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SB 1609

Introduced by
Senators Yarbrough, Allen, Bundgaard, Pearce R, Pierce S (with permission
of Committee on Rules)

AN ACT

AMENDING SECTIONS 38-801, 38-804, 38-805, 38-806, 38-807, 38-808 AND 38-810, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-810.04; AMENDING SECTIONS 38-818, 38-842 AND 38-843, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-843.05; AMENDING SECTIONS 38-844.02, 38-845, 38-846.01 AND 38-846.02, 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 SECTION 38-856, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 53; REPEALING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 54; AMENDING SECTIONS 38-884, 38-885, 38-886.01 AND 38-891, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-891.01; AMENDING SECTIONS 38-905 AND 38-911, ARIZONA REVISED STATUTES; REPEALING LAWS 2005, CHAPTER 324, SECTION 2; RELATING TO PUBLIC RETIREMENT SYSTEMS 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 38-801, Arizona Revised Statutes, is amended to
3 read:

4 38-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accumulated contributions" means the sum of all member
7 contributions deducted from the member's salary pursuant to section 38-810,
8 subsection A plus the amount transferred to the fund on behalf of the member
9 plus the amount deposited in the fund pursuant to section 38-816.

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

13 3. "Alternate payee" means the spouse or former spouse of a
14 participant as designated in a domestic relations order.

15 4. "Alternate payee's portion" means benefits that are payable to an
16 alternate payee pursuant to a plan approved domestic relations order.

17 5. "Average yearly salary" means the result obtained by dividing the
18 total salary paid to an employee during a considered period by the number of
19 years, including fractional years, in which the salary was received. The
20 considered period shall be:

21 (a) FOR AN ELECTED OFFICIAL WHO BECOMES A MEMBER OF THE PLAN BEFORE
22 JANUARY 1, 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, the three
23 consecutive years within the last ten completed years of credited service as
24 an elected official that yield the highest average. If ~~an employee~~ A MEMBER
25 does not have three consecutive years of credited service as an elected
26 official, the considered period is the ~~employee's~~ MEMBER'S last consecutive
27 period of employment with a plan employer immediately before retirement.

28 (b) FOR A RECENT ELECTED OFFICIAL, THE FIVE CONSECUTIVE YEARS WITHIN
29 THE LAST TEN COMPLETED YEARS OF CREDITED SERVICE AS AN ELECTED OFFICIAL THAT
30 YIELD THE HIGHEST AVERAGE. IF A MEMBER DOES NOT HAVE FIVE CONSECUTIVE YEARS
31 OF CREDITED SERVICE AS AN ELECTED OFFICIAL, THE CONSIDERED PERIOD IS THE
32 MEMBER'S LAST CONSECUTIVE PERIOD OF EMPLOYMENT WITH A PLAN EMPLOYER
33 IMMEDIATELY BEFORE RETIREMENT.

34 6. "Board" means the board of trustees of the system.

35 7. "Credited service" means the number of whole and fractional years
36 of a member's service as an elected official after the elected official's
37 effective date of participation for which member and employer contributions
38 are on deposit with the fund, plus credited service transferred to the plan
39 from another retirement system or plan for public employees of this state,
40 plus service as an elected official before the elected official's effective
41 date of participation that is being funded pursuant to a joinder agreement
42 pursuant to section 38-810, subsection C and section 38-815 or service that
43 was redeemed pursuant to section 38-816. Credited service does not include
44 periods of service for which an active member is uncompensated by the
45 employer and for which no contributions to the plan are made.

1 8. "Cure period" means the ninety-day period in which a participant or
2 alternate payee may submit an amended domestic relations order and request a
3 determination, calculated from the time the plan issues a determination
4 finding that a previously submitted domestic relations order did not qualify
5 as a plan approved domestic relations order.

6 9. "Determination" means a written document that indicates to a
7 participant and alternate payee whether a domestic relations order qualifies
8 as a plan approved domestic relations order.

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

15 11. "Direct rollover" means a payment by the plan to an eligible
16 retirement plan that is specified by the distributee.

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

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

25 14. "Effective date of participation" means August 7, 1985, except with
26 respect to employers and their elected officials whose contributions to the
27 plan commence after that date, in which case the effective date of their
28 participation in the plan is specified in the applicable joinder agreement.

29 15. "Elected official" means:

30 (a) Every elected official of this state.

31 (b) Every elected official of each county of this state.

32 (c) Every justice of the supreme court, every judge of the court of
33 appeals, every judge of the superior court and every full-time superior court
34 commissioner, except full-time superior court commissioners who failed to
35 make a timely election of membership under the judges' retirement plan,
36 repealed on August 7, 1985.

37 (d) The administrator of the board if the administrator is a natural
38 person.

39 (e) Each elected official of an incorporated city or town whose
40 employer has executed a proper joinder agreement for coverage of its elected
41 officials.

42 (f) A RECENT ELECTED OFFICIAL.

43 16. "Eligible child" means an unmarried child of a deceased active or
44 retired member who meets one of the following qualifications:

45 (a) Is under eighteen years of age.

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

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

6 17. "Eligible retirement plan" means any of the following that accepts
7 a distributee's eligible rollover distribution:

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

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

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

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

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

18 (f) An eligible deferred compensation plan described in section 457(b)
19 of the internal revenue code that is maintained by a state, a political
20 subdivision of a state or any agency or instrumentality of a state or a
21 political subdivision of a state and that agrees to separately account for
22 amounts transferred into the eligible deferred compensation plan from this
23 plan.

24 18. "Eligible rollover distribution" means a payment to a distributee,
25 but does not include any of the following:

26 (a) Any distribution that is one of a series of substantially equal
27 periodic payments made not less frequently than annually for the life or life
28 expectancy of the member or the joint lives or joint life expectancies of the
29 member and the member's beneficiary or for a specified period of ten years or
30 more.

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

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

35 19. "Employer" means a department, agency or political subdivision of
36 this state that makes employer contributions to the plan pursuant to section
37 38-810 on behalf of an elected official who participates in the plan.

38 20. "Fund" means the elected officials' retirement plan fund.

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

43 22. "Participant" means a member who is subject to a domestic relations
44 order.

1 23. "Participant's portion" means benefits that are payable to a
2 participant pursuant to a plan approved domestic relations order.

3 24. "Pension" means a series of monthly payments to a person who is
4 entitled to receive benefits under the plan.

5 25. "Personal representative" means the personal representative of a
6 deceased alternate payee.

7 26. "Plan" means the elected officials' retirement plan.

8 27. "Plan approved domestic relations order" means a domestic relations
9 order that the plan approves as meeting all the requirements for a plan
10 approved domestic relations order as otherwise prescribed in this article.

11 28. "RECENT ELECTED OFFICIAL" MEANS AN ELECTED OFFICIAL WHO BECOMES A
12 MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012 OR AN ELECTED OFFICIAL WHO IS
13 REAPPOINTED, REELECTED OR RETAINED IN OFFICE PURSUANT TO LAW ON OR AFTER
14 JANUARY 1, 2012.

15 ~~28.~~ 29. "Retired member" means a person who is being paid a pension
16 based on the person's credited service as a member of the plan.

17 ~~29.~~ 30. "Segregated funds" means the amount of benefits that would
18 currently be payable to an alternate payee pursuant to a domestic relations
19 order under review by the plan, or a domestic relations order submitted to
20 the plan that failed to qualify as a plan approved domestic relations order,
21 if the domestic relations order were determined to be a plan approved
22 domestic relations order.

23 ~~30.~~ 31. "System" means the public safety personnel retirement system.

24 Sec. 2. Section 38-804, Arizona Revised Statutes, is amended to read:

25 38-804. Membership; termination

26 A. All elected officials are members of the plan, except that a state
27 elected official who is subject to term limits may elect not to participate
28 in the plan. The state elected official who is subject to term limits shall
29 make the election in writing and file the election with the board within
30 thirty days after the state elected official assumes office. The election is
31 effective on the first day of the state elected official's eligibility for
32 that term of office. The election not to participate is specific for that
33 term of office. If a state elected official who is subject to term limits
34 fails to make an election as provided in this subsection, the state elected
35 official is deemed to have elected to participate in the plan. The election
36 not to participate in the plan is irrevocable and constitutes a waiver of all
37 benefits provided by the plan for the state elected official's entire term,
38 except for any benefits accrued by the state elected official in the plan for
39 periods of participation ~~prior to~~ BEFORE being elected to an office subject
40 to term limits or any benefits expressly provided by law. The state elected
41 official who elects not to participate in the plan shall participate in the
42 Arizona state retirement system unless the state elected official makes an
43 irrevocable election not to participate in the Arizona state retirement
44 system as provided in section 38-727.

1 B. If a member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012
2 AND WHO IS NOT A RECENT ELECTED OFFICIAL ceases to hold office for any reason
3 other than death or retirement, within twenty days after filing a completed
4 application with the board, the member is entitled to receive the following
5 amounts, less any benefit payments the member has received and any amount the
6 member may owe to the plan:

7 1. If the member has less than five years of credited service with the
8 plan, the member may withdraw the member's accumulated contributions from the
9 plan.

10 2. If the member has five or more years of credited service with the
11 plan, the member may withdraw the member's accumulated contributions plus an
12 amount equal to the amount determined as follows:

13 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
14 member contributions deducted from the member's salary pursuant to section
15 38-810, subsection A.

16 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
17 contributions deducted from the member's salary pursuant to section 38-810,
18 subsection A.

19 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
20 member contributions deducted from the member's salary pursuant to section
21 38-810, subsection A.

22 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
23 member contributions deducted from the member's salary pursuant to section
24 38-810, subsection A.

25 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
26 member contributions deducted from the member's salary pursuant to section
27 38-810, subsection A.

28 (f) 10.0 or more years of credited service, one hundred per cent of
29 all member contributions deducted from the member's salary pursuant to
30 section 38-810, subsection A.

31 C. If a member has more than ten years of credited service with the
32 plan, leaves the monies prescribed in subsection B of this section on account
33 with the plan for more than thirty days after termination of employment and
34 after that time period requests a refund of those monies, the member is
35 entitled to receive the amount prescribed in subsection B of this section
36 plus interest at a rate determined by the board for each year computed from
37 and after the member's termination of employment.

38 D. IF A RECENT ELECTED OFFICIAL CEASES TO HOLD OFFICE FOR ANY REASON
39 OTHER THAN DEATH OR RETIREMENT, WITHIN TWENTY DAYS AFTER FILING A COMPLETED
40 APPLICATION WITH THE BOARD, THE MEMBER MAY WITHDRAW THE MEMBER'S ACCUMULATED
41 CONTRIBUTIONS FROM THE PLAN AND SHALL BE PAID THE MEMBER'S ACCUMULATED
42 CONTRIBUTIONS PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS OF THE DATE
43 OF TERMINATION, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED AND ANY
44 AMOUNT THE MEMBER MAY OWE TO THE PLAN.

1 ~~D.~~ E. If the amount prescribed in subsection B, ~~or~~ C OR D of this
 2 section includes monies that are an eligible rollover distribution and the
 3 member elects to have the distribution paid directly to an eligible
 4 retirement plan or individual retirement account or annuity and specifies the
 5 eligible retirement plan or individual retirement account or annuity to which
 6 the distribution is to be paid, the distribution shall be made in the form of
 7 a direct trustee-to-trustee transfer to the specified eligible retirement
 8 plan. The distribution shall be made in the form and at the time prescribed
 9 by the board. A member who receives the amount prescribed in subsection B,
 10 ~~or~~ C OR D of this section from the plan or who elects a transfer pursuant to
 11 this subsection forfeits the member's credited service, and all rights to
 12 benefits under the plan and membership in the plan terminate.

13 ~~E.~~ F. In no case shall more than twelve months of credited service be
 14 credited on account of all service rendered by a member in any one year.

15 ~~F.~~ G. If an elected official who has terminated the member's
 16 membership in the plan pursuant to subsection B of this section is
 17 subsequently elected or otherwise becomes eligible for membership in the plan
 18 pursuant to subsection A of this section, credited service only accrues from
 19 the date of the member's most recent eligibility as an elected official.

