

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1116

AN ACT

AMENDING SECTIONS 35-1002, 38-816, 38-822, 38-843.05, 38-844, 38-846, 38-847, 38-849, 38-853, 38-853.01, 38-859, 38-860, 38-884 AND 38-893, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-895.02; AMENDING SECTIONS 38-904, 38-909 AND 38-910, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 35-1002, Arizona Revised Statutes, is amended to
3 read:

4 35-1002. Swap agreements; provisions; purposes; credit
5 enhancement

6 A. A governmental entity may enter into, modify, amend and terminate
7 one or more swap agreements that it determines to be necessary or desirable
8 in connection with, or incidental to, the conduct of its activities,
9 including in connection with the issuance, carrying or securing of
10 obligations or the acquisition or carrying of investments. A governmental
11 entity may enter into swap agreements ~~which~~ THAT are to be effective at a
12 future date or ~~which~~ THAT constitute an option to enter into swap agreements.
13 Swap agreements entered into by a governmental entity shall contain such
14 provisions, including payment, term, security, collateralization, termination
15 penalty, default and remedy provisions, and shall be with such parties as the
16 governmental entity determines to be necessary or desirable after due
17 consideration to the creditworthiness of the parties. If the party to the
18 swap agreement ~~which~~ THAT is not the governmental entity is not rated by a
19 nationally recognized rating agency in one of the top two rating categories
20 of the rating agency at the time the swap agreement is entered into, the
21 party shall collateralize its obligations under the swap agreement with
22 securities or cash acceptable to the governmental entity. Swap agreements
23 may be payable from revenues of a utility undertaking, excise taxes, ad
24 valorem taxes, street and highway revenues, monies that may be pledged to pay
25 debt service on any bonds or other long-term obligations relating to the swap
26 agreements, or any other legally available monies, as determined by the
27 governmental entity.

28 B. A governmental entity shall not enter into a swap agreement other
29 than TO IMPLEMENT ITS INVESTMENT POLICY OR for the purpose of managing an
30 interest rate, commodity price, investment or similar risk that arises in
31 connection with, or incidental to, the activities of the governmental entity.
32 A governmental entity shall not carry on a business of acting as a dealer in
33 swap agreements.

34 C. In connection with entering into any swap agreement a governmental
35 entity may enter into agreements ~~which~~ THAT enhance the governmental entity's
36 credit in the swap agreement or enhance the liquidity of the swap agreement,
37 including a line of credit, letter of credit, insurance policy or other
38 security.

39 Sec. 2. Section 38-816, Arizona Revised Statutes, is amended to read:
40 38-816. Redemption of prior service

41 A. Any present active elected official who has at least ten years of
42 credited service with the plan may elect to redeem up to sixty months of any
43 part of the following prior service or employment by paying into the fund the
44 amounts required under subsection B of this section if the prior service or
45 employment is not on account with any other retirement system or plan:

1 1. Prior service in this state as an elected official with an employer
2 now covered by the plan before the effective date of participation if the
3 elected official has received a refund from a prior retirement system or plan
4 on termination of employment before the elected official's application for
5 redemption of prior service.

6 2. Prior service in this state as an elected official with an employer
7 now covered by the plan before the effective date of participation if the
8 elected official was not covered by a retirement system or plan during the
9 elected official's prior elected official service.

10 3. Prior service as an elected official of this state or a city, town
11 or county of this state if the elected official was not covered by a
12 retirement system or plan during that service whether or not the city, town
13 or county is an employer now covered by the plan.

14 4. Prior employment with the United States government, a state of the
15 United States or a political subdivision of a state of the United States.

16 B. Any present active elected official who elects to redeem any part
17 of the prior service or employment for which the elected official is deemed
18 eligible by the board under this section shall pay into the plan the amounts
19 previously withdrawn by the elected official as a refund of the elected
20 official's accumulated contributions, if any, plus the additional amount, if
21 any, that is computed by the plan's actuary and that is necessary to equal
22 the increase in the actuarial present value of projected benefits resulting
23 from the redemption calculated using the actuarial methods and assumptions
24 that are prescribed by the plan's actuary. **THE DISCOUNT RATE USED BY THE**
25 **ACTUARY FOR THE CALCULATION OF THE ACTUARIAL PRESENT VALUE OF THE PROJECTED**
26 **BENEFITS RESULTING FROM THE REDEMPTION CALCULATION PURSUANT TO THIS**
27 **SUBSECTION IS AN AMOUNT EQUAL TO THE LESSER OF THE ASSUMED RATE OF RETURN**
28 **THAT IS PRESCRIBED BY THE BOARD OR AN AMOUNT EQUAL TO THE YIELD ON A TEN YEAR**
29 **TREASURY NOTE AS OF MARCH 1 THAT IS PUBLISHED BY THE FEDERAL RESERVE BOARD**
30 **PLUS TWO PER CENT. THIS DISCOUNT RATE IS EFFECTIVE BEGINNING IN THE NEXT**
31 **FISCAL YEAR AND THE BOARD SHALL RECALCULATE THE RATE EACH YEAR.**

32 C. On approval by the governing body of an incorporated city or town
33 that executes a joinder agreement under section 38-815, the city or town may
34 pay into the fund all or any part of the amount sufficient to provide
35 retirement benefits for elected officials or former elected officials for the
36 time of service as an elected official of the city or town before the joinder
37 agreement if no retirement benefits were in effect for elected officials
38 during the time of service being redeemed under this section.

39 D. A member electing to redeem service pursuant to this section may
40 pay for service being redeemed in the form of a lump sum payment to the plan,
41 a trustee-to-trustee transfer or a direct rollover of an eligible
42 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
43 (vi) of the internal revenue code or a rollover of an eligible distribution
44 from an individual retirement account or annuity described in section 408(a)
45 or (b) of the internal revenue code.

1 Sec. 3. Section 38-822, Arizona Revised Statutes, is amended to read:
2 38-822. Domestic relations orders; procedures; payments

3 A. Notwithstanding any other law, in a judicial proceeding for
4 annulment, dissolution of marriage or legal separation that provides for the
5 distribution of community property, or in any judicial proceeding to amend or
6 enforce such a property distribution, a court in this state may issue a
7 domestic relations order that provides that all or any part of a
8 participant's benefit or refund in the plan that would otherwise be payable
9 to that participant shall instead be paid by the plan to an alternate payee.

10 B. A domestic relations order is not effective against the plan unless
11 the domestic relations order is approved by the plan and qualifies as a plan
12 approved domestic relations order. To qualify as a plan approved domestic
13 relations order, a domestic relations order shall comply with any policies or
14 procedures adopted pursuant to subsection K and shall also meet all of the
15 following requirements:

16 1. The domestic relations order shall state the name and the last
17 known mailing address of the participant and the name and last known mailing
18 address of the alternate payee that is covered by the domestic relations
19 order.

20 2. The domestic relations order shall clearly state the amount or
21 percentage of the participant's benefits that is payable by the plan to the
22 alternate payee or the precise manner in which the amount or percentage is to
23 be determined.

24 3. The domestic relations order shall state the number of payments or
25 periods to which the domestic relations order applies, if applicable.

26 4. The domestic relations order shall state that the domestic
27 relations order applies to the plan.

28 5. The domestic relations order shall not require the plan to provide
29 any type or form of benefit or any option not otherwise provided by this
30 article.

31 6. The domestic relations order shall not require the plan to provide
32 increased benefits determined on the basis of actuarial value.

33 7. The domestic relations order shall not require the payment of
34 benefits to an alternate payee if the benefits are required to be paid to
35 another alternate payee under a separate plan approved domestic relations
36 order.

37 8. **THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF**
38 **COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED**
39 **STATES.**

40 C. On receipt by the plan of a certified copy of a domestic relations
41 order and a written request for a determination that the domestic relations
42 order is a plan approved domestic relations order, the plan shall promptly
43 issue a written notice of receipt stating that the domestic relations order
44 and request were received to the participant and alternate payee at the
45 addresses on file, if any.

1 D. The plan has a determination period to issue a written
2 determination indicating whether a domestic relations order qualifies as a
3 plan approved domestic relations order. If the participant is receiving
4 benefits during the determination period, and if the plan can determine the
5 amount of the benefits that currently would be payable to the alternate payee
6 if the domestic relations order were a plan approved domestic relations
7 order, the plan shall hold the segregated funds and shall pay the remaining
8 portion of the benefits to the participant. If the plan determines the
9 domestic relations order is a plan approved domestic relations order, the
10 plan shall pay the participant and alternate payee pursuant to the plan
11 approved domestic relations order in the month following the month in which
12 the determination was issued, or in the month following the month in which a
13 benefit is payable under the plan approved domestic relations order,
14 whichever is later. If the plan determines the domestic relations order
15 fails to qualify as a plan approved domestic relations order, the plan shall
16 specify in its determination how the domestic relations order is deficient
17 and how it may be amended to qualify as a plan approved domestic relations
18 order. If the participant is currently receiving benefits, and if the plan
19 can determine the amount of segregated funds that would be payable to the
20 alternate payee if the domestic relations order were a plan approved domestic
21 relations order, the plan shall hold the segregated funds during the cure
22 period to allow the parties to submit a certified copy of an amended domestic
23 relations order and a written request for a determination that the amended
24 domestic relations order is a plan approved domestic relations order. During
25 the cure period, the plan shall pay the participant's portion to the
26 participant. At the end of the cure period, if the issue of whether an
27 amended domestic relations order qualifies as a plan approved domestic
28 relations order remains undetermined or if an amended domestic relations
29 order is determined not to be a plan approved domestic relations order, the
30 plan shall pay the segregated funds and the participant's portion to the
31 participant. The participant shall hold the segregated funds in trust for
32 the alternate payee as provided in subsection J. If an amended domestic
33 relations order that is submitted after the expiration of the cure period is
34 determined to be a plan approved domestic relations order, the plan shall
35 make payments to an alternate payee under the plan approved domestic
36 relations order only prospectively. A determination by the plan that a
37 domestic relations order is not a plan approved domestic relations order does
38 not prohibit a participant or alternate payee from submitting an amended
39 domestic relations order to the plan.

