

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 136
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.

46 Sec. 3. Section 38-822, Arizona Revised Statutes, is amended to read:

1 38-822. Domestic relations orders; procedures; payments

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

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

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

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

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

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

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

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

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

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

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

45 D. The plan has a determination period to issue a written
46 determination indicating whether a domestic relations order qualifies as a

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

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

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

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

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

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

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

26 2. Provided the plan with an address to which the payments should be
27 sent.

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

31 1. Hold the alternate payee's portion until the time a personal
32 representative makes a proper demand for payment of the alternate payee's
33 portion.

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

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

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

43 J. The plan is not liable to the participant, the alternate payee, any
44 personal representative of the estate of an alternate payee or any other
45 person for any amount paid, withheld or disbursed by the plan pursuant to
46 this section. If one or more payments are made by the plan to a person not

1 otherwise entitled to receive the payments, the recipient of the payment is
2 designated a constructive trustee for the payment received and, together with
3 the marital community, if any, is the sole party against whom an action may
4 be brought to recover the payment.

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

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

9 38-843.05. Retired members; return to work; employer
10 contributions

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

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

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

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

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

42 Sec. 5. Section 38-844, Arizona Revised Statutes, is amended to read:

43 38-844. Requirements for retirement benefits and disability
44 pensions

45 A. A member shall be eligible for a normal pension on retirement on or
46 after the member's normal retirement date. Payment of a normal pension shall

1 commence as of the first day of the month following the date of retirement,
2 and the last payment shall be made as of the last day of the month in which
3 the death of the retired member occurs.

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

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

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

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

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

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

44 E. Accidental or ordinary disability shall be considered to have
45 ceased and an accidental or ordinary disability pension terminates if the
46 member:

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

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

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

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

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

39 I. A member shall be eligible for a temporary disability pension if
40 the member's employment is terminated before the member's normal retirement
41 date by reason of temporary disability. Payment of a temporary disability
42 pension shall commence as of the first day of the month following the date of
43 disability or the expiration of a period during which the member is receiving
44 compensation and sick leave payments, whichever is later. The last payment
45 shall be made as of the first day of the month in which either the death of
46 the member occurs or the local board deems the member is no longer under

1 temporary disability, whichever first occurs, provided that no more than
2 twelve monthly temporary disability payments shall be made in total to the
3 member.

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

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

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

15 2. The date the member terminates employment.

16 Sec. 6. Section 38-846, Arizona Revised Statutes, is amended to read:
17 38-846. Death benefits

18 A. The surviving spouse of a deceased retired member shall be paid a
19 surviving spouse's pension if the spouse was married to the member for a
20 period of at least two consecutive years at the time of the member's death.
21 Payment of a surviving spouse's pension shall commence as of the last day of
22 the month following the retired member's date of death. The last payment
23 shall be made as of the last day of the month in which the surviving spouse's
24 death occurs.

25 B. The surviving spouse of a deceased member shall be paid a surviving
26 spouse's pension if the spouse was married to the member on the date of the
27 member's death. Payment of a surviving spouse's pension commences as of the
28 last day of the month following the member's date of death. The last payment
29 shall be made as of the last day of the month in which the surviving spouse's
30 death occurs.

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

34 D. The surviving spouse of a deceased member who was not killed in the
35 line of duty or did not die from injuries suffered in the line of duty is
36 entitled to receive a monthly amount calculated in the same manner as an
37 accidental disability pension is calculated pursuant to section 38-845,
38 subsection B. The surviving spouse of a deceased member who is killed in the
39 line of duty or dies from injuries suffered in the line of duty is entitled
40 to receive a monthly amount equal to the deceased member's average monthly
41 benefit compensation less any amount payable for an eligible child under this
42 section. A member who was eligible for or receiving a temporary disability
43 pension at the time of the member's death is not deemed to be retired for the
44 purposes of this subsection. For the purposes of this subsection, "killed in
45 the line of duty" means the decedent's death was the direct and proximate

1 result of the performance of the decedent's public safety duties and does not
2 include suicide.

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

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

26 G. The board shall pay a guardian's or conservator's pension during
27 the same period in which a pension is payable to at least one eligible
28 child. The guardian, conservator or designated trustee is entitled to
29 receive the same monthly amount as would have been payable to the decedent's
30 surviving spouse had a surviving spouse's pension become payable on the
31 decedent's death.

32 H. Each eligible child is entitled to a monthly amount equal to
33 one-tenth of the monthly amount of pension that the deceased member or
34 retired member would have received immediately before death. The pension for
35 a child of a deceased member shall be calculated in the same manner as an
36 accidental disability is calculated pursuant to section 38-845, subsection B.
37 A deceased member shall be assumed to be retired for reasons of accidental
38 disability immediately before the member's death. If there are three or more
39 children eligible for a child's pension, a maximum of two shares of the
40 child's pension shall be payable, the aggregate of such shares to be
41 apportioned in equal measure to each eligible child.