20 ~~G.~~ H. Notwithstanding subsection ~~F~~ G of this section, if an elected
 21 official files a written election form with the board within ninety days
 22 after the day of the member's reemployment as an elected official and repays
 23 the amount previously withdrawn pursuant to subsection B or C of this section
 24 within one year after the date of the member's reemployment as an elected
 25 official, with interest on that amount at the rate of nine per cent for each
 26 year, compounded each year from the date of withdrawal to the date of
 27 repayment, credited service shall be restored. Credited service shall not be
 28 restored until complete repayment is made to the fund.

29 ~~H.~~ I. If a retired member subsequently becomes an elected official,
 30 contributions shall not be made by the retired member ~~or the retired member's~~
 31 ~~employer~~ and credited service shall not accrue while the retired member is
 32 holding office.

33 ~~I.~~ J. In addition to subsection ~~H~~ I of this section, if a retired
 34 member subsequently becomes, by reason of election or reelection, an elected
 35 official of the same office from which the member retired within a time
 36 period following the member's retirement that is less than one full term for
 37 that office, the member shall not receive a pension. If the elected official
 38 ceases to hold the same office, the elected official is entitled to receive
 39 the same pension the elected official was receiving when the elected
 40 official's pension was discontinued pursuant to this subsection. Nothing in
 41 this subsection prohibits a retired judge called by the supreme court to
 42 active duties of a judge pursuant to section 38-813 from receiving retirement
 43 benefits.

1 Sec. 3. Section 38-805, Arizona Revised Statutes, is amended to read:
2 38-805. Normal retirement and early retirement pensions

3 A. A member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012,
4 WHO IS NOT A RECENT ELECTED OFFICIAL AND who ceases to hold office is
5 eligible for a normal retirement pension, if the member satisfies one of the
6 following requirements:

7 1. Has attained age sixty-five with five or more years of credited
8 service.

9 2. Has attained age sixty-two with ten or more years of credited
10 service.

11 3. Has twenty or more years of credited service.

12 B. A RECENT ELECTED OFFICIAL WHO CEASES TO HOLD OFFICE IS ELIGIBLE FOR
13 A NORMAL RETIREMENT PENSION, IF THE MEMBER SATISFIES ONE OF THE FOLLOWING
14 REQUIREMENTS:

15 1. HAS ATTAINED AGE SIXTY-FIVE WITH FIVE OR MORE YEARS OF CREDITED
16 SERVICE.

17 2. HAS ATTAINED AGE SIXTY-TWO WITH TEN OR MORE YEARS OF CREDITED
18 SERVICE.

19 ~~B.~~ C. A member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,
20 2012, WHO IS NOT A RECENT ELECTED OFFICIAL, who has at least five years of
21 credited service and WHO ceases to hold office as an elected official may
22 take early retirement.

23 D. A RECENT ELECTED OFFICIAL WHO HAS AT LEAST TEN YEARS OF CREDITED
24 SERVICE AND WHO CEASES TO HOLD OFFICE AS AN ELECTED OFFICIAL MAY TAKE EARLY
25 RETIREMENT WHEN THE MEMBER ATTAINS AGE SIXTY.

26 ~~C.~~ E. On normal or early retirement, a retired member shall receive a
27 pension computed pursuant to section 38-808, subsection B OR C until the
28 member's death.

29 Sec. 4. Section 38-806, Arizona Revised Statutes, is amended to read:
30 38-806. Disability retirement pensions

31 A. A member who becomes permanently mentally or physically
32 incapacitated for the purpose of performing the duties of the member's office
33 may receive disability retirement benefits if the board of trustees finds
34 that all of the following apply:

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

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

40 3. A majority of the board of physicians certifies to the board of
41 trustees that:

42 (a) The member is mentally or physically incapacitated for the purpose
43 of performing the duties of the member's office.

44 (b) The member's incapacity occurred during the member's term of
45 office and is expected to be of an indefinite duration.

1 (c) The member should be retired.

2 B. On retirement by reason of disability under this section, a retired
3 member shall receive a pension computed pursuant to section 38-808,
4 subsection B, paragraph 2 OR SUBSECTION C, PARAGRAPH 2 until the member's
5 death or until the member's pension is suspended, revoked or discontinued
6 pursuant to this section.

7 C. If the board of trustees has reason to believe that a member,
8 retired pursuant to this section but not yet eligible for normal retirement,
9 may no longer be mentally or physically incapacitated from performing the
10 duties of the public office from which the member retired, the board of
11 trustees may require such retired member to be medically examined. The
12 examination shall be conducted by a board of three physicians, one designated
13 by the administrator of the fund, one designated by the retired member or the
14 member's guardian and one designated by the governor.

15 D. The board of trustees shall discontinue pension payments to a
16 member retired pursuant to this section, if the board of physicians certifies
17 that the member is mentally and physically capable of performing the duties
18 of the public office from which the member retired.

19 E. If the retired member refuses to submit to the medical examination,
20 the administrator of the fund may suspend payment of the member's pension
21 until the member submits to the medical examination. If the retired member
22 refuses for one year or more to submit to medical examination, the board of
23 trustees shall revoke the pension of a member retired under this section.

24 Sec. 5. Section 38-807, Arizona Revised Statutes, is amended to read:

25 38-807. Survivor pensions

26 A. The surviving spouse of a deceased retired member shall be paid a
27 surviving spouse's pension if the spouse was married to the member for a
28 period of at least two consecutive years at the time of the member's
29 death. Payment of a surviving spouse's pension commences as of the last day
30 of the month following the retired member's date of death. The last payment
31 shall be made as of the last day of the month in which the surviving spouse's
32 death occurs. FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY
33 1, 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, the amount of pension paid
34 a surviving spouse is equal to three-fourths of the amount of the deceased
35 retired member's pension at the time of death. FOR A RECENT ELECTED
36 OFFICIAL, THE AMOUNT OF PENSION PAID A SURVIVING SPOUSE IS EQUAL TO ONE-HALF
37 OF THE AMOUNT OF THE DECEASED RETIRED MEMBER'S PENSION AT THE TIME OF DEATH,
38 EXCEPT THAT AT THE TIME OF RETIREMENT A MEMBER MAY ELECT AN OPTIONAL FORM OF
39 RETIREMENT BENEFIT, AS DETERMINED BY THE BOARD, THAT PROVIDES FOR AN
40 ACTUARIALLY REDUCED PENSION AND AN INCREASED SURVIVING SPOUSE'S BENEFIT. The
41 surviving spouse shall file a written application with the plan in order to
42 receive the survivor benefit.

43 B. The surviving spouse of a deceased active or inactive member shall
44 be paid a surviving spouse's pension if the spouse was married to the member
45 on the date of the member's death. Payment of a surviving spouse's pension

1 commences as of the last day of the month following the member's date of
2 death. The last payment shall be made as of the last day of the month in
3 which the surviving spouse's death occurs. For the purposes of this
4 subsection, **FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,**
5 **2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL,** the surviving spouse's pension
6 shall be three-fourths of the amount calculated in the same manner as a
7 disability pension is calculated pursuant to section 38-806. **FOR A RECENT**
8 **ELECTED OFFICIAL, THE SURVIVING SPOUSE'S PENSION SHALL BE ONE-HALF OF THE**
9 **AMOUNT CALCULATED IN THE SAME MANNER AS A DISABILITY PENSION IS CALCULATED**
10 **PURSUANT TO SECTION 38-806.** The surviving spouse shall file a written
11 application with the plan in order to receive the survivor benefit.

12 C. If the deceased retired or active or inactive member does not have
13 an eligible surviving spouse or the pension of the eligible surviving spouse
14 is terminated, each eligible child is entitled to receive a child's pension.
15 A child's pension terminates if the child is adopted. In the case of a
16 disabled child, the child's pension terminates if the child ceases to be
17 under a disability or ceases to be a dependent of the surviving spouse or
18 guardian. The amount of the pension of each eligible child is an equal share
19 of the amount of the surviving spouse's pension. The surviving minor or
20 disabled child's pension shall be paid to the person who is the legally
21 appointed guardian or custodian of the eligible child.

22 D. If a member dies and no pension is payable on account of the
23 member's death, the deceased member's accumulated contributions shall be paid
24 to the person or persons designated by the deceased member in writing and
25 filed with the board. If the designated person or persons do not survive the
26 deceased member, the accumulated contributions shall be paid to the estate of
27 the deceased member.

28 Sec. 6. Section 38-808, Arizona Revised Statutes, is amended to read:
29 **38-808. Pension payments; computation of amounts; termination**

30 A. Plan retirement commences on the first day of the month following
31 the date of the member's retirement or death. Pension payments shall be
32 received on or about the first day of the month next following the member's
33 plan retirement. The last pension payment shall be made as of the last day
34 of the month in which the death of the retired member or the surviving spouse
35 or minor children occurs. Pension payments shall not be made in advance.

36 B. **FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,**
37 **2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL,** the monthly pension shall be
38 equal to one-twelfth of the following amount:

39 1. Four per cent of the member's average yearly salary multiplied by
40 the member's credited service, not to exceed eighty per cent of the member's
41 average yearly salary. This amount shall be reduced if the member takes
42 early retirement pursuant to section 38-805, subsection ~~B~~-C. The amount of
43 reduction is three-twelfths of one per cent for each month the retired
44 member's early retirement age precedes the member's normal retirement age

1 pursuant to section 38-805, subsection A, except that the reduction shall not
2 be more than thirty per cent.

3 2. A member who meets the requirements for a disability retirement
4 pension shall receive a disability pension equal to four per cent of the
5 member's average yearly salary multiplied by twenty years of credited service
6 if the member has ten or more years of credited service, four per cent of the
7 member's average yearly salary multiplied by ten years of credited service if
8 the member has five or more years of credited service but fewer than ten
9 years of credited service or four per cent of the member's average yearly
10 salary multiplied by five years of credited service if the member has fewer
11 than five years of credited service.

12 C. THE MONTHLY PENSION OF A RECENT ELECTED OFFICIAL SHALL BE EQUAL TO
13 ONE-TWELFTH OF THE FOLLOWING AMOUNT:

14 1. THREE PER CENT OF THE MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY
15 THE MEMBER'S CREDITED SERVICE, NOT TO EXCEED SEVENTY-FIVE PER CENT OF THE
16 MEMBER'S AVERAGE YEARLY SALARY. THIS AMOUNT SHALL BE REDUCED IF THE MEMBER
17 TAKES EARLY RETIREMENT PURSUANT TO SECTION 38-805, SUBSECTION D. THE AMOUNT
18 OF REDUCTION IS ONE-HALF OF ONE PER CENT FOR EACH MONTH THE RETIRED MEMBER'S
19 EARLY RETIREMENT AGE PRECEDES THE MEMBER'S NORMAL RETIREMENT AGE PURSUANT TO
20 SECTION 38-805, SUBSECTION B.

21 2. A MEMBER WHO MEETS THE REQUIREMENTS FOR A DISABILITY RETIREMENT
22 PENSION SHALL RECEIVE A DISABILITY PENSION EQUAL TO THREE PER CENT OF THE
23 MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY TWENTY-FIVE YEARS OF CREDITED
24 SERVICE IF THE MEMBER HAS TEN OR MORE YEARS OF CREDITED SERVICE, THREE PER
25 CENT OF THE MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY TWELVE AND ONE-HALF
26 YEARS OF CREDITED SERVICE IF THE MEMBER HAS FIVE OR MORE YEARS OF CREDITED
27 SERVICE BUT FEWER THAN TEN YEARS OF CREDITED SERVICE OR THREE PER CENT OF THE
28 MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY 6.25 YEARS OF CREDITED SERVICE
29 IF THE MEMBER HAS FEWER THAN FIVE YEARS OF CREDITED SERVICE.

30 ~~C.~~ D. The plan shall make payments pursuant to section 401(a)(9) of
31 the internal revenue code and the regulations that are issued under that
32 section. Notwithstanding any other provision of this plan, beginning January
33 1, 1987 payment of benefits to a member shall commence no later than April 1
34 of the calendar year following the later of:

35 1. The calendar year in which the member attains seventy and one-half
36 years of age.

