

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1317

AN ACT

AMENDING SECTION 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 38-891 AND 38-893, 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 38-842, Arizona Revised Statutes, is amended to  
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that  
7 the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's job  
9 classification and that was incurred in the performance of the employee's  
10 duty.

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

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

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

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

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

26 7. "Average monthly benefit compensation" means the result obtained by  
27 dividing the total compensation paid to an employee during a considered  
28 period by the number of months, including fractional months, in which such  
29 compensation was received. The considered period shall be the three  
30 consecutive years within the last twenty completed years of credited service  
31 that yield the highest average. In the computation under this paragraph, a  
32 period of nonpaid or partially paid industrial leave shall be considered  
33 based on the compensation the employee would have received in the employee's  
34 job classification if the employee was not on industrial leave.

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

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

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

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

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

27           13. "Credited service" means the member's total period of service  
28 before the member's effective date of participation, plus those compensated  
29 periods of the member's service thereafter for which the member made  
30 contributions to the fund.

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

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

39           16. "Determination" means a written document that indicates to a  
40 participant and alternate payee whether a domestic relations order qualifies  
41 as a plan approved domestic relations order.

42           17. "Determination period" means the ninety-day period in which the  
43 system must review a domestic relations order that is submitted by a  
44 participant or alternate payee to determine whether the domestic relations  
45 order qualifies as a plan approved domestic relations order, calculated from

1 the time the system mails a notice of receipt to the participant and  
2 alternate payee.

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

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

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

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

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

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

21 (a) Is under eighteen years of age.

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

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

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

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

30 (b) Municipal fire fighters.

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

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

36 (e) State fire fighters.

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

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

39 (h) Police officers who are certified peace officers and fire fighters  
40 of a nonprofit corporation operating a public airport pursuant to sections  
41 28-8423 and 28-8424. A police officer shall be designated pursuant to  
42 section 28-8426 to aid and supplement state and local law enforcement  
43 agencies and a fire fighter's sole duty shall be to perform fire fighting  
44 services, including services required by federal regulations.

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

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

5 (k) State attorney general investigators who are certified peace  
6 officers.

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

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

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

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

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

16 (q) Arizona department of agriculture officers who are certified peace  
17 officers.

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

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

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

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

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

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

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

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

33 (f) An eligible deferred compensation plan described in section 457(b)  
34 of the internal revenue code that is maintained by a state, a political  
35 subdivision of a state or any agency or instrumentality of a state or a  
36 political subdivision of a state and that agrees to separately account for  
37 amounts transferred into the eligible deferred compensation plan from this  
38 plan.

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

41 (a) Any distribution that is one of a series of substantially equal  
42 periodic payments made not less frequently than annually for the life or life  
43 expectancy of the member or the joint lives or joint life expectancies of the  
44 member and the member's beneficiary or for a specified period of ten years or  
45 more.

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

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

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

11 28. "Employers" means:

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

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

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

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

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

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

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

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

37 (a) Who is either a paid municipal police officer, a paid fire  
38 fighter, a law enforcement officer who is employed by this state including  
39 the director thereof, a state fire fighter who is primarily assigned to fire  
40 fighting duties, a fire fighter or police officer of a nonprofit corporation  
41 operating a public airport pursuant to sections 28-8423 and 28-8424, all  
42 ranks designated by the Arizona law enforcement merit system council, a state  
43 attorney general investigator who is a certified peace officer, a county  
44 attorney investigator who is a certified peace officer, a police officer who  
45 is appointed by the department of administration and who is a certified peace

1 officer, a department of liquor licenses and control investigator who is a  
2 certified peace officer, an Arizona department of agriculture officer who is  
3 a certified peace officer, an Arizona state parks board ranger or manager who  
4 is a certified peace officer, a county park ranger who is a certified peace  
5 officer, a person who is a certified peace officer and who is employed by an  
6 Indian reservation police agency, a fire fighter who is employed by an Indian  
7 reservation fire fighting agency or an employee included in a group  
8 designated as eligible employees under a joinder agreement entered into by  
9 their employer after July 1, 1968 and who is or was regularly assigned to  
10 hazardous duty.

