the amount
20 calculated in paragraph 1, subdivision (b) of this subsection or the member's
21 accumulated contribution account balance.

22 3. If an applicant has withdrawn member contributions from the charter
23 city retirement system, the applicant shall pay into the elected officials'
24 retirement plan an amount equal to the increase in the actuarial present
25 value of the projected benefits provided by the service credits being
26 redeemed and this amount shall be included in the member's current
27 accumulated contribution account balance. The actuary of the elected
28 officials' retirement plan shall perform this calculation using the actuarial
29 method and assumptions the actuary recommends.

30 C. Service credits shall not be applied to the applicant's account
31 until complete payment is made to the elected officials' retirement plan. On
32 completion of the transfer provided for in this section, the member's rights
33 in the charter city retirement system are extinguished.

34 Sec. 6. Section 38-842, Arizona Revised Statutes, is amended to read:

35 38-842. Definitions

36 In this article, unless the context otherwise requires:

37 1. "Accidental disability" means a physical or mental condition which
38 the local board finds totally and permanently prevents an employee from
39 performing a reasonable range of duties within the employee's job
40 classification and was incurred in the performance of the employee's duty.

41 2. "Accumulated contributions" means, for each member, the sum of the
42 amount of the member's aggregate contributions made to the fund and the
43 amount, if any, attributable to the employee's contributions prior to the
44 member's effective date under another public retirement system, other than

1 the federal social security act, and transferred to the fund minus the
2 benefits paid to or on behalf of the member.

3 3. "Actuarial equivalent" means equality in present value of the
4 aggregate amounts expected to be received under two different forms of
5 payment, based on mortality and interest assumptions adopted by the fund
6 manager. The fund manager may from time to time change the mortality and
7 interest assumptions.

8 4. "Average monthly benefit compensation" means the result obtained by
9 dividing the total compensation paid to an employee during a considered
10 period by the number of months, including fractional months, in which such
11 compensation was received. The considered period shall be the three
12 consecutive years within the last twenty completed years of credited service
13 which yield the highest average. In the computation under this paragraph a
14 period of nonpaid or partially paid industrial leave shall be considered
15 based on the compensation the employee would have received in the employee's
16 job classification if the employee was not on industrial leave.

17 5. "Catastrophic disability" means a physical **AND NOT A PSYCHOLOGICAL**
18 condition ~~that is not an accidental disability,~~ that the local board
19 determines prevents the employee from totally and permanently engaging in any
20 gainful employment and that results from a **catastrophic** physical injury
21 incurred in the performance of the employee's duty.

22 6. "Certified peace officer" means a peace officer certified by the
23 Arizona peace officers standards and training board.

24 7. "Claimant" means any member or beneficiary who files an application
25 for benefits pursuant to this article.

26 8. "Compensation" means, for the purpose of computing retirement
27 benefits, base salary, overtime pay, shift differential pay and holiday pay
28 paid to an employee by the employer on a regular monthly, semimonthly or
29 biweekly payroll basis and longevity pay paid to an employee at least every
30 six months for which contributions are made to the system pursuant to section
31 38-843, subsection D. Compensation does not include, for the purpose of
32 computing retirement benefits, payment for unused sick leave, payment in lieu
33 of vacation, payment for compensatory time **OR PAYMENT FOR** ~~or~~ any ~~other~~
34 ~~payment for~~ fringe benefits. **FOR THE PURPOSES OF THIS PARAGRAPH, "BASE**
35 **SALARY" MEANS THE AMOUNT OF COMPENSATION EACH EMPLOYEE IS REGULARLY PAID FOR**
36 **PERSONAL SERVICES RENDERED TO AN EMPLOYER BEFORE THE ADDITION OF ANY EXTRA**
37 **MONIES, INCLUDING OVERTIME PAY, SHIFT DIFFERENTIAL PAY, HOLIDAY PAY,**
38 **LONGEVITY PAY, FRINGE BENEFIT PAY AND SIMILAR EXTRA PAYMENTS.**

39 9. "Credited service" means the member's total period of service prior
40 to the member's effective date of participation, plus those compensated
41 periods of the member's service thereafter for which the member made
42 contributions to the fund.

43 10. "Depository" means a bank in which all monies of the system are
44 deposited and held and from which all expenditures for benefits, expenses and
45 investments are disbursed.

1 11. "Effective date of participation" means July 1, 1968, except with
2 respect to employers and their covered employees whose contributions to the
3 fund commence thereafter, the effective date of their participation in the
4 system is as specified in the applicable joinder agreement.

5 12. "Effective date of vesting" means the date a member's rights to
6 benefits vest pursuant to section 38-844.01.

7 13. "Eligible child" means the unmarried child of a deceased member who
8 is under the age of eighteen or a full-time student who is under the age of
9 twenty-three or under a disability which began before the child attained the
10 age of twenty-three and who remains a dependent of the surviving spouse or
11 guardian.

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

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

15 (b) Municipal fire fighters.

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

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

21 (e) State fire fighters.

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

23 (g) Fish and game wardens who are certified peace officers.

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

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

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

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

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

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

39 (n) Fire fighters who are employed by an Indian reservation fire
40 fighting agency.

41 (o) Police officers who are certified peace officers and who are
42 appointed by the department of administration.

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

1 (q) Arizona department of agriculture officers who are certified peace
2 officers.

3 (r) Arizona state parks board rangers and managers who are certified
4 peace officers.

5 (s) County park rangers who are certified peace officers.

6 15. "Employee" means any person who is employed by a participating
7 employer and who is a member of an eligible group but does not include any
8 persons compensated on a contractual or fee basis. If an eligible group
9 requires certified peace officer status and at the option of the local board,
10 employee may include a person who is training to become a certified peace
11 officer.

12 16. "Employers" means:

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

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

21 (c) The state highway patrol covered under the state highway patrol
22 retirement system.

23 (d) The state, or any political subdivision thereof, including but not
24 limited to towns, cities, fire districts, counties and nonprofit corporations
25 operating public airports pursuant to sections 28-8423 and 28-8424, which has
26 elected to participate in the system on behalf of an eligible group of public
27 safety personnel pursuant to a joinder agreement entered into after July 1,
28 1968.

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

32 17. "Fund" means the public safety personnel retirement fund, which is
33 the fund established to receive and invest contributions accumulated under
34 the system and from which benefits are paid.

35 18. "Fund manager" means the fund manager of the system, who are the
36 persons appointed to invest and operate the fund.

37 19. "Local board" means the retirement board of the employer, who are
38 the persons appointed to administer the system as it applies to their members
39 in the system.

40 20. "Member" means any employee who meets all of the following
41 qualifications:

42 (a) Who is either a full-time paid municipal police officer, a
43 full-time paid fire fighter, a law enforcement officer who is employed by the
44 state including the director thereof, a state fire fighter who is primarily
45 assigned to fire fighting duties, a fire fighter or police officer of a

1 nonprofit corporation operating a public airport pursuant to sections 28-8423
2 and 28-8424, all ranks designated by the Arizona law enforcement merit system
3 council, a state attorney general investigator who is a certified peace
4 officer, a county attorney investigator who is a certified peace officer, a
5 police officer who is appointed by the department of administration and who
6 is a certified peace officer, a department of liquor licenses and control
7 investigator who is a certified peace officer, an Arizona department of
8 agriculture officer who is a certified peace officer, an Arizona state parks
9 board ranger or manager who is a certified peace officer, a county park
10 ranger who is a certified peace officer, a person who is a certified peace
11 officer and who is employed by an Indian reservation police agency, a fire
12 fighter who is employed by an Indian reservation fire fighting agency or an
13 employee included in a group designated as eligible employees under a joinder
14 agreement entered into by their employer after July 1, 1968 and who is or was
15 regularly assigned to hazardous duty.

16 (b) Who, on or after the employee's effective date of participation,
17 is receiving compensation for personal services rendered to an employer or
18 would be receiving compensation except for an authorized leave of absence.

19 (c) Whose employment with an employer commenced prior to attainment of
20 age fifty.

21 (d) Whose customary employment is at least forty hours per week and
22 for more than six months in a calendar year.

23 (e) Who has not attained age sixty-five prior to the employee's
24 effective date of participation or who was over age sixty-five with
25 twenty-five years or more of service prior to the employee's effective date
26 of participation.

27 21. "Normal retirement date" means the first day of the calendar month
28 immediately following an employee's completion of twenty years of service or
29 the employee's sixty-second birthday and the employee's completion of fifteen
30 years of service.

31 22. "Ordinary disability" means a physical condition which the local
32 board determines will prevent an employee totally and permanently from
33 performing a reasonable range of duties within the employee's department or a
34 mental condition which the local board determines will prevent an employee
35 totally and permanently from engaging in any substantial gainful activity.

36 23. "Pension" means a series of monthly amounts which are payable to a
37 person who is entitled to receive benefits under the plan.