37 2. The date the member terminates employment.

38 ~~D.~~ E. If all pension payments terminate before an amount equal to the
39 member's accumulated contributions has been paid, the difference between the
40 member's accumulated contributions and the aggregate amount of pension
41 payments shall be paid to the person or persons and in such shares as
42 designated by the retired member in writing and filed with the board. If the
43 designated person or persons do not survive the retired member, the
44 difference shall be paid to the estate of the retired member.

1 Sec. 7. Section 38-810, Arizona Revised Statutes, is amended to read:

2 38-810. Contributions

3 A. Each member shall contribute to the fund an amount equal to ~~seven~~
4 ~~per cent of the member's gross salary~~ THE AMOUNT PRESCRIBED IN SUBSECTION F
5 OR G OF THIS SECTION. Contributions of members shall be made by payroll
6 deductions. Every member is deemed to consent to these deductions. Payment
7 of a member's compensation, less these payroll deductions, constitutes a full
8 and complete discharge and satisfaction of all claims and demands by the
9 member relating to remuneration for the member's services rendered during the
10 period covered by the payment, except with respect to the benefits provided
11 under the plan.

12 B. The board's office shall be credited monthly with monies collected
13 pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31,
14 subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6,
15 section 22-281, subsection C, paragraph 3 and section 41-178. The monies
16 credited to the fund pursuant to this subsection shall be deposited in the
17 fund on a monthly basis, and there shall be a complete accounting of the
18 determination of these monies deposited in the fund.

19 C. As determined by actuarial valuations performed by the plan's
20 actuary, each employer shall make level per cent compensation contributions
21 sufficient under the actuarial valuation to meet both the normal cost plus
22 the actuarially determined amount required to amortize the unfunded accrued
23 liability over, beginning July 1, 2005, a rolling period of at least twenty
24 and not more than thirty years that is established by the board taking into
25 account the recommendation of the plan's actuary, except that, beginning with
26 fiscal year 2006-2007, the employer contribution rate shall not be less than
27 ten per cent of salary. The monies deposited in the fund pursuant to
28 subsection B of this section shall be used to reduce the contributions
29 required of state and county employers only. Employers that entered the plan
30 under a joinder agreement shall also contribute an amount equal to the
31 unfunded accrued liability for that employer. The unfunded liability for
32 each new employer shall be actuarially determined by the plan's actuary as of
33 the effective date of participation of each employer and shall be payable on
34 the effective date of participation. The minimum employer contribution that
35 is paid and that is in excess of the normal cost plus the actuarially
36 determined amount required to amortize the unfunded accrued liability as
37 calculated pursuant to this subsection shall be used to reduce future
38 employer contribution increases and shall not be used to pay for an increase
39 in benefits that are otherwise payable to members. The board shall
40 separately account for these monies in the fund. After the close of any
41 fiscal year, if the plan's actuary determines that the actuarial valuation of
42 the fund contains excess valuation assets and is more than one hundred per
43 cent funded, the board shall account for fifty per cent of the excess
44 valuation assets in a stabilization reserve account. After the close of any
45 fiscal year, if the plan's actuary determines that the actuarial valuation of

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

5 D. The department of administration and the treasurer of each county
6 and participating city and town shall transfer to the board the contributions
7 provided for in subsections A and C of this section within ten working days
8 after each payroll date. The state, county treasurers and clerks of the
9 superior court shall transfer the monies credited under subsection B of this
10 section to the board on or before the fifteenth day of each calendar month
11 that follows the month in which the court fees were collected. Contributions
12 and monies credited under subsection B of this section and transferred after
13 these dates shall include a penalty equal to ten per cent a year, compounded
14 annually, for each day that the contributions or monies credited under
15 subsection B of this section are late. Delinquent payments due under this
16 subsection, together with interest charges as provided in this subsection and
17 court costs, may be recovered by action in a court of competent jurisdiction
18 against the person or persons responsible for the payments or, at the request
19 of the board, may be deducted from any other monies, including excise revenue
20 taxes, payable to a political subdivision by any department or agency of this
21 state. If requested by the board, the state, county treasurers or clerks of
22 the superior court shall transfer the monies credited under subsection B of
23 this section, in an amount determined by the board, directly to the qualified
24 governmental excess benefit arrangement established pursuant to section
25 38-803.01.

26 E. The employer shall pay the member contributions required of members
27 on account of compensation earned after August 7, 1985. The paid
28 contributions shall be treated as employer contributions for the purpose of
29 determining tax treatment under the United States internal revenue code. The
30 effective date of the employer payment shall not be before the date the
31 retirement plan has received notification from the United States internal
32 revenue service that pursuant to section 414(h) of the United States internal
33 revenue code the member contributions paid will not be included in gross
34 income for income tax purposes until the paid contributions are distributed
35 by refund or pension payments. The employer shall pay the member
36 contributions from monies established and available in the retirement
37 deduction account, which monies would otherwise have been designated as
38 member contributions and paid to the retirement plan. Member contributions
39 paid pursuant to this subsection shall be treated for all other purposes, in
40 the same manner and to the same extent, as member contributions made before
41 August 7, 1985.

42 F. FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,
43 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, THE AMOUNT CONTRIBUTED BY A
44 MEMBER PURSUANT TO SUBSECTION A OF THIS SECTION IS:

45 1. THROUGH JUNE 30, 2011, SEVEN PER CENT OF THE MEMBER'S GROSS SALARY.

1 RATE SHALL BE APPLIED TO THE COMPENSATION, GROSS SALARY OR CONTRACT FEE OF A
2 RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

3 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN TEN PER CENT
4 IN ANY FISCAL YEAR.

5 D. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND
6 ESTABLISHED BY SECTION 38-802 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS
7 UNDER THIS ARTICLE OR TO PAY THE EXPENSES OF THE PLAN. PAYMENTS MADE
8 PURSUANT TO THIS SECTION BY EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE
9 PRESCRIBED IN 38-810, SUBSECTION D, AND THEREAFTER SHALL BE INCREASED BY
10 INTEREST FROM AND AFTER THAT DATE UNTIL PAYMENT IS RECEIVED BY THE PLAN.

11 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,
12 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY THE BOARD AND THAT ARE NECESSARY
13 TO DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A
14 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, USE,
15 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

16 Sec. 9. Section 38-818, Arizona Revised Statutes, is amended to read:

17 38-818. Benefit increases; definition

18 A. Effective July 1 of each year, each retired member or survivor of a
19 retired member is entitled to receive a permanent increase in the base
20 benefit equal to the amount determined pursuant to this section if either:

21 1. The retired member or survivor of a retired member was receiving
22 benefits on or before July 31 of the two previous years.

23 2. The retired member or survivor of a retired member was fifty-five
24 years of age or older on July 1 of the current year and was receiving
25 benefits on or before July 31 of the previous year.

26 B. The monthly amount of a permanent increase provided by subsection A
27 is determined as follows:

28 1. Determine the excess investment earnings on the actuarial present
29 value of pensions in payment status.

30 2. Determine the actuarial present value, as of June 30 of the
31 preceding calendar year, of a one-half of one per cent per month increase in
32 the amount of each pension eligible for an increase.

33 3. Divide the amount determined in paragraph 1 of this subsection by
34 the amount determined in paragraph 2 of this subsection.

35 4. From the quotient obtained in paragraph 3 of this subsection, drop
36 any fraction.

37 5. Multiply the number obtained in paragraph 4 of this subsection by
38 one-half of one per cent.

39 C. The excess investment earnings of pensions in payment status are
40 equal to the actuarial present value of pensions in payment status multiplied
41 by the ~~positive difference, if any, between the total return of the plan and~~
42 ~~nine per cent~~ EXCESS INVESTMENT EARNINGS AMOUNT. The excess investment
43 earnings on pensions in payment status are zero if the ~~total~~ AVERAGE ANNUAL
44 return of the plan OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE

1 IN THE CALCULATION OF THE ACTUARIAL VALUE OF ASSETS is less than or equal to
2 nine per cent.

3 D. As used in this section: ~~total~~

4 1. AVERAGE ANNUAL return and the actuarial present value of pensions
5 in payment status are the amounts published in the annual report of the plan
6 for the fiscal year ending June 30 of the calendar year preceding the July 1
7 of the increase.

8 2. THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
9 LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE
10 FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE
11 INCREASE.

12 E. All excess investment earnings on pensions in payment status are
13 available for benefit increases as provided in this section. Any excess
14 investment earnings on pensions in payment status from any year ~~which~~ THAT
15 are not used for benefit adjustments for that year are available for future
16 benefit increases in the following years. Earnings on the excess investment
17 earnings on pensions in payment status account balance at the rate of the
18 total return as published in the annual report of the plan shall be added
19 each year to the excess investment earnings on pensions in payment status
20 account balance and shall be available for future benefit increases.

21 F. The maximum benefit increase under this section is limited to four
22 per cent of the benefit being received on the preceding June 30.

23 G. FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS
24 AMOUNT" MEANS:

25 1. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
26 LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.

27 2. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
28 LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER
29 CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE
30 ANNUAL RETURN OF THE PLAN AND NINE PER CENT.

31 3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
32 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE
33 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE PLAN AND NINE
34 PER CENT.

35 Sec. 10. Section 38-842, Arizona Revised Statutes, is amended to read:

36 38-842. Definitions

37 In this article, unless the context otherwise requires:

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

43 2. "Accumulated contributions" means, for each member, the sum of the
44 amount of the member's aggregate contributions made to the fund and the
45 amount, if any, attributable to the employee's contributions before the

1 member's effective date under another public retirement system, other than
2 the federal social security act, and transferred to the fund minus the
3 benefits paid to or on behalf of the member.

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

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

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

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

13 7. "Average monthly benefit compensation" means the result obtained by
14 dividing the total compensation paid to an employee during a considered
15 period by the number of months, including fractional months, in which such
16 compensation was received. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE
17 SYSTEM BEFORE JANUARY 1, 2012, the considered period shall be the three
18 consecutive years within the last twenty completed years of credited service
19 that yield the highest average. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE
20 SYSTEM ON OR AFTER JANUARY 1, 2012, THE CONSIDERED PERIOD IS THE FIVE
21 CONSECUTIVE YEARS WITHIN THE LAST TWENTY COMPLETED YEARS OF CREDITED SERVICE
22 THAT YIELD THE HIGHEST AVERAGE. In the computation under this paragraph, a
23 period of nonpaid or partially paid industrial leave shall be considered
24 based on the compensation the employee would have received in the employee's
25 job classification if the employee was not on industrial leave.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (a) Is under eighteen years of age.

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

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

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

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

18 (b) Municipal fire fighters.

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

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

24 (e) State fire fighters.

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

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

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

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

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

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

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

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

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

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

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

3 (q) Arizona department of agriculture officers who are certified peace
4 officers.

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

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

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

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

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

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

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

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

20 (f) An eligible deferred compensation plan described in section 457(b)
21 of the internal revenue code that is maintained by a state, a political
22 subdivision of a state or any agency or instrumentality of a state or a
23 political subdivision of a state and that agrees to separately account for
24 amounts transferred into the eligible deferred compensation plan from this
25 plan.

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

28 (a) Any distribution that is one of a series of substantially equal
29 periodic payments made not less frequently than annually for the life or life
30 expectancy of the member or the joint lives or joint life expectancies of the
31 member and the member's beneficiary or for a specified period of ten years or
32 more.

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

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

37 27. "Employee" means any person who is employed by a participating
38 employer and who is a member of an eligible group but does not include any
39 persons compensated on a contractual or fee basis. If an eligible group
40 requires certified peace officer status and at the option of the local board,
41 employee may include a person who is training to become a certified peace
42 officer.

43 28. "Employers" means:

44 (a) Cities contributing to the fire fighters' relief and pension fund
45 as provided in sections 9-951 through 9-971 or statutes amended thereby and

1 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
2 fire fighters.

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

7 (c) The state highway patrol covered under the state highway patrol
8 retirement system.

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

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

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

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

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

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

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

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

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

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

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

15 32. "Normal retirement date" means:

16 (a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY
17 1, 2012, the first day of the calendar month immediately following ~~an~~ THE
18 employee's completion of twenty years of service or the employee's
19 sixty-second birthday and the employee's completion of fifteen years of
20 service.

