

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1317

AN ACT

AMENDING SECTIONS 38-817 AND 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.02; AMENDING SECTION 38-847, ARIZONA REVISED STATUTES; AMENDING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 118, SECTION 10; REPEALING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 45; AMENDING SECTIONS 38-857, 38-891, 38-893 AND 38-906, ARIZONA REVISED STATUTES; RELATING TO THE ADMINISTRATION OF PUBLIC RETIREMENT SYSTEM AND PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-817, Arizona Revised Statutes, is amended to  
3 read:

4 38-817. Group health and accident coverage for retired members:  
5 payment

6 A. **UPON NOTIFICATION**, the board shall pay from the assets of the fund  
7 part of the single coverage premium of any group health and accident  
8 insurance for each retired member or survivor of the plan who receives a  
9 pension if the retired member had eight or more years of credited service  
10 under the plan. In order to qualify for payment pursuant to this subsection,  
11 the retired member or survivor shall elect single coverage and must have  
12 elected to participate in the coverage provided in section 38-651.01 or  
13 38-782 or any other health and accident insurance coverage provided or  
14 administered by an employer. The board shall pay up to:

15 1. One hundred fifty dollars per month for each retired member or  
16 survivor of the plan who is not eligible for medicare.

17 2. One hundred dollars per month for each retired member or survivor  
18 of the plan who is eligible for medicare.

19 B. **UPON NOTIFICATION**, the board shall pay from the assets of the fund  
20 part of the family coverage premium of any group health and accident  
21 insurance each month for a retired member or survivor who elects family  
22 coverage and who otherwise qualifies for payment pursuant to subsection A of  
23 this section. The board shall pay up to:

24 1. Two hundred sixty dollars per month if the retired member or  
25 survivor of the plan and one or more dependents are not eligible for  
26 medicare.

27 2. One hundred seventy dollars per month if the retired member or  
28 survivor of the plan and one or more dependents are eligible for medicare.

29 3. Two hundred fifteen dollars per month if either:

30 (a) The retired member or survivor of the plan is not eligible for  
31 medicare and one or more dependents are eligible for medicare.

32 (b) The retired member or survivor of the plan is eligible for  
33 medicare and one or more dependents are not eligible for medicare.

34 C. Each retired member or survivor of the plan with less than eight  
35 years of credited service and a dependent of such a retired member or  
36 survivor who participates in the coverage provided by section 38-651.01 or  
37 38-782 or who participates in any other health and accident insurance  
38 coverage provided or administered by an employer is entitled to receive a  
39 proportion of the full benefit prescribed by subsection A or B of this  
40 section according to the following schedule:

41 1. 7.0 to 7.9 years of credited service, ninety per cent.

42 2. 6.0 to 6.9 years of credited service, seventy-five per cent.

43 3. 5.0 to 5.9 years of credited service, sixty per cent.

44 4. Those with less than five years of credited service do not qualify  
45 for the benefit.

1 D. The board shall not pay more than the amount prescribed in this  
2 section for a benefit recipient as a member or survivor of the plan.

3 E. A retired member or survivor of the plan may elect to purchase  
4 individual health care coverage and receive a payment pursuant to this  
5 section through the retired member's FORMER employer if that FORMER employer  
6 assumes the administrative functions associated with the payment, including  
7 verification that the payment is used to pay for health insurance coverage if  
8 the payment is made to the retired member or survivor of the plan. THIS  
9 PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS  
10 REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE  
11 MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

12 Sec. 2. Section 38-842, Arizona Revised Statutes, is amended to read:

13 38-842. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Accidental disability" means a physical or mental condition that  
16 the local board finds totally and permanently prevents an employee from  
17 performing a reasonable range of duties within the employee's job  
18 classification and that was incurred in the performance of the employee's  
19 duty.

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

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

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

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

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

35 7. "Average monthly benefit compensation" means the result obtained by  
36 dividing the total compensation paid to an employee during a considered  
37 period by the number of months, including fractional months, in which such  
38 compensation was received. The considered period shall be the three  
39 consecutive years within the last twenty completed years of credited service  
40 that yield the highest average. In the computation under this paragraph, a  
41 period of nonpaid or partially paid industrial leave shall be considered  
42 based on the compensation the employee would have received in the employee's  
43 job classification if the employee was not on industrial leave.

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

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

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

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

9           12. "Compensation" means, for the purpose of computing retirement  
10 benefits, base salary, overtime pay, shift differential pay, military  
11 differential wage pay, COMPENSATORY TIME USED BY AN EMPLOYEE IN LIEU OF  
12 OVERTIME NOT OTHERWISE PAID BY AN EMPLOYER and holiday pay paid to an  
13 employee by the employer on a regular monthly, semimonthly or biweekly  
14 payroll basis and longevity pay paid to an employee at least every six months  
15 for which contributions are made to the system pursuant to section 38-843,  
16 subsection D. Compensation does not include, for the purpose of computing  
17 retirement benefits, payment for unused sick leave, payment in lieu of  
18 vacation, payment for UNUSED compensatory time or payment for any fringe  
19 benefits. In addition, compensation does not include, for the purpose of  
20 computing retirement benefits, payments made directly or indirectly by the  
21 employer to the employee for work performed for a third party on a contracted  
22 basis or any other type of agreement under which the third party pays or  
23 reimburses the employer for the work performed by the employee for that third  
24 party, except for third party contracts between public agencies for law  
25 enforcement, criminal, traffic and crime suppression activities training OR  
26 FIRE, wildfire, emergency medical or emergency management activities or where  
27 the employer supervises the employee's performance of law enforcement,  
28 criminal, traffic and crime suppression activities, ~~training,~~ OR fire,  
29 wildfire, emergency medical or emergency management ~~services~~ ACTIVITIES. For  
30 the purposes of this paragraph, "base salary" means the amount of  
31 compensation each employee is regularly paid for personal services rendered  
32 to an employer before the addition of any extra monies, including overtime  
33 pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay  
34 and similar extra payments.