38 24. "Regularly assigned to hazardous duty" means regularly assigned to
39 duties of the type normally expected of municipal police officers, municipal
40 or state fire fighters, eligible fire district fire fighters, state highway
41 patrol officers, county sheriffs and deputies, fish and game wardens, fire
42 fighters and police officers of a nonprofit corporation operating a public
43 airport pursuant to sections 28-8423 and 28-8424, police officers who are
44 appointed by the Arizona board of regents or a community college district
45 governing board, state attorney general investigators who are certified peace

1 officers, county attorney investigators who are certified peace officers,
2 police officers who are appointed by the department of administration and who
3 are certified peace officers, department of liquor licenses and control
4 investigators who are certified peace officers, Arizona department of
5 agriculture officers who are certified peace officers, Arizona state parks
6 board rangers and managers who are certified peace officers, county park
7 rangers who are certified peace officers, police officers who are certified
8 peace officers and are employed by an Indian reservation police agency or
9 fire fighters who are employed by an Indian reservation fire fighting
10 agency. Those individuals who are assigned solely to support duties such as
11 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
12 personnel, mechanics and dispatchers are not assigned to hazardous duty
13 regardless of their position classification title. Since the normal duties
14 of municipal police officers, municipal or state fire fighters, eligible fire
15 district fire fighters, state highway patrol officers, county sheriffs and
16 deputies, fish and game wardens, fire fighters and police officers of a
17 nonprofit corporation operating a public airport pursuant to sections 28-8423
18 and 28-8424, police officers who are appointed by the Arizona board of
19 regents or a community college district governing board, state attorney
20 general investigators who are certified peace officers, county attorney
21 investigators who are certified peace officers, police officers who are
22 appointed by the department of administration and who are certified peace
23 officers, department of liquor licenses and control investigators who are
24 certified peace officers, Arizona department of agriculture officers who are
25 certified peace officers, Arizona state parks board rangers and managers who
26 are certified peace officers, county park rangers who are certified peace
27 officers, police officers who are certified peace officers and are employed
28 by an Indian reservation police agency and fire fighters who are employed by
29 an Indian reservation fire fighting agency are constantly changing, questions
30 as to whether a person is or was previously regularly assigned to hazardous
31 duty shall be resolved by the local board on a case-by-case basis.
32 Resolutions by local boards are subject to rehearing and appeal.

33 25. "Retirement" means termination of employment after a member has
34 fulfilled all requirements for a pension. Retirement shall be considered as
35 commencing on the first day of the month immediately following a member's
36 last day of employment or authorized leave of absence, if later.

37 26. "Service" means the last period of continuous employment of an
38 employee by the employers prior to the employee's retirement or the
39 employee's sixty-fifth birthday, whichever first occurs, except that if such
40 period includes employment during which the employee would not have qualified
41 as a member had the system then been effective, such as employment as a
42 volunteer fire fighter, then only twenty-five per cent of such noncovered
43 employment shall be considered as service. Any absence which is authorized
44 by an employer shall not be considered as interrupting continuity of
45 employment if the employee returns within the period of authorized absence.

1 Transfers between employers also shall not be considered as interrupting
2 continuity of employment. Any period during which a member is receiving sick
3 leave payments or a temporary disability pension shall be considered as
4 service. Any period during which a person was employed as a full-time paid
5 fire fighter by a fire district pursuant to a contract with a corporation
6 within that fire district shall be considered as service if it is part of the
7 person's last period of continuous employment with that corporation in that
8 fire district and the fire district has elected to treat the period as
9 service in its applicable joinder agreement. Any reference in this system to
10 the number of years of service of an employee shall be deemed to include
11 fractional portions of a year.

12 27. "State" means the state of Arizona, including any department,
13 office, board, commission, agency or other instrumentality of the state.

14 28. "System" means the public safety personnel retirement system
15 established by this article.

16 29. "Temporary disability" means a physical or mental condition which
17 the local board finds totally and temporarily prevents an employee from
18 performing a reasonable range of duties within the employee's department and
19 which was incurred in the performance of the employee's duty.

20 Sec. 7. Section 38-846, Arizona Revised Statutes, is amended to read:

21 38-846. Death benefits

22 A. If the spouse of a member or retired member is surviving at such
23 member's death, the spouse shall be eligible for a surviving spouse's
24 pension, provided that such spouse had been married to the decedent either
25 for a period of at least two years prior to such member's date of death or
26 during such member's service. Payment of a surviving spouse's pension shall
27 commence as of the last day of the month following the member's or retired
28 member's date of death. The last payment shall be made as of the last day of
29 the month in which the surviving spouse's death occurs.

30 B. The surviving spouse of a deceased retired member shall receive a
31 monthly amount equal to four-fifths of the monthly amount of pension which
32 the decedent would have received immediately before death. The surviving
33 spouse of a deceased member who was not killed in the line of duty or did not
34 die from injuries suffered in the line of duty shall receive a monthly amount
35 computed as for the surviving spouse of a deceased retired member, under the
36 assumption that the member had retired for reason of accidental disability
37 immediately before death. The surviving spouse of a deceased member who is
38 killed in the line of duty or dies from injuries suffered in the line of duty
39 is entitled to receive a monthly amount equal to the deceased member's
40 average monthly benefit compensation less any amount payable for an eligible
41 child under this section. A member who was eligible for or receiving a
42 temporary disability pension at the time of the member's death is not deemed
43 to be retired for the purposes of this subsection. FOR THE PURPOSES OF THIS
44 SUBSECTION, "KILLED IN THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE

1 DIRECT AND PROXIMATE RESULT OF THE PERFORMANCE OF THE DECEDENT'S PUBLIC
2 SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.

3 C. If at least one eligible child is surviving at the death of a
4 member or retired member, but no surviving spouse's pension then becomes
5 payable, a guardian's or conservator's pension shall be payable to the person
6 who is serving, or who is deemed by the local board to be serving, as the
7 legally appointed guardian or custodian of the eligible child. If an
8 eligible child of a member or retired member is surviving at the member's or
9 retired member's death, the eligible child is entitled to receive a child's
10 pension payable to the person who is serving or who is deemed by the local
11 board to be serving as the legally appointed guardian or custodian of the
12 eligible child. The member may also direct by designation to the local board
13 that the guardian or conservator pension or child's pension be paid to the
14 trustee of a trust created for the benefit of the eligible child. A
15 guardian's or conservator's pension shall also become payable if at least one
16 eligible child is surviving when a surviving spouse's pension terminates.

17 D. The fund manager shall pay a guardian's or conservator's pension
18 during the same period in which a pension is payable to at least one eligible
19 child. The guardian, conservator or designated trustee is entitled to
20 receive the same monthly amount as would have been payable to the decedent's
21 surviving spouse had a surviving spouse's pension become payable upon the
22 decedent's death.

23 E. Each eligible child is entitled to a monthly amount equal to
24 one-tenth of the monthly amount of pension which the deceased member or
25 retired member would have received immediately prior to death. A deceased
26 member shall be assumed to be retired for reasons of accidental disability
27 immediately before the member's death. If there are three or more children
28 eligible for a child's pension, a maximum of two shares of the child's
29 pension shall be payable, the aggregate of such shares to be apportioned in
30 equal measure to each eligible child.

31 F. If a member has accumulated contributions remaining in the system
32 at the date of death of the last beneficiary, a lump sum refund of such
33 accumulated contributions shall be payable to the person whom the member has
34 designated as the member's refund beneficiary, or if the member's refund
35 beneficiary is not then surviving, to the designated contingent refund
36 beneficiary, or if the designated contingent refund beneficiary is not then
37 surviving, to such person nearest of kin as selected by the local board. The
38 amount of the lump sum refund shall be the remaining accumulated
39 contributions.

40 G. In calculating the right to and the amount of the surviving
41 spouse's pension, the law in effect on the date of the death of the member or
42 retired member controls, unless the law under which the member retired
43 provides for a greater benefit amount for a surviving spouse.

1 Sec. 8. Section 38-848, Arizona Revised Statutes, is amended to read:
2 38-848. Fund manager

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

12 1. One elected member from a local board to represent the employees.

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

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

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

20 5. One public member. This member shall have the qualifications
21 prescribed in subsection R of this section.

22 B. All monies in the fund shall be deposited and held in a public
23 safety personnel retirement system depository. Monies in the fund shall be
24 disbursed from the depository separate and apart from all monies or funds of
25 the state and the agencies, instrumentalities and subdivisions thereof. The
26 monies shall be secured by the depository in which they are deposited and
27 held to the same extent and in the same manner as required by the general
28 depository law of the state. The fund is subject to the sole management of
29 the fund manager for the purpose of this article.

30 C. All contributions under this system shall be forwarded to the fund
31 manager and shall be held, invested and reinvested by the fund manager. All
32 property and funds of the fund, including income from investments and from
33 all other sources, shall be retained for the exclusive benefit of members, as
34 provided in the system, and shall be used to pay benefits to members or their
35 beneficiaries or to pay expenses of operation and administration of the
36 system and fund.

37 D. The fund manager shall have the full power in its sole discretion
38 to invest and reinvest, alter and change the monies accumulated under the
39 system. The fund manager may delegate the authority ~~to~~ **THE FUND MANAGER**
40 deems necessary and prudent to the administrator, employed by the fund
41 manager pursuant to subsection K, paragraph 6 of this section, **AND ANY**
42 **ASSISTANT ADMINISTRATORS** to invest the monies of the system if the
43 administrator ~~follows~~ **AND ANY ASSISTANT ADMINISTRATORS FOLLOW** the investment
44 ~~guidelines, statement of investment policy and fund objectives~~ **POLICIES THAT**
45 **ARE** promulgated by the fund manager. The fund manager may commingle

1 securities and monies of the fund subject to the crediting of receipts and
2 earnings and charging of payments to the account of the appropriate employer.
3 In making every investment, the fund manager shall exercise the judgment and
4 care under the circumstances then prevailing which ~~men~~ PERSONS of ordinary
5 prudence, discretion and intelligence exercise in the management of their own
6 affairs, not in regard to speculation but in regard to the permanent
7 disposition of their funds, considering the probable income from their funds
8 as well as the probable safety of their capital, provided:

9 1. That not more than seventy per cent of the pension fund shall be
10 invested at any given time in corporate stocks, based on cost value of such
11 stocks irrespective of capital appreciation.

12 2. That no more than five per cent of the pension fund shall be
13 invested in securities issued by any one institution, agency or corporation,
14 other than securities issued as direct obligations of and fully guaranteed by
15 the United States government.

16 3. That not more than five per cent of the voting stock of any one
17 corporation shall be owned.