21 (b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER
22 JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING
23 THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS
24 AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE.

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

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

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

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

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

42 38. "Personal representative" means the personal representative of a
43 deceased alternate payee.

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

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

29 41. "Retirement" or "retired" means termination of employment after a
 30 member has fulfilled all requirements for a pension **OR, FOR AN EMPLOYEE WHO**
 31 **BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE**
 32 **AND SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE.** Retirement shall be
 33 considered as commencing on the first day of the month immediately following
 34 a member's last day of employment or authorized leave of absence, if later.

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

41 43. "Service" means the last period of continuous employment of an
 42 employee by the employers before the employee's retirement, except that if
 43 such period includes employment during which the employee would not have
 44 qualified as a member had the system then been effective, such as employment
 45 as a volunteer fire fighter, then only twenty-five per cent of such

1 noncovered employment shall be considered as service. Any absence that is
 2 authorized by an employer shall not be considered as interrupting continuity
 3 of employment if the employee returns within the period of authorized
 4 absence. Transfers between employers also shall not be considered as
 5 interrupting continuity of employment. Any period during which a member is
 6 receiving sick leave payments or a temporary disability pension shall be
 7 considered as service. Notwithstanding any other provision of this
 8 paragraph, any period during which a person was employed as a full-time paid
 9 fire fighter for a corporation that contracted with an employer to provide
 10 firefighting services on behalf of the employer shall be considered as
 11 service if the employer has elected at its option to treat part or all of the
 12 period the firefighter worked for the company as service in its applicable
 13 joinder agreement. Any reference in this system to the number of years of
 14 service of an employee shall be deemed to include fractional portions of a
 15 year.

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

18 45. "System" means the public safety personnel retirement system
 19 established by this article.

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

24 Sec. 11. Section 38-843, Arizona Revised Statutes, is amended to read:
 25 38-843. Contributions

26 A. Each employer who participates in the system on behalf of a group
 27 of employees who were covered under a prior public retirement system, other
 28 than the federal social security act, shall transfer all securities and
 29 monies attributable to the taxes and contributions of the state other than
 30 the state contribution to social security, the employer and the employees for
 31 the covered group of employees under the other system, such transfer to be
 32 made to the fund subject to all existing liabilities and on or within sixty
 33 days following the employer's effective date. All monies and securities
 34 transferred to the fund shall be credited to the employer's account in the
 35 fund. A record of the market value and the cost value of such transferred
 36 contributions shall be maintained for actuarial and investment purposes.

37 B. As determined by actuarial valuations reported to the employer and
 38 the local board by the board of trustees, each employer shall make level per
 39 cent of compensation contributions sufficient under such actuarial valuations
 40 to meet both the normal cost plus the actuarially determined amount required
 41 to amortize the unfunded accrued liability over, beginning July 1, 2005, a
 42 rolling period of at least twenty and not more than thirty years that is
 43 established by the board of trustees taking into account the recommendation
 44 of the system's actuary, except that, beginning with fiscal year 2006-2007,
 45 except as otherwise provided, the employer contribution rate shall not be

1 less than eight per cent of compensation. For any employer whose actual
2 contribution rate is less than eight per cent of compensation for fiscal year
3 2006-2007, that employer's contribution rate is not subject to the eight per
4 cent minimum but, for fiscal year 2006-2007 and each year thereafter, shall
5 be at least five per cent and not more than the employer's actual
6 contribution rate. An employer shall have the option of paying a higher
7 level per cent of compensation thereby reducing its unfunded past service
8 liability. An employer shall also have the option of increasing its
9 contributions in order to reduce the contributions required from its members
10 under subsection C, except that if an employer elects this option the
11 employer shall pay the same higher level percentage contribution for all
12 members of the eligible group. During a period when an employee is on
13 industrial leave and the employee elects to continue contributions during the
14 period of industrial leave, the employer shall make the contributions based
15 on the compensation the employee would have received in the employee's job
16 classification if the employee was in normal employment status. 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 system or to
19 pay expenses of the system and fund. The minimum employer contribution that
20 is paid and that is in excess of the normal cost plus the actuarially
21 determined amount required to amortize the unfunded accrued liability as
22 calculated pursuant to this subsection shall be used to reduce future
23 employer contribution increases and shall not be used to pay for an increase
24 in benefits that are otherwise payable to members. The board shall
25 separately account for these monies in the fund. Forfeitures arising because
26 of severance of employment before a member becomes eligible for a pension or
27 any other reason shall be applied to reduce the cost of the employer, not to
28 increase the benefits otherwise payable to members. After the close of any
29 fiscal year, if the system's actuary determines that the actuarial valuation
30 of 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 system'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 C. Each member, throughout the member's period of service from the
41 member's effective date of participation, shall contribute to the fund an
42 amount equal to ~~7.65 per cent of the member's compensation~~ THE AMOUNT
43 PRESCRIBED IN SUBSECTION E OR F, except as provided in subsection B. During
44 a period when an employee is on industrial leave and the employee elects to
45 continue contributions during the period of industrial leave, the employee

1 shall make the employee's contribution based on the compensation the employee
2 would have received in the employee's job classification if the employee was
3 in normal employment status. Contributions of members shall be required as a
4 condition of employment and membership in the system and shall be made by
5 payroll deductions. Every employee shall be deemed to consent to such
6 deductions. Payment of an employee's compensation, less such payroll
7 deductions, shall constitute a full and complete discharge and satisfaction
8 of all claims and demands by the employee relating to remuneration for the
9 employee's services rendered during the period covered by the payment, except
10 with respect to the benefits provided under the system.

11 D. Each employer shall transfer to the board the employer and employee
12 contributions provided for in subsections B and C within ten working days
13 after each payroll date. Contributions transferred after that date shall
14 include a penalty of ten per cent per annum, compounded annually, for each
15 day the contributions are late, such penalty to be paid by the employer.
16 Delinquent payments due under this subsection, together with interest charges
17 as provided in this subsection, may be recovered by action in a court of
18 competent jurisdiction against an employer liable for the payments or, at the
19 request of the board, may be deducted from any other monies, including excise
20 revenue taxes, payable to such employer by any department or agency of this
21 state.

22 E. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY
23 1, 2012, THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION C IS:

24 1. THROUGH JUNE 30, 2011, 7.65 PER CENT OF THE MEMBER'S COMPENSATION.

25 2. FOR FISCAL YEAR 2011-2012, 9.65 PER CENT OF THE MEMBER'S
26 COMPENSATION.

27 3. FOR FISCAL YEAR 2012-2013, 10.65 PER CENT OF THE MEMBER'S
28 COMPENSATION.

29 4. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, 11.65
30 PER CENT OF THE MEMBER'S COMPENSATION OR 33.3 PER CENT OF THE SUM OF THE
31 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE
32 COMPUTED EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION
33 B, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE
34 LESS THAN 7.65 PER CENT OF THE MEMBER'S COMPENSATION AND THE EMPLOYER
35 CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION B.

36 F. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER
37 JANUARY 1, 2012, THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION C
38 IS:

39 1. THROUGH JUNE 30, 2012, 10.65 PER CENT OF THE MEMBER'S COMPENSATION.

40 2. FOR FISCAL YEAR 2012-2013, 12.15 PER CENT OF THE MEMBER'S
41 COMPENSATION.

42 3. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, 13.65
43 PER CENT OF THE MEMBER'S COMPENSATION OR 33.3 PER CENT OF THE SUM OF THE
44 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE
45 COMPUTED EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION

1 B, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE
2 LESS THAN 7.65 PER CENT OF THE MEMBER'S COMPENSATION AND THE EMPLOYER
3 CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION B.

4 G. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE
5 AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS 7.65 PER CENT OF THE
6 MEMBER'S COMPENSATION SHALL NOT BE USED TO REDUCE THE EMPLOYER'S
7 CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO SUBSECTION B.

8 Sec. 12. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
9 amended by adding section 38-843.05, to read:

10 38-843.05. Retired members; return to work; employer
11 contributions

12 A. AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION
13 RATE ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A
14 POSITION ORDINARILY FILLED BY AN EMPLOYEE OF THE EMPLOYER OF AN ELIGIBLE
15 GROUP. THIS SECTION APPLIES TO A RETIRED MEMBER WHO RETURNS TO WORK WITH
16 ANOTHER PARTICIPATING EMPLOYER AND A RETIRED MEMBER WHO RETURNS TO WORK AFTER
17 SIXTY CONSECUTIVE DAYS WITH THE SAME EMPLOYER FROM WHICH THE MEMBER RETIRED.

18 B. THE ALTERNATE CONTRIBUTION RATE SHALL BE EQUAL TO THAT PORTION OF
19 THE TOTAL REQUIRED CONTRIBUTION THAT IS APPLIED TO THE AMORTIZATION OF THE
20 UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR THE FISCAL YEAR BEGINNING JULY 1,
21 BASED ON THE SYSTEM'S ACTUARY'S CALCULATION OF THE TOTAL REQUIRED
22 CONTRIBUTION FOR THE PRECEDING FISCAL YEAR ENDED ON JUNE 30. THE ALTERNATE
23 CONTRIBUTION RATE SHALL BE APPLIED TO THE COMPENSATION, GROSS SALARY OR
24 CONTRACT FEE OF A RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

25 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN EIGHT PER
26 CENT IN ANY FISCAL YEAR.

27 D. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND
28 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS ARTICLE OR TO PAY
29 THE EXPENSES OF THE SYSTEM. PAYMENTS MADE PURSUANT TO THIS SECTION BY
30 EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE PRESCRIBED IN 38-843,
31 SUBSECTION D, AND THEREAFTER SHALL BE INCREASED BY INTEREST FROM AND AFTER
32 THAT DATE UNTIL PAYMENT IS RECEIVED BY THE SYSTEM.

33 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,
34 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY THE BOARD AND THAT ARE NECESSARY
35 TO DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A
36 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, USE,
37 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

38 Sec. 13. Section 38-844.02, Arizona Revised Statutes, is amended to
39 read:

40 38-844.02. Deferred retirement option plan for employees hired
41 before January 1, 2012; purpose

42 A. A deferred retirement option plan is established FOR THOSE
43 EMPLOYEES WHO BECOME MEMBERS OF THE SYSTEM BEFORE JANUARY 1, 2012. The
44 purpose of the deferred retirement option plan is to add flexibility to the
45 system and to provide members who elect to participate in the deferred

1 retirement option plan access to a lump sum benefit in addition to their
2 normal monthly retirement benefit on actual retirement.

3 B. The board shall offer the deferred retirement option plan to
4 members on a voluntary basis as an alternative method of benefit accrual
5 under the system.

6 Sec. 14. Section 38-845, Arizona Revised Statutes, is amended to read:
7 38-845. Amount of retirement benefit; purchase of firearm

8 A. A member who meets the requirements for a normal pension, WHO
9 BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012 and WHO has twenty
10 years of credited service shall receive a monthly amount ~~which~~ THAT equals
11 fifty per cent of the member's average monthly benefit compensation. If the
12 member retires with other than twenty years of credited service, the
13 foregoing amount shall be:

14 1. Reduced by four per cent for each year of credited service under
15 twenty years, with pro rata reduction for any fractional year.

16 2. Increased by a monthly amount equal to two per cent of the member's
17 average monthly benefit compensation multiplied by the number of the member's
18 years of credited service in excess of twenty years, with pro rata increase
19 for any fractional year, except that if a member retires with twenty-five or
20 more years of credited service the amount shall be increased by a monthly
21 amount equal to two and one-half per cent of the member's average monthly
22 benefit compensation multiplied by the number of the member's years of
23 credited service in excess of twenty years, with pro rata increase for any
24 fractional year. Notwithstanding the provisions of this subsection, the
25 maximum amount payable as a normal pension shall be eighty per cent of the
26 average monthly benefit compensation.

27 B. A member who meets the requirements for an accidental disability
28 pension shall receive a monthly amount, which shall be computed in the same
29 manner as a normal pension, using the member's average monthly benefit
30 compensation before termination of employment and the member's actual
31 credited service or twenty years of credited service, whichever is greater.