40 E. Each participant and alternate payee is responsible for maintaining
41 a current mailing address on file with the plan. The plan has no duty to
42 attempt to locate any participant or alternate payee. The plan has no duty
43 to provide a notice of receipt or determination or pay benefits by means
44 other than mailing the notice or payments to the participant or alternate
45 payee at the last known address that is on file with the plan. If the

1 address of an alternate payee is unknown to the plan, but benefits are
2 payable to the alternate payee pursuant to a plan approved domestic relations
3 order, the plan shall either:

4 1. Hold the alternate payee's portion until such a time as the
5 alternate payee provides the plan with a current address. Once the plan is
6 notified of the alternate payee's current address, the plan shall
7 prospectively pay the alternate payee's portion to the alternate payee.

8 2. Pay the alternate payee's portion to the participant, who shall
9 hold the alternate payee's portion in trust as provided in subsection J,
10 until such a time as the alternate payee is located. At that time the
11 participant shall pay the alternate payee's portion directly to the alternate
12 payee.

13 F. If the address of a participant is unknown to the plan, but
14 benefits are payable to the participant pursuant to a plan approved domestic
15 relations order, the plan shall hold the participant's portion until the
16 participant provides the plan with a current address.

17 G. If the alternate payee identified in a plan approved domestic
18 relations order predeceases the participant and the plan approved domestic
19 relations order does not otherwise provide for the disposition of the
20 alternate payee's interest the plan shall pay the alternate payee's portion
21 to the personal representative of the deceased alternate payee pursuant to
22 this subsection. The personal representative is responsible for maintaining
23 a current mailing address on file with the plan. The plan has no duty to
24 attempt to locate any personal representative. The plan is not responsible
25 for making benefit payments to a personal representative until the personal
26 representative has both:

27 1. Persuaded the plan that the personal representative is authorized
28 to receive payments designated for the deceased alternate payee.

29 2. Provided the plan with an address to which the payments should be
30 sent.

31 H. If, within thirty days after the date the plan verifies an
32 alternate payee's death, a personal representative does not make demand on
33 the plan for the alternate payee's portion, the plan shall either:

34 1. Hold the alternate payee's portion until the time a personal
35 representative makes a proper demand for payment of the alternate payee's
36 portion.

37 2. Remit the alternate payee's portion to the participant, who shall
38 hold the amounts in trust for the estate of the alternate payee until the
39 personal representative is identified. At that time the participant shall
40 pay the alternate payee's portion paid by the plan to the participant to the
41 personal representative.

42 Thereafter, the plan shall prospectively pay the alternate payee's portion to
43 the personal representative.

44 I. Amounts held or paid pursuant to this section shall not accrue
45 interest unless otherwise prescribed by this article.

1 J. The plan is not liable to the participant, the alternate payee, any
2 personal representative of the estate of an alternate payee or any other
3 person for any amount paid, withheld or disbursed by the plan pursuant to
4 this section. If one or more payments are made by the plan to a person not
5 otherwise entitled to receive the payments, the recipient of the payment is
6 designated a constructive trustee for the payment received and, together with
7 the marital community, if any, is the sole party against whom an action may
8 be brought to recover the payment.

9 K. The plan may adopt policies and procedures that govern the
10 implementation of this section.

11 Sec. 4. Section 38-843.05, Arizona Revised Statutes, is amended to
12 read:

13 38-843.05. Retired members; return to work; employer
14 contributions

15 A. An employer shall pay contributions at an alternate contribution
16 rate on behalf of a retired member who returns to work in any capacity in a
17 position ordinarily filled by an employee of the employer of an eligible
18 group. ~~This section applies to a retired member who returns to work with~~
19 ~~another participating employer and a retired member who returns to work after~~
20 ~~sixty consecutive days with the same employer from which the member retired.~~
21 FOR THE PURPOSES OF THIS SUBSECTION, "RETURNS TO WORK IN ANY CAPACITY"
22 INCLUDES A RETIRED MEMBER WHO RETURNS TO WORK AND IS INELIGIBLE FOR BENEFITS
23 PURSUANT TO SECTION 38-849, SUBSECTION E.

24 B. The alternate contribution rate shall be equal to that portion of
25 the total required contribution that is applied to the amortization of the
26 unfunded actuarial accrued liability for the fiscal year beginning July 1,
27 based on the system's actuary's calculation of the total required
28 contribution for the preceding fiscal year ended on June 30. The alternate
29 contribution rate shall be applied to the compensation, gross salary or
30 contract fee of a retired member who meets the requirements of this section.

31 C. The alternate contribution rate shall not be less than eight per
32 cent in any fiscal year.

33 D. All contributions made by the employer and allocated to the fund
34 are irrevocable and shall be used as benefits under this article or to pay
35 the expenses of the system. Payments made pursuant to this section by
36 employers become delinquent after the due date prescribed in SECTION 38-843,
37 subsection D, and thereafter shall be increased by interest from and after
38 that date until payment is received by the system.

39 E. An employer of a retired member shall IMMEDIATELY NOTIFY THE LOCAL
40 BOARD AFTER THE EMPLOYMENT OF A RETIRED MEMBER AND SHALL submit any reports,
41 data, paperwork or materials that are requested by the board ~~and~~ OR THE LOCAL
42 BOARD that are necessary to determine the compensation, gross salary or
43 contract fee associated with a retired member who returns to work or to
44 determine the function, use, efficacy or operation of the return to work
45 program.

1 Sec. 5. Section 38-844, Arizona Revised Statutes, is amended to read:
2 38-844. Requirements for retirement benefits and disability
3 pensions

4 A. A member shall be eligible for a normal pension on retirement on or
5 after the member's normal retirement date. Payment of a normal pension shall
6 commence as of the first day of the month following the date of retirement,
7 and the last payment shall be made as of the last day of the month in which
8 the death of the retired member occurs.

9 B. A member is eligible for an accidental disability pension if the
10 member's employment is terminated by reason of accidental disability. A
11 member is eligible for an ordinary disability pension if the member's
12 employment is terminated before the member's normal retirement date by reason
13 of ordinary disability. A member shall file an application for a disability
14 pension after the disabling incident or within one year after the date the
15 member ceases to be an employee. Timely application for an accidental,
16 catastrophic or ordinary disability pension is a prerequisite to receipt of
17 the pension. Payment of an accidental, catastrophic or ordinary disability
18 pension shall commence as of the first day of the month following the date of
19 retirement or the expiration of a period during which the member is receiving
20 sick leave payments or a temporary disability pension, whichever is later.
21 The last payment shall be made as of the last day of the month in which the
22 death of the retired member occurs, or if disability ceases before the
23 member's normal retirement date, the first day of the month in which
24 disability ceases.

25 C. A member is eligible for a catastrophic disability pension if the
26 member's employment is terminated by reason of catastrophic disability. If
27 more than the allowable catastrophic disability pensions are approved by the
28 local boards in a calendar year, from and after December 31 of the following
29 calendar year a member of the system is not eligible to apply for a
30 catastrophic disability pension. On or before January 31, the board of
31 trustees shall report to the president of the senate and the speaker of the
32 house of representatives the number of catastrophic disability pensions that
33 were approved by the local boards in the preceding calendar year. For the
34 purposes of this subsection, "allowable catastrophic disability pensions"
35 means for calendar year 2004, ten, and for subsequent calendar years the
36 number of allowable catastrophic disability pensions allowed in the prior
37 calendar year minus the number of catastrophic disability pensions approved
38 by the local boards in the prior calendar year plus four.

39 D. Notwithstanding any other provision of this section, no member
40 shall qualify for an accidental, catastrophic or ordinary disability pension
41 if the local board determines that the member's disability results from the
42 following:

43 1. An injury suffered while engaged in a felonious criminal act or
44 enterprise.

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

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

5 E. Accidental or ordinary disability shall be considered to have
6 ceased and an accidental or ordinary disability pension terminates if the
7 member:

8 1. Has sufficiently recovered, in the opinion of the local board,
9 based on a medical examination by a physician or clinic appointed by the
10 local board, to be able to engage in a reasonable range of duties within the
11 member's department and the member refuses an offer of employment by an
12 employer in the system.

13 2. Refuses to undergo any medical examination requested by the local
14 board, provided that a medical examination shall not be required more
15 frequently than once in any calendar year.

16 F. Sixty months after the award of a catastrophic disability pension,
17 the local board shall reevaluate the member. If the member still qualifies
18 for the catastrophic disability pension, the member is entitled to continue
19 to receive the pension at the reduced amount prescribed in section 38-845,
20 subsection E. A catastrophic disability shall be considered to have ceased
21 and a catastrophic disability pension terminates if the local board
22 determines that the member has sufficiently recovered and is able to engage
23 in gainful employment based on a medical examination by a physician or a
24 clinic appointed by the local board. After the sixty month review, the
25 catastrophic disability shall be considered to have ceased and a catastrophic
26 disability pension terminates if the local board determines that the member
27 has sufficiently recovered and is able to engage in gainful employment based
28 on a medical examination by a physician or a clinic appointed by the local
29 board, except that the medical examination shall not be required more
30 frequently than once in a calendar year. The medical review after the sixty
31 month period does not apply after the date the catastrophic disability
32 pensioner would have attained twenty-five years of service assuming the
33 pensioner remained a member of the system. The local board shall also
34 terminate a catastrophic disability pension if the member refuses to undergo
35 any medical examination requested by the local board. A member whose
36 catastrophic disability pension is terminated may apply for and if eligible
37 is entitled to receive an accidental disability pension as provided in this
38 section.