18 4. That corporate stocks AND EXCHANGE TRADED FUNDS eligible for
19 purchase shall be restricted to stocks AND EXCHANGE TRADED FUNDS that, except
20 for bank stocks, ~~and~~ insurance stocks AND MEMBERSHIP INTERESTS IN LIMITED
21 LIABILITY COMPANIES, are either:

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

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

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

31 (d) Listed or approved on issuance for listing on an exchange of a
32 foreign country with which the United States is maintaining diplomatic
33 relations at the time of purchase, except that no more than ten per cent of
34 the pension fund shall be invested in foreign equity securities on these
35 exchanges, based on the cost value of the stocks irrespective of capital
36 appreciation.

37 (e) AN EXCHANGE TRADED FUND THAT IS RECOMMENDED BY THE CHIEF
38 INVESTMENT OFFICER OF THE SYSTEM, THAT IS REGISTERED UNDER THE INVESTMENT
39 COMPANY ACT OF 1940 (15 UNITED STATES CODE SECTION 80a-1) AND THAT IS BOTH
40 TRADED ON A PUBLIC EXCHANGE AND BASED ON A PUBLICLY RECOGNIZED INDEX.

41 E. Notwithstanding any other law, the fund manager shall not be
42 required to invest in any type of investment that is dictated or required by
43 any entity of the federal government and that is intended to fund economic
44 development projects, public works or social programs, but may consider such
45 economically targeted investments pursuant to its fiduciary responsibility.

1 THE FUND MANAGER, ON BEHALF OF THE SYSTEM, MAY INVEST IN, LEND MONIES TO OR
2 GUARANTEE THE REPAYMENT OF MONIES BY A LIMITED LIABILITY COMPANY, LIMITED
3 PARTNERSHIP, JOINT VENTURE, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP OR
4 TRUST IN WHICH THE SYSTEM HAS A FINANCIAL INTEREST, WHETHER THE ENTITY IS
5 CLOSELY HELD OR PUBLICLY TRADED AND THAT, IN TURN, MAY BE ENGAGED IN ANY
6 LAWFUL ACTIVITY, INCLUDING THE OWNERSHIP, DEVELOPMENT, MANAGEMENT,
7 IMPROVEMENT OR OPERATION OF REAL PROPERTY AND ANY IMPROVEMENTS OR BUSINESSES
8 ON REAL PROPERTY OR THE LENDING OF MONIES.

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

17 G. The fund manager shall not be held liable for the exercise of more
18 than ordinary care and prudence in the selection of investments and
19 performance of its duties under the system and shall not be limited to
20 so-called "legal investments for trustees", but all funds of the system shall
21 be invested subject to all of the conditions, limitations and restrictions
22 imposed by law.

23 H. Except as provided in subsection D of this section, the fund
24 manager may:

25 1. Invest and reinvest the principal and income of the pension fund
26 without distinction between principal and income.

27 2. Sell, exchange, convey, transfer or otherwise dispose of any
28 investments of the fund held in the name of the system by private contract or
29 at public auction.

30 3. Also:

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

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

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

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

40 (e) Generally exercise any of the powers of an owner with respect to
41 stocks, bonds, securities or other investments held in the fund.

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

1 5. Register any investment held in the fund in the name of the fund or
2 in the name of a nominee.

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

11 7. Appear before local boards and the courts of this state and
12 political subdivisions of this state through counsel or appointed
13 representative to protect the fund. The fund manager is not responsible for
14 the actions or omissions of the local boards under this system but may seek
15 review or rehearing of actions or omissions of local boards. The fund
16 manager does not have a duty to review actions of the local boards but may do
17 so in its discretion in order to protect the fund.

18 8. Empower the fund administrator to take actions on behalf of the
19 fund manager that are necessary for the protection and administration of the
20 fund in accordance with the guidelines of the fund manager.

21 9. Do all acts, whether or not expressly authorized that may be deemed
22 necessary or proper for the protection of the investments held in the fund.

23 I. Investment expenses and operation and administrative expenses of
24 the fund manager shall be accounted for separately and allocated against
25 investment income.

26 J. The fund manager, as soon as possible within a period of six months
27 following the close of any fiscal year, shall transmit to the governor and
28 the legislature an annual statement on the operation of the system
29 containing, among other things:

30 1. A balance sheet.

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

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

33 4. A detailed statement of the investments acquired and disposed of
34 during the year.

35 5. A list of investments owned.

36 6. The total rate of return, yield on cost, and per cent of cost to
37 market value of the fund.

38 7. Any other statistical and financial data that may be necessary for
39 the proper understanding of the financial condition of the system and the
40 results of its operations. A synopsis of the annual report shall be
41 published for the information of members of the system.

42 K. The fund manager shall:

43 1. Maintain the accounts of the system and issue statements to each
44 employer annually and to each member who may request it.

- 1 2. Report the results of the actuarial valuations to the local boards
2 and employers.
- 3 3. Contract on a fee basis with an independent investment counsel to
4 advise the fund manager in the investment management of the fund and with an
5 independent auditing firm to audit the fund manager's accounting.
- 6 4. Permit the auditor general to make an annual audit and the results
7 shall be transmitted to the governor and the legislature.
- 8 5. Contract on a fee basis with an actuary who shall make actuarial
9 valuations of the system, be the technical adviser of the fund manager on
10 matters regarding the operation of the funds created by the provisions of the
11 system and perform other duties required in connection therewith. The
12 actuary must be a member of a nationally recognized association or society of
13 actuaries.
- 14 6. Employ, as administrator, a person, state department or other body
15 to serve at the pleasure of the fund manager.
- 16 7. Establish procedures and guidelines for contracts with actuaries,
17 auditors, investment counsel and legal counsel and for safeguarding of
18 securities.
 - 19 L. The administrator, under the direction of the fund manager, shall:
 - 20 1. Administer this article.
 - 21 2. Invest the funds of the system as the fund manager deems necessary
22 and prudent as provided in subsections D and H of this section and subject to
23 the investment ~~guidelines, statement of investment policy~~ POLICIES and fund
24 objectives promulgated by the fund manager.
 - 25 3. Establish and maintain an adequate system of accounts and records
26 for the system which shall be integrated with the accounts, records and
27 procedures of the employers so that the system operates most effectively and
28 at minimum expense and that duplication of records and accounts is avoided.
 - 29 4. In accordance with THE FUND MANAGER'S GOVERNANCE POLICY AND
30 personnel rules and procedures and the budget adopted by the fund manager,
31 hire such employees and services the administrator deems necessary and
32 prescribe their duties, INCLUDING THE HIRING OF ONE OR MORE ASSISTANT
33 ADMINISTRATORS TO MANAGE THE SYSTEM'S OPERATIONS, INVESTMENTS AND LEGAL
34 AFFAIRS.
 - 35 5. Be responsible for income, the collection of the income and the
36 accuracy of all expenditures.
 - 37 6. Recommend to the fund manager annual contracts for the system's
38 actuary, auditor, investment counsel, legal counsel and safeguarding of
39 securities.
 - 40 7. Perform additional duties and powers prescribed by the fund manager
41 and delegated to the administrator.
 - 42 M. THE SYSTEM IS AN INDEPENDENT TRUST FUND AND the fund manager, the
43 administrator, THE ASSISTANT ADMINISTRATORS and all persons employed by them
44 are not under the jurisdiction of the department of administration OR ANY
45 OTHER AGENCY, DEPARTMENT OR INSTRUMENTALITY OF THIS STATE or subject to

1 section 38-611 or title 41, chapter 4, ~~articles 5 and~~ OR 6. The salaries of
2 the administrator, ASSISTANT ADMINISTRATORS and other employees of the fund
3 manager are the sole determination of the fund manager. Contracts for goods
4 and services approved by the fund manager are not subject to title 41,
5 chapter 23. AS AN INDEPENDENT TRUST FUND WHOSE ASSETS ARE SEPARATE AND APART
6 FROM ALL OTHER FUNDS OF THIS STATE, THE SYSTEM AND THE FUND MANAGER ARE NOT
7 SUBJECT TO THE RESTRICTIONS PRESCRIBED IN SECTION 35-154 OR ARTICLE IX,
8 SECTIONS 5 AND 8, CONSTITUTION OF ARIZONA.

9 N. The attorney general or an attorney approved by the attorney
10 general and paid by the fund shall be the attorney for the fund manager and
11 shall represent the fund manager in any legal proceeding OR FORUM THAT THE
12 FUND MANAGER DEEMS APPROPRIATE. THE FUND MANAGER, ADMINISTRATOR, ASSISTANT
13 ADMINISTRATORS AND EMPLOYEES OF THE FUND MANAGER ARE NOT PERSONALLY LIABLE
14 FOR ANY ACTS DONE IN THEIR OFFICIAL CAPACITY IN GOOD FAITH RELIANCE ON THE
15 WRITTEN OPINIONS OF THE FUND MANAGER'S ATTORNEY.

16 O. At least once in each five-year period after the effective date,
17 the actuary shall make an actuarial investigation into the mortality, service
18 and compensation experience of the members and beneficiaries of the system
19 and shall make a special valuation of the assets and liabilities of the funds
20 of the system. Taking into account the results of the investigation and
21 special valuation, the fund manager shall adopt for the system such
22 mortality, service and other tables deemed necessary.

23 P. On the basis of the tables the fund manager adopts, the actuary
24 shall make a valuation of the assets and liabilities of the funds of the
25 system not less frequently than every year. By November 1 of each year the
26 fund manager shall provide a preliminary report and by December 15 of each
27 year provide a final report to the governor, the speaker of the house of
28 representatives and the president of the senate on the contribution rate for
29 the ensuing fiscal year.

30 Q. Neither the fund manager nor any member or employee of the fund
31 manager shall directly or indirectly, for himself or as an agent, in any
32 manner use the monies or deposits of the fund except to make current and
33 necessary payments, nor shall the fund manager or any member or employee
34 become an endorser or surety or in any manner an obligor for monies loaned by
35 or borrowed from the fund.

36 R. The members of the fund manager who are appointed pursuant to
37 subsection A, paragraphs 2 and 5 of this section shall have at least ten
38 years' substantial experience as any one or a combination of the following:

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

40 2. A securities analyst.