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

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

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

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

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

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

32 33. "Notice of receipt" means a written document that is issued by the  
33 system to a participant and alternate payee and that states that the system  
34 has received a domestic relations order and a request for a determination  
35 that the domestic relations order is a plan approved domestic relations  
36 order.

37 34. "Ordinary disability" means a physical condition that the local  
38 board determines will prevent an employee totally and permanently from  
39 performing a reasonable range of duties within the employee's department or a  
40 mental condition that the local board determines will prevent an employee  
41 totally and permanently from engaging in any substantial gainful activity.

42 35. "Participant" means a member who is subject to a domestic relations  
43 order.

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

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

4           38. "Personal representative" means the personal representative of a  
5 deceased alternate payee.

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

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

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

38           42. "Segregated funds" means the amount of benefits that would  
39 currently be payable to an alternate payee pursuant to a domestic relations  
40 order under review by the system, or a domestic relations order submitted to  
41 the system that failed to qualify as a plan approved domestic relations  
42 order, if the domestic relations order were determined to be a plan approved  
43 domestic relations order.

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

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

23           45. "System" means the public safety personnel retirement system  
24 established by this article.

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

29           Sec. 2. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
30 amended by adding section 38-845.02, to read:

31           38-845.02. Payment of pension

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

35           Sec. 3. Section 38-847, Arizona Revised Statutes, is amended to read:

36           38-847. Local boards

37           A. The administration of the system and responsibility for making the  
38 provisions of the system effective for each employer are vested in a local  
39 board. The department of public safety, the Arizona game and fish  
40 department, the department of emergency and military affairs, the university  
41 of Arizona, Arizona state university, northern Arizona university, each  
42 county sheriff's office, each county attorney's office, each county parks  
43 department, each municipal fire department, each eligible fire district, each  
44 community college district, each municipal police department, the department  
45 of law, the department of administration, the department of liquor licenses

1 and control, the Arizona department of agriculture, the Arizona state parks  
2 board, each Indian reservation police agency and each Indian reservation fire  
3 fighting agency shall have a local board. A nonprofit corporation operating  
4 pursuant to sections 28-8423 and 28-8424 shall have one local board for all  
5 of its members. Each local board shall be constituted as follows:

6 1. For political subdivisions or Indian tribes, the mayor or chief  
7 elected official or a designee of the mayor or chief elected official  
8 approved by the respective governing body as chairman, two members elected by  
9 secret ballot by members employed by the appropriate employer and two  
10 citizens, one of whom shall be the head of the merit system, or the head's  
11 designee from among the other members of the merit system, if it exists for  
12 the group of members, appointed by the mayor or chief elected official and  
13 with the approval of the governing body of the city or the governing body of  
14 the employer. The appointed two citizens shall serve on both local boards in  
15 a city or Indian tribes where both fire and police department employees are  
16 members.

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

21 3. For fire districts organized pursuant to section 48-804, the  
22 secretary-treasurer as chairman, two members elected by secret ballot by  
23 members employed by the fire district and two citizens appointed by the  
24 secretary-treasurer, one of whom is a resident of the fire district and one  
25 of whom has experience in personnel administration but who is not required to  
26 be a resident of the fire district.

27 B. On the taking effect of this system for an employer, the  
28 appointments and elections of local board members shall take place with one  
29 elective and appointive local board member serving a term ending two years  
30 after the effective date of participation for the employer and other local  
31 board members serving a term ending four years after the effective date.  
32 Thereafter, every second year, and as a vacancy occurs, an office shall be  
33 filled for a term of four years in the same manner as previously provided.