39 G. Subsection E of this section does not apply after a disability
40 pensioner's normal retirement date. The amount of a disability pension shall
41 not be recomputed at a disability pensioner's normal retirement date.

42 H. If accidental or ordinary disability ceases before a retired member
43 attains the member's normal retirement date and the member is reemployed by
44 an employer, the pension payable on the member's subsequent retirement shall
45 be determined as provided in section 38-849, subsection ~~D~~ E.

1 I. A member shall be eligible for a temporary disability pension if
2 the member's employment is terminated before the member's normal retirement
3 date by reason of temporary disability. Payment of a temporary disability
4 pension shall commence as of the first day of the month following the date of
5 disability or the expiration of a period during which the member is receiving
6 compensation and sick leave payments, whichever is later. The last payment
7 shall be made as of the first day of the month in which either the death of
8 the member occurs or the local board deems the member is no longer under
9 temporary disability, whichever first occurs, provided that no more than
10 twelve monthly temporary disability payments shall be made in total to the
11 member.

12 J. If on the expiration of a temporary disability pension the local
13 board finds on application that the member has an accidental or ordinary
14 disability, the member shall be eligible for an accidental or ordinary
15 disability pension, as provided in this section.

16 K. The system shall make payments pursuant to section 401(a)(9) of the
17 internal revenue code and the regulations that are issued under that
18 section. Notwithstanding any other provision of the system, beginning
19 January 1, 1987 payment of benefits to a member shall commence no later than
20 April 1 of the calendar year following the later of:

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

23 2. The date the member terminates employment.

24 Sec. 6. Section 38-846, Arizona Revised Statutes, is amended to read:

25 38-846. Death benefits

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 death.
29 Payment of a surviving spouse's pension shall commence as of the last day of
30 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.

33 B. The surviving spouse of a deceased member shall be paid a surviving
34 spouse's pension if the spouse was married to the member on the date of the
35 member's death. Payment of a surviving spouse's pension commences as of the
36 last day of the month following the member's date of death. The last payment
37 shall be made as of the last day of the month in which the surviving spouse's
38 death occurs.

39 C. The surviving spouse of a deceased retired member is entitled to
40 receive a monthly amount equal to four-fifths of the monthly amount of
41 pension that the decedent would have received immediately before death.

42 D. The surviving spouse of a deceased member who was not killed in the
43 line of duty or did not die from injuries suffered in the line of duty is
44 entitled to receive a monthly amount calculated in the same manner as an
45 accidental disability pension is calculated pursuant to section 38-845,

1 subsection B. The surviving spouse of a deceased member who is killed in the
2 line of duty or dies from injuries suffered in the line of duty is entitled
3 to receive a monthly amount equal to the deceased member's average monthly
4 benefit compensation less any amount payable for an eligible child under this
5 section. A member who was eligible for or receiving a temporary disability
6 pension at the time of the member's death is not deemed to be retired for the
7 purposes of this subsection. For the purposes of this subsection, "killed in
8 the line of duty" means the decedent's death was the direct and proximate
9 result of the performance of the decedent's public safety duties and does not
10 include suicide.

11 E. A surviving spouse shall file a written application with the system
12 in order to receive a survivor benefit.

13 F. If at least one eligible child is surviving at the death of a
14 member or retired member, but no surviving spouse's pension then becomes
15 payable, a guardian's or conservator's pension shall be payable to the person
16 who is serving, or who is deemed by the local board to be serving, as the
17 legally appointed guardian or custodian of the eligible child. If an
18 eligible child of a member or retired member is surviving at the member's or
19 retired member's death, the eligible child is entitled to receive a child's
20 pension payable to the person who is serving or who is deemed by the local
21 board to be serving as the legally appointed guardian or custodian of the
22 eligible child. A child's pension or a guardian's or conservator's pension
23 terminates if the child is adopted. In the case of a disabled child, the
24 child's pension or the guardian's or conservator's pension terminates if the
25 child ceases to be under a disability or ceases to be a dependent of the
26 surviving spouse or guardian. The member may also direct by designation to
27 the local board that the guardian or conservator pension or child's pension
28 be paid to the trustee of a trust created for the benefit of the eligible
29 child. A guardian's or conservator's pension shall also become payable if at
30 least one eligible child is surviving when a surviving spouse's pension
31 terminates. The guardian or conservator shall file a written application
32 with the system in order to receive the guardian's or conservator's pension
33 and child's pension.

34 G. The board shall pay a guardian's or conservator's pension during
35 the same period in which a pension is payable to at least one eligible
36 child. The guardian, conservator or designated trustee is entitled to
37 receive the same monthly amount as would have been payable to the decedent's
38 surviving spouse had a surviving spouse's pension become payable on the
39 decedent's death.

40 H. Each eligible child is entitled to a monthly amount equal to
41 one-tenth of the monthly amount of pension that the deceased member or
42 retired member would have received immediately before death. The pension for
43 a child of a deceased member shall be calculated in the same manner as an
44 accidental disability is calculated pursuant to section 38-845, subsection B.
45 A deceased member shall be assumed to be retired for reasons of accidental

1 disability immediately before the member's death. If there are three or more
2 children eligible for a child's pension, a maximum of two shares of the
3 child's pension shall be payable, the aggregate of such shares to be
4 apportioned in equal measure to each eligible child.

5 I. If a member has accumulated contributions remaining in the system
6 at the date of death of the last beneficiary, a lump sum refund of such
7 accumulated contributions shall be payable to the person whom the member has
8 designated TO THE LOCAL BOARD as the member's refund beneficiary, or if the
9 member's refund beneficiary is not then surviving, to the designated
10 contingent refund beneficiary, or if the designated contingent refund
11 beneficiary is not then surviving, ~~to such person~~ OR IF THE SURVIVING
12 DESIGNATED BENEFICIARY DOES NOT APPLY FOR THE BENEFIT WITHIN TWELVE MONTHS
13 FROM THE DATE OF THE MEMBER'S DEATH, AT THE ELECTION OF THE LOCAL BOARD TO
14 THE PERSON'S nearest of kin as ~~selected~~ DETERMINED by the local board OR TO
15 THE ESTATE OF THE DECEASED MEMBER. The amount of the lump sum refund shall
16 be the remaining accumulated contributions. The beneficiary or person who is
17 ~~selected as~~ CLAIMING TO BE THE nearest of kin shall file a written
18 application in order to receive the refund.

19 J. In calculating the right to and the amount of the surviving
20 spouse's pension, the law in effect on the date of the death of the member or
21 retired member controls, unless the law under which the member retired
22 provides for a greater benefit amount for a surviving spouse.

23 Sec. 7. Section 38-847, Arizona Revised Statutes, is amended to read:
24 38-847. Local boards

25 A. The administration of the system and responsibility for making the
26 provisions of the system effective for each employer are vested in a local
27 board. The department of public safety, the Arizona game and fish
28 department, the department of emergency and military affairs, the university
29 of Arizona, Arizona state university, northern Arizona university, each
30 county sheriff's office, each county attorney's office, each county parks
31 department, each municipal fire department, each eligible fire district, each
32 community college district, each municipal police department, the department
33 of law, the department of liquor licenses and control, the Arizona department
34 of agriculture, the Arizona state parks board, each Indian reservation police
35 agency and each Indian reservation fire fighting agency shall have a local
36 board. A nonprofit corporation operating pursuant to sections 28-8423 and
37 28-8424 shall have one local board for all of its members. Each local board
38 shall be constituted as follows:

39 1. For political subdivisions or Indian tribes, the mayor or chief
40 elected official or a designee of the mayor or chief elected official
41 approved by the respective governing body as chairman, two members elected by
42 secret ballot by members employed by the appropriate employer and two
43 citizens, one of whom shall be the head of the merit system, or the head's
44 designee from among the other members of the merit system, if it exists for
45 the group of members, appointed by the mayor or chief elected official and

1 with the approval of the governing body of the city or the governing body of
2 the employer. The appointed two citizens shall serve on both local boards in
3 a city or Indian tribes where both fire and police department employees are
4 members.

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

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

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

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

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

41 1. To decide all questions of eligibility and service credits, and
42 determine the amount, manner and time of payment of any benefits under the
43 system.

44 2. To prescribe procedures to be followed by claimants in filing
45 applications for benefits.

1 3. To make a determination as to the right of any claimant to a
2 benefit and to afford any claimant or the board of trustees, or both, a right
3 to a rehearing on the original determination. **EXCEPT AS OTHERWISE REQUIRED**
4 **BY LAW**, unless all parties involved in a matter presented to the local board
5 for determination otherwise agree, the local board shall commence a hearing
6 on the matter within ninety days after the date the matter is presented to
7 the local board for determination. If a local board fails to commence a
8 hearing as provided in this paragraph, on a matter presented to the local
9 board for determination, the relief demanded by the party petitioning the
10 local board is deemed granted and approved by the local board. The granting
11 and approval of this relief is considered final and binding unless a timely
12 request for rehearing or appeal is made as provided in this article, unless
13 the board of trustees determines that granting the relief requested would
14 violate the internal revenue code or threaten to impair the system's status
15 as a qualified plan under the internal revenue code. If the board of
16 trustees determines that granting the requested relief would violate the
17 internal revenue code or threaten to impair the system's status as a
18 qualified plan, the board of trustees may refuse to grant the relief by
19 issuing a written determination to the local board and the party petitioning
20 the local board for relief. The decision by the board of trustees is subject
21 to judicial review pursuant to title 12, chapter 7, article 6.

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

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

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

32 7. To receive and review the actuarial valuation of the system for its
33 group of members.

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

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

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

39 E. A local board shall have no power to add to, subtract from, modify
40 or waive any of the terms of the system, change or add to any benefits
41 provided by the system or waive or fail to apply any requirement of
42 eligibility for membership or benefits under the system. Notwithstanding any
43 limitations periods imposed in this article, including subsection D,
44 paragraph 3 and subsections G and H of this section, if the board of trustees
45 determines a local board decision violates the internal revenue code or

1 threatens to impair the system's status as a qualified plan under the
2 internal revenue code, the local board's decision is not final and binding
3 and the board of trustees may refrain from implementing or complying with the
4 local board decision.