41 3. An employee or principal of a trust institution, investment
42 organization or endowment fund acting either in a management or an investment
43 related capacity.

44 4. A chartered financial analyst in good standing as determined by the
45 association for investment management and research.

1 5. A professor at the university level teaching economics or
2 investment related subjects.

3 6. An economist.

4 7. Any other professional engaged in the field of public or private
5 finances.

6 S. FINANCIAL OR COMMERCIAL INFORMATION THAT IS PROVIDED TO THE FUND
7 MANAGER, EMPLOYEES OF THE FUND MANAGER AND ATTORNEYS OF THE FUND MANAGER IN
8 CONNECTION WITH INVESTMENTS IN WHICH THE FUND MANAGER HAS INVESTED OR
9 INVESTMENTS THE FUND MANAGER HAS CONSIDERED FOR INVESTMENT IS CONFIDENTIAL,
10 PROPRIETARY AND NOT A PUBLIC RECORD IF THE INFORMATION IS INFORMATION THAT
11 WOULD CUSTOMARILY NOT BE RELEASED TO THE PUBLIC BY THE PERSON OR ENTITY FROM
12 WHOM THE INFORMATION WAS OBTAINED.

13 Sec. 9. Section 38-849, Arizona Revised Statutes, is amended to read:

14 38-849. Limitations on receiving pension; violation;
15 classification; reemployment after severance;
16 reinstatement of service credits; reemployment of
17 retired or disabled member

18 A. If a member is convicted of, or discharged because of, theft,
19 embezzlement, fraud or misappropriation of an employer's property or property
20 under the control of the employer, the member shall be subject to restitution
21 and fines imposed by a court of competent jurisdiction. The court may order
22 the restitution or fines TO be paid from any payments otherwise payable to
23 the member from the retirement system.

24 B. A person who knowingly makes any false statement or who falsifies
25 or permits to be falsified any record of the system with an intent to defraud
26 the system is guilty of a class 6 felony. If any change or error in the
27 records results in any member or beneficiary receiving from the system more
28 or less than the member or beneficiary would have been entitled to receive
29 had the records been correct, the local board shall correct such error, and
30 as far as practicable shall adjust the payments in such manner that the
31 actuarial equivalent of the benefit to which such member or beneficiary was
32 correctly entitled shall be paid. If a member is convicted of a crime
33 specified in this subsection the member shall be entitled to receive a lump
34 sum payment of the member's accumulated contributions but forfeits any future
35 compensation and benefits which would otherwise accrue to the member or the
36 member's estate under this article.

37 C. If a member who received a severance refund upon termination of
38 employment, as provided in section 38-846.02, is subsequently reemployed by
39 an employer, the member's prior service credits shall be cancelled and
40 service shall be credited only from the date the member's most recent
41 reemployment period commenced. However, if the former member's reemployment
42 with the same employer occurred within two years after the former member's
43 termination date, and, within ninety days after reemployment the former
44 member signs a written election consenting to reimburse the fund within one
45 year, the former member shall be required to redeposit the amount withdrawn

1 at the time of the former member's separation from service, with interest
2 thereon at the rate of nine per cent for each year compounded each year from
3 the date of withdrawal to the date of repayment. Upon satisfaction of this
4 obligation the member's prior service credits shall be reinstated.

5 D. If a retired member is reemployed by an employer, no contributions
6 shall be made on the retired member's account, nor any service credited,
7 during the period of such reemployment. ~~In addition,~~ NOTWITHSTANDING THIS
8 SUBSECTION, if a retired member subsequently becomes employed in the same
9 position by the employer from which the member retired, the system shall not
10 make pension payments to the retired member during the period of
11 reemployment. On subsequent termination of employment by the retired member,
12 the retired member is entitled to receive a pension based on the member's
13 service and compensation before the date of the member's reemployment. If a
14 member who retired under disability is reemployed by an employer as an
15 employee, that member shall be treated as if the member had been on an
16 uncompensated leave of absence during the period of the member's disability
17 retirement and shall be a contributing member of the system. FOR THE
18 PURPOSES OF THIS SUBSECTION, "SAME POSITION" MEANS THE MEMBER IS IN A
19 POSITION WHERE THE MEMBER PERFORMS DUTIES AND EXERCISES AUTHORITY THAT ARE
20 THE SAME DUTIES THAT WERE PERFORMED AND THE SAME AUTHORITY THAT WAS EXERCISED
21 BY THE MEMBER BEFORE THE MEMBER'S RETIREMENT.

22 E. A PERSON WHO DEFRAUDS THE SYSTEM OR WHO TAKES, CONVERTS, STEALS OR
23 EMBEZZLES MONIES OWNED BY OR FROM THE SYSTEM AND WHO FAILS OR REFUSES TO
24 RETURN THE MONIES TO THE SYSTEM ON THE FUND MANAGER'S WRITTEN REQUEST IS
25 SUBJECT TO CIVIL SUIT BY THE SYSTEM IN THE SUPERIOR COURT OF MARICOPA
26 COUNTY. ON ENTRY OF AN ORDER FINDING THE PERSON HAS DEFRAUDED THE SYSTEM OR
27 TAKEN, CONVERTED, STOLEN OR EMBEZZLED MONIES OWNED BY OR FROM THE SYSTEM, THE
28 COURT SHALL ENTER AN ORDER AGAINST THAT PERSON AND FOR THE SYSTEM AWARDED
29 THE SYSTEM ALL OF ITS COSTS AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY
30 FEES, THAT WERE NECESSARY TO SUCCESSFULLY PROSECUTE THE ACTION. THE COURT
31 SHALL ALSO GRANT THE SYSTEM A JUDICIAL LIEN ON ALL OF THE NONEXEMPT PROPERTY
32 OF THE PERSON AGAINST WHOM JUDGMENT IS ENTERED PURSUANT TO THIS SUBSECTION IN
33 AN AMOUNT EQUAL TO ALL AMOUNTS AWARDED TO THE SYSTEM, PLUS INTEREST AT THE
34 RATE PRESCRIBED BY SECTION 44-1201, SUBSECTION A, UNTIL ALL AMOUNTS OWED ARE
35 PAID TO THE SYSTEM.

36 F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE FUND
37 MANAGER MAY OFFSET AGAINST ANY BENEFITS OTHERWISE PAYABLE BY THE SYSTEM TO AN
38 ACTIVE OR RETIRED MEMBER OR SURVIVOR ANY COURT ORDERED AMOUNTS AWARDED TO THE
39 FUND MANAGER AND SYSTEM AND ASSESSED AGAINST THE MEMBER OR SURVIVOR.

40 Sec. 10. Section 38-850, Arizona Revised Statutes, is amended to read:

41 38-850. Assurances and liabilities; fund manager discretion;
42 overpayments; underpayments

43 A. Nothing contained in the system shall be construed as a contract of
44 employment between an employer and any employee, or as a right of any
45 employee to be continued in the employment of an employer, or as a limitation

1 of the rights of an employer to discharge any of its employees, with or
2 without cause.

3 B. No employee shall have any right to, or interest in, any assets of
4 the fund upon termination of his employment or otherwise, except as provided
5 from time to time under the system, and then only to the extent of the
6 benefits payable to such employee out of the assets of the fund. All
7 payments of benefits as provided for in the system shall be made solely out
8 of the assets of the fund and neither the employers, the fund manager, nor
9 any member of the board shall be liable therefor in any manner.

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

27 D. Neither the employers, the fund manager, ~~nor~~ THE FUND MANAGER'S
28 ADMINISTRATOR, ASSISTANT ADMINISTRATORS AND EMPLOYEES OR any member of a
29 local board guarantees the fund in any manner against loss or depreciation,
30 and none of them shall be liable for any act or failure to act, which is made
31 in good faith pursuant to the provisions of the system. The employers shall
32 not be responsible for any act or failure to act of a local board or any of
33 its members or for any act or failure to act of the fund manager. A local
34 board and the individual members ~~thereof~~ OF A LOCAL BOARD shall not be
35 responsible for any act or failure to act of any employer or the fund
36 manager.

37 E. The fund manager ~~may~~, in its discretion, MAY make payment to a
38 person entitled to any payment under the system who is under a legal
39 disability in any one or more of the following ways:

- 40 1. Directly to such person.
- 41 2. To his legal guardian or conservator.
- 42 3. To his spouse or to any other person charged with his support to be
43 expended for his benefit.

44 F. If, through misstatement or computation error, benefits are
45 underpaid or overpaid, there is no liability for any more than the correct

1 benefit sums under the system. Overpayments may be deducted from future
2 payments under the system, and underpayments may be added to future payments
3 under the system. A member or other benefit recipient may elect to repay in
4 a lump sum any overpayment in lieu of receiving reduced benefits under the
5 system.

6 G. Nothing in this section exempts employee benefits of any kind from
7 a writ of attachment, a writ of execution, a writ of garnishment and orders
8 of assignment issued by a court of record which are the result of a judgment
9 taken for arrearages for child support or for a child support debt or
10 restitution or fines imposed in accordance with section 38-849, subsection A.

11 Sec. 11. Section 38-851, Arizona Revised Statutes, is amended to read:
12 38-851. Participation of new employers

13 A. This state, any municipality, county or other political subdivision
14 of the state, any Indian tribe or any public or quasi-public organization
15 created wholly or partly by, or deriving its powers from, the legislature,
16 may request to become a participating employer in the system on behalf of a
17 designated eligible employee group. Such a request shall be made by the
18 state departmental director or after a proper resolution has been adopted by
19 the governing body of the political subdivision, Indian tribe or public
20 organization, and after such resolution has been approved by any other party
21 or officer required by law to approve the resolution. A certified copy of
22 such resolution shall be filed with the fund manager. This state or the
23 political subdivision, Indian tribe or public organization shall be
24 considered as a participating employer upon proper execution of a joinder
25 agreement in which the employer unconditionally accepts the provisions of the
26 system and binds the employer's designated eligible employees to those
27 provisions. All members of an eligible group shall be designated for
28 membership, unless written consent to the contrary is obtained from the fund
29 manager. A member shall be qualified for participation in order to obtain
30 written consent to the contrary from the fund manager.