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

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

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

4           16. "Determination" means a written document that indicates to a  
5 participant and alternate payee whether a domestic relations order qualifies  
6 as a plan approved domestic relations order.

7           17. "Determination period" means the ninety-day period in which the  
8 system must review a domestic relations order that is submitted by a  
9 participant or alternate payee to determine whether the domestic relations  
10 order qualifies as a plan approved domestic relations order, calculated from  
11 the time the system mails a notice of receipt to the participant and  
12 alternate payee.

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

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

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

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

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

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

31           (a) Is under eighteen years of age.

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

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

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

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

40           (b) Municipal fire fighters.

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

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

1 (e) State fire fighters.

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

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

4 (h) Police officers who are certified peace officers and fire fighters  
5 of a nonprofit corporation operating a public airport pursuant to sections  
6 28-8423 and 28-8424. A police officer shall be designated pursuant to  
7 section 28-8426 to aid and supplement state and local law enforcement  
8 agencies and a fire fighter's sole duty shall be to perform fire fighting  
9 services, including services required by federal regulations.

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

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

14 (k) State attorney general investigators who are certified peace  
15 officers.

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

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

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

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

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

25 (q) Arizona department of agriculture officers who are certified peace  
26 officers.

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

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

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

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

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

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

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

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

42 (f) An eligible deferred compensation plan described in section 457(b)  
43 of the internal revenue code that is maintained by a state, a political  
44 subdivision of a state or any agency or instrumentality of a state or a  
45 political subdivision of a state and that agrees to separately account for

1 amounts transferred into the eligible deferred compensation plan from this  
2 plan.

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

5 (a) Any distribution that is one of a series of substantially equal  
6 periodic payments made not less frequently than annually for the life or life  
7 expectancy of the member or the joint lives or joint life expectancies of the  
8 member and the member's beneficiary or for a specified period of ten years or  
9 more.

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

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

14 27. "Employee" means any person who is employed by a participating  
15 employer and who is a member of an eligible group but does not include any  
16 persons compensated on a contractual or fee basis. If an eligible group  
17 requires certified peace officer status **OR FIRE FIGHTER CERTIFICATION** and at  
18 the option of the local board, employee may include a person who is training  
19 to become a certified peace officer **OR FIRE FIGHTER**.

20 28. "Employers" means:

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

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

29 (c) The state highway patrol covered under the state highway patrol  
30 retirement system.

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

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

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

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

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

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

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

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

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

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

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

37 32. "Normal retirement date" means the first day of the calendar month  
38 immediately following an employee's completion of twenty years of service or  
39 the employee's sixty-second birthday and the employee's completion of fifteen  
40 years of service.

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

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

6           35. "Participant" means a member who is subject to a domestic relations  
7 order.

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

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

13          38. "Personal representative" means the personal representative of a  
14 deceased alternate payee.

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

18          40. "Regularly assigned to hazardous duty" means regularly assigned to  
19 duties of the type normally expected of municipal police officers, municipal  
20 or state fire fighters, eligible fire district fire fighters, state highway  
21 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
22 fighters and police officers of a nonprofit corporation operating a public  
23 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
24 appointed by the Arizona board of regents or a community college district  
25 governing board, state attorney general investigators who are certified peace  
26 officers, county attorney investigators who are certified peace officers,  
27 police officers who are appointed by the department of administration and who  
28 are certified peace officers, department of liquor licenses and control  
29 investigators who are certified peace officers, Arizona department of  
30 agriculture officers who are certified peace officers, Arizona state parks  
31 board rangers and managers who are certified peace officers, county park  
32 rangers who are certified peace officers, police officers who are certified  
33 peace officers and who are employed by an Indian reservation police agency or  
34 fire fighters who are employed by an Indian reservation fire fighting agency.  
35 Those individuals who are assigned solely to support duties such as  
36 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
37 personnel, mechanics and dispatchers are not assigned to hazardous duty  
38 regardless of their position classification title. Since the normal duties of  
39 those jobs described in this paragraph are constantly changing, questions as  
40 to whether a person is or was previously regularly assigned to hazardous duty  
41 shall be resolved by the local board on a case-by-case basis. Resolutions by  
42 local boards are subject to rehearing and appeal.

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

5           42. "Segregated funds" means the amount of benefits that would  
6 currently be payable to an alternate payee pursuant to a domestic relations  
7 order under review by the system, or a domestic relations order submitted to  
8 the system that failed to qualify as a plan approved domestic relations  
9 order, if the domestic relations order were determined to be a plan approved  
10 domestic relations order.

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

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

33           45. "System" means the public safety personnel retirement system  
34 established by this article.

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

39           Sec. 3. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
40 amended by adding section 38-845.02, to read:

41           38-845.02. Payment of pension

42           THE BOARD SHALL NOT MAKE A RETROACTIVE PAYMENT OF A PENSION TO A PERSON  
43 THAT IS MORE THAN NINETY DAYS BEFORE THE DATE OF THE PERSON'S APPLICATION FOR  
44 BENEFITS.

