

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SENATE BILL 1013

AN ACT

AMENDING SECTIONS 12-119, 23-392, 23-901, 28-3513, 38-842, 38-847 AND 41-790, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-794 AND 41-795, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-796, 41-1304, 41-1304.05 AND 41-1713, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1725; RELATING TO CAPITOL POLICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 12-119, Arizona Revised Statutes, is amended to
3 read:

4 12-119. Facilities management

5 The supreme court may obtain OPERATIONAL AND MAINTENANCE ASSISTANCE
6 from the department of administration ~~operational, maintenance~~ and security
7 assistance FROM THE DEPARTMENT OF PUBLIC SAFETY for any supreme court
8 facility or may employ personnel or contract for outside services for the
9 operation, maintenance and security of such facility. The supreme court and
10 division one of the court of appeals shall be housed in the Arizona courts
11 building. FOR THE PURPOSES OF THIS SECTION, SECURITY DOES NOT MEAN SECURITY
12 SERVICES RELATED TO BUILDING OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY
13 THE DEPARTMENT OF ADMINISTRATION.

14 Sec. 2. Section 23-392, Arizona Revised Statutes, is amended to read:

15 23-392. Overtime compensation for certain law enforcement or
16 probation officer activities; option; definitions

17 A. Any person engaged in law enforcement activities shall be
18 compensated for each hour worked in excess of forty hours in one work week at
19 the option of such employer at the following rates:

20 1. One and one-half times the regular rate at which such person is
21 employed or one and one-half hours of compensatory time off for each hour
22 worked if by the person's job classification overtime compensation is
23 mandated by federal law.

24 2. If by the person's job classification federal law does not mandate
25 overtime compensation, the person shall receive the regular rate of pay or
26 compensatory leave on an hour for hour basis.

27 B. Any person engaged in probation officer activities shall be
28 compensated for each hour worked in excess of eighty hours in a two week work
29 period at the option of such employer at the following rates:

30 1. One and one-half times the regular rate at which such person is
31 employed or one and one-half hours of compensatory time off for each hour
32 worked if by the person's job classification overtime compensation is
33 mandated by federal law.

34 2. If by the person's job classification federal law does not mandate
35 overtime compensation, the person shall receive the regular rate of pay or
36 compensatory leave on an hour for hour basis.

37 C. Paid leave may be considered hours worked for the purpose of
38 calculating overtime.

39 D. The director of the department of public safety may establish
40 alternate work periods, in accordance with federal law, for the purpose of
41 determining overtime compensation for those employees of the air rescue
42 section of the department of public safety.

43 E. Notwithstanding subsection C of this section, an alternate work
44 period established by the director of the department of public safety for the

1 purpose of determining overtime compensation shall not exceed twenty-eight
2 days or one hundred sixty hours.

3 F. For the purposes of this section:

4 1. "Person engaged in law enforcement activities":

5 (a) Means:

6 (i) A law enforcement officer as defined by section 38-1001.

7 (ii) A peace officer as defined by section 41-1701.

8 (iii) Any security personnel responsible for controlling or
9 maintaining custody of inmates in correctional institutions maintained by
10 this state or a county, city or town.

11 ~~(iv) A capitol police officer employed pursuant to section 41-794,~~
12 ~~subsection A.~~

13 (b) Does not include any such person employed in a bona fide executive
14 or administrative capacity as defined by the employer.

15 2. "Person engaged in probation officer activities":

16 (a) Means a probation officer or surveillance officer who is appointed
17 pursuant to section 8-203, 12-251 or 12-259.

18 (b) Does not include any such person employed in a bona fide executive
19 or administrative capacity as defined by the employer.

20 Sec. 3. Section 23-901, Arizona Revised Statutes, is amended to read:

21 23-901. Definitions

22 In this chapter, unless the context otherwise requires:

23 1. "Award" means the finding or decision of an administrative law
24 judge or the commission as to the amount of compensation or benefit due an
25 injured employee or the dependents of a deceased employee.

26 2. "Client" means an individual, association, company, firm,
27 partnership, corporation or any other legally recognized entity that is
28 subject to this chapter and that enters into a professional employer
29 agreement with a professional employer organization.

30 3. "Co-employee" means every person employed by an injured employee's
31 employer.

32 4. "Commission" means the industrial commission of Arizona.

33 5. "Compensation" means the compensation and benefits provided by this
34 chapter.

35 6. "Employee", "workman", "worker" and "operative" means:

36 (a) Every person in the service of the state or a county, city, town,
37 municipal corporation or school district, including regular members of
38 lawfully constituted police and fire departments of cities and towns, whether
39 by election, appointment or contract of hire.

40 (b) Every person in the service of any employer subject to this
41 chapter, including aliens and minors legally or illegally permitted to work
42 for hire, but not including a person whose employment is both:

43 (i) Casual.

44 (ii) Not in the usual course of the trade, business or occupation of
45 the employer.

1 (c) Lessees of mining property and their employees and contractors
2 engaged in the performance of work which is a part of the business conducted
3 by the lessor and over which the lessor retains supervision or control are
4 within the meaning of this paragraph employees of the lessor, and are deemed
5 to be drawing wages as are usually paid employees for similar work. The
6 lessor may deduct from the proceeds of ores mined by the lessees the premium
7 required by this chapter to be paid for such employees.

8 (d) Regular members of volunteer fire departments organized pursuant
9 to title 48, chapter 5, article 1, regular firemen of any volunteer fire
10 department, including private fire protection service organizations,
11 organized pursuant to title 10, chapters 24 through 40, volunteer firemen
12 serving as members of a fire department of any incorporated city or town or
13 an unincorporated area without pay or without full pay and on a part-time
14 basis, and voluntary policemen and volunteer firemen serving in any
15 incorporated city, town or unincorporated area without pay or without full
16 pay and on a part-time basis, are deemed to be employees, but for the
17 purposes of this chapter, the basis for computing wages for premium payments
18 and compensation benefits for regular members of volunteer fire departments
19 organized pursuant to title 48, chapter 5, article 1, or organized pursuant
20 to title 10, chapters 24 through 40, regular members of any private fire
21 protection service organization, volunteer firemen and volunteer policemen of
22 these departments or organizations shall be the salary equal to the beginning
23 salary of the same rank or grade in the full-time service with the city,
24 town, volunteer fire department or private fire protection service
25 organization, provided if there is no full-time equivalent then the salary
26 equivalent shall be as determined by resolution of the governing body of the
27 city, town or volunteer fire department or corporation.

28 (e) Members of the department of public safety reserve, organized
29 pursuant to section 41-1715, are deemed to be employees. For the purposes of
30 this chapter, the basis for computing wages for premium payments and
31 compensation benefits for a member of the department of public safety reserve
32 who is a peace officer shall be the salary received by officers of the
33 department of public safety for their first month of regular duty as an
34 officer. For members of the department of public safety reserve who are not
35 peace officers, the basis for computing premiums and compensation benefits is
36 four hundred dollars a month.