32 C. A member who meets the requirements for an ordinary disability
33 pension shall receive a monthly amount that is equal to a fraction times the
34 member's normal pension that is computed according to subsection A OR G if
35 the member had twenty years of credited service. The fraction is the result
36 obtained by dividing the member's actual years of credited service, not to
37 exceed twenty years of credited service, by twenty.

38 D. A member who meets the requirements for a temporary disability
39 pension shall receive a monthly amount ~~which shall be~~ THAT IS equal to
40 one-twelfth of fifty per cent of the member's annual compensation received
41 immediately prior to the date on which the member's disability was incurred.

42 E. A member who meets the requirements for a catastrophic disability
43 pension is ~~entitle~~ ENTITLED to receive a monthly amount computed as follows:

44 1. For the first sixty months, ninety per cent of the member's average
45 monthly benefit compensation before termination of employment.

1 2. After sixty months, sixty-two and one-half per cent of the member's
2 average monthly benefit compensation before termination of employment or
3 computed in the same manner as a normal pension using the member's average
4 monthly benefit compensation before termination of employment and the
5 member's actual credited service, whichever is greater.

6 F. A member who was employed before September 15, 1989 by an employer
7 participating in the system and who retires on or after November 1, 2001 is
8 entitled to receive a tax equity benefit allowance consisting of a permanent
9 increase of two per cent of the member's base benefit retroactive to the day
10 of retirement.

11 G. A MEMBER WHO MEETS THE REQUIREMENTS FOR A NORMAL PENSION, WHO
12 BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012 AND WHO HAS
13 TWENTY-FIVE YEARS OF CREDITED SERVICE SHALL RECEIVE A MONTHLY AMOUNT THAT
14 EQUALS SIXTY-TWO AND ONE-HALF PER CENT OF THE MEMBER'S AVERAGE MONTHLY
15 BENEFIT COMPENSATION. IF THE MEMBER RETIRES WITH OTHER THAN TWENTY-FIVE
16 YEARS OF CREDITED SERVICE, THE FOREGOING AMOUNT SHALL BE:

17 1. REDUCED BY FOUR PER CENT FOR EACH YEAR OF CREDITED SERVICE UNDER
18 TWENTY-FIVE YEARS, WITH PRO RATA REDUCTION FOR ANY FRACTIONAL YEAR.

19 2. INCREASED BY A MONTHLY AMOUNT EQUAL TO TWO AND ONE-HALF PER CENT OF
20 THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION MULTIPLIED BY THE NUMBER OF
21 THE MEMBER'S YEARS OF CREDITED SERVICE IN EXCESS OF TWENTY-FIVE YEARS, WITH
22 PRO RATA INCREASE FOR ANY FRACTIONAL YEAR. NOTWITHSTANDING THE PROVISIONS OF
23 THIS SUBSECTION, THE MAXIMUM AMOUNT PAYABLE AS A NORMAL PENSION SHALL BE
24 EIGHTY PER CENT OF THE AVERAGE MONTHLY BENEFIT COMPENSATION.

25 ~~G.~~ H. In addition to the amounts received under subsection A, B, C,
26 D, ~~or~~ E OR G and subject to the approval of the employer, the pension
27 includes the ability of a member to purchase the handgun or shotgun issued by
28 the employer to the member at less than fair market value.

29 Sec. 15. Section 38-846.01, Arizona Revised Statutes, is amended to
30 read:

31 38-846.01. Deferred annuity: exception

32 A. If any member who has at least ten years of credited service
33 terminates employment for reasons other than retirement or disability, the
34 member may elect to receive a deferred annuity, except that if the annuitant
35 withdraws all or part of the annuitant's accumulated contributions in the
36 system all rights in and to a deferred annuity shall be forfeited by the
37 annuitant. A deferred annuity is a lifetime monthly payment actuarially
38 equivalent to the annuitant's accumulated contributions in the system plus an
39 equal amount paid by the employer and shall commence on application on or
40 after the sixty-second birthday of the annuitant. The annuity is not a
41 retirement benefit and annuitants are not entitled to receive any amount
42 prescribed by section 38-845, subsection F, ~~or~~ section 38-846, 38-856 or
43 38-857.

44 B. THIS SECTION DOES NOT APPLY TO A MEMBER WHO BECOMES A MEMBER OF THE
45 SYSTEM ON OR AFTER JANUARY 1, 2012. SUCH A PERSON WHO ATTAINS A NORMAL

1 RETIREMENT DATE IS ELIGIBLE FOR RETIREMENT AND A RETIREMENT BENEFIT EVEN IF
2 THE MEMBER TERMINATES EMPLOYMENT WITH AN EMPLOYER BEFORE THE AGE REQUIREMENT
3 FOR NORMAL RETIREMENT IF THE MEMBER ATTAINS THE SERVICE REQUIREMENT FOR
4 NORMAL RETIREMENT.

5 Sec. 16. Section 38-846.02, Arizona Revised Statutes, is amended to
6 read:

7 38-846.02. Termination of membership

8 A. On termination of employment for any reason other than death or
9 retirement, within twenty days after filing a completed application with the
10 board, a member WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012 is
11 entitled to receive the following amounts, less any benefit payments the
12 member has received or any amount the member may owe to the system:

13 1. If the member has less than five years of credited service with the
14 system, the member may withdraw the member's accumulated contributions from
15 the system.

16 2. If the member has five or more years of credited service with the
17 system, the member may withdraw the member's accumulated contributions plus
18 an amount equal to the amount determined as follows:

19 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
20 member contributions deducted from the member's salary pursuant to section
21 38-843, subsection C.

22 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
23 contributions deducted from the member's salary pursuant to section 38-843,
24 subsection C.

25 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
26 member contributions deducted from the member's salary pursuant to section
27 38-843, subsection C.

28 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
29 member contributions deducted from the member's salary pursuant to section
30 38-843, subsection C.

31 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
32 member contributions deducted from the member's salary pursuant to section
33 38-843, subsection C.

34 (f) 10.0 or more years of credited service, one hundred per cent of
35 all member contributions deducted from the member's salary pursuant to
36 section 38-843, subsection C.

37 B. If a member WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1,
38 2012 has more than ten years of credited service with the system, leaves the
39 monies prescribed in subsection A of this section on account with the system
40 for more than thirty days after termination of employment and after that time
41 period requests a refund of those monies, the member is entitled to receive
42 the amount prescribed in subsection A of this section plus interest at a rate
43 determined by the board for each year computed from and after the member's
44 termination of employment.

1 C. ON TERMINATION OF EMPLOYMENT FOR ANY REASON OTHER THAN DEATH OR
2 RETIREMENT, WITHIN TWENTY DAYS AFTER FILING A COMPLETED APPLICATION WITH THE
3 BOARD, A MEMBER WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1,
4 2012 IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT EQUAL TO THE MEMBER'S
5 ACCUMULATED CONTRIBUTION PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS
6 OF THE DATE OF TERMINATION, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED
7 AS OF THE DATE OF TERMINATION OR ANY AMOUNT THE MEMBER MAY OWE TO THE SYSTEM.

8 ~~C.~~ D. If the amount prescribed in subsection A, ~~or~~ B OR C of this
9 section includes monies that are an eligible rollover distribution and the
10 member elects to have the distribution paid directly to an eligible
11 retirement plan or individual retirement account or annuity and specifies the
12 eligible retirement plan or individual retirement account or annuity to which
13 the distribution is to be paid, the distribution shall be made in the form of
14 a direct trustee-to-trustee transfer to the specified eligible retirement
15 plan. The distribution shall be made in the form and at the time prescribed
16 by the board. A member who withdraws the amount prescribed in subsection A,
17 ~~or~~ B OR C of this section from the system or who elects a transfer pursuant
18 to this section forfeits all rights to benefits under the system and rights
19 to rehearing and appeal, except as provided in section 38-849.

20 Sec. 17. Section 38-849, Arizona Revised Statutes, as amended by Laws
21 2010, chapter 118, section 10, is amended to read:

22 38-849. Limitations on receiving pension; violation;
23 classification; reemployment after severance;
24 reinstatement of service credits; reemployment of
25 retired or disabled member

26 A. If a member is convicted of, or discharged because of, theft,
27 embezzlement, fraud or misappropriation of an employer's property or property
28 under the control of the employer, the member shall be subject to restitution
29 and fines imposed by a court of competent jurisdiction. The court may order
30 the restitution or fines to be paid from any payments otherwise payable to
31 the member from the retirement system.

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

1 C. If a member who received a severance refund on termination of
2 employment, as provided in section 38-846.02, is subsequently reemployed by
3 an employer, the member's prior service credits shall be cancelled and
4 service shall be credited only from the date the member's most recent
5 reemployment period commenced. However, if the former member's reemployment
6 with the same employer occurred within two years after the former member's
7 termination date, and, within ninety days after reemployment the former
8 member signs a written election consenting to reimburse the fund within one
9 year, the former member shall be required to redeposit the amount withdrawn
10 at the time of the former member's separation from service, with interest
11 thereon at the rate of nine per cent for each year compounded each year from
12 the date of withdrawal to the date of repayment. On satisfaction of this
13 obligation the member's prior service credits shall be reinstated.

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

42 E. A person who defrauds the system or who takes, converts, steals or
43 embezzles monies owned by or from the system and who fails or refuses to
44 return the monies to the system on the ~~fund-manager's~~ BOARD'S written request
45 is subject to civil suit by the system in the superior court in Maricopa

1 county. On entry of an order finding the person has defrauded the system or
2 taken, converted, stolen or embezzled monies owned by or from the system, the
3 court shall enter an order against that person and for the system awarding
4 the system all of its costs and expenses of any kind, including attorney
5 fees, that were necessary to successfully prosecute the action. The court
6 shall also grant the system a judicial lien on all of the nonexempt property
7 of the person against whom judgment is entered pursuant to this subsection in
8 an amount equal to all amounts awarded to the system, plus interest at the
9 rate prescribed by section 44-1201, subsection A, until all amounts owed are
10 paid to the system.

11 F. Notwithstanding any other provision of this article, the ~~fund~~
12 ~~manager~~ BOARD may offset against any benefits otherwise payable by the system
13 to an active or retired member or survivor any court ordered amounts awarded
14 to the ~~fund-manager~~ BOARD and system and assessed against the member or
15 survivor.

16 Sec. 18. Repeal

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

19 Sec. 19. Section 38-856, Arizona Revised Statutes, is amended to read:

20 38-856. Benefit increases; definition

21 A. Effective July 1 of each year, each retired member or survivor of a
22 retired member is entitled to receive a permanent increase in the base
23 benefit equal to the amount determined pursuant to this section if either:

24 1. The retired member or the survivor of a retired member was
25 receiving benefits on or before July 31 of the two previous years.

26 2. The retired member or survivor of a retired member was fifty-five
27 years of age or older on July 1 of the current year and was receiving
28 benefits on or before July 31 of the previous year.

29 B. The monthly amount of a permanent increase provided by subsection A
30 is determined as follows:

31 1. Determine the excess investment earnings on the net assets of the
32 fund.

33 2. Determine the excess investment earnings account balance.

34 3. Determine the actuarial present value, as of June 30 of the
35 preceding calendar year, of a five dollar per month increase in the amount of
36 each pension eligible for an increase.

37 4. Add the amounts determined in paragraphs 1 and 2 of this subsection
38 then divide by the amount determined in paragraph 3 of this subsection.

39 5. From the quotient obtained in paragraph 4 of this subsection, drop
40 any fraction.

41 6. Multiply the number obtained in paragraph 5 of this subsection by
42 five dollars.

43 C. The excess investment earnings on the net assets of the fund are
44 equal to the total assets of the fund less any amount allocated to the excess
45 investment earnings account multiplied by ~~one-half of the positive~~

1 ~~difference, if any, between the total return of the system and nine per cent~~
2 THE EXCESS INVESTMENT EARNINGS AMOUNT. The excess investment earnings on the
3 net assets of the fund are zero if the ~~total~~ AVERAGE ANNUAL return of the
4 system OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE IN THE
5 CALCULATION OF THE ACTUARIAL VALUE OF ASSETS is less than or equal to nine
6 per cent.