34 C. Each local board shall be fully constituted pursuant to subsection  
35 A of this section within sixty days after the employer's effective date of  
36 participation in the system. If the deadline is not met, on the written  
37 request of any member who is covered by the local board or the employer to  
38 the ~~fund-manager~~ BOARD OF TRUSTEES, the ~~fund-manager~~ BOARD OF TRUSTEES may  
39 appoint all vacancies of the local board pursuant to subsection A of this  
40 section and designate whether each appointive position is for a two year or  
41 four year term. If the fund manager cannot find individuals to serve on the  
42 local board who meet the requirements of subsection A of this section, the  
43 ~~fund-manager~~ BOARD OF TRUSTEES may appoint individuals to serve as interim  
44 local board members until qualified individuals are appointed or elected.  
45 Each local board shall meet at least twice a year. Each member of a local

1 board, within ten days after the member's appointment or election, shall take  
2 an oath of office that, so far as it devolves on the member, the member shall  
3 diligently and honestly administer the affairs of the local board and that  
4 the member shall not knowingly violate or willingly permit to be violated any  
5 of the provisions of law applicable to the system.

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

8 1. To decide all questions of eligibility and service credits, and  
9 determine the amount, manner and time of payment of any benefits under the  
10 system.

11 2. To prescribe procedures to be followed by claimants in filing  
12 applications for benefits.

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

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

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

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

44 7. To receive and review the actuarial valuation of the system for its  
45 group of members.

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

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

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

6           E. A local board shall have no power to add to, subtract from, modify  
7 or waive any of the terms of the system, change or add to any benefits  
8 provided by the system or waive or fail to apply any requirement of  
9 eligibility for membership or benefits under the system. Notwithstanding any  
10 limitations periods imposed in this article, including subsection D,  
11 paragraph 3 and subsections G and H of this section, if the ~~fund-manager~~  
12 **BOARD OF TRUSTEES** determines a local board decision violates the internal  
13 revenue code or threatens to impair the system's status as a qualified plan  
14 under the internal revenue code, the local board's decision is not final and  
15 binding and the ~~fund-manager~~ **BOARD OF TRUSTEES** may refrain from implementing  
16 or complying with the local board decision.

17           F. A local board, from time to time, shall establish and adopt such  
18 rules as it deems necessary or desirable for its administration. All rules  
19 and decisions of a local board shall be uniformly and consistently applied to  
20 all members in similar circumstances. If a claim or dispute is presented to  
21 a local board for determination but the local board has not yet adopted  
22 uniform rules of procedure for adjudication of the claim or dispute, the  
23 local board shall adopt and use the model uniform rules of local board  
24 procedure that are issued by the board of trustees' fiduciary counsel to  
25 adjudicate the claim or dispute.

26           G. Except as otherwise provided in this article, any action by a  
27 majority vote of the members of a local board that is not inconsistent with  
28 the provisions of the system and the internal revenue code shall be final,  
29 conclusive and binding on all persons affected by it unless a timely  
30 application for a rehearing or appeal is filed as provided in this article.  
31 No later than twenty ~~business~~ days after taking action, the local board shall  
32 submit to the ~~fund-manager~~ **BOARD OF TRUSTEES THE MINUTES FROM THE LOCAL BOARD**  
33 **MEETING THAT INCLUDE** the name of the member affected by its decision, a  
34 description of the action taken and an explanation of the reasons **AND**  
35 **DOCUMENTS** supporting the local board's action. The ~~fund-manager~~ **BOARD OF**  
36 **TRUSTEES** may not implement and comply with any local board action that does  
37 not comply with the internal revenue code or that threatens to jeopardize the  
38 system's status as a qualified plan under the internal revenue code.