37 (f) Any person placed in on-the-job evaluation or in on-the-job
38 training under the department of economic security's temporary assistance for
39 needy families program or vocational rehabilitation program shall be deemed
40 to be an employee of the department for the purpose of coverage under the
41 state workers' compensation laws only. The basis for computing premium
42 payments and compensation benefits shall be two hundred dollars per month.
43 Any person receiving vocational rehabilitation services under the department
44 of economic security's vocational rehabilitation program whose major
45 evaluation or training activity is academic, whether as an enrolled attending

1 student or by correspondence, or who is confined to a hospital or penal
2 institution, shall not be deemed to be an employee of the department for any
3 purpose. Any dividend which the department's vocational rehabilitation
4 program may be entitled to receive from the state compensation fund because
5 of a favorable loss experience for any policy period shall not revert to the
6 state general fund but shall be applied to the department's current premium
7 obligations for workers' compensation coverage for such program.

8 (g) Regular members of a volunteer sheriff's reserve, which may be
9 established by resolution of the county board of supervisors, to assist the
10 sheriff in the performance of the sheriff's official duties. A roster of the
11 current members shall monthly be certified to the clerk of the board of
12 supervisors by the sheriff and shall not exceed the maximum number authorized
13 by the board. Certified members of an authorized volunteer sheriff's reserve
14 shall be deemed to be employees of the county for the purpose of coverage
15 under the Arizona workers' compensation laws and occupational disease
16 disability laws and shall be entitled to receive the benefits of these laws
17 for any compensable injuries or disabling conditions which arise out of and
18 occur in the course of the performance of duties authorized and directed by
19 the sheriff. Compensation benefits and premium payments shall be based upon
20 the salary received by a regular full-time deputy sheriff of the county
21 involved for the first month of regular patrol duty as an officer for each
22 certified member of a volunteer sheriff's reserve. This subdivision shall
23 not be construed to provide compensation coverage for any member of a
24 sheriff's posse who is not a certified member of an authorized volunteer
25 sheriff's reserve except as a participant in a search and rescue mission or a
26 search and rescue training mission.

27 (h) A working member of a partnership may be deemed to be an employee
28 entitled to the benefits provided by this chapter upon written acceptance, by
29 endorsement, at the discretion of the insurance carrier for the partnership
30 of an application for coverage by the working partner. The basis for
31 computing premium payments and compensation benefits for the working partner
32 shall be an assumed average monthly wage of not less than six hundred dollars
33 nor more than the maximum wage provided in section 23-1041 and is subject to
34 the discretionary approval of the insurance carrier. Any compensation for
35 permanent partial or permanent total disability payable to the partner shall
36 be computed on the lesser of the assumed monthly wage agreed to by the
37 insurance carrier on the acceptance of the application for coverage or the
38 actual average monthly wage received by the partner at the time of injury.

39 (i) The sole proprietor of a business subject to this chapter may be
40 deemed to be an employee entitled to the benefits provided by this chapter on
41 written acceptance, by endorsement, at the discretion of the insurance
42 carrier of an application for coverage by the sole proprietor. The basis for
43 computing premium payments and compensation benefits for the sole proprietor
44 shall be an assumed average monthly wage of not less than six hundred dollars
45 nor more than the maximum wage provided by section 23-1041 and is subject to

1 the discretionary approval of the insurance carrier. Any compensation for
2 permanent partial or permanent total disability payable to the sole
3 proprietor shall be computed on the lesser of the assumed monthly wage agreed
4 to by the insurance carrier on the acceptance of the application for coverage
5 or the actual average monthly wage received by the sole proprietor at the
6 time of injury.

7 (j) A member of the Arizona national guard, Arizona state guard or
8 unorganized militia shall be deemed a state employee and entitled to coverage
9 under the Arizona workers' compensation law at all times while the member is
10 receiving the payment of the member's military salary from the state of
11 Arizona under competent military orders or upon order of the governor.
12 Compensation benefits shall be based upon the monthly military pay rate to
13 which the member is entitled at the time of injury, but not less than a
14 salary of four hundred dollars per month, nor more than the maximum provided
15 by the workers' compensation law. No Arizona compensation benefits shall
16 inure to a member compensable under federal law.

17 (k) Certified ambulance drivers and attendants who serve without pay
18 or without full pay on a part-time basis are deemed to be employees and
19 entitled to the benefits provided by this chapter and the basis for computing
20 wages for premium payments and compensation benefits for certified ambulance
21 personnel shall be four hundred dollars per month.

22 (l) Volunteer workers of a licensed health care institution may be
23 deemed to be employees and entitled to the benefits provided by this chapter
24 upon written acceptance by the insurance carrier of an application by the
25 health care institution for coverage of such volunteers. The basis for
26 computing wages for premium payments and compensation benefits for volunteers
27 shall be four hundred dollars per month.

28 (m) Personnel who participate in a search or rescue operation or a
29 search or rescue training operation that carries a mission identifier
30 assigned by the division of emergency management as provided in section
31 35-192.01 and who serve without compensation as volunteer state employees.
32 The basis for computation of wages for premium purposes and compensation
33 benefits is the total volunteer man-hours recorded by the division of
34 emergency management in a given quarter multiplied by the amount determined
35 by the appropriate risk management formula.

36 (n) Personnel who participate in emergency management training,
37 exercises or drills that are duly enrolled or registered with the division of
38 emergency management or any political subdivision as provided in section
39 26-314, subsection C and who serve without compensation as volunteer state
40 employees. The basis for computation of wages for premium purposes and
41 compensation benefits is the total volunteer man-hours recorded by the
42 division of emergency management or political subdivision during a given
43 training session, exercise or drill multiplied by the amount determined by
44 the appropriate risk management formula.

1 (o) Regular members of the Arizona game and fish department reserve,
2 organized pursuant to section 17-214. The basis for computing wages for
3 premium payments and compensation benefits for a member of the reserve is the
4 salary received by game rangers and wildlife managers of the Arizona game and
5 fish department for their first month of regular duty.

6 (p) Every person employed pursuant to a professional employer
7 agreement.

8 ~~(q) Members of the department of administration capitol police~~
9 ~~reserve, organized pursuant to section 41-794, are deemed to be employees.~~
10 ~~For the purposes of this chapter, the basis for computing wages for premium~~
11 ~~payments and compensation benefits for a member of the department of~~
12 ~~administration capitol police reserve who is a peace officer shall be the~~
13 ~~salary received by officers of the department of administration for their~~
14 ~~first month of regular duty as an officer.~~

15 7. "General order" means an order applied generally throughout the
16 state to all persons under jurisdiction of the commission.

17 8. "Heart-related or perivascular injury, illness or death" means
18 myocardial infarction, coronary thrombosis or any other similar sudden,
19 violent or acute process involving the heart or perivascular system, or any
20 death resulting therefrom, and any weakness, disease or other condition of
21 the heart or perivascular system, or any death resulting therefrom.

22 9. "Insurance carrier" means the state compensation fund and every
23 insurance carrier duly authorized by the director of insurance to write
24 workers' compensation or occupational disease compensation insurance in the
25 state of Arizona.

26 10. "Interested party" means the employer, the employee, or if the
27 employee is deceased, the employee's estate, the surviving spouse or
28 dependents, the commission, the insurance carrier or their representative.

29 11. "Mental injury, illness or condition" means any mental, emotional,
30 psychotic or neurotic injury, illness or condition.

31 12. "Order" means and includes any rule, direction, requirement,
32 standard, determination or decision other than an award or a directive by the
33 commission or an administrative law judge relative to any entitlement to
34 compensation benefits, or to the amount thereof, and any procedural ruling
35 relative to the processing or adjudicating of a compensation matter.