7 D. As used in this section: ~~, total~~

8 1. AVERAGE ANNUAL return and the net assets of the fund are the
9 amounts published in the annual report of the system for the fiscal year
10 ending June 30 of the calendar year preceding the July 1 of the increase.

11 2. THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
12 LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE
13 FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE
14 INCREASE.

15 E. All excess investment earnings on the net assets of the fund are
16 available for benefit increases as provided in this section. Any excess
17 investment earnings on the net assets of the fund from any year ~~which~~ THAT
18 are not used for benefit adjustments for that year are available for future
19 benefit increases in the following years. Earnings on the excess investment
20 earnings account balance at the rate of the total return as published in the
21 annual report of the system shall be added each year to the excess investment
22 earnings account and shall be available for future benefit increases.

23 F. The maximum benefit increase under this section is limited to the
24 equivalent of four per cent of the average normal benefit being received on
25 the preceding June 30.

26 G. FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS
27 AMOUNT" MEANS:

28 1. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
29 LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.

30 2. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
31 LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER
32 CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE
33 ANNUAL RETURN OF THE SYSTEM AND NINE PER CENT.

34 3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
35 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE
36 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE SYSTEM AND NINE
37 PER CENT.

38 Sec. 20. Section 38-881, Arizona Revised Statutes, as amended by Laws
39 2010, chapter 200, section 53, is amended to read:

40 38-881. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Accidental disability" means a physical or mental condition that
43 the local board finds totally and permanently prevents an employee from
44 performing a reasonable range of duties within the employee's department, was

1 incurred in the performance of the employee's duties and was the result of
2 any of the following:

3 (a) Physical contact with inmates, prisoners, parolees or persons on
4 probation.

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

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

13 2. "Accumulated member contributions" means for each member the sum of
14 the amount of all the member's contributions deducted from the member's
15 salary and paid to the fund, plus member contributions transferred to the
16 fund by another retirement plan covering public employees of this state, plus
17 previously withdrawn accumulated member contributions that are repaid to the
18 fund in accordance with this article, minus any benefits paid to or on behalf
19 of a member.

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

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

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

27 6. "Annuitant" means a person who is receiving a benefit pursuant to
28 section 38-911.

29 7. "Average monthly salary" means, **FOR AN EMPLOYEE WHO BECOMES A**
30 **MEMBER OF THE PLAN BEFORE JANUARY 1, 2012**, one-thirty-sixth of the aggregate
31 amount of salary that is paid a member by a participating employer during a
32 period of thirty-six consecutive months of service in which the member
33 received the highest salary within the last one hundred twenty months of
34 service **AND, FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER**
35 **JANUARY 1, 2012, ONE-SIXTIETH OF THE AGGREGATE AMOUNT OF SALARY THAT IS PAID**
36 **A MEMBER BY A PARTICIPATING EMPLOYER DURING A PERIOD OF SIXTY CONSECUTIVE**
37 **MONTHS OF SERVICE IN WHICH THE MEMBER RECEIVED THE HIGHEST SALARY WITHIN THE**
38 **LAST ONE HUNDRED TWENTY MONTHS OF SERVICE**. Average monthly salary means the
39 aggregate amount of salary that is paid a member divided by the member's
40 months of service if the member has less than thirty-six **OR SIXTY** months of
41 service. In the computation under this paragraph, a period of nonpaid or
42 partially paid industrial leave shall be considered based on the salary the
43 employee would have received in the employee's job classification if the
44 employee was not on industrial leave.

1 8. "Beneficiary" means an individual who is being paid or who has
2 entitlement to the future payment of a pension on account of a reason other
3 than the individual's membership in the retirement plan.

4 9. "Board" means the board of trustees of the public safety personnel
5 retirement system.

6 10. "Claimant" means a member, beneficiary or estate that files an
7 application for benefits with the retirement plan.

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

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

17 13. "Designated position" means:

18 (a) For a county:

19 (i) A county detention officer.

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

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

24 (i) Food service.

25 (ii) Nursing personnel.

26 (iii) Corrections physician assistant.

27 (iv) Therapist.

28 (v) Corrections dental assistant.

29 (vi) Hygienist.

30 (vii) Corrections medical assistant.

31 (viii) Correctional service officer, including assistant deputy
32 warden, deputy warden, warden and superintendent.

33 (ix) State correctional program officer.

34 (x) Parole or community supervision officers.

35 (xi) Investigators.

36 (xii) Teachers.

37 (xiii) Institutional maintenance workers.

38 (xiv) Youth corrections officer.

39 (xv) Youth program officer.

40 (xvi) Behavioral health treatment unit managers.

41 (xvii) The director and assistant directors of the department of
42 juvenile corrections and the superintendent of the state educational system
43 for committed youth.

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

1 (xix) Other positions designated by the local board of the state
2 department of corrections or the local board of the department of juvenile
3 corrections pursuant to section 38-891.

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

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

7 (e) For the judiciary, probation, surveillance and juvenile detention
8 officers and those positions designated by the local board of the judiciary
9 pursuant to section 38-891.

10 (f) For the department of public safety, state detention officers.

11 14. "Determination" means a written document that indicates to a
12 participant and alternate payee whether a domestic relations order qualifies
13 as a plan approved domestic relations order.

14 15. "Determination period" means the ninety-day period in which the
15 plan must review a domestic relations order that is submitted by a
16 participant or alternate payee to determine whether the domestic relations
17 order qualifies as a plan approved domestic relations order, calculated from
18 the time the plan mails a notice of receipt to the participant and alternate
19 payee.

20 16. "Direct rollover" means a payment by the plan to an eligible
21 retirement plan that is specified by the distributee.

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

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

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

32 (a) Is under eighteen years of age.

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

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

38 20. "Eligible retirement plan" means any of the following that accepts
39 a distributee's eligible rollover distribution:

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

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

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

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

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

5 (f) An eligible deferred compensation plan described in section 457(b)
6 of the internal revenue code that is maintained by a state, a political
7 subdivision of a state or any agency or instrumentality of a state or a
8 political subdivision of a state and that agrees to separately account for
9 amounts transferred into the eligible deferred compensation plan from this
10 plan.

11 21. "Eligible rollover distribution" means a payment to a distributee,
12 but does not include any of the following:

13 (a) Any distribution that is one of a series of substantially equal
14 periodic payments made not less frequently than annually for the life or life
15 expectancy of the member or the joint lives or joint life expectancies of the
16 member and the member's beneficiary or for a specified period of ten years or
17 more.

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

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

22 22. "Employee" means a person employed by a participating employer in a
23 designated position.

24 23. "Employer" means an agency or department of this state or a
25 political subdivision of this state that has one or more employees in a
26 designated position.

27 24. "Fund" means the corrections officer retirement plan fund.

28 25. "Juvenile detention officer" means a juvenile detention officer
29 responsible for the direct custodial supervision of juveniles who are
30 detained in a county juvenile detention center.

31 26. "Local board" means the retirement board of the employer that
32 consists of persons appointed or elected to administer the plan as it applies
33 to the employer's members in the plan.

34 27. "Member" means any employee who meets all of the following
35 qualifications:

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

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

41 (c) Whose customary employment is at least forty hours each week.

42 28. "Normal retirement date" means:

43 (a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,
44 2012, the first day of the calendar month immediately following ~~an~~ THE
45 employee's completion of twenty years of service or, in the case of a

1 dispatcher, twenty-five years of service, the employee's sixty-second
2 birthday and completion of ten years of service or the month in which the sum
3 of the employee's age and years of credited service equals eighty.

4 (b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER
5 JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING
6 THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS
7 AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE OR THE EMPLOYEE'S SIXTY-SECOND
8 BIRTHDAY AND COMPLETION OF TEN YEARS OF SERVICE.

9 29. "Notice of receipt" means a written document that is issued by the
10 plan to a participant and alternate payee and that states that the plan has
11 received a domestic relations order and a request for a determination that
12 the domestic relations order is a plan approved domestic relations order.

13 30. "Ordinary disability" means a physical condition that the local
14 board determines will totally and permanently prevent an employee from
15 performing a reasonable range of duties within the employee's department or a
16 mental condition that the local board determines will totally and permanently
17 prevent an employee from engaging in any substantial gainful activity.

18 31. "Participant" means a member who is subject to a domestic relations
19 order.

20 32. "Participant's portion" means benefits that are payable to a
21 participant pursuant to a plan approved domestic relations order.

22 33. "Participating employer" means an employer that the board has
23 determined to have one or more employees in a designated position or a
24 county, city, town or department of this state that has entered into a
25 joinder agreement pursuant to section 38-902.

26 34. "Pension" means a series of monthly payments by the retirement plan
27 but does not include an annuity that is payable pursuant to section 38-911.

28 35. "Personal representative" means the personal representative of a
29 deceased alternate payee.

30 36. "Plan approved domestic relations order" means a domestic relations
31 order that the plan approves as meeting all the requirements for a plan
32 approved domestic relations order as otherwise prescribed in this article.

33 37. "Probation or surveillance officer" means an officer appointed
34 pursuant to section 8-203, 12-251 or 12-259 but does not include other
35 personnel, office assistants or support staff.

36 38. "Retired member" means an individual who terminates employment and
37 who is receiving a pension pursuant to either section 38-885 or 38-886.

38 39. "Retirement" or "retired" means termination of employment after a
39 member has fulfilled all requirements for a pension OR, FOR AN EMPLOYEE WHO
40 BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE AND
41 SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE.

42 40. "Retirement plan" or "plan" means the corrections officer
43 retirement plan established by this article.

44 41. "Salary" means the base salary, shift differential pay, military
45 differential wage pay and holiday pay paid a member for personal services

1 rendered in a designated position to a participating employer on a regular
2 monthly, semimonthly or biweekly payroll basis. Salary includes amounts that
3 are subject to deferred compensation or tax shelter agreements. Salary does
4 not include payment for any remuneration or reimbursement other than as
5 prescribed by this paragraph. For the purposes of this paragraph, "base
6 salary" means the amount of compensation each member is regularly paid for
7 personal services rendered to an employer before the addition of any extra
8 monies, including overtime pay, shift differential pay, holiday pay, fringe
9 benefit pay and similar extra payments.

10 42. "Segregated funds" means the amount of benefits that would
11 currently be payable to an alternate payee pursuant to a domestic relations
12 order under review by the plan, or a domestic relations order submitted to
13 the plan that failed to qualify as a plan approved domestic relations order,
14 if the domestic relations order were determined to be a plan approved
15 domestic relations order.

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

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

27 Sec. 21. Repeal

28 Section 38-881, Arizona Revised Statutes, as amended by Laws 2010,
29 chapter 200, section 54, is repealed.

30 Sec. 22. Section 38-884, Arizona Revised Statutes, is amended to read:

31 38-884. Membership of retirement plan; termination; credited
32 service; redemption

33 A. Each employee of a participating employer is a member of the plan
34 unless the employee is receiving a pension from the plan. A person employed
35 shall undergo a medical examination performed by a doctor or clinic appointed
36 by the local board or, in the case of a state correctional officer who is
37 employed by the state department of corrections, complete a physical
38 examination pursuant to section 41-1822, subsection B. For the purposes of
39 subsection B of this section, the doctor or clinic appointed by the local
40 board may be the employer's regular employee or contractor.

41 B. The purpose of the medical examination authorized by this section
42 is to identify a member's physical or mental condition or injury that existed
43 or occurred before the member's date of membership in the plan. Any employee
44 who fails or refuses to submit to the medical examination prescribed in this
45 section is deemed to waive all rights to disability benefits under this

1 article. Medical examinations conducted under this article shall not be
2 conducted or used for purposes of hiring, advancement, discharge, job
3 training or other terms, conditions and privileges of employment unrelated to
4 receipt or qualification for pension benefits or service credits from the
5 fund. This subsection does not affect or impair the right of an employer to
6 prescribe medical or physical standards for employees or prospective
7 employees.