1           Sec. 4. Section 38-847, Arizona Revised Statutes, is amended to read:  
2           38-847. Local boards

3           A. The administration of the system and responsibility for making the  
4 provisions of the system effective for each employer are vested in a local  
5 board. The department of public safety, the Arizona game and fish  
6 department, the department of emergency and military affairs, the university  
7 of Arizona, Arizona state university, northern Arizona university, each  
8 county sheriff's office, each county attorney's office, each county parks  
9 department, each municipal fire department, each eligible fire district, each  
10 community college district, each municipal police department, the department  
11 of law, the department of administration, the department of liquor licenses  
12 and control, the Arizona department of agriculture, the Arizona state parks  
13 board, each Indian reservation police agency and each Indian reservation fire  
14 fighting agency shall have a local board. A nonprofit corporation operating  
15 pursuant to sections 28-8423 and 28-8424 shall have one local board for all  
16 of its members. Each local board shall be constituted as follows:

17           1. For political subdivisions or Indian tribes, the mayor or chief  
18 elected official or a designee of the mayor or chief elected official  
19 approved by the respective governing body as chairman, two members elected by  
20 secret ballot by members employed by the appropriate employer and two  
21 citizens, one of whom shall be the head of the merit system, or the head's  
22 designee from among the other members of the merit system, if it exists for  
23 the group of members, appointed by the mayor or chief elected official and  
24 with the approval of the governing body of the city or the governing body of  
25 the employer. The appointed two citizens shall serve on both local boards in  
26 a city or Indian tribes where both fire and police department employees are  
27 members.

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

32           3. For fire districts organized pursuant to section 48-804, the  
33 secretary-treasurer as chairman, two members elected by secret ballot by  
34 members employed by the fire district and two citizens appointed by the  
35 secretary-treasurer, one of whom is a resident of the fire district and one  
36 of whom has experience in personnel administration but who is not required to  
37 be a resident of the fire district.

38           B. On the taking effect of this system for an employer, the  
39 appointments and elections of local board members shall take place with one  
40 elective and appointive local board member serving a term ending two years  
41 after the effective date of participation for the employer and other local  
42 board members serving a term ending four years after the effective date.  
43 Thereafter, every second year, and as a vacancy occurs, an office shall be  
44 filled for a term of four years in the same manner as previously provided.

1 C. Each local board shall be fully constituted pursuant to subsection  
2 A of this section within sixty days after the employer's effective date of  
3 participation in the system. If the deadline is not met, on the written  
4 request of any member who is covered by the local board or the employer to  
5 the ~~fund-manager~~ BOARD OF TRUSTEES, the ~~fund-manager~~ BOARD OF TRUSTEES may  
6 appoint all vacancies of the local board pursuant to subsection A of this  
7 section and designate whether each appointive position is for a two year or  
8 four year term. If the fund manager cannot find individuals to serve on the  
9 local board who meet the requirements of subsection A of this section, the  
10 ~~fund-manager~~ BOARD OF TRUSTEES may appoint individuals to serve as interim  
11 local board members until qualified individuals are appointed or elected.  
12 Each local board shall meet at least twice a year. Each member of a local  
13 board, within ten days after the member's appointment or election, shall take  
14 an oath of office that, so far as it devolves on the member, the member shall  
15 diligently and honestly administer the affairs of the local board and that  
16 the member shall not knowingly violate or willingly permit to be violated any  
17 of the provisions of law applicable to the system.

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

20 1. To decide all questions of eligibility and service credits, and  
21 determine the amount, manner and time of payment of any benefits under the  
22 system.

23 2. To prescribe procedures to be followed by claimants in filing  
24 applications for benefits.

25 3. To make a determination as to the right of any claimant to a  
26 benefit and to afford any claimant or the board of trustees, or both, a right  
27 to a rehearing on the original determination. Unless all parties involved in  
28 a matter presented to the local board for determination otherwise agree, the  
29 local board shall commence a hearing on the matter within ninety days after  
30 the date the matter is presented to the local board for determination. If a  
31 local board fails to commence a hearing as provided in this paragraph, on a  
32 matter presented to the local board for determination, the relief demanded by  
33 the party petitioning the local board is deemed granted and approved by the  
34 local board. The granting and approval of this relief is considered final  
35 and binding unless a timely request for rehearing or appeal is made as  
36 provided in this article, unless the ~~fund-manager~~ BOARD OF TRUSTEES  
37 determines that granting the relief requested would violate the internal  
38 revenue code or threaten to impair the system's status as a qualified plan  
39 under the internal revenue code. If the ~~fund-manager~~ BOARD OF TRUSTEES  
40 determines that granting the requested relief would violate the internal  
41 revenue code or threaten to impair the system's status as a qualified plan,  
42 the ~~fund-manager~~ BOARD OF TRUSTEES may refuse to grant the relief by issuing  
43 a written determination to the local board and the party petitioning the  
44 local board for relief. The decision by the ~~fund-manager~~ BOARD OF TRUSTEES  
45 is subject to judicial review pursuant to title 12, chapter 7, article 6.

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

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

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

11           7. To receive and review the actuarial valuation of the system for its  
12 group of members.