36 13. "Personal injury by accident arising out of and in the course of
37 employment" means any of the following:

38 (a) Personal injury by accident arising out of and in the course of
39 employment.

40 (b) An injury caused by the wilful act of a third person directed
41 against an employee because of the employee's employment, but does not
42 include a disease unless resulting from the injury.

43 (c) An occupational disease which is due to causes and conditions
44 characteristic of and peculiar to a particular trade, occupation, process or

1 employment, and not the ordinary diseases to which the general public is
2 exposed, and subject to section 23-901.01.

3 14. "Professional employer agreement" means a written contract between
4 a client and a professional employer organization:

5 (a) In which the professional employer organization expressly agrees
6 to co-employ all or a majority of the employees providing services for the
7 client. In determining whether the professional employer organization
8 employs all or a majority of the employees of a client, any person employed
9 pursuant to the terms of the professional employer agreement after the
10 initial placement of client employees on the payroll of the professional
11 employer organization shall be included.

12 (b) That is intended to be ongoing rather than temporary in nature.

13 (c) In which employer responsibilities for worksite employees,
14 including hiring, firing and disciplining, are expressly allocated between
15 the professional employer organization and the client in the agreement.

16 15. "Professional employer organization" means any person engaged in
17 the business of providing professional employer services. Professional
18 employer organization does not include a temporary help firm or an employment
19 agency.

20 16. "Professional employer services" means the service of entering into
21 co-employment relationships under this chapter to which all or a majority of
22 the employees providing services to a client or to a division or work unit of
23 a client are covered employees.

24 17. "Special order" means an order other than a general order.

25 18. "State compensation fund" includes the state compensation fund,
26 accident benefit fund and occupational disease compensation fund in existence
27 on January 2, 1969 and shall thereafter include all funds under the
28 jurisdiction of the board of directors of the state compensation fund which
29 have been derived from the assessment of premiums, interest, penalties and
30 investment earnings for the payment of all workers' compensation and
31 occupational disease compensation benefits.

32 19. "Weakness, disease or other condition of the heart or perivascular
33 system" means arteriosclerotic heart disease, cerebral vascular disease,
34 peripheral vascular disease, cardiovascular disease, angina pectoris,
35 congestive heart trouble, coronary insufficiency, ischemia and all other
36 similar weaknesses, diseases and conditions, and also previous episodes or
37 instances of myocardial infarction, coronary thrombosis or any similar
38 sudden, violent or acute process involving the heart or perivascular system.

39 20. "Workers' compensation" means workmen's compensation as used in
40 article XVIII, section 8, Constitution of Arizona.

41 Sec. 4. Section 28-3513, Arizona Revised Statutes, is amended to read:

42 28-3513. Administrative charges

43 A. The immobilizing or impounding agency shall establish procedures
44 for immobilization hearings or poststorage hearings, for the release of
45 properly immobilized or impounded vehicles and for imposition of a charge for

1 administrative costs relating to the removal, immobilization, impoundment,
2 storage or release of a vehicle. The immobilizing or impounding agency may
3 waive the administrative charges.

4 B. The administrative charges established pursuant to this section
5 shall not exceed one hundred fifty dollars and shall not be charged to a
6 towing company that performs removal, immobilization, impoundment, storage or
7 release of the vehicle.

8 C. The immobilizing or impounding agency shall collect any
9 administrative charges at the time of the release of the vehicle unless the
10 vehicle is stolen and the theft was reported to the appropriate law
11 enforcement agency. If the vehicle is stolen and the theft was reported to
12 the appropriate law enforcement agency, the operator of the vehicle at the
13 time of immobilization or impoundment is responsible for all towing,
14 immobilization, storage and administrative charges.

15 D. The administrative charges established pursuant to this section are
16 in addition to any other immobilization, impoundment or storage charges.

17 E. A justice court providing an immobilization or poststorage hearing
18 may collect a fee equal to the fee established pursuant to section 22-281 for
19 a small claims answer.

20 F. If the immobilizing or impounding agency is:

21 1. A municipality, the administrative charges collected pursuant to
22 this section shall be transmitted to the city treasurer for deposit in a
23 special fund established by the municipality for the purpose of implementing
24 section 28-872 and this article.

25 2. A county, the administrative charges collected pursuant to this
26 section shall be transmitted to the county treasurer for deposit in a special
27 fund established by the county for the purpose of implementing section 28-872
28 and this article.

29 3. The department of public safety, the administrative charges
30 collected pursuant to this section shall be deposited, pursuant to sections
31 35-146 and 35-147, in the Arizona highway patrol fund established by section
32 41-1752.

33 4. The capitol police, the administrative charges collected pursuant
34 to this section shall be deposited, pursuant to sections 35-146 and 35-147,
35 in the capitol police administrative towing fund established by section
36 ~~41-795~~ 41-1725.

37 Sec. 5. Section 38-842, Arizona Revised Statutes, is amended to read:
38 38-842. Definitions

39 In this article, unless the context otherwise requires:

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

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

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

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

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

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

16 7. "Average monthly benefit compensation" means the result obtained by
17 dividing the total compensation paid to an employee during a considered
18 period by the number of months, including fractional months, in which such
19 compensation was received. The considered period shall be the three
20 consecutive years within the last twenty completed years of credited service
21 that yield the highest average. In the computation under this paragraph, a
22 period of nonpaid or partially paid industrial leave shall be considered
23 based on the compensation the employee would have received in the employee's
24 job classification if the employee was not on industrial leave.

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

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

31 10. "Certified peace officer" means a peace officer certified by the
32 Arizona peace officers standards and training board.

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

35 12. "Compensation" means, for the purpose of computing retirement
36 benefits, base salary, overtime pay, shift differential pay, military
37 differential wage pay and holiday pay paid to an employee by the employer on
38 a regular monthly, semimonthly or biweekly payroll basis and longevity pay
39 paid to an employee at least every six months for which contributions are
40 made to the system pursuant to section 38-843, subsection D. Compensation
41 does not include, for the purpose of computing retirement benefits, payment
42 for unused sick leave, payment in lieu of vacation, payment for compensatory
43 time or payment for any fringe benefits. In addition, compensation does not
44 include, for the purpose of computing retirement benefits, payments made
45 directly or indirectly by the employer to the employee for work performed for

1 a third party on a contracted basis or any other type of agreement under
2 which the third party pays or reimburses the employer for the work performed
3 by the employee for that third party, except for third party contracts
4 between public agencies for law enforcement, criminal, traffic and crime
5 suppression activities training **OR FIRE**, wildfire, emergency medical or
6 emergency management activities or where the employer supervises the
7 employee's performance of law enforcement, criminal, traffic and crime
8 suppression activities, ~~training,~~ **OR** fire, wildfire, emergency medical or
9 emergency management ~~services~~ **ACTIVITIES**. For the purposes of this
10 paragraph, "base salary" means the amount of compensation each employee is
11 regularly paid for personal services rendered to an employer before the
12 addition of any extra monies, including overtime pay, shift differential pay,
13 holiday pay, longevity pay, fringe benefit pay and similar extra payments.