8 C. If a member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012
9 ceases to be an employee for any reason other than death or retirement,
10 within twenty days after filing a completed application with the board, the
11 member is entitled to receive the following amounts, less any benefit
12 payments the member has received and any amount the member may owe to the
13 plan:

14 1. If the member has less than five years of credited service with the
15 plan, the member may withdraw the member's accumulated contributions from the
16 plan.

17 2. If the member has five or more years of credited service with the
18 plan, the member may withdraw the member's accumulated contributions plus an
19 amount equal to the amount determined as follows:

20 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
21 member contributions deducted from the member's salary pursuant to section
22 38-891, subsection B.

23 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
24 contributions deducted from the member's salary pursuant to section 38-891,
25 subsection B.

26 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
27 member contributions deducted from the member's salary pursuant to section
28 38-891, subsection B.

29 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
30 member contributions deducted from the member's salary pursuant to section
31 38-891, subsection B.

32 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
33 member contributions deducted from the member's salary pursuant to section
34 38-891, subsection B.

35 (f) 10.0 or more years of credited service, one hundred per cent of
36 all member contributions deducted from the member's salary pursuant to
37 section 38-891, subsection B.

38 D. If a member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012
39 has more than ten years of credited service with the plan, leaves the monies
40 prescribed in subsection C of this section on account with the plan for more
41 than thirty days after termination of employment and after that time period
42 requests a refund of those monies, the member is entitled to receive the
43 amount prescribed in subsection C of this section plus interest at a rate
44 determined by the board for each year computed from and after the member's
45 termination of employment.

1 E. THE ACCUMULATED MEMBER CONTRIBUTIONS OF A MEMBER WHO CEASES TO BE
2 AN EMPLOYEE FOR A REASON OTHER THAN DEATH OR RETIREMENT AND WHO BECOMES A
3 MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012 SHALL BE PAID TO THE MEMBER
4 PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS OF THE DATE OF TERMINATION
5 WITHIN TWENTY DAYS AFTER FILING WITH THE PLAN A WRITTEN APPLICATION FOR
6 PAYMENT.

7 ~~E.~~ F. If the refund includes monies that are an eligible rollover
8 distribution and the member elects to have the distribution paid directly to
9 an eligible retirement plan or individual retirement account or annuity and
10 specifies the eligible retirement plan or individual retirement account or
11 annuity to which the distribution is to be paid, the distribution shall be
12 made in the form of a direct trustee-to-trustee transfer to the specified
13 eligible retirement plan. The distribution shall be made in the form and at
14 the time prescribed by the board.

15 ~~F.~~ G. Service shall be credited to a member's individual credited
16 service account in accordance with rules the local board prescribes. In no
17 case shall more than twelve months of credited service be credited on account
18 of all service rendered by a member in any one year. In no case shall
19 service be credited for any period during which the member is not employed in
20 a designated position, except as provided by sections 38-921 and 38-922.

21 ~~G.~~ H. Credited service is forfeited if the amounts prescribed in
22 subsection C, ~~or~~ D OR E of this section are paid or are transferred in
23 accordance with this section.

24 ~~H.~~ I. If a former member becomes reemployed with the same employer
25 within two years after the former member's termination date, a member may
26 have forfeited credited service attributable to service rendered during a
27 prior period of service as an employee restored on satisfaction of each of
28 the following conditions:

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

32 2. The retirement fund is paid the total amount previously withdrawn
33 pursuant to subsection C, ~~or~~ D OR E of this section plus compound interest
34 from the date of withdrawal to the dates of repayment. Interest shall be
35 computed at the rate of nine per cent for each year compounded each year from
36 the date of withdrawal to the date of repayment. Forfeited credited service
37 shall not be restored until complete payment is received by the fund.

38 3. The required payment is completed within one year after returning
39 to employee status.

40 ~~I.~~ J. A present active member of the plan who received a refund of
41 accumulated contributions from the plan pursuant to subsection C, ~~or~~ D OR E
42 of this section and forfeited credited service pursuant to subsection ~~G~~- H of
43 this section may elect to redeem any part of that forfeited credited service
44 by paying into the plan any amounts required pursuant to this subsection. A
45 present active member who elects to redeem any part of forfeited credited

1 service for which the member is deemed eligible by the board shall pay into
2 the plan the amounts previously paid or transferred as a refund of the
3 member's accumulated contributions plus an amount, computed by the plan's
4 actuary that is necessary to equal the increase in the actuarial present
5 value of projected benefits resulting from the redemption calculated using
6 the actuarial methods and assumptions prescribed by the plan's actuary.

7 ~~J.~~ K. A retired member may become employed by an employer in a
8 designated position and continue to receive a pension if the employment
9 occurs at least twelve months after retirement. The retired member shall not
10 contribute to the fund and shall not accrue credited service. If a retired
11 member becomes employed by an employer in a designated position before twelve
12 months after retirement:

13 1. Payment of the retired member's pension shall be suspended until
14 the retired member again ceases to be an employee. The amount of pension
15 shall not be changed on account of service as an employee subsequent to
16 retirement.

17 2. The retired member shall not contribute to the fund and shall not
18 accrue credited service.

19 Sec. 23. Section 38-885, Arizona Revised Statutes, is amended to read:

20 38-885. Normal retirement; conditions and pension

21 A. A member may retire if the member:

22 1. Files a written application for normal retirement with the plan in
23 the form prescribed by the plan.

24 2. Ceases to be an employee before the date of retirement.

25 3. Meets one of the age and service requirements for normal retirement
26 prescribed in subsection B OR D.

27 B. A member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012 is
28 eligible for a normal retirement pension if the member satisfies one of the
29 following requirements:

30 1. Is AT LEAST sixty-two years ~~or older~~ OF AGE and has ten or more
31 years of service.

32 2. Has twenty or more years of service or, in the case of a
33 dispatcher, twenty-five OR MORE years OF SERVICE.

34 3. The sum of the member's age and years of credited service equals at
35 least eighty.

36 C. A member who meets the requirements for a normal retirement pension
37 PURSUANT TO SUBSECTION B and who has twenty years or twenty-five years, as
38 applicable, of credited service is entitled to receive a pension that equals
39 fifty per cent of the member's average monthly salary, except that:

40 1. If the member retires with more than twenty years of credited
41 service the foregoing amount shall be increased by a monthly amount equal to
42 two per cent of the member's average monthly salary multiplied by the number
43 of the member's years of credited service in excess of twenty years, with pro
44 rata increase for any fractional years, except that if a member retires with
45 twenty-five or more years of credited service the foregoing amount shall be

1 increased by a monthly amount equal to two and one-half per cent of the
2 member's average monthly salary multiplied by the number of the member's
3 years of credited service in excess of twenty years, with pro rata increase
4 for any fractional year.

5 2. If the member retires pursuant to subsection B but has less than
6 twenty years of credited service, the member is entitled to receive a pension
7 equal to the product of:

8 (a) Two and one-half per cent of the member's average monthly salary.

9 (b) The member's credited service.

10 D. A PERSON WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1,
11 2012 IS ELIGIBLE FOR A NORMAL RETIREMENT PENSION IF THE PERSON SATISFIES ONE
12 OF THE FOLLOWING REQUIREMENTS:

13 1. IS AT LEAST SIXTY-TWO YEARS OF AGE AND HAS TEN OR MORE YEARS OF
14 SERVICE.

15 2. IS AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE AND HAS TWENTY-FIVE
16 OR MORE YEARS OF SERVICE.

17 E. A PERSON WHO MEETS THE REQUIREMENTS FOR A NORMAL RETIREMENT PENSION
18 PURSUANT TO SUBSECTION D AND WHO HAS TWENTY-FIVE YEARS OF CREDITED SERVICE IS
19 ENTITLED TO RECEIVE A PENSION THAT EQUALS SIXTY-TWO AND ONE-HALF PER CENT OF
20 THE MEMBER'S AVERAGE MONTHLY SALARY, EXCEPT THAT:

21 1. IF THE PERSON RETIRES WITH MORE THAN TWENTY-FIVE YEARS OF CREDITED
22 SERVICE THE FOREGOING AMOUNT SHALL BE INCREASED BY A MONTHLY AMOUNT EQUAL TO
23 TWO AND ONE-HALF PER CENT OF THE MEMBER'S AVERAGE MONTHLY SALARY MULTIPLIED
24 BY THE NUMBER OF THE MEMBER'S YEARS OF CREDITED SERVICE IN EXCESS OF
25 TWENTY-FIVE YEARS, WITH PRO RATA INCREASE FOR ANY FRACTIONAL YEAR.

26 2. IF THE PERSON RETIRES PURSUANT TO SUBSECTION D BUT HAS LESS THAN
27 TWENTY-FIVE YEARS OF CREDITED SERVICE, THE PERSON IS ENTITLED TO RECEIVE A
28 PENSION EQUAL TO THE PRODUCT OF:

29 (a) TWO AND ONE-HALF PER CENT OF THE MEMBER'S AVERAGE MONTHLY SALARY.

30 (b) THE MEMBER'S CREDITED SERVICE.

31 ~~D.~~ F. In no case shall the amount of a member's pension exceed eighty
32 per cent of the member's average monthly salary. Such limitation does not
33 preclude cost-of-living increases granted by the legislature.

34 Sec. 24. Section 38-886.01, Arizona Revised Statutes, is amended to
35 read:

36 38-886.01. Ordinary disability retirement; qualifications;
37 amount of pension; conditions for continued
38 payment of pension; definition

39 A. A member may retire and receive an ordinary disability pension if
40 the local board finds that all of the following conditions occur:

41 1. An application for disability retirement is filed with the
42 retirement plan or the local board by either the member or the member's
43 participating employer after the disabling incident or within one year after
44 the date the member ceases to be an employee. Timely application for an
45 ordinary disability pension is a prerequisite to receipt of the pension.

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

4 3. The local board determines that an ordinary disability condition
5 exists that meets the requirements for an ordinary disability.

6 4. The member is not participating in the reverse deferred retirement
7 option plan pursuant to section 38-885.01.

8 B. The effective date of an ordinary disability retirement shall not
9 predate the date of disability or the date the member ceases to be an
10 employee.

11 C. Except for a full-time dispatcher OR A PERSON WHO BECOMES A MEMBER
12 OF THE PLAN ON OR AFTER JANUARY 1, 2012, the amount of an ordinary disability
13 pension is equal to a fraction times the member's normal retirement pension
14 that is computed pursuant to section 38-885, subsection C as if the member
15 had twenty years of credited service. The fraction is the result obtained by
16 dividing the member's actual years of credited service, not to exceed twenty
17 years of credited service, by twenty. For a full-time dispatcher OR A PERSON
18 WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012, the amount of
19 an ordinary disability pension is equal to a fraction times the member's
20 normal retirement pension that is computed pursuant to section 38-885,
21 subsection C OR E as if the member had twenty-five years of credited service.
22 The fraction is the result obtained by dividing the member's actual years of
23 credited service, not to exceed twenty-five years of credited service, by
24 twenty-five.

25 D. During the period, if any, between the effective date of ordinary
26 disability retirement and the date the disabled retired member attains
27 sixty-two years of age the local board may require a disabled retired member
28 to undergo periodic reevaluation of the continuation of ordinary disability.
29 If the disabled retired member refuses to submit to reevaluation, the local
30 board may suspend payment of the pension. If the refusal continues for one
31 year, the local board may revoke the disabled retired member's rights to the
32 pension. An ordinary disability pension is terminated if the local board
33 finds the retired member no longer meets the requirements for ordinary
34 disability retirement.

35 E. A member does not qualify for an ordinary disability pension if the
36 local board determines that the member's disability results from any of the
37 following:

38 1. An injury suffered while engaged in a felonious criminal act or
39 enterprise.

40 2. Service in the armed forces of the United States that entitles the
41 member to a veteran's disability pension.

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

44 F. Local boards shall base a finding of ordinary disability on medical
45 evidence that is obtained by a medical doctor or clinic selected by the local

1 board and shall disregard any other medical evidence or opinions. If the
2 local board retains more than one medical doctor or clinic in connection with
3 the application, the local board shall resolve any material conflicts
4 presented in the medical evidence that is presented by the medical doctors or
5 clinics.