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

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

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

18           E. A local board shall have no power to add to, subtract from, modify  
19 or waive any of the terms of the system, change or add to any benefits  
20 provided by the system or waive or fail to apply any requirement of  
21 eligibility for membership or benefits under the system. Notwithstanding any  
22 limitations periods imposed in this article, including subsection D,  
23 paragraph 3 and subsections G and H of this section, if the ~~fund-manager~~  
24 **BOARD OF TRUSTEES** determines a local board decision violates the internal  
25 revenue code or threatens to impair the system's status as a qualified plan  
26 under the internal revenue code, the local board's decision is not final and  
27 binding and the ~~fund-manager~~ **BOARD OF TRUSTEES** may refrain from implementing  
28 or complying with the local board decision.

29           F. A local board, from time to time, shall establish and adopt such  
30 rules as it deems necessary or desirable for its administration. All rules  
31 and decisions of a local board shall be uniformly and consistently applied to  
32 all members in similar circumstances. If a claim or dispute is presented to  
33 a local board for determination but the local board has not yet adopted  
34 uniform rules of procedure for adjudication of the claim or dispute, the  
35 local board shall adopt and use the model uniform rules of local board  
36 procedure that are issued by the board of trustees' fiduciary counsel to  
37 adjudicate the claim or dispute.

38           G. Except as otherwise provided in this article, any action by a  
39 majority vote of the members of a local board that is not inconsistent with  
40 the provisions of the system and the internal revenue code shall be final,  
41 conclusive and binding on all persons affected by it unless a timely  
42 application for a rehearing or appeal is filed as provided in this article.  
43 No later than twenty ~~business~~ days after taking action, the local board shall  
44 submit to the ~~fund-manager~~ **BOARD OF TRUSTEES THE MINUTES FROM THE LOCAL BOARD**  
45 **MEETING THAT INCLUDE** the name of the member affected by its decision, a

1 description of the action taken and an explanation of the reasons AND  
2 DOCUMENTS supporting the local board's action. The ~~fund-manager~~ BOARD OF  
3 TRUSTEES may not implement and comply with any local board action that does  
4 not comply with the internal revenue code or that threatens to jeopardize the  
5 system's status as a qualified plan under the internal revenue code.

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

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

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

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

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

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

28 L. Each member of a local board is entitled to one vote. A majority  
29 ~~are~~ IS necessary for a decision by the members of a local board at any  
30 meeting of the local board.

31 M. The local board shall adopt such bylaws as it deems desirable. The  
32 local board shall elect a secretary who may, but need not, be a member of the  
33 local board. The secretary of the local board shall keep a record and  
34 prepare minutes of all meetings, ~~IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1~~  
35 ~~OF THIS TITLE AND~~ forward the minutes AND ALL NECESSARY COMMUNICATIONS to the  
36 board of trustees ~~within forty-five days after each meeting and forward all~~  
37 ~~necessary communications to the board of trustees~~ AS PRESCRIBED BY SUBSECTION  
38 G OF THIS SECTION.

39 N. The fees of the medical board and of the local board's independent  
40 legal counsel and all other expenses of the local board necessary for the  
41 administration of the system shall be paid by the employer and not the ~~fund~~  
42 ~~manager~~ BOARD OF TRUSTEES or system at such rates and in such amounts as the  
43 local board shall approve. Legal counsel that is employed by the local board  
44 is independent of the employer and any employee organization or member and

1 owes its duty of loyalty only to the local board in connection with its  
2 representation of the local board.

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

8 P. The local board and the individual members of the local board shall  
9 be indemnified from the assets of the employer for any judgment against the  
10 local board or its members, including attorney fees and costs, arising from  
11 any act, or failure to act, made in good faith pursuant to the provisions of  
12 the system, including expenses reasonably incurred in the defense of any  
13 claim relating to the act or failure to act."

14 Sec. 5. Section 38-849, Arizona Revised Statutes, as amended by Laws  
15 2010, chapter 118, section 10, is amended to read:

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

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

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

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

1 member signs a written election consenting to reimburse the fund within one  
2 year, the former member shall be required to redeposit the amount withdrawn  
3 at the time of the former member's separation from service, with interest  
4 thereon at the rate of nine per cent for each year compounded each year from  
5 the date of withdrawal to the date of repayment. On satisfaction of this  
6 obligation the member's prior service credits shall be reinstated.

7 D. If a retired member becomes employed in any capacity by the  
8 employer from which the member retired before sixty consecutive days after  
9 the member's date of retirement, the system shall not make pension payments  
10 to the retired member during the period of reemployment. If a retired member  
11 is reemployed by an employer, no contributions shall be made on the retired  
12 member's account, nor any service credited, during the period of the  
13 reemployment. Notwithstanding this subsection, if a retired member  
14 subsequently becomes employed in the same position by the employer from which  
15 the member retired, the system shall not make pension payments to the retired  
16 member during the period of reemployment. On subsequent termination of  
17 employment by the retired member, the retired member is entitled to receive a  
18 pension based on the member's service and compensation before the date of the  
19 member's reemployment. If a member who retired under disability is  
20 reemployed by an employer as an employee, that member shall be treated as if  
21 the member had been on an uncompensated leave of absence during the period of  
22 the member's disability retirement and shall be a contributing member of the  
23 system. Within ten days after a retired member is reemployed by the employer  
24 from which the member retired, the employer shall advise the ~~fund-manager~~  
25 ~~BOARD~~ in writing as to whether the retired member has been reemployed in the  
26 same position from which the member retired. The ~~fund-manager~~ ~~BOARD~~ shall  
27 review all reemployment determinations. If the ~~fund-manager~~ ~~BOARD~~ is not  
28 provided the necessary information to make a reemployment determination, the  
29 ~~fund-manager~~ ~~BOARD~~ shall suspend pension payments until information is  
30 received and a determination is made that the reemployment meets the  
31 requirements of this subsection. For the purposes of this subsection, "same  
32 position" means the member is in a position where the member performs  
33 substantially similar duties that were performed and exercises substantially  
34 similar authority that was exercised by the retired member before retirement.