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

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

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

26 16. "Determination" means a written document that indicates to a
27 participant and alternate payee whether a domestic relations order qualifies
28 as a plan approved domestic relations order.

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

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

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

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

1 21. "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 22. "Effective date of vesting" means the date a member's rights to
6 benefits vest pursuant to section 38-844.01.

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

9 (a) Is under eighteen years of age.

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

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

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

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

18 (b) Municipal fire fighters.

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

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

24 (e) State fire fighters.

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

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

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

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

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

37 (k) State attorney general investigators who are certified peace
38 officers.

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

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

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

44 ~~(o) Police officers who are certified peace officers and who are~~
45 ~~appointed by the department of administration.~~

- 1 ~~(p)~~ (o) Department of liquor licenses and control investigators who
2 are certified peace officers.
- 3 ~~(q)~~ (p) Arizona department of agriculture officers who are certified
4 peace officers.
- 5 ~~(r)~~ (q) Arizona state parks board rangers and managers who are
6 certified peace officers.
- 7 ~~(s)~~ (r) County park rangers who are certified peace officers.
- 8 25. "Eligible retirement plan" means any of the following that accepts
9 a distributee's eligible rollover distribution:
- 10 (a) An individual retirement account described in section 408(a) of
11 the internal revenue code.
- 12 (b) An individual retirement annuity described in section 408(b) of
13 the internal revenue code.
- 14 (c) An annuity plan described in section 403(a) of the internal
15 revenue code.
- 16 (d) A qualified trust described in section 401(a) of the internal
17 revenue code.
- 18 (e) An annuity contract described in section 403(b) of the internal
19 revenue code.
- 20 (f) An eligible deferred compensation plan described in section 457(b)
21 of the internal revenue code that is maintained by a state, a political
22 subdivision of a state or any agency or instrumentality of a state or a
23 political subdivision of a state and that agrees to separately account for
24 amounts transferred into the eligible deferred compensation plan from this
25 plan.
- 26 26. "Eligible rollover distribution" means a payment to a distributee,
27 but does not include any of the following:
- 28 (a) Any distribution that is one of a series of substantially equal
29 periodic payments made not less frequently than annually for the life or life
30 expectancy of the member or the joint lives or joint life expectancies of the
31 member and the member's beneficiary or for a specified period of ten years or
32 more.
- 33 (b) Any distribution to the extent the distribution is required under
34 section 401(a)(9) of the internal revenue code.
- 35 (c) The portion of any distribution that is not includable in gross
36 income.
- 37 27. "Employee" means any person who is employed by a participating
38 employer and who is a member of an eligible group but does not include any
39 persons compensated on a contractual or fee basis. If an eligible group
40 requires certified peace officer status and at the option of the local board,
41 employee may include a person who is training to become a certified peace
42 officer.
- 43 28. "Employers" means:

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

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

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

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

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

19 29. "Fund" means the public safety personnel retirement fund, which is
20 the fund established to receive and invest contributions accumulated

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

24 31. "Member" means any full-time employee who meets all of the
25 following qualifications:

26 (a) Who is either a paid municipal police officer, a paid fire
27 fighter, a law enforcement officer who is employed by this state including
28 the director thereof, a state fire fighter who is primarily assigned to fire
29 fighting duties, a fire fighter or police officer of a nonprofit corporation
30 operating a public airport pursuant to sections 28-8423 and 28-8424, all
31 ranks designated by the Arizona law enforcement merit system council, a state
32 attorney general investigator who is a certified peace officer, a county
33 attorney investigator who is a certified peace officer, ~~a police officer who
34 is appointed by the department of administration and who is a certified peace
35 officer,~~ a department of liquor licenses and control investigator who is a
36 certified peace officer, an Arizona department of agriculture officer who is
37 a certified peace officer, an Arizona state parks board ranger or manager who
38 is a certified peace officer, a county park ranger who is a certified peace
39 officer, a person who is a certified peace officer and who is employed by an
40 Indian reservation police agency, a fire fighter who is employed by an Indian
41 reservation fire fighting agency or an employee included in a group
42 designated as eligible employees under a joinder agreement entered into by
43 their employer after July 1, 1968 and who is or was regularly assigned to
44 hazardous duty.

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

4 (c) Whose customary employment is at least forty hours per week or,
5 for those employees who customarily work fluctuating work weeks, whose
6 customary employment averages at least forty hours per week.

7 (d) Who is engaged to work for more than six months in a calendar
8 year.

9 (e) Who, if economic conditions exist, is required to take furlough
10 days or reduce the hours of ~~their~~ THE EMPLOYEE'S normal work week below forty
11 hours but not less than thirty hours per pay cycle, and maintain ~~their~~ THE
12 EMPLOYEE'S active member status within the system as long as the hour change
13 does not extend beyond twelve consecutive months.

14 (f) Who has not attained age sixty-five before the employee's
15 effective date of participation or who was over age sixty-five with
16 twenty-five years or more of service prior to the employee's effective date
17 of participation.

18 32. "Normal retirement date" means the first day of the calendar month
19 immediately following an employee's completion of twenty years of service or
20 the employee's sixty-second birthday and the employee's completion of fifteen
21 years of service.

22 33. "Notice of receipt" means a written document that is issued by the
23 system to a participant and alternate payee and that states that the system
24 has received a domestic relations order and a request for a determination
25 that the domestic relations order is a plan approved domestic relations
26 order.

27 34. "Ordinary disability" means a physical condition that the local
28 board determines will prevent an employee totally and permanently from
29 performing a reasonable range of duties within the employee's department or a
30 mental condition that the local board determines will prevent an employee
31 totally and permanently from engaging in any substantial gainful activity.

32 35. "Participant" means a member who is subject to a domestic relations
33 order.

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

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

39 38. "Personal representative" means the personal representative of a
40 deceased alternate payee.

41 39. "Plan approved domestic relations order" means a domestic relations
42 order that the system approves as meeting all the requirements for a plan
43 approved domestic relations order as otherwise prescribed in this article.

44 40. "Regularly assigned to hazardous duty" means regularly assigned to
45 duties of the type normally expected of municipal police officers, municipal

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

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

28 42. "Segregated funds" means the amount of benefits that would
29 currently be payable to an alternate payee pursuant to a domestic relations
30 order under review by the system, or a domestic relations order submitted to
31 the system that failed to qualify as a plan approved domestic relations
32 order, if the domestic relations order were determined to be a plan approved
33 domestic relations order.

34 43. "Service" means the last period of continuous employment of an
35 employee by the employers before the employee's retirement, except that if
36 such period includes employment during which the employee would not have
37 qualified as a member had the system then been effective, such as employment
38 as a volunteer fire fighter, then only twenty-five per cent of such
39 noncovered employment shall be considered as service. Any absence that is
40 authorized by an employer shall not be considered as interrupting continuity
41 of employment if the employee returns within the period of authorized
42 absence. Transfers between employers also shall not be considered as
43 interrupting continuity of employment. Any period during which a member is
44 receiving sick leave payments or a temporary disability pension shall be
45 considered as service. Notwithstanding any other provision of this

1 paragraph, any period during which a person was employed as a full-time paid
2 fire fighter for a corporation that contracted with an employer to provide
3 firefighting services on behalf of the employer shall be considered as
4 service if the employer has elected at its option to treat part or all of the
5 period the firefighter worked for the company as service in its applicable
6 joinder agreement. Any reference in this system to the number of years of
7 service of an employee shall be deemed to include fractional portions of a
8 year.