31 B. The effective date of participation in the system by this state or
32 a political subdivision, Indian tribe or public organization shall be the
33 July 1 next succeeding the approval of its participation, unless the fund
34 manager consents to another date, as shall be specifically stipulated in the
35 joinder agreement.

36 C. The new employer shall designate the departments, groups or other
37 classifications of public safety employees which shall be eligible to
38 participate in the system and shall agree to make contributions each year
39 which shall be sufficient to meet both the normal cost on a level cost method
40 attributable to inclusion of its employees and the prescribed interest on the
41 past service cost for its employees.

42 D. This state or any political subdivision, Indian tribe or public
43 organization which is contemplating participation in the system shall request
44 a preliminary actuarial survey to determine the estimated cost of
45 participation, the benefits to be derived and such other information as may

1 be deemed appropriate. The cost of such a survey shall be paid by this state
2 or the political subdivision, Indian tribe or public organization requesting
3 it.

4 E. As a condition to participation in the system an Indian tribe
5 employer, by resolution of the governing body, shall:

6 1. Agree that all disputes involving interpretation of state statutes
7 involving the system, and any amendments to such statutes, will be resolved
8 through the court system of this state.

9 2. Agree to be bound by state statutes and laws which regulate and
10 interpret the provisions of the system, including eligibility to membership
11 in the system, service credits and the rights of any claimant to benefits and
12 the amount of such benefits.

13 3. Agree to meet any requirement which the fund manager may prescribe
14 to ensure timely payment of member and employer contributions and any other
15 amounts due from the employer to the system.

16 4. Include in the joinder agreement any other provision deemed
17 necessary by the fund manager for the administration or enforcement of the
18 agreement.

19 F. Assets under any existing public employee defined benefit
20 retirement program, except a military retirement program, necessary to equal
21 the actuarial present value of projected benefits **TO THE EXTENT FUNDED ON A**
22 **MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL VALUATION** attributable to
23 the employer's designated employee group, calculated using the actuarial
24 methods and assumptions adopted by the existing public employee retirement
25 program, shall be transferred from such program to this fund no later than
26 sixty days after the employer's effective date. That portion of the
27 transferred assets which is attributable to employee contributions, including
28 interest credits thereon, shall be properly allocated to each affected
29 employee of the employer and credited to the employee's initial accumulated
30 contributions, in accordance with a schedule furnished by the employer to the
31 fund manager.

32 Sec. 12. Section 38-853, Arizona Revised Statutes, is amended to read:
33 **38-853. Transfer of credited service**

34 A. A member who terminates employment with an employer and accepts,
35 within two years, a position with the same or another employer participating
36 in the system shall have the member's credited service transferred to the
37 member's record with the new employer provided the member leaves the member's
38 accumulated contributions on deposit with the fund. The termination of
39 employment shall not constitute a break in service. However, the period not
40 employed shall not be considered as service.

41 B. The new employer's account shall be credited with the member's
42 accumulated contributions plus the amount, if any, necessary to equal
43 the increase in the actuarial present value of projected benefits **TO THE**
44 **EXTENT FUNDED ON A MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL**

1 VALUATION resulting from the transfer as calculated by the system's actuary
2 using the actuarial methods and assumptions adopted by the fund manager.

3 Sec. 13. Section 38-881, Arizona Revised Statutes, as amended by Laws
4 2002, chapter 335, section 8, is amended to read:

5 38-881. Definitions

6 In this article, unless the context otherwise requires:

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

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

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

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

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

28 3. "Average monthly salary" means one-thirty-sixth of the aggregate
29 amount of salary THAT IS paid a member by a participating employer during a
30 period of thirty-six consecutive months of service in which the member
31 received the highest salary within the last one hundred twenty months of
32 service. Average monthly salary means the aggregate amount of ~~compensation~~
33 SALARY THAT IS paid a member divided by the member's months of service if the
34 member has less than thirty-six months of service. In the computation under
35 this paragraph, a period of nonpaid or partially paid industrial leave shall
36 be considered based on the salary the employee would have received in the
37 employee's job classification if the employee was not on industrial leave.

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

41 5. "Claimant" means a member, beneficiary or estate that files an
42 application for benefits with the retirement plan.

43 6. "Credited service" means credited service transferred to the
44 retirement plan from another retirement system or plan for public employees

1 of this state, plus those compensated periods of service as a member of the
2 retirement plan for which member contributions are on deposit in the fund.

3 7. "Designated position" means:

4 (a) For a county:

5 (i) A county detention officer.

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

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

10 (i) Food service.

11 (ii) Nursing personnel.

12 (iii) Corrections physician assistant.

13 (iv) Therapist.

14 (v) Corrections dental assistant.

15 (vi) Hygienist.

16 (vii) Corrections medical assistant.

17 (viii) Correctional service officer, including assistant deputy
18 warden, deputy warden, warden and superintendent.

19 (ix) State correctional program officer.

20 (x) Parole or community supervision officers.

21 (xi) Investigators.

22 (xii) Teachers.

23 (xiii) Institutional maintenance workers.

24 (xiv) Youth corrections officer.

25 (xv) Youth program officer.

26 (xvi) Behavioral health treatment unit managers.

27 (xvii) The director and assistant directors of the department of
28 juvenile corrections and the superintendent of the state educational system
29 for committed youth.

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

32 (xix) Other positions designated by the local board of the state
33 department of corrections or the local board of the department of juvenile
34 corrections pursuant to section 38-891, subsection E.

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

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

38 8. "Employee" means a person determined by the local board to be
39 employed by a participating employer in a designated position.

40 9. "Employer" means an agency or department of this state or a
41 political subdivision of this state which has one or more employees in a
42 designated position.

43 10. "Fund" means the corrections officer retirement plan fund.

44 11. "Fund manager" means the fund manager of the public safety
45 personnel retirement system.

1 12. "Local board" means the retirement board of the employer that
2 consists of persons appointed or elected to administer the plan as it applies
3 to the employer's members in the plan.

4 13. "Member" means any employee who meets all of the following
5 qualifications:

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

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

11 (c) Whose customary employment is at least forty hours each week and
12 for more than six months in a calendar year.

13 14. "Normal retirement date" means the first day of the calendar month
14 immediately following an employee's completion of twenty years of service or,
15 in the case of a dispatcher, twenty-five years of service, the employee's
16 sixty-second birthday and completion of ten years of service or the month in
17 which the sum of the employee's age and years of credited service equals
18 eighty.

19 15. "Participating employer" means an employer which the fund manager
20 has determined to have one or more employees in a designated position or a
21 county, city or town which has entered into a joinder agreement pursuant to
22 section 38-902.

23 16. "Pension" means a series of monthly payments by the retirement
24 plan.

25 17. "Retired member" means an individual who is being paid a pension on
26 account of the individual's membership in the retirement plan.

27 18. "Retirement" means termination of employment after a member has
28 fulfilled all requirements for a pension.

29 19. "Retirement plan" or "plan" means the corrections officer
30 retirement plan established by this article.

31 20. "Salary" means the base salary ~~or base wages~~, shift differential
32 pay and holiday pay paid a member in a designated position for personal
33 services rendered to a participating employer on a regular monthly,
34 semimonthly or biweekly payroll basis. Salary includes amounts that are
35 subject to deferred compensation or tax shelter agreements. Salary does not
36 include PAYMENT FOR any remuneration or reimbursement other than as
37 prescribed by this paragraph. FOR THE PURPOSES OF THIS PARAGRAPH, "BASE
38 SALARY" MEANS THE AMOUNT OF COMPENSATION EACH MEMBER IS REGULARLY PAID FOR
39 PERSONAL SERVICES RENDERED TO AN EMPLOYER BEFORE THE ADDITION OF ANY EXTRA
40 MONIES, INCLUDING OVERTIME PAY, SHIFT DIFFERENTIAL PAY, HOLIDAY PAY, FRINGE
41 BENEFIT PAY AND SIMILAR EXTRA PAYMENTS.

42 21. "Service" means employment rendered to a participating employer as
43 an employee in a designated position. Any absence that is authorized by an
44 employer, including any periods during which the employee is on an employer
45 sponsored long-term disability program, is considered as service if the

1 employee returns or is deemed by the employer to have returned to a
2 designated position within the period of the authorized absence.

3 22. "Total and permanent disability" means a physical or mental
4 condition that is not an accidental disability, that the local board finds
5 totally and permanently prevents a member from engaging in any gainful
6 employment and that is the direct and proximate result of the member's
7 performance of the member's duty as an employee of a participating employer.

8 Sec. 14. Section 38-881, Arizona Revised Statutes, as amended by Laws
9 2005, chapter 324, section 1, is amended to read:

10 38-881. Definitions

11 In this article, unless the context otherwise requires:

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

17 (a) Physical contact with inmates, prisoners, parolees or persons on
18 probation.

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

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

27 2. "Accumulated member contributions" means the sum of all member
28 contributions deducted from a member's salary and paid to the fund, plus
29 member contributions transferred to the fund by another retirement plan
30 covering public employees of this state, plus previously withdrawn
31 accumulated member contributions which are repaid to the fund in accordance
32 with this article, minus any benefits paid to or on behalf of a member.

33 3. "Average monthly salary" means one-thirty-sixth of the aggregate
34 amount of salary **THAT IS** paid a member by a participating employer during a
35 period of thirty-six consecutive months of service in which the member
36 received the highest salary within the last one hundred twenty months of
37 service. Average monthly salary means the aggregate amount of **compensation**
38 **SALARY THAT IS** paid a member divided by the member's months of service if the
39 member has less than thirty-six months of service. In the computation under
40 this paragraph, a period of nonpaid or partially paid industrial leave shall
41 be considered based on the salary the employee would have received in the
42 employee's job classification if the employee was not on industrial leave.