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

1 an amount equal to all amounts awarded to the system, plus interest at the  
2 rate prescribed by section 44-1201, subsection A, until all amounts owed are  
3 paid to the system.

4 F. Notwithstanding any other provision of this article, the ~~fund~~  
5 ~~manager~~ BOARD may offset against any benefits otherwise payable by the system  
6 to an active or retired member or survivor any court ordered amounts awarded  
7 to the ~~fund-manager~~ BOARD and system and assessed against the member or  
8 survivor.

9 Sec. 6. Repeal

10 Section 38-849, Arizona Revised Statutes, as amended by Laws 2010,  
11 chapter 200, section 45, is repealed.

12 Sec. 7. Section 38-857, Arizona Revised Statutes, is amended to read:

13 38-857. Group health and accident coverage for retired members;  
14 payment

15 A. UPON NOTIFICATION, the board shall pay part of the single coverage  
16 premium of any group health and accident insurance for each retired member or  
17 survivor of the system who receives a pension and who has elected to  
18 participate in the coverage provided by section 38-651.01 or 38-782 or any  
19 other health and accident insurance coverage provided or administered by a  
20 participating employer of the system. The board shall pay up to:

21 1. One hundred fifty dollars per month for each retired member or  
22 survivor of the system who is not eligible for medicare.

23 2. One hundred dollars per month for each retired member or survivor  
24 of the system who is eligible for medicare.

25 B. UPON NOTIFICATION, the board shall pay from assets of the fund part  
26 of the family coverage premium of any group health and accident insurance  
27 each month for a benefit recipient who elects family coverage and otherwise  
28 qualifies for payment pursuant to subsection A of this section. The board  
29 shall pay up to:

30 1. Two hundred sixty dollars per month if the retired member or  
31 survivor of the system and one or more dependents are not eligible for  
32 medicare.

33 2. One hundred seventy dollars per month if the retired member or  
34 survivor of the system and one or more dependents are eligible for medicare.

35 3. Two hundred fifteen dollars per month if either:

36 (a) The retired member or survivor of the system is not eligible for  
37 medicare and one or more dependents are eligible for medicare.

38 (b) The retired member or survivor of the system is eligible for  
39 medicare and one or more dependents are not eligible for medicare.

40 C. The board shall not pay from assets of the fund more than the  
41 amount prescribed in this section for a benefit recipient as a member or  
42 survivor of the system.

43 ~~D. This section does not apply to a retired member or survivor of the~~  
44 ~~system who is reemployed by this state or a political subdivision of this~~

1 ~~state and who participates in coverage provided by this state or a political~~  
2 ~~subdivision of this state as an active employee.~~

3 ~~E.~~ D. A retired member or survivor of the system may elect to  
4 purchase individual health care coverage and receive a payment pursuant to  
5 this section through the retired member's FORMER employer if that FORMER  
6 employer assumes the administrative functions associated with the payment,  
7 including verification that the payment is used to pay for health insurance  
8 coverage if the payment is made to the retired member or survivor of the  
9 system. THIS PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE  
10 SYSTEM WHO IS REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE  
11 PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

12 Sec. 8. Section 38-891, Arizona Revised Statutes, is amended to read:  
13 38-891. Employer and member contributions

14 A. As determined by actuarial valuations reported to the employers and  
15 the local boards by the board, each employer shall make level per cent of  
16 salary contributions sufficient under the actuarial valuations to meet both  
17 the normal cost plus the actuarially determined amount required to amortize  
18 the unfunded accrued liability over, beginning July 1, 2005, a rolling period  
19 of at least twenty and not more than thirty years that is established by the  
20 board taking into account the recommendation of the plan's actuary, except  
21 that, beginning with fiscal year 2006-2007, except as otherwise provided, the  
22 employer contribution rate shall not be less than six per cent of salary.  
23 For any employer whose actual contribution rate is less than six per cent of  
24 salary for fiscal year 2006-2007 and each year thereafter, that employer's  
25 contribution rate shall be at least five per cent and not more than the  
26 employer's actual contribution rate. An employer may pay a higher level per  
27 cent of salary thereby reducing its unfunded past service liability. All  
28 contributions made by the employers and all state taxes allocated to the fund  
29 shall be irrevocable and shall be used to pay benefits under the plan or to  
30 pay expenses of the plan and fund. The minimum employer contribution that is  
31 paid and that is in excess of the normal cost plus the actuarially determined  
32 amount required to amortize the unfunded accrued liability as calculated  
33 pursuant to this subsection shall be used to reduce future employer  
34 contribution increases and shall not be used to pay for an increase in  
35 benefits that are otherwise payable to members. The board shall separately  
36 account for these monies in the fund. Forfeitures arising because of  
37 severance of employment before a member becomes eligible for a pension or for  
38 any other reason shall be applied to reduce the cost to the employer, not to  
39 increase the benefits otherwise payable to members. After the close of any  
40 fiscal year, if the plan's actuary determines that the actuarial valuation of  
41 an employer's account contains excess valuation assets other than excess  
42 valuation assets that were in the employer's account as of fiscal year  
43 2004-2005 and is more than one hundred per cent funded, the board shall  
44 account for fifty per cent of the excess valuation assets in a stabilization  
45 reserve account. After the close of any fiscal year, if the plan's actuary

1 determines that the actuarial valuation of an employer's account has a  
2 valuation asset deficiency and an unfunded actuarial accrued liability, the  
3 board shall use any valuation assets in the stabilization reserve account for  
4 that employer, to the extent available, to limit the decline in that  
5 employer's funding ratio to not more than two per cent.