9 44. "State" means the state of Arizona, including any department,
10 office, board, commission, agency or other instrumentality of the state.

11 45. "System" means the public safety personnel retirement system
12 established by this article.

13 46. "Temporary disability" means a physical or mental condition that
14 the local board finds totally and temporarily prevents an employee from
15 performing a reasonable range of duties within the employee's department and
16 that was incurred in the performance of the employee's duty.

17 Sec. 6. Section 38-847, Arizona Revised Statutes, is amended to read:
18 38-847. Local boards

19 A. The administration of the system and responsibility for making the
20 provisions of the system effective for each employer are vested in a local
21 board. The department of public safety, the Arizona game and fish
22 department, the department of emergency and military affairs, the university
23 of Arizona, Arizona state university, northern Arizona university, each
24 county sheriff's office, each county attorney's office, each county parks
25 department, each municipal fire department, each eligible fire district, each
26 community college district, each municipal police department, the department
27 of law, ~~the department of administration~~, the department of liquor licenses
28 and control, the Arizona department of agriculture, the Arizona state parks
29 board, each Indian reservation police agency and each Indian reservation fire
30 fighting agency shall have a local board. A nonprofit corporation operating
31 pursuant to sections 28-8423 and 28-8424 shall have one local board for all
32 of its members. Each local board shall be constituted as follows:

33 1. For political subdivisions or Indian tribes, the mayor or chief
34 elected official or a designee of the mayor or chief elected official
35 approved by the respective governing body as chairman, two members elected by
36 secret ballot by members employed by the appropriate employer and two
37 citizens, one of whom shall be the head of the merit system, or the head's
38 designee from among the other members of the merit system, if it exists for
39 the group of members, appointed by the mayor or chief elected official and
40 with the approval of the governing body of the city or the governing body of
41 the employer. The appointed two citizens shall serve on both local boards in
42 a city or Indian tribes where both fire and police department employees are
43 members.

1 2. For state agencies and nonprofit corporations operating pursuant to
2 sections 28-8423 and 28-8424, two members elected by secret ballot by members
3 employed by the appropriate employer and three citizens appointed by the
4 governor. Each state agency local board shall elect a chairman.

5 3. For fire districts organized pursuant to section 48-804, the
6 secretary-treasurer as chairman, two members elected by secret ballot by
7 members employed by the fire district and two citizens appointed by the
8 secretary-treasurer, one of whom is a resident of the fire district and one
9 of whom has experience in personnel administration but who is not required to
10 be a resident of the fire district.

11 B. On the taking effect of this system for an employer, the
12 appointments and elections of local board members shall take place with one
13 elective and appointive local board member serving a term ending two years
14 after the effective date of participation for the employer and other local
15 board members serving a term ending four years after the effective date.
16 Thereafter, every second year, and as a vacancy occurs, an office shall be
17 filled for a term of four years in the same manner as previously provided.

18 C. Each local board shall be fully constituted pursuant to subsection
19 A of this section within sixty days after the employer's effective date of
20 participation in the system. If the deadline is not met, on the written
21 request of any member who is covered by the local board or the employer to
22 the ~~fund-manager~~ BOARD OF TRUSTEES, the ~~fund-manager~~ BOARD OF TRUSTEES may
23 appoint all vacancies of the local board pursuant to subsection A of this
24 section and designate whether each appointive position is for a two year or
25 four year term. If the ~~fund-manager~~ BOARD OF TRUSTEES cannot find
26 individuals to serve on the local board who meet the requirements of
27 subsection A of this section, the ~~fund-manager~~ BOARD OF TRUSTEES may appoint
28 individuals to serve as interim local board members until qualified
29 individuals are appointed or elected. Each local board shall meet at least
30 twice a year. Each member of a local board, within ten days after the
31 member's appointment or election, shall take an oath of office that, so far
32 as it devolves on the member, the member shall diligently and honestly
33 administer the affairs of the local board and that the member shall not
34 knowingly violate or willingly permit to be violated any of the provisions of
35 law applicable to the system.

36 D. Except as limited by subsection E of this section, a local board
37 shall have such powers as may be necessary to discharge the following duties:

38 1. To decide all questions of eligibility and service credits, and
39 determine the amount, manner and time of payment of any benefits under the
40 system.

41 2. To prescribe procedures to be followed by claimants in filing
42 applications for benefits.

43 3. To make a determination as to the right of any claimant to a
44 benefit and to afford any claimant or the board of trustees, or both, a right
45 to a rehearing on the original determination. Unless all parties involved in

1 a matter presented to the local board for determination otherwise agree, the
2 local board shall commence a hearing on the matter within ninety days after
3 the date the matter is presented to the local board for determination. If a
4 local board fails to commence a hearing as provided in this paragraph, on a
5 matter presented to the local board for determination, the relief demanded by
6 the party petitioning the local board is deemed granted and approved by the
7 local board. The granting and approval of this relief is considered final
8 and binding unless a timely request for rehearing or appeal is made as
9 provided in this article, unless the ~~fund-manager~~ BOARD OF TRUSTEES
10 determines that granting the relief requested would violate the internal
11 revenue code or threaten to impair the system's status as a qualified plan
12 under the internal revenue code. If the ~~fund-manager~~ BOARD OF TRUSTEES
13 determines that granting the requested relief would violate the internal
14 revenue code or threaten to impair the system's status as a qualified plan,
15 the ~~fund-manager~~ BOARD OF TRUSTEES may refuse to grant the relief by issuing
16 a written determination to the local board and the party petitioning the
17 local board for relief. The decision by the ~~fund-manager~~ BOARD OF TRUSTEES
18 is subject to judicial review pursuant to title 12, chapter 7, article 6.

19 4. To request and receive from the employers and from members such
20 information as is necessary for the proper administration of the system and
21 action on claims for benefits and to forward such information to the board of
22 trustees.

23 5. To distribute, in such manner as the local board determines to be
24 appropriate, information explaining the system received from the board of
25 trustees.

26 6. To furnish the employer, the board of trustees and the legislature,
27 on request, with such annual reports with respect to the administration of
28 the system as are reasonable and appropriate.

29 7. To receive and review the actuarial valuation of the system for its
30 group of members.

31 8. To receive and review reports of the financial condition and of the
32 receipts and disbursements of the fund from the board of trustees.

33 9. To appoint medical boards as provided in section 38-859.

34 10. To sue and be sued to effectuate the duties and responsibilities
35 set forth in this article.

36 E. A local board shall have no power to add to, subtract from, modify
37 or waive any of the terms of the system, change or add to any benefits
38 provided by the system or waive or fail to apply any requirement of
39 eligibility for membership or benefits under the system. Notwithstanding any
40 limitations periods imposed in this article, including subsection D,
41 paragraph 3 and subsections G and H of this section, if the ~~fund-manager~~
42 BOARD OF TRUSTEES determines a local board decision violates the internal
43 revenue code or threatens to impair the system's status as a qualified plan
44 under the internal revenue code, the local board's decision is not final and

1 binding and the ~~fund-manager~~ BOARD OF TRUSTEES may refrain from implementing
2 or complying with the local board decision.