6 G. For the purposes of this section, "ordinary disability" means a
7 physical condition that the local board determines will prevent an employee
8 from totally and permanently performing a reasonable range of duties within
9 the employee's department or a mental condition that the local board
10 determines will prevent an employee from totally and permanently engaging in
11 any substantial gainful activity.

12 Sec. 25. 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~~ THE AMOUNT PRESCRIBED IN SUBSECTION H to
8 the retirement plan. Member contributions shall be made by payroll
9 deduction. Continuation of employment by the member constitutes consent and
10 agreement to the deduction of the applicable member contribution. Payment of
11 the member's salary less the deducted contributions constitutes full and
12 complete discharge and satisfaction of all claims and demands of the member
13 relating to salary for services rendered during the period covered by the
14 payment.

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

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

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

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

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

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

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

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

25 H. THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION B IS:

26 1. THROUGH JUNE 30, 2011, 8.41 PER CENT OF THE MEMBER'S SALARY, EXCEPT
 27 FOR A FULL-TIME DISPATCHER. THE AMOUNT CONTRIBUTED BY A FULL-TIME DISPATCHER
 28 THROUGH JUNE 30, 2011 IS 7.96 PER CENT OF THE MEMBER'S SALARY.

29 2. FOR FISCAL YEAR 2011-2012, 8.91 PER CENT OF THE MEMBER'S SALARY,
 30 EXCEPT FOR A FULL-TIME DISPATCHER. THE AMOUNT CONTRIBUTED BY A FULL-TIME
 31 DISPATCHER FOR FISCAL YEAR 2011-2012 IS 8.46 PER CENT OF THE MEMBER'S SALARY.

32 3. FOR FISCAL YEAR 2012-2013 AND EACH FISCAL YEAR THEREAFTER, 8.91 PER
 33 CENT OF THE MEMBER'S SALARY OR FIFTY PER CENT OF THE SUM OF THE MEMBER'S
 34 CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE COMPUTED
 35 EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION A,
 36 WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE
 37 LESS THAN 7.65 PER CENT OF THE MEMBER'S SALARY AND THE EMPLOYER CONTRIBUTION
 38 RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION A.

39 I. NOTWITHSTANDING SUBSECTION H, PARAGRAPH 3, THE CONTRIBUTION RATE
 40 FOR A FULL-TIME DISPATCHER IS FORTY-FIVE BASIS POINTS LESS THAN THE MEMBER
 41 CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBSECTION H, PARAGRAPH 3, EXCEPT
 42 THAT AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES
 43 THAT THE AGGREGATE RATIO OF THE FUNDING VALUE OF THE ACCRUED ASSETS TO THE
 44 ACCRUED LIABILITIES OF THE FUND IS AT LEAST ONE HUNDRED PER CENT, FROM AND
 45 AFTER JUNE 30 OF THE FOLLOWING YEAR THE MEMBER CONTRIBUTION RATE FOR A

1 FULL-TIME DISPATCHER IS EQUAL TO THE MEMBER CONTRIBUTION RATE FOR A MEMBER
2 WHO IS NOT A FULL-TIME DISPATCHER.

3 J. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE
4 AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS 8.41 PER CENT OF THE
5 MEMBER'S SALARY FOR A MEMBER OTHER THAN A FULL-TIME DISPATCHER OR 7.96 PER
6 CENT OF THE MEMBER'S SALARY FOR A FULL-TIME DISPATCHER SHALL NOT BE USED TO
7 REDUCE THE EMPLOYER'S CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO
8 SUBSECTION A.

9 Sec. 26. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
10 amended by adding section 38-891.01, to read:

11 38-891.01. Retired member; return to work; employer
12 contributions

13 A. AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION
14 RATE ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A
15 POSITION ORDINARILY FILLED BY AN EMPLOYEE OF THE EMPLOYER IN A DESIGNATED
16 POSITION. THIS SECTION APPLIES TO A RETIRED MEMBER WHO HAS BEEN RETIRED FOR
17 MORE THAN TWELVE CONSECUTIVE MONTHS.

18 B. THE ALTERNATE CONTRIBUTION RATE SHALL BE EQUAL TO THAT PORTION OF
19 THE TOTAL REQUIRED CONTRIBUTION THAT IS APPLIED TO THE AMORTIZATION OF THE
20 UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR THE FISCAL YEAR BEGINNING JULY 1,
21 BASED ON THE FUND'S ACTUARY'S CALCULATION OF THE TOTAL REQUIRED CONTRIBUTION
22 FOR THE PRECEDING FISCAL YEAR ENDED ON JUNE 30. THE ALTERNATE CONTRIBUTION
23 RATE SHALL BE APPLIED TO THE COMPENSATION, GROSS SALARY OR CONTRACT FEE OF A
24 RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

25 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN SIX PER CENT
26 IN ANY FISCAL YEAR.

27 D. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND
28 ESTABLISHED BY SECTION 38-882 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS
29 UNDER THIS ARTICLE OR TO PAY THE EXPENSES OF THE PLAN. PAYMENTS MADE
30 PURSUANT TO THIS SECTION BY EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE
31 PRESCRIBED IN SECTION 38-891, SUBSECTION C, AND THEREAFTER SHALL BE INCREASED
32 BY INTEREST FROM AND AFTER THAT DATE UNTIL PAYMENT IS RECEIVED BY THE PLAN.

33 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,
34 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY THE BOARD AND THAT ARE NECESSARY
35 TO DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A
36 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, USE,
37 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

38 Sec. 27. Section 38-905, Arizona Revised Statutes, is amended to read:

39 38-905. Benefit increases; definition

40 A. Effective July 1 of each year, each retired member or survivor of a
41 retired member is entitled to receive a permanent benefit increase in the
42 base benefit equal to the amount determined pursuant to this section if
43 either:

44 1. The retired member or survivor of the retired member was receiving
45 benefits on or before July 31 of the previous two years.

1 2. The retired member or survivor of the retired member was fifty-five
2 years of age or older on July 1 of the current year and was receiving
3 benefits on or before July 31 of the previous year.

4 B. The monthly amount of a permanent increase provided by subsection A
5 is determined as follows:

6 1. Determine the excess investment earnings on the net assets of the
7 fund.

8 2. Determine the excess investment earnings account balance.

9 3. Determine the actuarial present value, as of June 30 of the
10 preceding calendar year, of a five dollar per month increase in the amount of
11 each pension eligible for an increase.

12 4. Add the amounts determined in paragraphs 1 and 2 of this subsection
13 and divide that sum by the amount determined in paragraph 3 of this
14 subsection.

15 5. From the quotient obtained in paragraph 4 of this subsection, drop
16 any fraction.

17 6. Multiply the number obtained in paragraph 5 of this subsection by
18 five dollars.

19 C. The excess investment earnings on the net assets of the fund are
20 equal to the total assets of the fund less any amount allocated to the excess
21 investment earnings account multiplied by ~~one-half of the positive~~
22 ~~difference, if any, between the total return of the plan and nine per cent~~
23 **THE EXCESS INVESTMENT EARNINGS AMOUNT**. The excess investment earnings on the
24 net assets of the fund are zero if the ~~total~~ **AVERAGE ANNUAL** return of the
25 plan **OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE IN THE**
26 **CALCULATION OF THE ACTUARIAL VALUE OF ASSETS** is less than or equal to nine
27 per cent.

28 D. As used in this section: ~~, total~~

29 1. **AVERAGE ANNUAL** return and net assets of the fund are the amounts
30 published in the annual report of the plan for the fiscal year ending June 30
31 of the calendar year preceding the July 1 of the increase.

32 2. **THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED**
33 **LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE**
34 **FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE**
35 **INCREASE**.

36 E. All excess investment earnings on the net assets of the fund are
37 available for benefit increases as provided in this section. Any excess
38 investment earnings on the net assets of the fund from any year ~~which~~ **THAT**
39 are not used for benefit adjustments for that year are available for future
40 benefit increases in the following years. Earnings on the excess investment
41 earnings account balance at the rate of the total return as published in the
42 annual report of the plan shall be added each year to the excess investment
43 earnings account and shall be available for future benefit increases.

44 F. The maximum benefit increase under this section is limited to four
45 per cent of the benefit being received on the preceding June 30.

1 G. FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS
2 AMOUNT" MEANS:

3 1. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
4 LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.

5 2. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
6 LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER
7 CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE
8 ANNUAL RETURN OF THE PLAN AND NINE PER CENT.

9 3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED
10 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE
11 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE PLAN AND NINE
12 PER CENT.

13 Sec. 28. Section 38-911, Arizona Revised Statutes, is amended to read:

14 38-911. Deferred annuity; eligibility; amount; exception

15 A. If any member who has at least ten years of credited service
16 terminates employment for reasons other than retirement or disability, the
17 person may elect to receive a deferred annuity, except that if the person
18 withdraws the person's accumulated contributions from the plan, all rights to
19 a deferred annuity are forfeited. A deferred annuity is a lifetime monthly
20 payment that is actuarially equivalent to the annuitant's accumulated
21 contributions in the plan plus an equal amount paid by the employer and
22 commences on application on or after the sixty-second birthday of the
23 annuitant. The deferred annuity is not a retirement benefit and annuitants
24 are not entitled to receive any amount prescribed by section 38-887, 38-888,
25 38-904, 38-905 or 38-906.

26 B. THIS SECTION DOES NOT APPLY TO A MEMBER WHO BECOMES A MEMBER OF THE
27 PLAN ON OR AFTER JANUARY 1, 2012. SUCH A PERSON WHO ATTAINS A NORMAL
28 RETIREMENT DATE IS ELIGIBLE FOR RETIREMENT AND A RETIREMENT BENEFIT EVEN IF
29 THE MEMBER TERMINATES EMPLOYMENT WITH AN EMPLOYER BEFORE THE AGE REQUIREMENT
30 FOR NORMAL RETIREMENT IF THE MEMBER ATTAINS THE SERVICE REQUIREMENT FOR
31 NORMAL RETIREMENT.

32 Sec. 29. Repeal

33 Laws 2005, chapter 324, section 2 is repealed.

34 Sec. 30. Severability

35 If a provision of this act or its application to any person or
36 circumstance is held invalid, the invalidity does not affect other provisions
37 or applications of the act that can be given effect without the invalid
38 provision or application, and to this end the provisions of this act are
39 severable.

40 Sec. 31. Legislative findings

41 The Legislature finds:

42 1. That the current structure of the public safety personnel
43 retirement system, the corrections officer retirement plan and the elected
44 officials' retirement plan does not lead to the goal of attaining one hundred

1 per cent funded status and jeopardizes the future payment of benefits to
2 current and future retirees of these three retirement programs.

3 2. That the current structure of the public safety personnel
4 retirement system, the corrections officer retirement plan and the elected
5 officials' retirement plan requires a contribution rate from employees that
6 is too low in relation to the cost associated with the benefits required by
7 the plan design and therefore places a greater financial burden on employers.

8 3. That the current method of funding benefit increases to retirees
9 decreases the probability of the funds achieving their actuarially assumed
10 earning rate in positive and negative investment environments and invariably
11 leads to greater investment risk on the part of the fund's trustees. It is
12 fundamentally unsound to provide a benefit increase during times when the
13 funded status of the retirement programs is less than seventy per cent. The
14 suspension of benefit increases is intended to improve the funded status of
15 the retirement programs to preserve future benefits for plan participants.

16 4. It is necessary to change the current benefit structure to take
17 into consideration the increased life expectancy of members and future
18 employees and make the reforms necessary to preserve the funded status of the
19 retirement programs in future years.

20 5. To protect the future benefits of retired, active and future
21 employees it is necessary to make the changes outlined in this act to
22 preserve the funded status of these three retirement programs and return the
23 programs to fiscal solvency.

24 Sec. 32. Retroactivity

25 A. Sections 38-818, 38-856 and 38-905, Arizona Revised Statutes, as
26 amended by this act, apply retroactively to from and after June 29, 2011.

27 B. Sections 38-810, 38-843 and 38-891, Arizona Revised Statutes, as
28 amended by this act, apply retroactively to from and after June 30, 2011.