6 B. Except as provided by subsection I, each member shall contribute  
7 7.96 per cent of the member's salary to the retirement plan. Member  
8 contributions shall be made by payroll deduction. Continuation of employment  
9 by the member constitutes consent and agreement to the deduction of the  
10 applicable member contribution. Payment of the member's salary less the  
11 deducted contributions constitutes full and complete discharge and  
12 satisfaction of all claims and demands of the member relating to salary for  
13 services rendered during the period covered by the payment.

14 ~~C. Each participating employer shall cause the member contributions to~~  
15 ~~be deducted from the salary of each member. The deducted member~~  
16 ~~contributions shall be paid to the retirement plan within five working days~~  
17 ~~and shall be credited to the member's individual account.~~

18 C. EACH EMPLOYER SHALL TRANSFER TO THE BOARD THE EMPLOYER AND EMPLOYEE  
19 CONTRIBUTIONS PROVIDED FOR IN THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH  
20 PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THAT DATE SHALL INCLUDE A  
21 PENALTY OF TEN PER CENT PER ANNUM, COMPOUNDED ANNUALLY, FOR EACH DAY THE  
22 CONTRIBUTIONS ARE LATE. THE EMPLOYER SHALL PAY THIS PENALTY. DELINQUENT  
23 PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS  
24 PROVIDED IN THIS SUBSECTION, MAY BE RECOVERED BY ACTION IN A COURT OF  
25 COMPETENT JURISDICTION AGAINST AN EMPLOYER LIABLE FOR THE PAYMENTS OR, AT THE  
26 REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE  
27 REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY DEPARTMENT OR AGENCY OF THIS  
28 STATE.

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

34 E. The local board of the state department of corrections or the local  
35 board of the department of juvenile corrections may specify a position within  
36 that department as a designated position if the position is filled by an  
37 employee who has at least five years of credited service under the plan, who  
38 is transferred to temporarily fill the position and who makes a written  
39 request to the local board to specify the position as a designated position  
40 within ninety days of being transferred. On the employee leaving the  
41 position, the position is no longer a designated position. For the purposes  
42 of this subsection, "temporarily filled" means an employee is transferred to  
43 fill the position for a period of not more than one year.

44 F. The local board of the state department of corrections or the local  
45 board of the department of juvenile corrections may specify a designated

1 position within the department as a nondesignated position if the position is  
2 filled by an employee who has at least five years of credited service under  
3 the Arizona state retirement system and who makes a written request to the  
4 local board to specify the position as a nondesignated position within ninety  
5 days of accepting the position. On the employee leaving the position, the  
6 position reverts to a designated position.

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

18 H. Beginning with fiscal year 2008-2009, if the aggregate computed  
19 employer contribution rate that is calculated pursuant to subsection A is  
20 less than six per cent of salary, beginning on July 1 of the following fiscal  
21 year the member contribution rate prescribed in subsection B or I is  
22 permanently reduced by an amount that is equal to the difference between six  
23 per cent and the aggregate computed employer contribution rate.  
24 Notwithstanding this subsection, the member contribution rate shall not be  
25 less than 7.65 per cent of the member's salary.

26 I. Notwithstanding subsection B, except for a full-time dispatcher, a  
27 member shall contribute 8.41 per cent of the member's salary to the  
28 retirement plan. After the close of any fiscal year, if the plan's actuary  
29 determines that the aggregate ratio of the funding value of accrued assets to  
30 the accrued liabilities of the fund is at least one hundred per cent, from  
31 and after June 30 of the following year, except for a full-time dispatcher, a  
32 member shall contribute 7.96 per cent of the member's salary to the  
33 retirement plan. Additionally, the member's contribution to the retirement  
34 plan may also be permanently reduced pursuant to subsection H.

35 Sec. 9. Section 38-893, Arizona Revised Statutes, is amended to read:

36 38-893. Local boards; powers and duties; rules; hearings;  
37 administrative review

38 A. The administration of the plan and the responsibility for making  
39 the provisions of the plan effective for each employer are vested in a local  
40 board. The state department of corrections, the department of juvenile  
41 corrections, the department of public safety, each participating county  
42 sheriff's department, each participating city or town, each participating  
43 employer of full-time dispatchers for eligible groups as defined in section  
44 38-842 and the judiciary shall have a local board. Each local board is  
45 constituted as follows:

1           1. For the state departments, two members who are elected by secret  
2 ballot by members employed by that department in a designated position and  
3 two citizens who are appointed by the governor. The director of each state  
4 department shall appoint one member to the local board who is knowledgeable  
5 in personnel actions. Each state department local board shall elect a  
6 chairman.

7           2. For each participating county, the chairman of the board of  
8 supervisors, or the chairman's designee who is approved by the board of  
9 supervisors, as chairman, two members who are elected by secret ballot by  
10 members employed by the participating county in a designated position and two  
11 citizens, one of whom shall be the head of the merit system if it exists for  
12 the group of members, who are appointed by the chairman of the board of  
13 supervisors with the approval of the board of supervisors.