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

1 5. "Claimant" means a member, beneficiary or estate that files an
2 application for benefits with the retirement plan.

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

7 7. "Designated position" means:

8 (a) For a county:

9 (i) A county detention officer.

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

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

14 (i) Food service.

15 (ii) Nursing personnel.

16 (iii) Corrections physician assistant.

17 (iv) Therapist.

18 (v) Corrections dental assistant.

19 (vi) Hygienist.

20 (vii) Corrections medical assistant.

21 (viii) Correctional service officer, including assistant deputy
22 warden, deputy warden, warden and superintendent.

23 (ix) State correctional program officer.

24 (x) Parole or community supervision officers.

25 (xi) Investigators.

26 (xii) Teachers.

27 (xiii) Institutional maintenance workers.

28 (xiv) Youth corrections officer.

29 (xv) Youth program officer.

30 (xvi) Behavioral health treatment unit managers.

31 (xvii) The director and assistant directors of the department of
32 juvenile corrections and the superintendent of the state educational system
33 for committed youth.

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

36 (xix) Other positions designated by the local board of the state
37 department of corrections or the local board of the department of juvenile
38 corrections pursuant to section 38-891, subsection E.

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

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

42 8. "Employee" means a person determined by the local board to be
43 employed by a participating employer in a designated position.

1 9. "Employer" means an agency or department of this state or a
2 political subdivision of this state which has one or more employees in a
3 designated position.

4 10. "Fund" means the corrections officer retirement plan fund.

5 11. "Fund manager" means the fund manager of the public safety
6 personnel retirement system.

7 12. "Local board" means the retirement board of the employer that
8 consists of persons appointed or elected to administer the plan as it applies
9 to the employer's members in the plan.

10 13. "Member" means any employee who meets all of the following
11 qualifications:

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

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

17 (c) Whose customary employment is at least forty hours each week and
18 for more than six months in a calendar year.

19 14. "Normal retirement date" means the first day of the calendar month
20 immediately following an employee's completion of twenty years of service or,
21 in the case of a dispatcher, twenty-five years of service, the employee's
22 sixty-second birthday and completion of ten years of service or the month in
23 which the sum of the employee's age and years of credited service equals
24 eighty.

25 15. "Participating employer" means an employer which the fund manager
26 has determined to have one or more employees in a designated position or a
27 county, city or town which has entered into a joinder agreement pursuant to
28 section 38-902.

29 16. "Pension" means a series of monthly payments by the retirement
30 plan.

31 17. "Retired member" means an individual who is being paid a pension on
32 account of the individual's membership in the retirement plan.

33 18. "Retirement" means termination of employment after a member has
34 fulfilled all requirements for a pension.

35 19. "Retirement plan" or "plan" means the corrections officer
36 retirement plan established by this article.

37 20. "Salary" means the base salary ~~or base wages~~, overtime pay, shift
38 differential pay and holiday pay paid a member in a designated position for
39 personal services rendered to a participating employer on a regular monthly,
40 semimonthly or biweekly payroll basis, except that for the purposes of this
41 paragraph the amount of overtime included shall not include payments to the
42 member for the sale of compensatory time. Salary includes amounts that are
43 subject to deferred compensation or tax shelter agreements. Salary does not
44 include PAYMENT FOR any remuneration or reimbursement other than as
45 prescribed by this paragraph. FOR THE PURPOSES OF THIS PARAGRAPH, "BASE

1 SALARY" MEANS THE AMOUNT OF COMPENSATION EACH MEMBER IS REGULARLY PAID FOR
2 PERSONAL SERVICES RENDERED TO AN EMPLOYER BEFORE THE ADDITION OF ANY EXTRA
3 MONIES, INCLUDING OVERTIME PAY, SHIFT DIFFERENTIAL PAY, HOLIDAY PAY, PAYMENTS
4 FOR THE SALE OF COMPENSATORY TIME, FRINGE BENEFIT PAY AND SIMILAR EXTRA
5 PAYMENTS.

6 21. "Service" means employment rendered to a participating employer as
7 an employee in a designated position. Any absence that is authorized by an
8 employer, including any periods during which the employee is on an employer
9 sponsored long-term disability program, is considered as service if the
10 employee returns or is deemed by the employer to have returned to a
11 designated position within the period of the authorized absence.

12 22. "Total and permanent disability" means a physical or mental
13 condition that is not an accidental disability, that the local board finds
14 totally and permanently prevents a member from engaging in any gainful
15 employment and that is the direct and proximate result of the member's
16 performance of the member's duty as an employee of a participating employer.

17 Sec. 15. Section 38-886, Arizona Revised Statutes, is amended to read:

18 38-886. Accidental disability retirement; total and permanent
19 disability retirement; qualification; amount of
20 pension; conditions for continued payment of pension

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

24 1. An application for disability retirement is filed with the
25 retirement plan or the local board by either the member or the member's
26 participating employer after the disabling incident or within one year after
27 the date the member ceases to be an employee. Timely application for an
28 accidental or a total and permanent disability pension is a prerequisite to
29 receipt of the pension.

30 2. The member undergoes all medical examinations and tests ordered by
31 the local board and releases to the local board all medical reports and
32 records requested by the local board.

33 3. The local board determines that an accidental disability or total
34 and permanent disability condition exists which meets the requirements for
35 accidental disability retirement or total and permanent disability
36 retirement.

37 B. The effective date of an accidental disability retirement or a
38 total and permanent disability retirement shall not predate the date of
39 disability or the date the member ceases to be an employee.

40 C. The amount of an accidental disability pension or a total and
41 permanent disability pension is equal to fifty per cent of the member's
42 average monthly salary or the amount computed using the member's average
43 monthly salary and the member's actual years of credited service, whichever
44 is higher.

1 D. During the period, if any, between the effective date of accidental
2 disability retirement or total and permanent disability retirement and the
3 date the disabled retired member attains sixty-two years of age the local
4 board may require a disabled retired member to undergo periodic reevaluation
5 of the continuation of accidental disability or total and permanent
6 disability. If the disabled retired member refuses to submit to
7 reevaluation, the local board may suspend payment of the pension. If the
8 refusal continues for one year, the local board may revoke the disabled
9 retired member's rights to the pension. An accidental disability pension or
10 a total and permanent disability pension is terminated if the local board
11 finds the retired member no longer meets the requirements for accidental
12 disability retirement or total and permanent disability retirement.

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

16 1. An injury suffered while engaged in a felonious criminal act or
17 enterprise.

18 2. Service in the armed forces of the United States which entitles the
19 member to a veteran's disability pension.

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

22 F. Local boards shall base a finding of total and permanent disability
23 and accidental disability on medical evidence obtained by a medical doctor or
24 clinic selected by the local board **AND SHALL DISREGARD ANY OTHER MEDICAL
25 EVIDENCE OR OPINIONS. IF THE LOCAL BOARD RETAINS MORE THAN ONE MEDICAL
26 DOCTOR OR CLINIC IN CONNECTION WITH ANY CASE,** the local board shall resolve
27 **ANY** material conflicts in **THE** medical evidence **THAT IS PRESENTED BY THE LOCAL
28 BOARD'S MEDICAL DOCTORS OR CLINICS.**

29 Sec. 16. Section 38-888, Arizona Revised Statutes, is amended to read:
30 **38-888. Pension to the surviving spouse of a member who dies**
31 **before retirement**

32 A. The surviving spouse of a deceased active member is entitled to
33 receive a pension for life if each of the following conditions is met:

34 1. The member was married to the surviving spouse for at least two
35 years at the time of death.

36 2. The surviving spouse files a written application with the
37 retirement plan for the survivor benefit.

38 B. The amount of a surviving spouse's pension is forty per cent of the
39 deceased member's average monthly salary.

40 C. The surviving spouse of a deceased member who is killed in the line
41 of duty or dies from injuries suffered in the line of duty is entitled to
42 receive a monthly amount equal to the deceased member's average monthly
43 benefit compensation. **FOR THE PURPOSES OF THIS SUBSECTION, "KILLED IN THE
44 LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE DIRECT AND PROXIMATE RESULT**

1 OF PHYSICAL INJURIES INCURRED IN THE PERFORMANCE OF THE DECEDENT'S PUBLIC
2 SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.

3 Sec. 17. Section 38-897, Arizona Revised Statutes, is amended to read:
4 38-897. Assignments prohibited; liability of fund

5 A. The right of an individual to a pension, to a refund of accumulated
6 member contributions, to the pension itself or to any other right accrued or
7 accruing to any individual, and the monies and assets of the retirement plan,
8 are not subject to execution, garnishment, attachment, the operation of
9 bankruptcy or insolvency law or other process of law except a qualified
10 domestic relations order and are unassignable except as may be otherwise
11 specifically provided.

12 B. Any attempt to anticipate, alienate, sell, transfer, assign,
13 pledge, encumber, charge or otherwise dispose of any right provided in
14 subsection A is void. The fund is not liable in any manner for or subject to
15 the debts, contracts, liabilities, engagements or torts of any person
16 entitled to these rights.

17 C. This section does not exempt employee benefits of any kind from a
18 writ of attachment, a writ of execution, a writ of garnishment and orders of
19 assignment issued by a court of record as the result of a judgment for
20 arrearages of child support or for child support debt.