42 I. If a member has accumulated contributions remaining in the system
43 at the date of death of the last beneficiary, a lump sum refund of such
44 accumulated contributions shall be payable to the person whom the member has
45 designated **TO THE LOCAL BOARD** as the member's refund beneficiary, or if the
46 member's refund beneficiary is not then surviving, to the designated

1 contingent refund beneficiary, or if the designated contingent refund
2 beneficiary is not then surviving, ~~to such person~~ OR IF THE SURVIVING
3 DESIGNATED BENEFICIARY DOES NOT APPLY FOR THE BENEFIT WITHIN TWELVE MONTHS
4 FROM THE DATE OF THE MEMBER'S DEATH, AT THE ELECTION OF THE LOCAL BOARD TO
5 THE PERSON'S nearest of kin as ~~selected~~ DETERMINED by the local board OR TO
6 THE ESTATE OF THE DECEASED MEMBER. The amount of the lump sum refund shall
7 be the remaining accumulated contributions. The beneficiary or person who is
8 ~~selected as~~ CLAIMING TO BE THE nearest of kin shall file a written
9 application in order to receive the refund.

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

14 Sec. 7. Section 38-847, Arizona Revised Statutes, is amended to read:
15 38-847. Local boards

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

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

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

45 3. For fire districts organized pursuant to section 48-804, the
46 secretary-treasurer as chairman, two members elected by secret ballot by

1 members employed by the fire district and two citizens appointed by the
2 secretary-treasurer, one of whom is a resident of the fire district and one
3 of whom has experience in personnel administration but who is not required to
4 be a resident of the fire district.

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

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

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

31 1. To decide all questions of eligibility and service credits, and
32 determine the amount, manner and time of payment of any benefits under the
33 system.

34 2. To prescribe procedures to be followed by claimants in filing
35 applications for benefits.

36 3. To make a determination as to the right of any claimant to a
37 benefit and to afford any claimant or the board of trustees, or both, a right
38 to a rehearing on the original determination. **EXCEPT AS OTHERWISE REQUIRED**
39 **BY LAW**, unless all parties involved in a matter presented to the local board
40 for determination otherwise agree, the local board shall commence a hearing
41 on the matter within ninety days after the date the matter is presented to
42 the local board for determination. If a local board fails to commence a
43 hearing as provided in this paragraph, on a matter presented to the local
44 board for determination, the relief demanded by the party petitioning the
45 local board is deemed granted and approved by the local board. The granting
46 and approval of this relief is considered final and binding unless a timely

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

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

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

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

21 7. To receive and review the actuarial valuation of the system for its
22 group of members.

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

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

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

28 E. A local board shall have no power to add to, subtract from, modify
29 or waive any of the terms of the system, change or add to any benefits
30 provided by the system or waive or fail to apply any requirement of
31 eligibility for membership or benefits under the system. Notwithstanding any
32 limitations periods imposed in this article, including subsection D,
33 paragraph 3 and subsections G and H of this section, if the board of trustees
34 determines a local board decision violates the internal revenue code or
35 threatens to impair the system's status as a qualified plan under the
36 internal revenue code, the local board's decision is not final and binding
37 and the board of trustees may refrain from implementing or complying with the
38 local board decision.

39 F. A local board, from time to time, shall establish and adopt such
40 rules as it deems necessary or desirable for its administration. All rules
41 and decisions of a local board shall be uniformly and consistently applied to
42 all members in similar circumstances. If a claim or dispute is presented to
43 a local board for determination but the local board has not yet adopted
44 uniform rules of procedure for adjudication of the claim or dispute, the
45 local board shall adopt and use the model uniform rules of local board

1 procedure that are issued by the board of trustees' fiduciary counsel to
2 adjudicate the claim or dispute.

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

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

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

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

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

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

36 K. When making a ruling, determination or calculation, the local board
37 shall be entitled to rely on information furnished by the employer, A MEDICAL
38 BOARD, the board of trustees, independent legal counsel or the actuary for
39 the system.

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

43 M. The local board shall adopt such bylaws as it deems desirable. The
44 local board shall elect a secretary who may, but need not, be a member of the
45 local board. The secretary of the local board shall keep a record and
46 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of

1 this title and forward the minutes and all necessary communications to the
2 board of trustees as prescribed by subsection G of this section.