14           3. For political subdivisions, the mayor or chief elected official or  
15 a designee of the mayor or chief elected official approved by the respective  
16 governing body as chairman, two members elected by secret ballot by members  
17 employed by the appropriate employer and two citizens, one of whom shall be  
18 the head of the merit system if it exists for the group of members, appointed  
19 by the mayor or chief elected official and with the approval of the city  
20 council or governing body of the employer.

21           4. For the judiciary, two members who are elected by secret ballot by  
22 members who are employed as a probation, surveillance or juvenile detention  
23 officer, a designee of the chief justice of the Arizona supreme court and two  
24 citizens, one of whom shall be the head of a human resource department for  
25 the group of members, appointed by the chief justice.

26           B. The appointments and elections of local board members shall take  
27 place with one elective and one appointive board member, as designated by the  
28 appointing authority, serving a term ending two years after the date of  
29 appointment or election and the other local board members serving a term  
30 ending four years after the date of appointment or election. Thereafter,  
31 every second year, and as a vacancy occurs, an office shall be filled for a  
32 term of four years in the same manner as provided in this section.

33           C. Each local board shall be fully constituted pursuant to subsection  
34 A of this section within sixty days after the employer's effective date of  
35 participation in the plan. If the deadline is not met, on the written  
36 request of any member who is covered by the local board or the employer to  
37 the board of trustees, the board of trustees shall appoint all vacancies of  
38 the local board pursuant to subsection A of this section and designate  
39 whether each appointive position is for a two year or four year term. If the  
40 board of trustees cannot find individuals to serve on the local board who  
41 meet the requirements of subsection A of this section, the board of trustees  
42 may appoint individuals to serve as interim local board members until  
43 qualified individuals are appointed or elected. Within ten days after the  
44 member's appointment or election, each member of a local board shall take an  
45 oath of office that, so far as it devolves on the member, the member shall

1 diligently and honestly administer the affairs of the local board and shall  
2 not knowingly violate or willingly permit to be violated any of the  
3 provisions of law applicable to the plan.

4 D. Except as limited by subsection E of this section, a local board  
5 shall:

6 1. Decide all questions of eligibility and service credits and  
7 determine the amount, manner and time of payment of any benefit under the  
8 plan.

9 2. Make a determination as to the right of a claimant to a benefit and  
10 afford a claimant or the board of trustees, or both, a right to a rehearing  
11 on the original determination, unless the board of trustees determines that  
12 granting the relief requested would violate the internal revenue code or  
13 threaten to impair the plan's status as a qualified plan under the internal  
14 revenue code. If the board of trustees determines that granting the  
15 requested relief would violate the internal revenue code or threaten to  
16 impair the plan's status as a qualified plan, the board of trustees may  
17 refuse to grant the relief by issuing a written determination to the local  
18 board and the party petitioning the local board for relief. The decision by  
19 the board of trustees is subject to judicial review pursuant to title 12,  
20 chapter 7, article 6.

21 3. Request and receive from the employers and from members information  
22 as is necessary for the proper administration of the plan and action on  
23 claims for benefits and forward the information to the board of trustees.

24 4. Distribute, in the manner the local board determines to be  
25 appropriate, information explaining the plan that is received from the board  
26 of trustees.

27 5. Furnish the employer, the board of trustees and the legislature, on  
28 request, with annual reports with respect to the administration of the plan  
29 that are reasonable and appropriate.

30 6. Appoint a medical board, which is composed of a designated  
31 physician or clinic other than the employer's regular employee or contractor.  
32 If required, the local board may employ other physicians to report on special  
33 cases. The examining physician or clinic shall report the results of  
34 examinations made to the local board, and the secretary of the local board  
35 shall preserve the report as a permanent record.

36 7. Sue and be sued to effectuate the duties and responsibilities set  
37 forth in this article.

38 8. Prescribe procedures to be followed by claimants in filing  
39 applications for benefits.

40 9. Receive and review the actuarial valuation of the plan for its  
41 group of members.

42 10. Receive and review reports of the financial condition and of the  
43 receipts and disbursements of the fund from the board of trustees.

44 E. A local board has no power to add to, subtract from, modify or  
45 waive any of the terms of the plan, change or add to any benefits provided by

1 the plan or waive or fail to apply any requirement of eligibility for  
2 membership or benefits under the plan. Notwithstanding any limitations  
3 periods imposed in this article, including subsections G and H of this  
4 section, if the board of trustees determines a local board decision violates  
5 the internal revenue code or threatens to impair the plan's status as a  
6 qualified plan under the internal revenue code the local board's decision is  
7 not final and binding and the board of trustees may refrain from implementing  
8 or complying with the local board decision.

9 F. A local board, from time to time, shall establish and adopt rules  
10 as it deems necessary or desirable for its administration. All rules and  
11 decisions of a local board shall be uniformly and consistently applied to all  
12 members in similar circumstances. IF A CLAIM OR DISPUTE IS PRESENTED TO A  
13 LOCAL BOARD FOR DETERMINATION BUT THE LOCAL BOARD HAS NOT YET ADOPTED UNIFORM  
14 RULES OF PROCEDURE FOR ADJUDICATION OF THE CLAIM OR DISPUTE, THE LOCAL BOARD  
15 SHALL ADOPT AND USE THE MODEL UNIFORM RULES OF LOCAL BOARD PROCEDURE THAT ARE  
16 ISSUED BY THE BOARD OF TRUSTEES' FIDUCIARY COUNSEL TO ADJUDICATE THE CLAIM OR  
17 DISPUTE.