21 D. A PERSON WHO DEFRAUDS THE PLAN OR WHO TAKES, CONVERTS, STEALS OR
22 EMBEZZLES MONIES OWNED BY OR FROM THE PLAN AND WHO FAILS OR REFUSES TO RETURN
23 THE MONIES TO THE PLAN ON THE FUND MANAGER'S WRITTEN REQUEST IS SUBJECT TO
24 CIVIL SUIT BY THE PLAN IN THE SUPERIOR COURT OF MARICOPA COUNTY. ON ENTRY OF
25 AN ORDER FINDING THE PERSON HAS DEFRAUDED THE PLAN OR TAKEN, CONVERTED,
26 STOLEN OR EMBEZZLED MONIES OWNED BY OR FROM THE PLAN, THE COURT SHALL ENTER
27 AN ORDER AGAINST THAT PERSON AND FOR THE PLAN AWARDING THE PLAN ALL OF ITS
28 COSTS AND EXPENSES OF ANY KIND, INCLUDING ATTORNEY FEES, THAT WERE NECESSARY
29 TO SUCCESSFULLY PROSECUTE THE ACTION. THE COURT SHALL ALSO GRANT THE PLAN A
30 JUDICIAL LIEN ON ALL OF THE NONEXEMPT PROPERTY OF THE PERSON AGAINST WHOM
31 JUDGMENT IS ENTERED PURSUANT TO THIS SUBSECTION IN AN AMOUNT EQUAL TO ALL
32 AMOUNTS AWARDED TO THE PLAN, PLUS INTEREST AT THE RATE PRESCRIBED BY SECTION
33 44-1201, SUBSECTION A, UNTIL ALL AMOUNTS OWED ARE PAID TO THE PLAN.

34 E. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE FUND
35 MANAGER MAY OFFSET AGAINST ANY BENEFITS OTHERWISE PAYABLE BY THE PLAN TO AN
36 ACTIVE OR RETIRED MEMBER OR SURVIVOR ANY COURT ORDERED AMOUNTS AWARDED TO THE
37 FUND MANAGER AND PLAN AND ASSESSED AGAINST THE MEMBER OR SURVIVOR.

38 Sec. 18. Section 38-901, Arizona Revised Statutes, is amended to read:
39 38-901. Transfers into or out of retirement plan

40 A. A member who changes employment or transfers or is assigned to a
41 position in which the member is no longer eligible to be a member of this
42 plan, because of a change in duties or otherwise, with the same or another
43 employer of this state OR A MUNICIPALITY OF THIS STATE participating in a
44 different retirement system or plan, is entitled to have all credited service

1 transferred to the retirement system or plan applicable to the new position
2 in accordance with article 7 of this chapter.

3 B. A member who begins employment with a participating employer in
4 this plan and who has credited service from a different system or plan may
5 transfer the prior service to this plan in accordance with article 7 of this
6 chapter.

7 Sec. 19. Section 38-902, Arizona Revised Statutes, is amended to read:
8 38-902. Joinder agreement

9 A. County detention officers and nonuniformed employees of a sheriff's
10 department whose primary duties require direct contact with inmates may
11 participate in this plan if the board of supervisors of the county enters
12 into a joinder agreement with the fund manager to bring such employees into
13 this plan. The joinder agreement shall be in accordance with the provisions
14 of this plan. All such employees shall be designated for membership in the
15 joinder agreement unless written consent to the contrary is obtained from the
16 fund manager.

17 B. City or town detention officers may participate in this plan if the
18 governing body of the city or town enters into a joinder agreement with the
19 fund manager to bring its detention officers into this plan. The joinder
20 agreement shall be in accordance with the provisions of the plan. The
21 governing body of the city or town shall designate all detention officers for
22 membership in the plan unless written consent to the contrary is obtained
23 from the fund manager.

24 C. Full-time dispatchers may participate in this plan if the governing
25 body or agency of the employer of an eligible group as defined in section
26 38-842 enters into a joinder agreement with the fund manager to bring its
27 full-time dispatchers into this plan. The joinder agreement shall be in
28 accordance with the provisions of this plan. The governing body or agency of
29 the employer shall designate all full-time dispatchers for membership in the
30 plan unless written consent to the contrary is obtained from the fund
31 manager.

32 D. The new employer shall designate the groups of employees who are
33 eligible to participate in the plan and shall agree to make contributions
34 each year that are sufficient to meet both the normal cost of a level cost
35 method attributable to inclusion of its employees and the prescribed interest
36 on the past service cost for its employees.

37 E. Before the execution of any joinder agreement each employer
38 contemplating participation in the plan shall have an actuarial valuation
39 made, which is payable by the employer, to determine the estimated cost of
40 participation in accordance with section 38-894.

41 F. Assets under any existing public employee defined benefit
42 retirement program, except a military retirement program, that are necessary
43 to equal the actuarial present value of projected benefits TO THE EXTENT
44 FUNDED ON A MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL VALUATION
45 attributable to the employer's designated employee group, calculated using

1 the actuarial methods and assumptions adopted by the existing public employee
2 retirement program, shall be transferred from the program to this fund no
3 later than sixty days after the employer's effective date. That portion of
4 the transferred assets that is attributable to employee contributions,
5 including interest credits, shall be properly allocated to each affected
6 employee of the employer and credited to the employee's initial accumulated
7 contributions in accordance with a schedule furnished by the employer to the
8 fund manager.

9 Sec. 20. Section 38-908, Arizona Revised Statutes, is amended to read:

10 38-908. Transfer of credited service

11 A. A member who terminates employment with an employer and accepts a
12 position with the same or another employer participating in the plan shall
13 have the member's credited service transferred to the member's record with
14 the new employer provided the member leaves the member's accumulated
15 contributions on deposit with the fund. The period not employed shall not be
16 considered as service or credited service.

17 B. The new employer's account shall be credited with the member's
18 accumulated contributions plus the additional amount, if any, necessary to
19 equal the increase in the actuarial present value **TO THE EXTENT FUNDED ON A**
20 **MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL VALUATION** of projected
21 benefits resulting from the transfer calculated by the system's actuary using
22 the actuarial methods and assumptions adopted by the fund manager.

23 Sec. 21. Section 38-922, Arizona Revised Statutes, is amended to read:

24 38-922. Transfer or redemption of service credits

25 A. Service credits qualified in accordance with section 38-921 may be
26 transferred or redeemed in accordance with this section.

27 B. In the case of a member whose contributions remain on deposit with
28 the prior retirement system or plan, the following shall be calculated:

29 1. The prior system or plan shall calculate the amount equal to the
30 actuarial present value of a member's projected benefits **TO THE EXTENT FUNDED**
31 **ON A MARKET VALUE BASIS AS OF THE MOST RECENT ACTUARIAL VALUATION** under the
32 prior system or plan as calculated by that system's or plan's actuary using
33 the same actuarial method and assumptions used in calculating that system's
34 or plan's funding requirements based on the transferring member's service
35 credits at the time of transfer.

36 2. The system or plan to which the member is transferring shall
37 calculate the increase in the actuarial present value of the projected
38 benefits provided as a result of the transfer of the member's service
39 credits. This calculation shall be performed by that system's or plan's
40 actuary using the same actuarial method and assumptions used in calculating
41 that system's or plan's funding requirements based upon the transferring
42 member's service credits at the time of transfer.

43 C. In the event a member decides to transfer:

44 1. If the amount calculated in subsection B, paragraph 2 is greater
45 than the amount calculated in subsection B, paragraph 1:

1 (a) The prior system or plan shall transfer to the present system or
2 plan the greater of the amount calculated in subsection B, paragraph 1 or the
3 member's accumulated contribution account balance.

4 (b) If the amount transferred is less than the amount calculated under
5 subsection B, paragraph 2, the transferring member shall elect either to pay
6 the difference or to accept a reduced transfer of service credits. If the
7 member elects to pay the difference, the amount paid shall be added to the
8 member's accumulated contribution account balance. If the member elects to
9 accept a reduced transfer of service credits, the amount of service credits
10 transferred shall be equal to the amount of service credits used in making
11 the calculation under subsection B, paragraph 1 multiplied by the ratio of
12 the amount calculated under subsection B, paragraph 1 to the amount
13 calculated under subsection B, paragraph 2.

14 2. If the amount calculated in subsection B, paragraph 2 is less than
15 or equal to the amount calculated in subsection B, paragraph 1, the prior
16 system or plan shall transfer to the present system or plan the greater of
17 the amount calculated in subsection B, paragraph 2 or the member's
18 accumulated contribution account balance.

19 D. In the case of an applicant who has withdrawn his member
20 contributions from another prior system or plan of this state, the applicant
21 shall pay into the new system or plan to which he is transferring an amount
22 equal to the increase in the actuarial present value of the projected
23 benefits provided by the service credits being redeemed and this amount shall
24 be included in the member's current accumulated contribution account
25 balance. This calculation shall be performed by the actuary of the system or
26 plan to which the service credits are being transferred using the same
27 actuarial method and assumptions used in calculating that system's or plan's
28 funding requirements.

29 E. Service credits shall not be applied to the applicant's account
30 until such time as complete payment is made to the retirement system or plan
31 to which the applicant is transferring. On completion of the transfer
32 provided for in this article, the member's rights in the retirement system or
33 plan from which the member is transferring are extinguished.

34 Sec. 22. Title 38, chapter 5, article 7, Arizona Revised Statutes, is
35 amended by adding sections 38-923 and 38-924, to read:

36 38-923. Transfer of service credits between municipal
37 retirement systems and special retirement plans;
38 definitions

39 A. AN ACTIVE OR INACTIVE MEMBER OF A RETIREMENT SYSTEM OR PLAN OF A
40 MUNICIPALITY OF THIS STATE OR THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
41 WHO BECOMES A MEMBER OF ONE OR THE OTHER OF THESE RETIREMENT SYSTEMS OR PLANS
42 MAY TRANSFER SERVICE CREDITS FROM THE MEMBER'S PRIOR RETIREMENT SYSTEM OR
43 PLAN TO THE MEMBER'S CURRENT RETIREMENT SYSTEM OR PLAN PURSUANT TO SECTION
44 38-924 IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

1 1. THE BOARD OR FUND MANAGER GOVERNING THE RETIREMENT SYSTEM OR PLAN
2 FROM WHICH THE SERVICE CREDITS ARE BEING TRANSFERRED MUTUALLY AGREES WITH THE
3 BOARD OR FUND MANAGER GOVERNING THE RETIREMENT SYSTEM OR PLAN TO WHICH THE
4 SERVICE CREDITS ARE BEING TRANSFERRED REGARDING THE TERMS OF THE TRANSFER.