3 F. A local board, from time to time, shall establish and adopt such
4 rules as it deems necessary or desirable for its administration. All rules
5 and decisions of a local board shall be uniformly and consistently applied to
6 all members in similar circumstances. If a claim or dispute is presented to
7 a local board for determination but the local board has not yet adopted
8 uniform rules of procedure for adjudication of the claim or dispute, the
9 local board shall adopt and use the model uniform rules of local board
10 procedure that are issued by the board of trustees' fiduciary counsel to
11 adjudicate the claim or dispute.

12 G. Except as otherwise provided in this article, any action by a
13 majority vote of the members of a local board that is not inconsistent with
14 the provisions of the system and the internal revenue code shall be final,
15 conclusive and binding on all persons affected by it unless a timely
16 application for a rehearing or appeal is filed as provided in this article.
17 No later than twenty business days after taking action, the local board shall
18 submit to the ~~fund-manager~~ BOARD OF TRUSTEES the name of the member affected
19 by its decision, a description of the action taken and an explanation of the
20 reasons supporting the local board's action. The ~~fund-manager~~ BOARD OF
21 TRUSTEES may not implement and comply with any local board action that does
22 not comply with the internal revenue code or that threatens to jeopardize the
23 system's status as a qualified plan under the internal revenue code.

24 H. A claimant or the board of trustees may apply for a rehearing
25 before the local board within the time periods prescribed in this subsection,
26 except that if a decision of a local board violates the internal revenue code
27 or threatens to jeopardize the system's status as a qualified plan under the
28 internal revenue code, no limitation period for the ~~fund-manager~~ BOARD OF
29 TRUSTEES to seek a rehearing of a local board decision applies. An
30 application for a rehearing shall be filed in writing with a member of the
31 local board or its secretary within sixty days after:

32 1. The applicant-claimant receives notification of the local board's
33 original action by certified mail, by attending the meeting at which the
34 action is taken or by receiving benefits from the system pursuant to the
35 local board's original action, whichever occurs first.

36 2. The applicant-board of trustees receives notification of the local
37 board's original action as prescribed by subsection G of this section by
38 certified mail.

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

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

43 K. When making a ruling, determination or calculation, the local board
44 shall be entitled to rely on information furnished by the employer, the board
45 of trustees, independent legal counsel or the actuary for the system.

1 L. Each member of a local board is entitled to one vote. A majority
2 are necessary for a decision by the members of a local board at any meeting
3 of the local board.

4 M. The local board shall adopt such bylaws as it deems desirable. The
5 local board shall elect a secretary who may, but need not, be a member of the
6 local board. The secretary of the local board shall keep a record and
7 prepare minutes of all meetings, forward the minutes to the board of trustees
8 within forty-five days after each meeting and forward all necessary
9 communications to the board of trustees.

10 N. The fees of the medical board and of the local board's independent
11 legal counsel and all other expenses of the local board necessary for the
12 administration of the system shall be paid by the employer and not the ~~fund~~
13 ~~manager~~ BOARD OF TRUSTEES or system at such rates and in such amounts as the
14 local board shall approve. Legal counsel that is employed by the local board
15 is independent of the employer and any employee organization or member and
16 owes its duty of loyalty only to the local board in connection with its
17 representation of the local board.

18 O. The local board shall issue directions to the board of trustees
19 concerning all benefits that are to be paid from the employer's account
20 pursuant to the provisions of the fund. The local board shall keep on file,
21 in such manner as it may deem convenient or proper, all reports from the
22 board of trustees and the actuary.

23 P. The local board and the individual members of the local board shall
24 be indemnified from the assets of the employer for any judgment against the
25 local board or its members, including attorney fees and costs, arising from
26 any act, or failure to act, made in good faith pursuant to the provisions of
27 the system, including expenses reasonably incurred in the defense of any
28 claim relating to the act or failure to act.

29 Sec. 7. Section 41-790, Arizona Revised Statutes, is amended to read:
30 41-790. Definitions

31 In this article, unless the context otherwise requires:

32 1. "Building renewal" means major activities that involve the repair
33 or reworking of a building and the supporting infrastructure that will result
34 in maintaining a building's expected useful life. Building renewal does not
35 include new building additions, new infrastructure additions, landscaping and
36 area beautification, routine maintenance or demolition and removal of a
37 building.

38 2. "Building system" means a group of buildings ~~which~~ THAT together
39 constitute a single unit for purposes of planning, land acquisition,
40 construction or building renewal.

41 3. "Capital projects" means buildings, structures, facilities and
42 areas constructed for the use or benefit of this state.

43 4. "Infrastructure" means nonbuilding improvements that directly
44 support operating a facility that is listed in the annual building system

1 such as utility delivery systems, roadway systems, external lighting systems,
2 irrigation systems, sidewalks and parking lots.

3 5. "Land acquisition" means the procurement of real property by gift,
4 grant, purchase, lease purchase, condemnation or other lawful means.

5 6. "SECURITY" MEANS SECURITY SERVICES RELATED TO BUILDING OPERATION
6 AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT.

7 ~~6-~~ 7. "State capitol building" means:

8 (a) The original 1898 statehouse known as the state capitol museum.

9 (b) The 1919 state capitol wing and the 1938 state capitol justice
10 addition known jointly as the legislative services wing.

11 (c) The house of representatives wing.

12 (d) The senate wing.

13 (e) The west wing known as the state capitol executive tower.

14 Sec. 8. Repeal

15 Sections 41-794 and 41-795, Arizona Revised Statutes, are repealed.

16 Sec. 9. Section 41-796, Arizona Revised Statutes, is amended to read:

17 41-796. Regulation of traffic and parking; monetary penalties;
18 hearing; state traffic and parking control fund;
19 definition

20 A. The department of administration may adopt and administratively
21 enforce rules for the control of vehicles on state property with respect only
22 to the following:

23 1. Maximum speed of vehicles.

24 2. Direction of travel.

25 3. Place, method and time of parking.

26 4. Nonparking areas.

27 5. Designation of special parking areas for state employees and the
28 general public.

29 6. Prohibiting parking in vehicle emissions control areas as defined
30 in section 49-541 of those vehicles which fail to comply with section 49-542.

31 B. The department shall adopt and administratively enforce rules
32 requiring the designation of preferential parking areas, such as reserved,
33 close-in or covered parking, to state employees with offices in vehicle
34 emissions control areas as defined in section 49-541 who are car pool
35 operators as defined in section 28-4032 or who drive vehicles powered by
36 alternative fuel as defined in section 1-215.

37 C. The department may prescribe and collect reasonable monetary
38 penalties for violations of the rules adopted pursuant to subsection A of
39 this section.

40 D. The department shall:

41 1. Cause signs, markings and notices to be posted on the property for
42 the regulation of vehicles.

43 2. Maintain parking lots and structures.

1 E. ~~Police personnel shall be authorized to issue a notice to appear~~
2 ~~for an alleged violation in the form adopted by the department directing a~~
3 ~~person accused of violating a rule for control of vehicles on state property~~
4 ~~adopted pursuant to this section to appear at a designated place to contest~~
5 ~~the allegation of violation or to admit the violation and pay a penalty.~~
6 ~~Upon~~ ON THE failure of a person ~~served with a notice under~~ WHO IS ISSUED A
7 CITATION FOR A VIOLATION OF A RULE ADOPTED PURSUANT TO this section to
8 appear, the administrative law judge may proceed to determine whether a
9 violation has occurred and, if so, the penalty to be imposed.