18 G. Except as otherwise provided in this article, an action by a  
19 majority vote of the members of a local board that is not inconsistent with  
20 the provisions of the plan and the internal revenue code is final, conclusive  
21 and binding on all persons affected by it, unless a timely application for a  
22 rehearing or appeal is filed as provided in this article. No later than  
23 twenty ~~business~~ days after taking action, the local board shall submit to the  
24 board of trustees THE MINUTES FROM THE LOCAL BOARD MEETING THAT INCLUDE the  
25 name of the member affected by its decision, a description of the action  
26 taken and an explanation of the reasons AND DOCUMENTS supporting the local  
27 board's action. The board of trustees may not implement and comply with any  
28 local board action that does not comply with the internal revenue code or  
29 that threatens to jeopardize the plan's status as a qualified plan under the  
30 internal revenue code.

31 H. A claimant or the board of trustees may apply for a rehearing  
32 before the local board within the time periods prescribed in this subsection,  
33 except that if a decision of a local board violates the internal revenue code  
34 or threatens to jeopardize the plan's status as a qualified plan under the  
35 internal revenue code, no limitation period for the board of trustees to seek  
36 a rehearing of a local board decision applies. A claimant or the board of  
37 trustees shall file an application for rehearing in writing with a member of  
38 the local board or its secretary within sixty days after:

39 1. The claimant receives notification of the local board's original  
40 action by certified mail, by attending the meeting at which the action is  
41 taken or by receiving benefits from the plan pursuant to the local board's  
42 original action, whichever occurs first.

43 2. The board of trustees receives notification of the local board's  
44 original action as prescribed by subsection G of this section by certified  
45 mail.

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

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

5 K. When making a ruling, determination or calculation, the local board  
6 is entitled to rely on information furnished by the employer, the board of  
7 trustees, independent legal counsel or the actuary for the plan.

8 L. Each member of a local board is entitled to one vote. A majority  
9 is necessary for a decision by the members of a local board at any meeting of  
10 the local board.

11 M. The local board shall adopt bylaws as it deems necessary. The  
12 local board shall elect a secretary who may, but need not, be a member of the  
13 local board. The secretary of the local board shall keep a record and  
14 prepare minutes of all meetings, ~~IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1~~  
15 ~~OF THIS TITLE AND forward the minutes AND ALL NECESSARY COMMUNICATIONS~~ to the  
16 board of trustees ~~within forty five days after each meeting and forward all~~  
17 ~~necessary communications to the board of trustees~~ AS PRESCRIBED BY SUBSECTION  
18 G OF THIS SECTION.

19 N. The employer and not the board of trustees or plan shall pay the  
20 fees of the medical board and of the local board's legal counsel and all  
21 other expenses of the local board necessary for the administration of the  
22 plan at rates and in amounts as the local board approves.

23 O. The local board shall issue directions to the board of trustees  
24 concerning all benefits that are to be paid from the employer's account  
25 pursuant to the provisions of the fund. The local board shall keep on file,  
26 in the manner it deems convenient and proper, all reports from the board of  
27 trustees and the actuary.

28 P. The local board and the individual members of the local board are  
29 indemnified from the assets of the fund for any judgment against the local  
30 board or its members, including attorney fees and costs, arising from any  
31 act, or failure to act, made in good faith pursuant to the provisions of the  
32 plan.

33 Sec. 10. Section 38-906, Arizona Revised Statutes, is amended to read:

34 38-906. Group health and accident coverage for retired members;  
35 payment

36 A. UPON NOTIFICATION, the board shall pay from the assets of the fund  
37 part of the single coverage premium of any group health and accident  
38 insurance for each retired member or survivor of the plan who receives a  
39 pension and who has elected to participate in coverage provided by section  
40 38-651.01 or 38-782 or any other health and accident insurance coverage  
41 provided or administered by a participating employer in the plan. The board  
42 shall pay up to:

43 1. One hundred fifty dollars per month for each retired member or  
44 survivor of the plan who is not eligible for medicare.

1           2. One hundred dollars per month for each retired member or survivor  
2 of the plan who is eligible for medicare.

3           B. **UPON NOTIFICATION**, the board shall pay from the assets of the fund  
4 part of the family coverage premium of any group health and accident  
5 insurance for each retired member or survivor of the plan who elects family  
6 coverage and who otherwise qualifies for payment pursuant to subsection A of  
7 this section. Payment under this subsection is in the following amounts:

8           1. Up to two hundred sixty dollars per month if the retired member or  
9 survivor of the plan and one or more dependents are not eligible for  
10 medicare.

11           2. Up to one hundred seventy dollars per month if the retired member  
12 or survivor of the plan and one or more dependents are eligible for medicare.

13           3. Up to two hundred fifteen dollars if either:

14           (a) The retired member or survivor of the plan is not eligible for  
15 medicare and one or more dependents are eligible for medicare.

16           (b) The retired member or survivor of the plan is eligible for  
17 medicare and one or more dependents are not eligible for medicare.

18           C. The board shall not pay more than the amount prescribed in this  
19 section for a benefit recipient as a member or survivor of the plan.

20           D. A retired member or survivor of the plan may elect to purchase  
21 individual health care coverage and receive a payment pursuant to this  
22 section through the retired member's **FORMER** employer if that **FORMER** employer  
23 assumes the administrative functions associated with the payment, including  
24 verification that the payment is used to pay for health insurance coverage if  
25 the payment is made to the retired member or survivor of the plan. **THIS**  
26 **PROVISION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO IS**  
27 **REEMPLOYED AND WHO PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE**  
28 **MEMBER'S OR SURVIVOR'S NEW EMPLOYER.**