39           H. A claimant or the board of trustees may apply for a rehearing  
40 before the local board within the time periods prescribed in this subsection,  
41 except that if a decision of a local board violates the internal revenue code  
42 or threatens to jeopardize the system's status as a qualified plan under the  
43 internal revenue code, no limitation period for the ~~fund-manager~~ **BOARD OF**  
44 **TRUSTEES** to seek a rehearing of a local board decision applies. An

1 application for a rehearing shall be filed in writing with a member of the  
2 local board or its secretary within sixty days after:

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

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

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

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

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

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

20 M. The local board shall adopt such bylaws as it deems desirable. The  
21 local board shall elect a secretary who may, but need not, be a member of the  
22 local board. The secretary of the local board shall keep a record and  
23 prepare minutes of all meetings, ~~within forty five days after each meeting and forward all~~  
24 ~~necessary communications to the board of trustees~~ **IN COMPLIANCE WITH CHAPTER 3, ARTICLE 3.1**  
25 **OF THIS TITLE AND forward the minutes AND ALL NECESSARY COMMUNICATIONS** to the  
26 ~~board of trustees~~ **AS PRESCRIBED BY SUBSECTION**  
27 **G OF THIS SECTION.**

28 N. The fees of the medical board and of the local board's independent  
29 legal counsel and all other expenses of the local board necessary for the  
30 administration of the system shall be paid by the employer and not the ~~fund~~  
31 ~~manager~~ **BOARD OF TRUSTEES** or system at such rates and in such amounts as the  
32 local board shall approve. Legal counsel that is employed by the local board  
33 is independent of the employer and any employee organization or member and  
34 owes its duty of loyalty only to the local board in connection with its  
35 representation of the local board.

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

41 P. The local board and the individual members of the local board shall  
42 be indemnified from the assets of the employer for any judgment against the  
43 local board or its members, including attorney fees and costs, arising from  
44 any act, or failure to act, made in good faith pursuant to the provisions of

1 the system, including expenses reasonably incurred in the defense of any  
2 claim relating to the act or failure to act."

3 Sec. 4. Section 38-849, Arizona Revised Statutes, as amended by Laws  
4 2010, chapter 118, section 10, is amended to read:

5 38-849. Limitations on receiving pension; violation;  
6 classification; reemployment after severance;  
7 reinstatement of service credits; reemployment of  
8 retired or disabled member

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

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

28 C. If a member who received a severance refund on termination of  
29 employment, as provided in section 38-846.02, is subsequently reemployed by  
30 an employer, the member's prior service credits shall be cancelled and  
31 service shall be credited only from the date the member's most recent  
32 reemployment period commenced. However, if the former member's reemployment  
33 with the same employer occurred within two years after the former member's  
34 termination date, and, within ninety days after reemployment the former  
35 member signs a written election consenting to reimburse the fund within one  
36 year, the former member shall be required to redeposit the amount withdrawn  
37 at the time of the former member's separation from service, with interest  
38 thereon at the rate of nine per cent for each year compounded each year from  
39 the date of withdrawal to the date of repayment. On satisfaction of this  
40 obligation the member's prior service credits shall be reinstated.

41 D. If a retired member becomes employed in any capacity by the  
42 employer from which the member retired before sixty consecutive days after  
43 the member's date of retirement, the system shall not make pension payments  
44 to the retired member during the period of reemployment. If a retired member  
45 is reemployed by an employer, no contributions shall be made on the retired

1 member's account, nor any service credited, during the period of the  
2 reemployment. Notwithstanding this subsection, if a retired member  
3 subsequently becomes employed in the same position by the employer from which  
4 the member retired, the system shall not make pension payments to the retired  
5 member during the period of reemployment. On subsequent termination of  
6 employment by the retired member, the retired member is entitled to receive a  
7 pension based on the member's service and compensation before the date of the  
8 member's reemployment. If a member who retired under disability is  
9 reemployed by an employer as an employee, that member shall be treated as if  
10 the member had been on an uncompensated leave of absence during the period of  
11 the member's disability retirement and shall be a contributing member of the  
12 system. Within ten days after a retired member is reemployed by the employer  
13 from which the member retired, the employer shall advise the ~~fund-manager~~  
14 ~~BOARD~~ in writing as to whether the retired member has been reemployed in the  
15 same position from which the member retired. The ~~fund-manager~~ ~~BOARD~~ shall  
16 review all reemployment determinations. If the ~~fund-manager~~ ~~BOARD~~ is not  
17 provided the necessary information to make a reemployment determination, the  
18 ~~fund-manager~~ ~~BOARD~~ shall suspend pension payments until information is  
19 received and a determination is made that the reemployment meets the  
20 requirements of this subsection. For the purposes of this subsection, "same  
21 position" means the member is in a position where the member performs  
22 substantially similar duties that were performed and exercises substantially  
23 similar authority that was exercised by the retired member before retirement.