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

14 G. Except as otherwise provided in this article, any action by a
15 majority vote of the members of a local board that is not inconsistent with
16 the provisions of the system and the internal revenue code shall be final,
17 conclusive and binding on all persons affected by it unless a timely
18 application for a rehearing or appeal is filed as provided in this article.
19 No later than twenty days after taking action, the local board shall submit
20 to the board of trustees the minutes from the local board meeting that
21 include the name of the member affected by its decision, a description of the
22 action taken and an explanation of the reasons and ALL documents ~~supporting~~
23 ~~the local board's action~~ SUBMITTED TO THE LOCAL BOARD FOR THE ACTION TAKEN,
24 INCLUDING THE REPORTS OF A MEDICAL BOARD. The board of trustees may not
25 implement and comply with any local board action that does not comply with
26 the internal revenue code or that threatens to jeopardize the system's status
27 as a qualified plan under the internal revenue code.

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

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

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

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

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

3 K. When making a ruling, determination or calculation, the local board
4 shall be entitled to rely on information furnished by the employer, **A MEDICAL**
5 **BOARD**, the board of trustees, independent legal counsel or the actuary for
6 the system.

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

10 M. The local board shall adopt such bylaws as it deems desirable. The
11 local board shall elect a secretary who may, but need not, be a member of the
12 local board. The secretary of the local board shall keep a record and
13 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of
14 this title and forward the minutes and all necessary communications to the
15 board of trustees as prescribed by subsection G of this section.

16 N. The fees of the medical board and of the local board's independent
17 legal counsel and all other expenses of the local board necessary for the
18 administration of the system shall be paid by the employer and not the board
19 of trustees or system at such rates and in such amounts as the local board
20 shall approve. Legal counsel that is employed by the local board is
21 independent of the employer and any employee organization or member and owes
22 its duty of loyalty only to the local board in connection with its
23 representation of the local board.

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

29 P. The local board and the individual members of the local board shall
30 be indemnified from the assets of the employer for any judgment against the
31 local board or its members, including attorney fees and costs, arising from
32 any act, or failure to act, made in good faith pursuant to the provisions of
33 the system, including expenses reasonably incurred in the defense of any
34 claim relating to the act or failure to act.

35 Sec. 8. Section 38-849, Arizona Revised Statutes, is amended to read:

36 38-849. Limitations on receiving pension; violation;
37 classification; reemployment after severance;
38 reinstatement of service credits; reemployment of
39 retired or disabled member

40 A. If a member is convicted of, or discharged because of, theft,
41 embezzlement, fraud or misappropriation of an employer's property or property
42 under the control of the employer, the member shall be subject to restitution
43 and fines imposed by a court of competent jurisdiction. The court may order
44 the restitution or fines to be paid from any payments otherwise payable to
45 the member from the retirement system.

1 B. A person who knowingly makes any false statement or who falsifies
2 or permits to be falsified any record of the system with an intent to defraud
3 the system is guilty of a class 5 felony. If any change or error in the
4 records results in any member or beneficiary receiving from the system more
5 or less than the member or beneficiary would have been entitled to receive
6 had the records been correct, the local board shall correct such error, and
7 as far as practicable shall adjust the payments in such manner that the
8 actuarial equivalent of the benefit to which such member or beneficiary was
9 correctly entitled shall be paid. If a member is convicted of a crime
10 specified in this subsection, section 13-713 applies.

11 C. IF A MEMBER WHO RECEIVED A SEVERANCE REFUND ON TERMINATION OF
12 EMPLOYMENT PURSUANT TO SECTION 38-846.02 BECOMES REEMPLOYED WITH THE SAME
13 EMPLOYER WITHIN TWO YEARS AFTER THE FORMER MEMBER'S TERMINATION DATE, THE
14 MEMBER MAY HAVE FORFEITED CREDITED SERVICE ATTRIBUTABLE TO SERVICE RENDERED
15 DURING A PRIOR PERIOD OF SERVICE AS AN EMPLOYEE RESTORED ON SATISFACTION OF
16 EACH OF THE FOLLOWING CONDITIONS:

17 1. THE MEMBER FILES WITH THE SYSTEM A WRITTEN APPLICATION FOR
18 REINSTATEMENT OF FORFEITED CREDITED SERVICE WITHIN NINETY DAYS AFTER AGAIN
19 BECOMING AN EMPLOYEE.

20 2. THE RETIREMENT FUND IS PAID THE TOTAL AMOUNT PREVIOUSLY WITHDRAWN
21 PURSUANT TO SECTION 38-846.02 PLUS COMPOUND INTEREST FROM THE DATE OF
22 WITHDRAWAL TO THE DATE OF REPAYMENT. INTEREST SHALL BE COMPUTED AT THE RATE
23 OF NINE PER CENT FOR EACH YEAR COMPOUNDED EACH YEAR FROM THE DATE OF
24 WITHDRAWAL TO THE DATE OF REPAYMENT. FORFEITED CREDITED SERVICE SHALL NOT BE
25 RESTORED UNTIL COMPLETE PAYMENT IS RECEIVED BY THE FUND.

26 3. THE REQUIRED PAYMENT IS COMPLETED WITHIN ONE YEAR AFTER RETURNING
27 TO EMPLOYEE STATUS.

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

40 A PRESENT ACTIVE MEMBER OF
41 THE SYSTEM WHO FORFEITED CREDITED SERVICE, RECEIVED A SEVERANCE REFUND
42 PURSUANT TO SECTION 38-846.02 AND BECOMES REEMPLOYED WITH THE SAME EMPLOYER
43 TWO YEARS OR MORE AFTER THE MEMBER'S TERMINATION DATE OR BECOMES REEMPLOYED
44 WITH ANOTHER EMPLOYER MAY ELECT TO REDEEM ANY PART OF THAT FORFEITED CREDITED
45 SERVICE BY PAYING INTO THE SYSTEM ANY AMOUNTS REQUIRED PURSUANT TO THIS
SUBSECTION. A PRESENT ACTIVE MEMBER WHO ELECTS TO REDEEM ANY PART OF

1 FORFEITED CREDITED SERVICE FOR WHICH THE MEMBER IS DEEMED ELIGIBLE BY THE
2 BOARD SHALL PAY INTO THE SYSTEM THE AMOUNTS PREVIOUSLY PAID OR TRANSFERRED TO
3 THE MEMBER AS A SEVERANCE REFUND PLUS AN AMOUNT, COMPUTED BY THE SYSTEM'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 SYSTEM'S ACTUARY. On
7 satisfaction of this obligation the member's prior service credits shall be
8 reinstated.

9 ~~D.~~ E. If a retired member becomes employed in any capacity by the
10 employer from which the member retired before ~~sixty consecutive days~~ ONE YEAR
11 after the member's date of retirement, the system shall not make pension
12 payments to the retired member during the period of reemployment. If a
13 retired member is reemployed by an employer, no employee contributions shall
14 be made on the retired member's account, nor any service credited, during the
15 period of the reemployment. THIS SUBSECTION DOES NOT APPLY TO A RETIRED
16 MEMBER WHO IS ASSIGNED VOLUNTARY DUTIES ACTING AS A LIMITED AUTHORITY PEACE
17 OFFICER FOR AN EMPLOYER PURSUANT TO THE ARIZONA PEACE OFFICER STANDARDS AND
18 TRAINING BOARD RULES, TO A RETIRED MEMBER WHO SUBSEQUENTLY BECOMES EMPLOYED
19 BY AN EMPLOYER FROM WHICH THE MEMBER RETIRED AFTER NO LESS THAN SIXTY
20 CONSECUTIVE DAYS FROM THE MEMBER'S RETIREMENT DATE IF THE RETIRED MEMBER IS
21 HIRED AS A RESULT OF PARTICIPATING IN AN OPEN COMPETITIVE NEW HIRE PROCESS
22 FOR AN ENTRY LEVEL NONSUPERVISORY POSITION OR IF THE RETIRED MEMBER IS HIRED
23 AS A FIRE INSPECTOR OR ARSON INVESTIGATOR. Notwithstanding this subsection,
24 if a retired member subsequently becomes employed in the same position by the
25 employer from which the member retired, the system shall not make pension
26 payments to the retired member during the period of reemployment. On
27 subsequent termination of employment by the retired member, the retired
28 member is entitled to receive a pension based on the member's service and
29 compensation before the date of the member's reemployment. If a member who
30 retired under disability is reemployed by an employer as an employee, that
31 member shall be treated as if the member had been on an uncompensated leave
32 of absence during the period of the member's disability retirement and shall
33 be a contributing member of the system. Within ten days after a retired
34 member is reemployed by the employer from which the member retired, the
35 employer shall advise the board in writing as to whether the retired member
36 has been reemployed in the same position from which the member retired. The
37 board shall review all reemployment determinations. If the board is not
38 provided the necessary information to make a reemployment determination, the
39 board shall suspend pension payments until information is received and a
40 determination is made that the reemployment meets the requirements of this
41 subsection. For the purposes of this subsection, "same position" means the
42 member is in a position where the member performs substantially similar
43 duties that were performed and exercises substantially similar authority that
44 was exercised by the retired member before retirement.

1 ~~E.~~ F. A person who defrauds the system or who takes, converts, steals
2 or embezzles monies owned by or from the system and who fails or refuses to
3 return the monies to the system on the board's written request is subject to
4 civil suit by the system in the superior court in Maricopa county. On entry
5 of an order finding the person has defrauded the system or taken, converted,
6 stolen or embezzled monies owned by or from the system, the court shall enter
7 an order against that person and for the system awarding the system all of
8 its costs and expenses of any kind, including attorney fees, that were
9 necessary to successfully prosecute the action. The court shall also grant
10 the system a judicial lien on all of the nonexempt property of the person
11 against whom judgment is entered pursuant to this subsection in an amount
12 equal to all amounts awarded to the system, plus interest at the rate
13 prescribed by section 44-1201, until all amounts owed are paid to the system.