5 2. THE TRANSFER DOES NOT CAUSE EITHER THE RETIREMENT SYSTEM OR PLAN TO
6 WHICH THE TRANSFER IS MADE OR THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE
7 TRANSFER IS MADE TO INCUR ANY UNFUNDED ACCRUED LIABILITIES AS A RESULT OF THE
8 TRANSFER.

9 3. THE MEMBER INITIATES THE TRANSFER BY MAKING WRITTEN APPLICATION TO
10 THE GOVERNING BOARD OR FUND MANAGER OF THE RETIREMENT SYSTEM OR PLAN TO WHICH
11 THE MEMBER IS CONTRIBUTING.

12 B. AN ACTIVE OR INACTIVE MEMBER OF A RETIREMENT SYSTEM OR PLAN OF A
13 MUNICIPALITY OF THIS STATE OR THE CORRECTIONS OFFICER RETIREMENT PLAN WHO
14 BECOMES A MEMBER OF ONE OR THE OTHER OF THESE RETIREMENT SYSTEMS OR PLANS MAY
15 TRANSFER SERVICE CREDITS FROM THE MEMBER'S PRIOR RETIREMENT SYSTEM OR PLAN TO
16 THE MEMBER'S CURRENT RETIREMENT SYSTEM OR PLAN PURSUANT TO SECTION 38-924 IF
17 ALL OF THE FOLLOWING CONDITIONS ARE MET:

18 1. THE BOARD OR FUND MANAGER GOVERNING THE RETIREMENT SYSTEM OR PLAN
19 FROM WHICH THE SERVICE CREDITS ARE BEING TRANSFERRED MUTUALLY AGREES WITH THE
20 BOARD OR FUND MANAGER GOVERNING THE RETIREMENT SYSTEM OR PLAN TO WHICH THE
21 SERVICE CREDITS ARE BEING TRANSFERRED REGARDING THE TERMS OF THE TRANSFER.

22 2. THE TRANSFER DOES NOT CAUSE EITHER THE RETIREMENT SYSTEM OR PLAN TO
23 WHICH THE TRANSFER IS MADE OR THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE
24 TRANSFER IS MADE TO INCUR ANY UNFUNDED ACCRUED LIABILITIES AS A RESULT OF THE
25 TRANSFER.

26 3. THE MEMBER INITIATES THE TRANSFER BY MAKING WRITTEN APPLICATION TO
27 THE GOVERNING BOARD OR FUND MANAGER OF THE RETIREMENT SYSTEM OR PLAN TO WHICH
28 THE MEMBER IS CONTRIBUTING.

29 C. FOR THE PURPOSES OF THIS SECTION:

30 1. "ACTIVE MEMBER" MEANS A MEMBER WHO SATISFIES THE ELIGIBILITY
31 CRITERIA OF THE RETIREMENT SYSTEM OR PLAN AND WHO IS CURRENTLY MAKING MEMBER
32 CONTRIBUTIONS TO OR RECEIVING CREDITED SERVICE FROM THE RETIREMENT SYSTEM OR
33 PLAN.

34 2. "INACTIVE MEMBER" MEANS A MEMBER OF THE RETIREMENT SYSTEM OR PLAN
35 WHO PREVIOUSLY MADE CONTRIBUTIONS TO THE RETIREMENT SYSTEM OR PLAN AND WHO
36 SATISFIES EACH OF THE FOLLOWING:

37 (a) HAS NOT RETIRED.

38 (b) IS NOT ELIGIBLE FOR ACTIVE MEMBERSHIP IN THE RETIREMENT SYSTEM OR
39 PLAN.

40 (c) IS NOT CURRENTLY MAKING CONTRIBUTIONS TO THE RETIREMENT SYSTEM OR
41 PLAN.

42 (d) HAS NOT WITHDRAWN CONTRIBUTIONS FROM THE RETIREMENT SYSTEM OR
43 PLAN.

44 3. "MUNICIPALITY" MEANS A CITY IN THIS STATE WITH A POPULATION OF MORE
45 THAN FIVE HUNDRED THOUSAND PERSONS.

1 38-924. Transfer of service credits

2 A. SERVICE CREDITS QUALIFIED PURSUANT TO SECTION 38-923 MAY BE
3 TRANSFERRED PURSUANT TO THIS SECTION.

4 B. IN THE CASE OF A MEMBER WHOSE CONTRIBUTIONS REMAIN ON DEPOSIT WITH
5 THE PRIOR RETIREMENT SYSTEM OR PLAN, THE FOLLOWING SHALL OCCUR:

6 1. THE PRIOR SYSTEM OR PLAN SHALL DETERMINE THE AMOUNT OF THE MEMBER'S
7 ACCUMULATED CONTRIBUTION ACCOUNT BALANCE UNDER THE PRIOR SYSTEM OR PLAN PLUS
8 ACCUMULATED INTEREST AS DETERMINED BY THE GOVERNING BODY OF THE SYSTEM OR
9 PLAN.

10 2. THE SYSTEM OR PLAN TO WHICH THE MEMBER IS TRANSFERRING SHALL
11 CALCULATE ANY INCREASE IN THE ACTUARIAL PRESENT VALUE OF THE PROJECTED
12 BENEFITS PROVIDED AS A RESULT OF THE TRANSFER OF THE MEMBER'S SERVICE
13 CREDITS. THE ACTUARY OF THE SYSTEM OR PLAN TO WHICH THE SERVICE CREDITS ARE
14 BEING TRANSFERRED SHALL PERFORM THIS CALCULATION USING THE ACTUARIAL METHOD
15 AND ASSUMPTIONS RECOMMENDED BY THE ACTUARY AND ADOPTED BY THE GOVERNING BODY
16 OF THE RETIREMENT SYSTEM OR PLAN.

17 C. IF A MEMBER DECIDES TO TRANSFER:

18 1. THE PRIOR SYSTEM OR PLAN SHALL TRANSFER TO THE PRESENT SYSTEM OR
19 PLAN THE AMOUNT DETERMINED PURSUANT TO SUBSECTION B, PARAGRAPH 1 OF THIS
20 SECTION. IF THE AMOUNT CALCULATED IN SUBSECTION B, PARAGRAPH 2 OF THIS
21 SECTION IS GREATER THAN THE AMOUNT DETERMINED IN SUBSECTION B, PARAGRAPH 1 OF
22 THIS SECTION, THE TRANSFERRING MEMBER SHALL EITHER ELECT TO PAY THE
23 DIFFERENCE IN ORDER TO RECEIVE ALL SERVICE CREDITS EARNED UNDER THE PRIOR
24 SYSTEM OR PLAN OR TO ACCEPT A REDUCED TRANSFER OF SERVICE CREDITS. IF THE
25 MEMBER ELECTS TO PAY THE DIFFERENCE, THE AMOUNT PAID SHALL BE ADDED TO THE
26 MEMBER'S ACCUMULATED CONTRIBUTION ACCOUNT BALANCE. IF THE MEMBER ELECTS TO
27 ACCEPT A REDUCED TRANSFER OF SERVICE CREDITS, THE AMOUNT OF SERVICE CREDITS
28 TRANSFERRED SHALL BE EQUAL TO THE AMOUNT OF SERVICE CREDITS EARNED UNDER THE
29 PRIOR SYSTEM OR PLAN CORRESPONDING TO THE AMOUNT DETERMINED UNDER SUBSECTION
30 B, PARAGRAPH 1 OF THIS SECTION MULTIPLIED BY THE RATIO OF THE AMOUNT
31 CALCULATED UNDER SUBSECTION B, PARAGRAPH 1 OF THIS SECTION TO THE AMOUNT
32 CALCULATED UNDER SUBSECTION B, PARAGRAPH 2 OF THIS SECTION.

33 2. IF THE AMOUNT CALCULATED IN SUBSECTION B, PARAGRAPH 2 OF THIS
34 SECTION IS LESS THAN OR EQUAL TO THE AMOUNT DETERMINED IN SUBSECTION B,
35 PARAGRAPH 1 OF THIS SECTION, THE CURRENT SYSTEM OR PLAN SHALL CREDIT THE
36 MEMBER WITH SERVICE CREDITS UNDER THE CURRENT SYSTEM OR PLAN EQUAL TO THE
37 SERVICE CREDIT EARNED UNDER THE PRIOR SYSTEM OR PLAN CORRESPONDING TO THE
38 AMOUNT DETERMINED UNDER SUBSECTION B, PARAGRAPH 1 OF THIS SECTION.

39 D. THE RETIREMENT SYSTEM OR PLAN SHALL NOT APPLY SERVICE CREDITS TO
40 THE APPLICANT'S ACCOUNT UNTIL SUCH TIME AS COMPLETE PAYMENT IS MADE TO THE
41 RETIREMENT SYSTEM OR PLAN TO WHICH THE APPLICANT IS TRANSFERRING. ON
42 COMPLETION OF THE TRANSFER PROVIDED FOR IN THIS ARTICLE, THE MEMBER'S RIGHTS
43 IN THE RETIREMENT SYSTEM OR PLAN FROM WHICH THE MEMBER IS TRANSFERRING ARE
44 EXTINGUISHED.

1 Sec. 23. Conditional enactment

2 Section 38-881, Arizona Revised Statutes, as amended by Laws 2005,
3 chapter 324, section 1 and section 14 of this act, becomes effective on the
4 date prescribed in Laws 2005, chapter 324, section 2 but only on the
5 occurrence of the condition prescribed by Laws 2005, chapter 324, section 2.