24 E. A person who defrauds the system or who takes, converts, steals or  
25 embezzles monies owned by or from the system and who fails or refuses to  
26 return the monies to the system on the ~~fund-manager's~~ ~~BOARD'S~~ written request  
27 is subject to civil suit by the system in the superior court in Maricopa  
28 county. On entry of an order finding the person has defrauded the system or  
29 taken, converted, stolen or embezzled monies owned by or from the system, the  
30 court shall enter an order against that person and for the system awarding  
31 the system all of its costs and expenses of any kind, including attorney  
32 fees, that were necessary to successfully prosecute the action. The court  
33 shall also grant the system a judicial lien on all of the nonexempt property  
34 of the person against whom judgment is entered pursuant to this subsection in  
35 an amount equal to all amounts awarded to the system, plus interest at the  
36 rate prescribed by section 44-1201, subsection A, until all amounts owed are  
37 paid to the system.

38 F. Notwithstanding any other provision of this article, the ~~fund~~  
39 ~~manager~~ ~~BOARD~~ may offset against any benefits otherwise payable by the system  
40 to an active or retired member or survivor any court ordered amounts awarded  
41 to the ~~fund-manager~~ ~~BOARD~~ and system and assessed against the member or  
42 survivor.

43 Sec. 5. Repeal

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

1           Sec. 6. Section 38-891, Arizona Revised Statutes, is amended to read:  
2           38-891. Employer and member contributions

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

40           B. Except as provided by subsection I, each member shall contribute  
41 7.96 per cent of the member's salary to the retirement plan. Member  
42 contributions shall be made by payroll deduction. Continuation of employment  
43 by the member constitutes consent and agreement to the deduction of the  
44 applicable member contribution. Payment of the member's salary less the  
45 deducted contributions constitutes full and complete discharge and

1 satisfaction of all claims and demands of the member relating to salary for  
2 services rendered during the period covered by the payment.

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

7 C. EACH EMPLOYER SHALL TRANSFER TO THE BOARD THE EMPLOYER AND EMPLOYEE  
8 CONTRIBUTIONS PROVIDED FOR IN THIS SECTION WITHIN TEN WORKING DAYS AFTER EACH  
9 PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THAT DATE SHALL INCLUDE A  
10 PENALTY OF TEN PER CENT PER ANNUM, COMPOUNDED ANNUALLY, FOR EACH DAY THE  
11 CONTRIBUTIONS ARE LATE. THE EMPLOYER SHALL PAY THIS PENALTY. DELINQUENT  
12 PAYMENTS DUE UNDER THIS SUBSECTION, TOGETHER WITH INTEREST CHARGES AS  
13 PROVIDED IN THIS SUBSECTION, MAY BE RECOVERED BY ACTION IN A COURT OF  
14 COMPETENT JURISDICTION AGAINST AN EMPLOYER LIABLE FOR THE PAYMENTS OR, AT THE  
15 REQUEST OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE  
16 REVENUE TAXES, PAYABLE TO THE EMPLOYER BY ANY DEPARTMENT OR AGENCY OF THIS  
17 STATE.

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

23 E. The local board of the state department of corrections or the local  
24 board of the department of juvenile corrections may specify a position within  
25 that department as a designated position if the position is filled by an  
26 employee who has at least five years of credited service under the plan, who  
27 is transferred to temporarily fill the position and who makes a written  
28 request to the local board to specify the position as a designated position  
29 within ninety days of being transferred. On the employee leaving the  
30 position, the position is no longer a designated position. For the purposes  
31 of this subsection, "temporarily filled" means an employee is transferred to  
32 fill the position for a period of not more than one year.