14 ~~F.~~ G. Notwithstanding any other provision of this article, the board
15 may offset against any benefits otherwise payable by the system to an active
16 or retired member or survivor any court ordered amounts awarded to the board
17 and system and assessed against the member or survivor.

18 Sec. 9. Section 38-853, Arizona Revised Statutes, is amended to read:

19 38-853. Transfer of credited service

20 A. A member who terminates employment with an employer and accepts,
21 ~~within two years,~~ a position with the same or another employer participating
22 in the system, **AFTER COMPLETING AN APPLICATION THAT IS ACCEPTABLE TO THE**
23 **BOARD,** shall have the member's credited service transferred to the member's
24 record with the new employer provided the member leaves the member's
25 accumulated contributions on deposit with the fund. The termination of
26 employment shall not constitute a break in service. However, the period not
27 employed shall not be considered as service.

28 B. The new employer's account shall be credited with the member's
29 accumulated contributions plus the amount, if any, necessary to equal the
30 increase in the actuarial present value of projected benefits to the extent
31 funded on a market value basis as of the most recent actuarial valuation
32 resulting from the transfer as calculated by the system's actuary using the
33 actuarial methods and assumptions adopted by the board.

34 Sec. 10. Section 38-853.01, Arizona Revised Statutes, is amended to
35 read:

36 38-853.01. Redemption of prior service; calculation

37 A. Each present active member of the system who has at least ten years
38 of service with the system may elect to redeem up to sixty months of any part
39 of the following prior service or employment by paying into the system any
40 amounts required under subsection B if the prior service or employment is not
41 on account with any other retirement system:

42 1. Prior service in this state as an employee with an employer now
43 covered by the system or prior service with an agency of the United States
44 government, a state of the United States or a political subdivision of this

1 state or of a state of the United States as a full-time paid firefighter or
2 full-time paid certified peace officer.

3 2. Subject to any limitations prescribed by federal law, prior
4 employment as an employee of a corporation that contracted with an employer
5 now covered by the system to provide firefighting services on behalf of that
6 employer as a full-time paid firefighter or that provided firefighting
7 services for a political subdivision of this state.

8 B. Any present active member who elects to redeem any part of the
9 prior service or employment for which the employee is deemed eligible by the
10 board under this section shall pay into the system the amounts previously
11 withdrawn by the member, if any, as a refund of the member's accumulated
12 contributions plus accumulated interest as determined by the board and the
13 additional amount, if any, computed by the system's actuary that is necessary
14 to equal the increase in the actuarial present value of projected benefits
15 resulting from the redemption calculated using the actuarial methods and
16 assumptions prescribed by the system's actuary. **THE DISCOUNT RATE USED BY
17 THE ACTUARY FOR THE REDEMPTION CALCULATION PURSUANT TO THIS SUBSECTION IS AN
18 AMOUNT EQUAL TO THE LESSER OF THE ASSUMED RATE OF RETURN THAT IS PRESCRIBED
19 BY THE BOARD OR AN AMOUNT EQUAL TO THE YIELD ON A TEN-YEAR TREASURY NOTE AS
20 OF MARCH 1 THAT IS PUBLISHED BY THE FEDERAL RESERVE BOARD PLUS TWO PER CENT.
21 THE DISCOUNT RATE IS EFFECTIVE BEGINNING IN THE NEXT FISCAL YEAR, AND THE
22 BOARD SHALL RECALCULATE THE RATE EACH YEAR.**

23 C. A member electing to redeem service pursuant to this section may
24 pay for service being redeemed in the form of a lump sum payment to the
25 system, a trustee-to-trustee transfer or a direct rollover of an eligible
26 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
27 (vi) of the internal revenue code or a rollover of an eligible distribution
28 from an individual retirement account or annuity described in section 408(a)
29 or (b) of the internal revenue code.

30 Sec. 11. Section 38-859, Arizona Revised Statutes, is amended to read:

31 **38-859. Medical boards; purposes; composition; medical**
32 **examinations**

33 A. The purposes of a medical board are to:

34 1. Identify a physical or mental condition or injury that existed or
35 occurred prior to the member's date of membership in the system and for which
36 benefits may otherwise be limited by section 38-844, subsection D.

37 2. Evaluate a member's eligibility for an accidental disability
38 pension.

39 3. Evaluate a member's eligibility for an ordinary disability pension.

40 4. Evaluate a member's eligibility for a temporary disability pension.

41 5. Evaluate a member's eligibility for a catastrophic disability
42 pension.

43 **6. FOR THE PURPOSES OF SECTION 38-846, DETERMINE THROUGH APPROPRIATE
44 MEDICAL EVIDENCE THE PROXIMATE CAUSE OF DEATH FOR MEMBERS WHO ARE KILLED IN**

1 THE LINE OF DUTY IF THE DEATH OCCURS MORE THAN ONE YEAR AFTER THE DATE OF
2 INJURY.

3 B. For the purpose of determining a disability, the medical board
4 shall be composed of a designated physician or a clinic other than the
5 employer's regular employee or contractee. Employees employed after October
6 1, 1992 shall undergo a medical examination for the purpose of identifying a
7 physical or mental condition or injury that existed or occurred prior to a
8 member's date of membership in the system and for which benefits may
9 otherwise be limited by section 38-844, subsection D, and for this purpose,
10 the medical board shall be composed of a designated physician or a clinic
11 that may be the employer's regular employee or contractee.

12 C. A finding of accidental, ordinary, temporary or catastrophic
13 disability shall be based on medical evidence by a physician or clinic
14 appointed by the local board pursuant to section 38-847, subsection D,
15 paragraph 9 that established the disability. The local board shall resolve
16 material conflicts in medical evidence. If required, the local board may
17 employ other physicians or clinics to report on special cases. With the
18 approval of the local board, a physician or clinic employed by the local
19 board may employ occupational specialists to assist the physician or clinic
20 in rendering an opinion.

21 D. All employees shall undergo medical examinations before a physician
22 or clinic appointed by the local board pursuant to and for the reasons
23 prescribed in this article. An employee who fails to comply with this
24 subsection waives all rights to disability benefits under this article.

25 E. The examining physician or clinic shall report the results of
26 examinations to the local board, and the secretary of the local board shall
27 preserve the report as a permanent record. Medical examinations conducted
28 pursuant to this article shall not be conducted or utilized for the purposes
29 of hiring, advancement, discharge, job training or other terms, conditions
30 and privileges of employment unrelated to the receipt of or qualification for
31 pension benefits or service credits under the system.

32 F. This section does not affect or impair the right of an employer to
33 prescribe medical or physical standards for employees or prospective
34 employees.

35 Sec. 12. Section 38-860, Arizona Revised Statutes, is amended to read:
36 38-860. Domestic relations orders; procedures; payments

37 A. Notwithstanding any other law, in a judicial proceeding for
38 annulment, dissolution of marriage or legal separation that provides for the
39 distribution of community property, or in any judicial proceeding to amend or
40 enforce such a property distribution, a court in this state may issue a
41 domestic relations order that provides that all or any part of a
42 participant's benefit or refund in the system that would otherwise be payable
43 to that participant shall instead be paid by the system to an alternate
44 payee.

1 B. A domestic relations order is not effective against the system
2 unless the domestic relations order is approved by the system and qualifies
3 as a plan approved domestic relations order. To qualify as a plan approved
4 domestic relations order, a domestic relations order shall comply with any
5 policies or procedures adopted pursuant to subsection K and shall also meet
6 all of the following requirements:

7 1. The domestic relations order shall state the name and the last
8 known mailing address of the participant and the name and last known mailing
9 address of the alternate payee that is covered by the domestic relations
10 order.

11 2. The domestic relations order shall clearly state the amount or
12 percentage of the participant's benefits that is payable by the system to the
13 alternate payee or the precise manner in which the amount or percentage is to
14 be determined.

15 3. The domestic relations order shall state the number of payments or
16 periods to which the domestic relations order applies, if applicable.

17 4. The domestic relations order shall state that the domestic
18 relations order applies to the system.

19 5. The domestic relations order shall not require the system to
20 provide any type or form of benefit or any option not otherwise provided by
21 this article.

22 6. The domestic relations order shall not require the system to
23 provide increased benefits determined on the basis of actuarial value.

24 7. The domestic relations order shall not require the payment of
25 benefits to an alternate payee if the benefits are required to be paid to
26 another alternate payee under a separate plan approved domestic relations
27 order.

28 8. THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF
29 COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED
30 STATES.

31 C. On receipt by the system of a certified copy of a domestic
32 relations order and a written request for a determination that the domestic
33 relations order is a plan approved domestic relations order, the system shall
34 promptly issue a written notice of receipt stating that the domestic
35 relations order and request were received to the participant and alternate
36 payee at the addresses on file, if any.