10 F. Penalties ~~which~~ THAT are imposed pursuant to this section and ~~which~~
11 THAT are not paid within the time prescribed by the administrative law judge
12 may be collected by an action filed with the justice court.

13 G. A state traffic and parking control fund is established consisting
14 of monetary penalties collected pursuant to this section. The department
15 shall administer the fund. Monies in the fund are continuously appropriated
16 and are exempt from the provisions of section 35-190 relating to lapsing of
17 appropriations.

18 H. All monetary penalties collected by the department for violations
19 of the rules adopted pursuant to subsection A of this section shall be
20 deposited in the state traffic and parking control fund.

21 I. Except as provided in section 41-1092.08, subsection H, a person
22 who has received a final administrative ruling concerning a penalty imposed
23 on the person as a result of a violation of a rule adopted pursuant to this
24 section may have that ruling reviewed by the superior court in the county in
25 which the institution involved is located pursuant to title 12, chapter 7,
26 article 6.

27 J. ~~As used in~~ FOR THE PURPOSES OF this section, "state property" means
28 property ~~which~~ THAT is the responsibility of the department under section
29 41-791 and property ~~which~~ THAT is the responsibility of the speaker of the
30 house of representatives or the president of the senate under section
31 41-1304.05.

32 Sec. 10. Section 41-1304, Arizona Revised Statutes, is amended to
33 read:

34 41-1304. Powers and duties

35 A. The legislative council shall:

36 1. Provide bill drafting, research and other services to the
37 legislature deemed necessary or advisable by the council to improve the
38 quality of legislation and to ensure full participation by the legislative
39 branch in determining and reviewing policy and the administration of state
40 affairs.

41 2. Adopt rules and formulate policies for the administration of this
42 article and for the conduct of the affairs of the council.

43 3. Appoint ~~such~~ clerical, stenographic, technical and professional
44 assistants deemed necessary or advisable to carry out the provisions of this
45 article, ~~and~~ fix their compensation and prescribe their powers and duties.

1 5. Except as provided in subsections B and C of this section, the
2 grounds adjacent to the state capitol museum, the legislative services wing,
3 the house of representatives wing and the senate wing and comprising the area
4 east of the state capitol executive tower with a northern boundary of west
5 Adams street, an eastern boundary of Seventeenth avenue and a southern
6 boundary of west Jefferson street in Phoenix, Arizona.

7 B. The speaker of the state house of representatives is responsible
8 for the following:

9 1. The allocation of space, operation, alteration, renovation and
10 control of the house of representatives wing of the state capitol building.

11 2. The allocation of space and control of the parking lot area
12 adjacent to the house of representatives wing, the parking lot area with a
13 southern boundary of west Adams street, an eastern boundary of Seventeenth
14 avenue and a northern boundary of west Monroe street in Phoenix, Arizona and
15 comprised of one hundred five parking spaces and the southeast portion of the
16 parking lot area with a southern boundary of west Monroe street and an
17 eastern boundary of Seventeenth avenue in Phoenix, Arizona and comprised of
18 fifty parking spaces.

19 C. The president of the state senate is responsible for the following:

20 1. The allocation of space, operation, alteration, renovation and
21 control of the senate wing of the state capitol building.

22 2. The allocation of space and control of the parking lot area
23 adjacent to the senate wing and the southwest portion of the parking lot area
24 of the Wesley Bolin memorial plaza east of the state capitol building and
25 comprised of one hundred twenty parking spaces.

26 D. The director of the department of administration is responsible for
27 the maintenance of the entire state capitol building and the public records
28 retention center subject to section 41-1304.

29 E. FOR THE PURPOSES OF THIS SECTION, "CONTROL" INCLUDES SECURITY
30 SERVICES.

31 Sec. 12. Section 41-1713, Arizona Revised Statutes, is amended to
32 read:

33 41-1713. Powers and duties of director; authentication of
34 records

35 A. The director of the department shall:

36 1. Be the administrative head of the department.

37 2. Subject to the merit system rules, appoint, suspend, demote,
38 promote or dismiss all other classified employees of the department ~~upon~~ ON
39 the recommendation of their respective division superintendent. The director
40 shall determine and furnish the law enforcement merit system council
41 established by section 41-1830.11 with a table of organization. The
42 superintendent of each division shall serve at the concurrent pleasure of the
43 director and the governor.

1 3. EXCEPT AS PROVIDED IN SECTIONS 12-119, 41-1304 AND 41-1304.05,
2 EMPLOY OFFICERS AND OTHER PERSONNEL AS THE DIRECTOR DEEMS NECESSARY FOR THE
3 PROTECTION AND SECURITY OF THE STATE BUILDINGS AND GROUNDS IN THE
4 GOVERNMENTAL MALL DESCRIBED IN SECTION 41-1362, STATE OFFICE BUILDINGS IN
5 TUCSON AND PERSONS WHO ARE ON ANY OF THOSE PROPERTIES. DEPARTMENT OFFICERS
6 MAY MAKE ARRESTS AND ISSUE CITATIONS FOR CRIMES OR TRAFFIC OFFENSES AND FOR
7 ANY VIOLATION OF A RULE ADOPTED UNDER SECTION 41-796. FOR THE PURPOSES OF
8 THIS PARAGRAPH, SECURITY DOES NOT MEAN SECURITY SERVICES RELATED TO BUILDING
9 OPERATION AND MAINTENANCE FUNCTIONS PROVIDED BY THE DEPARTMENT OF
10 ADMINISTRATION.

11 ~~3.~~ 4. Make rules necessary for the operation of the department.

12 ~~4.~~ 5. Annually submit a report of the work of the department to the
13 governor and the legislature, or more often if requested by the governor or
14 the legislature.

15 ~~5.~~ 6. Appoint a deputy director with the approval of the governor.

16 ~~6.~~ 7. Adopt an official seal that contains the words "department of
17 public safety" encircling the seal of this state as part of its design.

18 ~~7.~~ 8. Investigate, on receipt, credible evidence that a licensee or
19 registrant has been arrested for, charged with or convicted of an offense
20 that would preclude the person from holding a license or registration
21 certificate issued pursuant to title 32, chapter 26.

22 ~~8.~~ 9. Cooperate with the Arizona-Mexico commission in the governor's
23 office and with researchers at universities in this state to collect data and
24 conduct projects in the United States and Mexico on issues that are within
25 the scope of the department's duties and that relate to quality of life,
26 trade and economic development in this state in a manner that will help the
27 Arizona-Mexico commission to assess and enhance the economic competitiveness
28 of this state and of the Arizona-Mexico region.

29 ~~9.~~ 10. Adopt and administer the breath, blood or other bodily
30 substances test rules pursuant to title 28, chapter 4.

31 ~~10.~~ 11. Develop procedures to exchange information with the department
32 of transportation for any purpose related to sections 28-1324, 28-1325,
33 28-1326, 28-1462 and 28-3318.

34 ~~11.~~ 12. Collaborate with the state forester in presentations to
35 legislative committees on issues associated with wildfire prevention,
36 suppression and emergency management as provided by section 37-622,
37 subsection B.