33 F. The local board of the state department of corrections or the local  
34 board of the department of juvenile corrections may specify a designated  
35 position within the department as a nondesignated position if the position is  
36 filled by an employee who has at least five years of credited service under  
37 the Arizona state retirement system and who makes a written request to the  
38 local board to specify the position as a nondesignated position within ninety  
39 days of accepting the position. On the employee leaving the position, the  
40 position reverts to a designated position.

41 G. The local board of the judiciary may specify positions within the  
42 administrative office of the courts that require direct contact with and  
43 primarily provide training or technical expertise to county probation,  
44 surveillance or juvenile detention officers as a designated position if the  
45 position is filled by an employee who is a member of the plan currently

1 employed in a designated position as a probation, surveillance or juvenile  
2 detention officer and who has at least five years of credited service under  
3 the plan. An employee who fills such a position shall make a written request  
4 to the local board to specify the position as a designated position within  
5 ninety days of accepting the position. On the employee leaving the position,  
6 the position reverts to a nondesignated position.

7 H. Beginning with fiscal year 2008-2009, if the aggregate computed  
8 employer contribution rate that is calculated pursuant to subsection A is  
9 less than six per cent of salary, beginning on July 1 of the following fiscal  
10 year the member contribution rate prescribed in subsection B or I is  
11 permanently reduced by an amount that is equal to the difference between six  
12 per cent and the aggregate computed employer contribution rate.  
13 Notwithstanding this subsection, the member contribution rate shall not be  
14 less than 7.65 per cent of the member's salary.

15 I. Notwithstanding subsection B, except for a full-time dispatcher, a  
16 member shall contribute 8.41 per cent of the member's salary to the  
17 retirement plan. After the close of any fiscal year, if the plan's actuary  
18 determines that the aggregate ratio of the funding value of accrued assets to  
19 the accrued liabilities of the fund is at least one hundred per cent, from  
20 and after June 30 of the following year, except for a full-time dispatcher, a  
21 member shall contribute 7.96 per cent of the member's salary to the  
22 retirement plan. Additionally, the member's contribution to the retirement  
23 plan may also be permanently reduced pursuant to subsection H.

24 Sec. 7. Section 38-893, Arizona Revised Statutes, is amended to read:

25 38-893. Local boards; powers and duties; rules; hearings;  
26 administrative review

27 A. The administration of the plan and the responsibility for making  
28 the provisions of the plan effective for each employer are vested in a local  
29 board. The state department of corrections, the department of juvenile  
30 corrections, the department of public safety, each participating county  
31 sheriff's department, each participating city or town, each participating  
32 employer of full-time dispatchers for eligible groups as defined in section  
33 38-842 and the judiciary shall have a local board. Each local board is  
34 constituted as follows:

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

41 2. For each participating county, the chairman of the board of  
42 supervisors, or the chairman's designee who is approved by the board of  
43 supervisors, as chairman, two members who are elected by secret ballot by  
44 members employed by the participating county in a designated position and two  
45 citizens, one of whom shall be the head of the merit system if it exists for

1 the group of members, who are appointed by the chairman of the board of  
2 supervisors with the approval of the board of supervisors.

3 3. For political subdivisions, the mayor or chief elected official or  
4 a designee of the mayor or chief elected official approved by the respective  
5 governing body as chairman, two members elected by secret ballot by members  
6 employed by the appropriate employer and two citizens, one of whom shall be  
7 the head of the merit system if it exists for the group of members, appointed  
8 by the mayor or chief elected official and with the approval of the city  
9 council or governing body of the employer.

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

15 B. The appointments and elections of local board members shall take  
16 place with one elective and one appointive board member, as designated by the  
17 appointing authority, serving a term ending two years after the date of  
18 appointment or election and the other local board members serving a term  
19 ending four years after the date of appointment or election. Thereafter,  
20 every second year, and as a vacancy occurs, an office shall be filled for a  
21 term of four years in the same manner as provided in this section.