37 D. The system has a determination period to issue a written
38 determination indicating whether a domestic relations order qualifies as a
39 plan approved domestic relations order. If the participant is receiving
40 benefits during the determination period, and if the system can determine the
41 amount of the benefits that currently would be payable to the alternate payee
42 if the domestic relations order were a plan approved domestic relations
43 order, the system shall hold the segregated funds and shall pay the remaining
44 portion of the benefits to the participant. If the system determines the
45 domestic relations order is a plan approved domestic relations order, the

1 system shall pay the participant and alternate payee pursuant to the plan
2 approved domestic relations order in the month following the month in which
3 the determination was issued, or in the month following the month in which a
4 benefit is payable under the plan approved domestic relations order,
5 whichever is later. If the system determines the domestic relations order
6 fails to qualify as a plan approved domestic relations order, the system
7 shall specify in its determination how the domestic relations order is
8 deficient and how it may be amended to qualify as a plan approved domestic
9 relations order. If the participant is currently receiving benefits, and if
10 the system can determine the amount of segregated funds that would be payable
11 to the alternate payee if the domestic relations order were a plan approved
12 domestic relations order, the system shall hold the segregated funds during
13 the cure period to allow the parties to submit a certified copy of an amended
14 domestic relations order and a written request for a determination that the
15 amended domestic relations order is a plan approved domestic relations order.
16 During the cure period, the system shall pay the participant's portion to the
17 participant. At the end of the cure period, if the issue of whether an
18 amended domestic relations order qualifies as a plan approved domestic
19 relations order remains undetermined or if an amended domestic relations
20 order is determined not to be a plan approved domestic relations order, the
21 system shall pay the segregated funds and the participant's portion to the
22 participant. The participant shall hold the segregated funds in trust for
23 the alternate payee as provided in subsection J. If an amended domestic
24 relations order that is submitted after the expiration of the cure period is
25 determined to be a plan approved domestic relations order, the system shall
26 make payments to an alternate payee under the plan approved domestic
27 relations order only prospectively. A determination by the system that a
28 domestic relations order is not a plan approved domestic relations order does
29 not prohibit a participant or alternate payee from submitting an amended
30 domestic relations order to the system.

31 E. Each participant and alternate payee is responsible for maintaining
32 a current mailing address on file with the system. The system has no duty to
33 attempt to locate any participant or alternate payee. The system has no duty
34 to provide a notice of receipt or determination or pay benefits by means
35 other than mailing the notice or payments to the participant or alternate
36 payee at the last known address that is on file with the system. If the
37 address of an alternate payee is unknown to the system, but benefits are
38 payable to the alternate payee pursuant to a plan approved domestic relations
39 order, the system shall either:

40 1. Hold the alternate payee's portion until such a time as the
41 alternate payee provides the system with a current address. Once the system
42 is notified of the alternate payee's current address, the system shall
43 prospectively pay the alternate payee's portion to the alternate payee.

44 2. Pay the alternate payee's portion to the participant, who shall
45 hold the alternate payee's portion in trust as provided in subsection J,

1 until such a time as the alternate payee is located. At that time the
2 participant shall pay the alternate payee's portion directly to the alternate
3 payee.

4 F. If the address of a participant is unknown to the system, but
5 benefits are payable to the participant pursuant to a plan approved domestic
6 relations order, the system shall hold the participant's portion until the
7 participant provides the system with a current address.

8 G. If the alternate payee identified in a plan approved domestic
9 relations order predeceases the participant and the plan approved domestic
10 relations order does not otherwise provide for the disposition of the
11 alternate payee's interest the system shall pay the alternate payee's portion
12 to the personal representative of the deceased alternate payee pursuant to
13 this subsection. The personal representative is responsible for maintaining
14 a current mailing address on file with the system. The system has no duty to
15 attempt to locate any personal representative. The system is not responsible
16 for making benefit payments to a personal representative until the personal
17 representative has both:

18 1. Persuaded the system that the personal representative is authorized
19 to receive payments designated for the deceased alternate payee.

20 2. Provided the system with an address to which the payments should be
21 sent.

22 H. If, within thirty days after the date the system verifies an
23 alternate payee's death, a personal representative does not make demand on
24 the system for the alternate payee's portion, the system shall either:

25 1. Hold the alternate payee's portion until the time a personal
26 representative makes a proper demand for payment of the alternate payee's
27 portion.

28 2. Remit the alternate payee's portion to the participant, who shall
29 hold the amounts in trust for the estate of the alternate payee until the
30 personal representative is identified. At that time the participant shall
31 pay the alternate payee's portion paid by the system to the participant to
32 the personal representative.

33 Thereafter, the plan shall prospectively pay the alternate payee's portion to
34 the personal representative.

35 I. Amounts held or paid pursuant to this section shall not accrue
36 interest unless otherwise prescribed by this article.

37 J. The system is not liable to the participant, the alternate payee,
38 any personal representative of the estate of an alternate payee or any other
39 person for any amount paid, withheld or disbursed by the system pursuant to
40 this section. If one or more payments are made by the system to a person not
41 otherwise entitled to receive the payments, the recipient of the payment is
42 designated a constructive trustee for the payment received and, together with
43 the marital community, if any, is the sole party against whom an action may
44 be brought to recover the payment.

1 K. The system may adopt policies and procedures that govern the
2 implementation of this section.

3 Sec. 13. Section 38-884, Arizona Revised Statutes, is amended to read:
4 38-884. Membership of retirement plan; termination; credited
5 service; redemption

6 A. Each employee of a participating employer is a member of the plan
7 unless the employee is receiving a pension from the plan. A person employed
8 shall undergo a medical examination performed by a doctor or clinic appointed
9 by the local board or, in the case of a state correctional officer who is
10 employed by the state department of corrections, complete a physical
11 examination pursuant to section 41-1822, subsection B. For the purposes of
12 subsection B of this section, the doctor or clinic appointed by the local
13 board may be the employer's regular employee or contractor.

14 B. The purpose of the medical examination authorized by this section
15 is to identify a member's physical or mental condition or injury that existed
16 or occurred before the member's date of membership in the plan. Any employee
17 who fails or refuses to submit to the medical examination prescribed in this
18 section is deemed to waive all rights to disability benefits under this
19 article. Medical examinations conducted under this article shall not be
20 conducted or used for purposes of hiring, advancement, discharge, job
21 training or other terms, conditions and privileges of employment unrelated to
22 receipt or qualification for pension benefits or service credits from the
23 fund. This subsection does not affect or impair the right of an employer to
24 prescribe medical or physical standards for employees or prospective
25 employees.

26 C. If a member who becomes a member of the plan before January 1, 2012
27 ceases to be an employee for any reason other than death or retirement,
28 within twenty days after filing a completed application with the board, the
29 member is entitled to receive the following amounts, less any benefit
30 payments the member has received and any amount the member may owe to the
31 plan:

32 1. If the member has less than five years of credited service with the
33 plan, the member may withdraw the member's accumulated contributions from the
34 plan.

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

38 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
39 member contributions deducted from the member's salary pursuant to section
40 38-891, subsection B.

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

1 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
2 member contributions deducted from the member's salary pursuant to section
3 38-891, subsection B.

4 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
5 member contributions deducted from the member's salary pursuant to section
6 38-891, subsection B.

7 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
8 member contributions deducted from the member's salary pursuant to section
9 38-891, subsection B.

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

13 D. If a member who becomes a member of the plan before January 1, 2012
14 has more than ten years of credited service with the plan, leaves the monies
15 prescribed in subsection C of this section on account with the plan for more
16 than thirty days after termination of employment and after that time period
17 requests a refund of those monies, the member is entitled to receive the
18 amount prescribed in subsection C of this section plus interest at a rate
19 determined by the board for each year computed from and after the member's
20 termination of employment.

21 E. The accumulated member contributions of a member who ceases to be
22 an employee for a reason other than death or retirement and who becomes a
23 member of the plan on or after January 1, 2012 shall be paid to the member
24 plus interest at a rate determined by the board as of the date of termination
25 within twenty days after filing with the plan a written application for
26 payment.

27 F. If the refund includes monies that are an eligible rollover
28 distribution and the member elects to have the distribution paid directly to
29 an eligible retirement plan or individual retirement account or annuity and
30 specifies the eligible retirement plan or individual retirement account or
31 annuity to which the distribution is to be paid, the distribution shall be
32 made in the form of a direct trustee-to-trustee transfer to the specified
33 eligible retirement plan. The distribution shall be made in the form and at
34 the time prescribed by the board.

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

41 H. Credited service is forfeited if the amounts prescribed in
42 subsection C, D or E of this section are paid or are transferred in
43 accordance with this section.

44 I. If a former member becomes reemployed with the same employer within
45 two years after the former member's termination date, a member may have

1 forfeited credited service attributable to service rendered during a prior
2 period of service as an employee restored on satisfaction of each of the
3 following conditions:

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

7 2. The retirement fund is paid the total amount previously withdrawn
8 pursuant to subsection C, D or E of this section plus compound interest from
9 the date of withdrawal to the dates of repayment. Interest shall be computed
10 at the rate of nine per cent for each year compounded each year from the date
11 of withdrawal to the date of repayment. Forfeited credited service shall not
12 be restored until complete payment is received by the fund.

13 3. The required payment is completed within one year after returning
14 to employee status.

15 J. IF A MEMBER WHO RECEIVES A SEVERANCE REFUND ON TERMINATION OF
16 EMPLOYMENT PURSUANT TO SUBSECTION C, D OR E OF THIS SECTION IS SUBSEQUENTLY
17 REEMPLOYED BY AN EMPLOYER, THE MEMBER'S PRIOR SERVICE CREDITS ARE CANCELLED,
18 AND THE BOARD SHALL CREDIT SERVICE ONLY FROM THE DATE THE MEMBER'S MOST
19 RECENT REEMPLOYMENT PERIOD COMMENCED. HOWEVER, a present active member of
20 the plan who received a refund of accumulated contributions from the plan
21 pursuant to subsection C, D or E of this section ~~and~~, forfeited credited
22 service pursuant to subsection H of this section AND BECOMES REEMPLOYED WITH
23 THE SAME EMPLOYER TWO YEARS OR MORE AFTER THE MEMBER'S TERMINATION DATE OR
24 BECOMES REEMPLOYED WITH ANOTHER EMPLOYER may elect to redeem any part of that
25 forfeited credited service by paying into the plan any amounts required
26 pursuant to this subsection. A present active member who elects to redeem
27 any part of forfeited credited service for which the member is deemed
28 eligible by the board shall pay into the plan the amounts previously paid or
29 transferred as a refund of the member's accumulated contributions plus an
30 amount, computed by the plan's actuary that is necessary to equal the
31 increase in the actuarial present value of projected benefits resulting from
32 the redemption calculated using the actuarial methods and assumptions
33 prescribed by the plan's actuary. ON SATISFACTION OF THIS OBLIGATION, THE
34 BOARD SHALL REINSTATE THE MEMBER'S PRIOR SERVICE CREDITS.