38 B. The director may:

39 1. Issue commissions to officers of the department.

40 2. Request the cooperation of the utilities, communication media and
41 public and private agencies and any sheriff or other peace officer in any
42 county or municipality, within the limits of their respective jurisdictions
43 when necessary, to aid and assist in the performance of any duty imposed by
44 this chapter.

1 3. Cooperate with any public or private agency or person to receive or
2 give necessary assistance and may contract for such assistance subject to
3 legislative appropriation controls.

4 4. Utilize the advice of the board and cooperate with sheriffs, local
5 police and peace officers within the state for the prevention and discovery
6 of crimes, the apprehension of criminals and the promotion of public safety.

7 5. Acquire in the name of the state, either in fee or lesser estate or
8 interest, all real or any personal property that the director considers
9 necessary for the department's use, by purchase, donation, dedication,
10 exchange or other lawful means. All acquisitions of personal property
11 pursuant to this paragraph shall be made as prescribed in chapter 23 of this
12 title unless otherwise provided by law.

13 6. Dispose of any property, real or personal, or any right, title or
14 interest in the property, when the director determines that the property is
15 no longer needed or necessary for the department's use. Disposition of
16 personal property shall be as prescribed in chapter 23 of this title. The
17 real property shall be sold by public auction or competitive bidding after
18 notice published in a daily newspaper of general circulation, not less than
19 three times, two weeks before the sale and subject to the approval of the
20 director of the department of administration. When real property is sold, it
21 shall not be sold for less than the appraised value as established by a
22 competent real estate appraiser. Any monies derived from the disposal of
23 real or personal property shall be deposited, pursuant to sections 35-146 and
24 35-147, in the Arizona highway patrol fund as authorized by section 41-1752,
25 subsection B, paragraph 6.

26 7. Sell, lend or lease personal property directly to any state, county
27 or local law enforcement agency. Personal property may be sold or leased at
28 a predetermined price without competitive bidding. Any state, county or
29 local law enforcement agency receiving personal property may not resell or
30 lease the property to any person or organization except for educational
31 purposes.

32 8. Dispose of surplus property by transferring the property to the
33 department of administration for disposition to another state budget unit or
34 political subdivision if the state budget unit or political subdivision is
35 not a law enforcement agency.

36 9. Lease or rent personal property directly to any state law
37 enforcement officer for the purpose of traffic safety, traffic control or
38 other law enforcement related activity.

39 10. Sell for one dollar, without public bidding, the department issued
40 handgun or shotgun to a department officer on duty related retirement
41 pursuant to title 38, chapter 5, article 4. Any monies derived from the sale
42 of the handgun or shotgun to the retiring department officer shall be
43 deposited, pursuant to sections 35-146 and 35-147, in the Arizona highway
44 patrol fund as authorized by section 41-1752, subsection B, paragraph 6.

1 11. Conduct state criminal history records checks for the purpose of
2 updating and verifying the status of current licensees or registrants who
3 have a license or certificate issued pursuant to title 32, chapter 26. The
4 director shall investigate, on receipt, credible evidence that a licensee or
5 registrant has been arrested for, charged with or convicted of an offense
6 that would preclude the person from holding a registration certificate issued
7 pursuant to title 32, chapter 26.

8 12. Grant a maximum of two thousand eighty hours of industrial injury
9 leave to any sworn department employee who is injured in the course of the
10 employee's duty, any civilian department employee who is injured in the
11 course of performing or assisting in law enforcement or hazardous duties or
12 any civilian department employee who was injured as a sworn department
13 employee rehired after August 9, 2001 and would have been eligible pursuant
14 to this paragraph and whose work-related injury prevents the employee from
15 performing the normal duties of that employee's classification. This
16 industrial injury leave is in addition to any vacation or sick leave earned
17 or granted to the employee and does not affect the employee's eligibility for
18 any other benefits, including workers' compensation. The employee is not
19 eligible for payment pursuant to section 38-615 of industrial injury leave
20 that is granted pursuant to this paragraph. Subject to approval by the law
21 enforcement merit system council, the director shall adopt rules and
22 procedures regarding industrial injury leave hours granted pursuant to this
23 paragraph.

24 13. Sell at current replacement cost, without public bidding, the
25 department issued badge of authority to an officer of the department ~~upon~~ ON
26 the officer's promotion or separation from the department. Any monies
27 derived from the sale of the badge to an officer shall be deposited, pursuant
28 to sections 35-146 and 35-147, in the department of public safety
29 administration fund to offset replacement costs.

30 C. The director and any employees of the department that the director
31 designates in writing may use the seal adopted pursuant to subsection A,
32 paragraph ~~6- 7~~ of this section to fully authenticate any department records
33 and copies of these records. These authenticated records or authenticated
34 copies of records shall be judicially noticed and shall be received in
35 evidence by the courts of this state without any further proof of their
36 authenticity.

37 Sec. 13. Title 41, chapter 12, article 2, Arizona Revised Statutes, is
38 amended by adding section 41-1725, to read:

39 41-1725. Capitol police administrative towing fund

40 THE CAPITOL POLICE ADMINISTRATIVE TOWING FUND IS ESTABLISHED CONSISTING
41 OF MONIES DEPOSITED PURSUANT TO SECTION 28-3513. THE DEPARTMENT SHALL
42 ADMINISTER THE FUND. THE MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED
43 AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
44 APPROPRIATIONS. THE MONIES IN THE FUND MAY BE USED BY THE CAPITOL POLICE FOR
45 LAW ENFORCEMENT PURPOSES.

1 Sec. 14. Termination of department of administration local
2 board; transfer of personnel, records and equipment;
3 transfer of retirement assets; study

4 A. The department of administration public safety personnel retirement
5 system local board is terminated. The department of administration shall
6 transfer the records of employees who are currently members of the public
7 safety personnel retirement system to the department of public safety public
8 safety personnel retirement system local board.

9 B. All equipment, records, furnishings, vehicles and other property,
10 all data and investigative findings and all appropriated and nonappropriated
11 monies that remain unexpended and unencumbered on the effective date of this
12 act that relate to the capitol police are transferred from the department of
13 administration to the department of public safety. All equipment, records,
14 furnishings, vehicles and other property that are transferred pursuant to
15 this subsection shall not be upgraded at the time of transfer unless the
16 legislature approves the upgrade.

17 C. All personnel who are under the state personnel system and employed
18 by the department of administration as capitol police officers and sergeants
19 are transferred to the following department of public safety positions:

20 1. Capitol police officers shall become department of public safety
21 capitol police with an annual salary equivalent to the entry level salary of
22 a department of public safety officer.

23 2. Capitol police sergeants shall each become a department of public
24 safety capitol police sergeant with an annual salary equivalent to the
25 sergeant I classification in the department of public safety.

26 C. All personnel who are under the state personnel system and employed
27 by the department of administration as capitol police personnel and that are
28 not officers and sergeants are transferred to the department of public safety
29 to equivalent classifications or new classifications as approved by the law
30 enforcement merit system council.

31 D. The administrator of the public safety personnel retirement system
32 shall transfer the assets in the public safety personnel retirement system
33 department of administration account to the public safety personnel
34 retirement system department of public safety account.