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

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

40 1. Decide all questions of eligibility and service credits and  
41 determine the amount, manner and time of payment of any benefit under the  
42 plan.

43 2. Make a determination as to the right of a claimant to a benefit and  
44 afford a claimant or the board of trustees, or both, a right to a rehearing  
45 on the original determination, unless the board of trustees determines that

1 granting the relief requested would violate the internal revenue code or  
2 threaten to impair the plan's status as a qualified plan under the internal  
3 revenue code. If the board of trustees determines that granting the  
4 requested relief would violate the internal revenue code or threaten to  
5 impair the plan's status as a qualified plan, the board of trustees may  
6 refuse to grant the relief by issuing a written determination to the local  
7 board and the party petitioning the local board for relief. The decision by  
8 the board of trustees is subject to judicial review pursuant to title 12,  
9 chapter 7, article 6.

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

13 4. Distribute, in the manner the local board determines to be  
14 appropriate, information explaining the plan that is received from the board  
15 of trustees.

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

19 6. Appoint a medical board, which is composed of a designated  
20 physician or clinic other than the employer's regular employee or contractor.  
21 If required, the local board may employ other physicians to report on special  
22 cases. The examining physician or clinic shall report the results of  
23 examinations made to the local board, and the secretary of the local board  
24 shall preserve the report as a permanent record.

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

27 8. Prescribe procedures to be followed by claimants in filing  
28 applications for benefits.

29 9. Receive and review the actuarial valuation of the plan for its  
30 group of members.

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

33 E. A local board has no power to add to, subtract from, modify or  
34 waive any of the terms of the plan, change or add to any benefits provided by  
35 the plan or waive or fail to apply any requirement of eligibility for  
36 membership or benefits under the plan. Notwithstanding any limitations  
37 periods imposed in this article, including subsections G and H of this  
38 section, if the board of trustees determines a local board decision violates  
39 the internal revenue code or threatens to impair the plan's status as a  
40 qualified plan under the internal revenue code the local board's decision is  
41 not final and binding and the board of trustees may refrain from implementing  
42 or complying with the local board decision.

43 F. A local board, from time to time, shall establish and adopt rules  
44 as it deems necessary or desirable for its administration. All rules and  
45 decisions of a local board shall be uniformly and consistently applied to all

1 members in similar circumstances. IF A CLAIM OR DISPUTE IS PRESENTED TO A  
2 LOCAL BOARD FOR DETERMINATION BUT THE LOCAL BOARD HAS NOT YET ADOPTED UNIFORM  
3 RULES OF PROCEDURE FOR ADJUDICATION OF THE CLAIM OR DISPUTE, THE LOCAL BOARD  
4 SHALL ADOPT AND USE THE MODEL UNIFORM RULES OF LOCAL BOARD PROCEDURE THAT ARE  
5 ISSUED BY THE BOARD OF TRUSTEES' FIDUCIARY COUNSEL TO ADJUDICATE THE CLAIM OR  
6 DISPUTE.

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

20 H. A claimant or the board of trustees may apply for a rehearing  
21 before the local board within the time periods prescribed in this subsection,  
22 except that if a decision of a local board violates the internal revenue code  
23 or threatens to jeopardize the plan's status as a qualified plan under the  
24 internal revenue code, no limitation period for the board of trustees to seek  
25 a rehearing of a local board decision applies. A claimant or the board of  
26 trustees shall file an application for rehearing in writing with a member of  
27 the local board or its secretary within sixty days after:

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

32 2. The board of trustees receives notification of the local board's  
33 original action as prescribed by subsection G of this section by certified  
34 mail.

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

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

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

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

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

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

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

18 P. The local board and the individual members of the local board are  
19 indemnified from the assets of the fund for any judgment against the local  
20 board or its members, including attorney fees and costs, arising from any  
21 act, or failure to act, made in good faith pursuant to the provisions of the  
22 plan.