35 K. A retired member may become employed by an employer in a designated
36 position and continue to receive a pension if the employment occurs at least
37 twelve months after retirement. The retired member shall not contribute to
38 the fund and shall not accrue credited service. If a retired member becomes
39 employed by an employer in a designated position before twelve months after
40 retirement:

41 1. Payment of the retired member's pension shall be suspended until
42 the retired member again ceases to be an employee. The amount of pension
43 shall not be changed on account of service as an employee subsequent to
44 retirement.

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

3 Sec. 14. Section 38-893, Arizona Revised Statutes, is amended to read:

4 38-893. Local boards; powers and duties; rules; hearings;
5 administrative review

6 A. The administration of the plan and the responsibility for making
7 the provisions of the plan effective for each employer are vested in a local
8 board. The state department of corrections, the department of juvenile
9 corrections, the department of public safety, each participating county
10 sheriff's department, each participating city or town, each participating
11 employer of full-time dispatchers for eligible groups as defined in section
12 38-842 and the judiciary shall have a local board. Each local board is
13 constituted as follows:

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

20 2. For each participating county, the chairman of the board of
21 supervisors, or the chairman's designee who is approved by the board of
22 supervisors, as chairman, two members who are elected by secret ballot by
23 members employed by the participating county in a designated position and two
24 citizens, one of whom shall be the head of the merit system if it exists for
25 the group of members, who are appointed by the chairman of the board of
26 supervisors with the approval of the board of supervisors.

27 3. For political subdivisions, the mayor or chief elected official or
28 a designee of the mayor or chief elected official approved by the respective
29 governing body as chairman, two members elected by secret ballot by members
30 employed by the appropriate employer and two citizens, one of whom shall be
31 the head of the merit system if it exists for the group of members, appointed
32 by the mayor or chief elected official and with the approval of the city
33 council or governing body of the employer.

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

39 B. The appointments and elections of local board members shall take
40 place with one elective and one appointive board member, as designated by the
41 appointing authority, serving a term ending two years after the date of
42 appointment or election and the other local board members serving a term
43 ending four years after the date of appointment or election. Thereafter,
44 every second year, and as a vacancy occurs, an office shall be filled for a
45 term of four years in the same manner as provided in this section.

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

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

19 1. Decide all questions of eligibility and service credits and
20 determine the amount, manner and time of payment of any benefit under the
21 plan.

22 2. Make a determination as to the right of a claimant to a benefit and
23 afford a claimant or the board of trustees, or both, a right to a rehearing
24 on the original determination. ~~EXCEPT AS OTHERWISE REQUIRED BY LAW,~~
25 ~~UNLESS ALL PARTIES INVOLVED IN A MATTER PRESENTED TO THE LOCAL BOARD FOR~~
26 ~~DETERMINATION OTHERWISE AGREE, THE LOCAL BOARD SHALL COMMENCE A HEARING ON~~
27 ~~THE MATTER WITHIN NINETY DAYS AFTER THE DATE THE MATTER IS PRESENTED TO THE~~
28 ~~LOCAL BOARD FOR DETERMINATION. IF A LOCAL BOARD FAILS TO COMMENCE A HEARING~~
29 ~~AS PROVIDED IN THIS PARAGRAPH, ON A MATTER PRESENTED TO THE LOCAL BOARD FOR~~
30 ~~DETERMINATION, THE RELIEF DEMANDED BY THE PARTY PETITIONING THE LOCAL BOARD~~
31 ~~IS DEEMED GRANTED AND APPROVED BY THE LOCAL BOARD. THE GRANTING AND APPROVAL~~
32 ~~OF THIS RELIEF IS CONSIDERED FINAL AND BINDING UNLESS A TIMELY REQUEST FOR~~
33 ~~REHEARING OR APPEAL IS MADE AS PROVIDED IN THIS ARTICLE,~~ unless the board of
34 trustees determines that granting the relief requested would violate the
35 internal revenue code or threaten to impair the plan's status as a qualified
36 plan under the internal revenue code. If the board of trustees determines
37 that granting the requested relief would violate the internal revenue code or
38 threaten to impair the plan's status as a qualified plan, the board of
39 trustees may refuse to grant the relief by issuing a written determination to
40 the local board and the party petitioning the local board for relief. The
41 decision by the board of trustees is subject to judicial review pursuant to
42 title 12, chapter 7, article 6.

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

1 4. Distribute, in the manner the local board determines to be
2 appropriate, information explaining the plan that is received from the board
3 of trustees.

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

7 6. Appoint a medical board, which is composed of a designated
8 physician or clinic other than the employer's regular employee or contractor.
9 If required, the local board may employ other physicians to report on special
10 cases. The examining physician or clinic shall report the results of
11 examinations made to the local board, and the secretary of the local board
12 shall preserve the report as a permanent record.

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

15 8. Prescribe procedures to be followed by claimants in filing
16 applications for benefits.

17 9. Receive and review the actuarial valuation of the plan for its
18 group of members.

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

21 E. A local board has no power to add to, subtract from, modify or
22 waive any of the terms of the plan, change or add to any benefits provided by
23 the plan or waive or fail to apply any requirement of eligibility for
24 membership or benefits under the plan. Notwithstanding any limitations
25 periods imposed in this article, including subsections G and H of this
26 section, if the board of trustees determines a local board decision violates
27 the internal revenue code or threatens to impair the plan's status as a
28 qualified plan under the internal revenue code the local board's decision is
29 not final and binding and the board of trustees may refrain from implementing
30 or complying with the local board decision.

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

40 G. Except as otherwise provided in this article, an action by a
41 majority vote of the members of a local board that is not inconsistent with
42 the provisions of the plan and the internal revenue code is final, conclusive
43 and binding on all persons affected by it, unless a timely application for a
44 rehearing or appeal is filed as provided in this article. No later than
45 twenty days after taking action, the local board shall submit to the board of

1 trustees the minutes from the local board meeting that include the name of
2 the member affected by its decision, a description of the action taken and an
3 explanation of the reasons and ALL documents ~~supporting the local board's~~
4 ~~action~~ SUBMITTED TO THE LOCAL BOARD FOR THE ACTION TAKEN, INCLUDING THE
5 REPORTS OF A MEDICAL BOARD. The board of trustees may not implement and
6 comply with any local board action that does not comply with the internal
7 revenue code or that threatens to jeopardize the plan's status as a qualified
8 plan under the internal revenue code.

9 H. A claimant or the board of trustees may apply for a rehearing
10 before the local board within the time periods prescribed in this subsection,
11 except that if a decision of a local board violates the internal revenue code
12 or threatens to jeopardize the plan's status as a qualified plan under the
13 internal revenue code, no limitation period for the board of trustees to seek
14 a rehearing of a local board decision applies. A claimant or the board of
15 trustees shall file an application for rehearing in writing with a member of
16 the local board or its secretary within sixty days after:

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

21 2. The board of trustees receives notification of the local board's
22 original action as prescribed by subsection G of this section by certified
23 mail.

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

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

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

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

34 M. The local board shall adopt bylaws as it deems necessary. The
35 local board shall elect a secretary who may, but need not, be a member of the
36 local board. The secretary of the local board shall keep a record and
37 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of
38 this title and forward the minutes and all necessary communications to the
39 board of trustees as prescribed by subsection G of this section.

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

44 O. The local board shall issue directions to the board of trustees
45 concerning all benefits that are to be paid from the employer's account

1 pursuant to the provisions of the fund. The local board shall keep on file,
2 in the manner it deems convenient and proper, all reports from the board of
3 trustees and the actuary.

4 P. The local board and the individual members of the local board are
5 indemnified from the assets of the fund for any judgment against the local
6 board or its members, including attorney fees and costs, arising from any
7 act, or failure to act, made in good faith pursuant to the provisions of the
8 plan.

9 Sec. 15. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
10 amended by adding section 38-895.02, to read:

11 38-895.02. Payment of pension

12 THE BOARD SHALL NOT MAKE A RETROACTIVE PAYMENT OF A PENSION TO A PERSON
13 FOR A PERIOD OF MORE THAN NINETY DAYS BEFORE THE DATE OF THE PERSON'S
14 APPLICATION FOR BENEFITS.

15 Sec. 16. Section 38-904, Arizona Revised Statutes, is amended to read:

16 38-904. Death benefits; amount

17 A. If an active or inactive member dies and no pension is payable on
18 account of the member's death, an amount equal to two times the member's
19 accumulated contributions to the retirement plan is payable to the person
20 designated by the deceased member in writing and filed with the board. If
21 the designated person or persons do not survive the deceased member OR IF THE
22 DESIGNATED PERSON DOES NOT CLAIM THE BENEFIT, the payment is payable, AT THE
23 ELECTION OF THE LOCAL BOARD, TO THE DESIGNATED PERSON'S NEAREST OF KIN AS
24 DETERMINED BY THE LOCAL BOARD OR to the estate of the deceased member. THE
25 BENEFICIARY OR PERSON WHO IS CLAIMING TO BE THE NEAREST OF KIN SHALL FILE A
26 WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND. For the purposes of this
27 subsection, "inactive member" means a person who previously made
28 contributions to the plan, who has not retired, who is not currently making
29 contributions to the plan and who has not withdrawn contributions from the
30 plan.

31 B. If the deceased retired or active member does not have an eligible
32 surviving spouse or the pension of the eligible surviving spouse is
33 terminated, each eligible child is entitled to a child's pension. A child's
34 pension terminates if the child is adopted. In the case of a disabled child,
35 the child's pension terminates if the child ceases to be under a disability
36 or ceases to be a dependent of the surviving spouse or guardian. The amount
37 of the pension of each eligible child is an equal share of the amount of the
38 surviving spouse's pension. The board shall pay the surviving minor or
39 disabled child's pension to the person who is the legally appointed guardian
40 or custodian of the eligible child.

41 Sec. 17. Section 38-909, Arizona Revised Statutes, is amended to read:

42 38-909. Redemption of prior service; calculation

43 A. Each present active member of the plan who has at least ten years
44 of credited service with the plan who had previous service in this state as
45 an employee with an employer now covered by the plan or who had previous

1 service with an agency of the United States government, a state of the United
2 States or a political subdivision of THIS STATE OR a state of the United
3 States as a full-time paid corrections officer or full-time paid certified
4 peace officer may elect to redeem up to sixty months of any part of the prior
5 service by paying into the plan any amounts required under subsection B if
6 the prior service is not on account with any other retirement system.

7 B. Any present active member who elects to redeem any part of the
8 prior service OR EMPLOYMENT for which the employee is deemed eligible by the
9 board under this section shall pay into the plan the amounts previously
10 withdrawn by the member, if any, as a refund of the member's accumulated
11 contributions plus accumulated interest as determined by the board and the
12 additional amount, if any, computed by the plan's actuary that is necessary
13 to equal the increase in the actuarial present value of projected benefits
14 resulting from the redemption calculated using the actuarial methods and
15 assumptions prescribed by the plan's actuary.

16 C. The discount rate used by the actuary for the redemption
17 calculation pursuant to subsection B is an amount equal to the lesser of the
18 assumed rate of return that is prescribed by the board or an amount equal to
19 the yield on a ten year treasury note as of March 1 that is published by the
20 federal reserve board plus two per cent. This discount rate is effective
21 beginning in the next fiscal year and shall be recalculated each year.

22 D. A member electing to redeem service pursuant to this section may
23 pay for service being redeemed in the form of a lump sum payment to the plan,
24 a trustee-to-trustee transfer or a direct rollover of an eligible
25 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or
26 (vi) of the internal revenue code or a rollover of an eligible distribution
27 from an individual retirement account or annuity described in section 408(a)
28 or (b) of the internal revenue code.

29 Sec. 18. Section 38-910, Arizona Revised Statutes, is amended to read:
30 38-910. Domestic relations orders; procedures; payments

31 A. Notwithstanding any other law, in a judicial proceeding for
32 annulment, dissolution of marriage or legal separation that provides for the
33 distribution of community property, or in any judicial proceeding to amend or
34 enforce such a property distribution, a court in this state may issue a
35 domestic relations order that provides that all or any part of a
36 participant's benefit or refund in the plan that would otherwise be payable
37 to that participant shall instead be paid by the plan to an alternate payee.

38 B. A domestic relations order is not effective against the plan unless
39 the domestic relations order is approved by the plan and qualifies as a plan
40 approved domestic relations order. To qualify as a plan approved domestic
41 relations order, a domestic relations order shall comply with any policies or
42 procedures adopted pursuant to subsection K and shall also meet all of the
43 following requirements:

44 1. The domestic relations order shall state the name and the last
45 known mailing address of the participant and the name and last known mailing

1 address of the alternate payee that is covered by the domestic relations
2 order.

3 2. The domestic relations order shall clearly state the amount or
4 percentage of the participant's benefits that is payable by the plan to the
5 alternate payee or the precise manner in which the amount or percentage is to
6 be determined.

7 3. The domestic relations order shall state the number of payments or
8 periods to which the domestic relations order applies, if applicable.

9 4. The domestic relations order shall state that the domestic
10 relations order applies to the plan.

11 5. The domestic relations order shall not require the plan to provide
12 any type or form of benefit or any option not otherwise provided by this
13 article.

14 6. The domestic relations order shall not require the plan to provide
15 increased benefits determined on the basis of actuarial value.

16 7. The domestic relations order shall not require the payment of
17 benefits to an alternate payee if the benefits are required to be paid to
18 another alternate payee under a separate plan approved domestic relations
19 order.

20 8. THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF
21 COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED
22 STATES.

23 C. On receipt by the plan of a certified copy of a domestic relations
24 order and a written request for a determination that the domestic relations
25 order is a plan approved domestic relations order, the plan shall promptly
26 issue a written notice of receipt stating that the domestic relations order
27 and request were received to the participant and alternate payee at the
28 addresses on file, if any.

29 D. The plan has a determination period to issue a written
30 determination indicating whether a domestic relations order qualifies as a
31 plan approved domestic relations order. If the participant is receiving
32 benefits during the determination period, and if the plan can determine the
33 amount of the benefits that currently would be payable to the alternate payee
34 if the domestic relations order were a plan approved domestic relations
35 order, the plan shall hold the segregated funds and shall pay the remaining
36 portion of the benefits to the participant. If the plan determines the
37 domestic relations order is a plan approved domestic relations order, the
38 plan shall pay the participant and alternate payee pursuant to the plan
39 approved domestic relations order in the month following the month in which
40 the determination was issued, or in the month following the month in which a
41 benefit is payable under the plan approved domestic relations order,
42 whichever is later. If the plan determines the domestic relations order
43 fails to qualify as a plan approved domestic relations order, the plan shall
44 specify in its determination how the domestic relations order is deficient
45 and how it may be amended to qualify as a plan approved domestic relations

1 order. If the participant is currently receiving benefits, and if the plan
2 can determine the amount of segregated funds that would be payable to the
3 alternate payee if the domestic relations order were a plan approved domestic
4 relations order, the plan shall hold the segregated funds during the cure
5 period to allow the parties to submit a certified copy of an amended domestic
6 relations order and a written request for a determination that the amended
7 domestic relations order is a plan approved domestic relations order. During
8 the cure period, the plan shall pay the participant's portion to the
9 participant. At the end of the cure period, if the issue of whether an
10 amended domestic relations order qualifies as a plan approved domestic
11 relations order remains undetermined or if an amended domestic relations
12 order is determined not to be a plan approved domestic relations order, the
13 plan shall pay the segregated funds and the participant's portion to the
14 participant. The participant shall hold the segregated funds in trust for
15 the alternate payee as provided in subsection J. If an amended domestic
16 relations order that is submitted after the expiration of the cure period is
17 determined to be a plan approved domestic relations order, the plan shall
18 make payments to an alternate payee under the plan approved domestic
19 relations order only prospectively. A determination by the plan that a
20 domestic relations order is not a plan approved domestic relations order does
21 not prohibit a participant or alternate payee from submitting an amended
22 domestic relations order to the plan.

23 E. Each participant and alternate payee is responsible for maintaining
24 a current mailing address on file with the plan. The plan has no duty to
25 attempt to locate any participant or alternate payee. The plan has no duty
26 to provide a notice of receipt or determination or pay benefits by means
27 other than mailing the notice or payments to the participant or alternate
28 payee at the last known address that is on file with the plan. If the
29 address of an alternate payee is unknown to the plan, but benefits are
30 payable to the alternate payee pursuant to a plan approved domestic relations
31 order, the plan shall either:

32 1. Hold the alternate payee's portion until such a time as the
33 alternate payee provides the plan with a current address. Once the plan is
34 notified of the alternate payee's current address, the plan shall
35 prospectively pay the alternate payee's portion to the alternate payee.

36 2. Pay the alternate payee's portion to the participant, who shall
37 hold the alternate payee's portion in trust as provided in subsection J,
38 until such a time as the alternate payee is located. At that time the
39 participant shall pay the alternate payee's portion directly to the alternate
40 payee.

41 F. If the address of a participant is unknown to the plan, but
42 benefits are payable to the participant pursuant to a plan approved domestic
43 relations order, the plan shall hold the participant's portion until the
44 participant provides the plan with a current address.

1 G. If the alternate payee identified in a plan approved domestic
2 relations order predeceases the participant and the plan approved domestic
3 relations order does not otherwise provide for the disposition of the
4 alternate payee's interest the plan shall pay the alternate payee's portion
5 to the personal representative of the deceased alternate payee pursuant to
6 this subsection. The personal representative is responsible for maintaining
7 a current mailing address on file with the plan. The plan has no duty to
8 attempt to locate any personal representative. The plan is not responsible
9 for making benefit payments to a personal representative until the personal
10 representative has both:

11 1. Persuaded the plan that the personal representative is authorized
12 to receive payments designated for the deceased alternate payee.

13 2. Provided the plan with an address to which the payments should be
14 sent.

15 H. If, within thirty days after the date the plan verifies an
16 alternate payee's death, a personal representative does not make demand on
17 the plan for the alternate payee's portion, the plan shall either:

18 1. Hold the alternate payee's portion until the time a personal
19 representative makes a proper demand for payment of the alternate payee's
20 portion.

21 2. Remit the alternate payee's portion to the participant, who shall
22 hold the amounts in trust for the estate of the alternate payee until the
23 personal representative is identified. At that time the participant shall
24 pay the alternate payee's portion paid by the plan to the participant to the
25 personal representative.

26 Thereafter, the plan shall prospectively pay the alternate payee's portion to
27 the personal representative.

28 I. Amounts held or paid pursuant to this section shall not accrue
29 interest unless otherwise prescribed by this article.

30 J. The plan is not liable to the participant, the alternate payee, any
31 personal representative of the estate of an alternate payee or any other
32 person for any amount paid, withheld or disbursed by the plan pursuant to
33 this section. If one or more payments are made by the plan to a person not
34 otherwise entitled to receive the payments, the recipient of the payment is
35 designated a constructive trustee for the payment received and, together with
36 the marital community, if any, is the sole party against whom an action may
37 be brought to recover the payment.

38 K. The plan may adopt policies and procedures that govern the
39 implementation of this section.