3 N. The fees of the medical board and of the local board's independent
4 legal counsel and all other expenses of the local board necessary for the
5 administration of the system shall be paid by the employer and not the board
6 of trustees or system at such rates and in such amounts as the local board
7 shall approve. Legal counsel that is employed by the local board is
8 independent of the employer and any employee organization or member and owes
9 its duty of loyalty only to the local board in connection with its
10 representation of the local board.

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

16 P. The local board and the individual members of the local board shall
17 be indemnified from the assets of the employer for any judgment against the
18 local board or its members, including attorney fees and costs, arising from
19 any act, or failure to act, made in good faith pursuant to the provisions of
20 the system, including expenses reasonably incurred in the defense of any
21 claim relating to the act or failure to act.

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

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

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

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

43 C. IF A MEMBER WHO RECEIVED A SEVERANCE REFUND ON TERMINATION OF
44 EMPLOYMENT PURSUANT TO SECTION 38-846.02 BECOMES REEMPLOYED WITH THE SAME
45 EMPLOYER WITHIN TWO YEARS AFTER THE FORMER MEMBER'S TERMINATION DATE, THE
46 MEMBER MAY HAVE FORFEITED CREDITED SERVICE ATTRIBUTABLE TO SERVICE RENDERED

1 DURING A PRIOR PERIOD OF SERVICE AS AN EMPLOYEE RESTORED ON SATISFACTION OF
2 EACH OF THE FOLLOWING CONDITIONS:

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

6 2. THE RETIREMENT FUND IS PAID THE TOTAL AMOUNT PREVIOUSLY WITHDRAWN
7 PURSUANT TO SECTION 38-846.02 PLUS COMPOUND INTEREST FROM THE DATE OF
8 WITHDRAWAL TO THE DATE OF REPAYMENT. INTEREST SHALL BE COMPUTED AT THE RATE
9 OF NINE PER CENT FOR EACH YEAR COMPOUNDED EACH YEAR FROM THE DATE OF
10 WITHDRAWAL TO THE DATE OF REPAYMENT. FORFEITED CREDITED SERVICE SHALL NOT BE
11 RESTORED UNTIL COMPLETE PAYMENT IS RECEIVED BY THE FUND.

12 3. THE REQUIRED PAYMENT IS COMPLETED WITHIN ONE YEAR AFTER RETURNING
13 TO EMPLOYEE STATUS.

14 ~~C.~~ D. If a member who received a severance refund on termination of
15 employment, as provided in section 38-846.02, is subsequently reemployed by
16 an employer, the member's prior service credits shall be cancelled and
17 service shall be credited only from the date the member's most recent
18 reemployment period commenced. However, ~~if the former member's reemployment~~
19 ~~with the same employer occurred within two years after the former member's~~
20 ~~termination date, and, within ninety days after reemployment the former~~
21 ~~member signs a written election consenting to reimburse the fund within one~~
22 ~~year, the former member shall be required to redeposit the amount withdrawn~~
23 ~~at the time of the former member's separation from service, with interest~~
24 ~~thereon at the rate of nine per cent for each year compounded each year from~~
25 ~~the date of withdrawal to the date of repayment~~ A PRESENT ACTIVE MEMBER OF
26 THE SYSTEM WHO FORFEITED CREDITED SERVICE, RECEIVED A SEVERANCE REFUND
27 PURSUANT TO SECTION 38-846.02 AND BECOMES REEMPLOYED WITH THE SAME EMPLOYER
28 TWO YEARS OR MORE AFTER THE MEMBER'S TERMINATION DATE OR BECOMES REEMPLOYED
29 WITH ANOTHER EMPLOYER MAY ELECT TO REDEEM ANY PART OF THAT FORFEITED CREDITED
30 SERVICE BY PAYING INTO THE SYSTEM ANY AMOUNTS REQUIRED PURSUANT TO THIS
31 SUBSECTION. A PRESENT ACTIVE MEMBER WHO ELECTS TO REDEEM ANY PART OF
32 FORFEITED CREDITED SERVICE FOR WHICH THE MEMBER IS DEEMED ELIGIBLE BY THE
33 BOARD SHALL PAY INTO THE SYSTEM THE AMOUNTS PREVIOUSLY PAID OR TRANSFERRED TO
34 THE MEMBER AS A SEVERANCE REFUND PLUS AN AMOUNT, COMPUTED BY THE SYSTEM'S
35 ACTUARY THAT IS NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT
36 VALUE OF PROJECTED BENEFITS RESULTING FROM THE REDEMPTION CALCULATED USING
37 THE ACTUARIAL METHODS AND ASSUMPTIONS PRESCRIBED BY THE SYSTEM'S ACTUARY. On
38 satisfaction of this obligation the member's prior service credits shall be
39 reinstated.

40 ~~D.~~ E. If a retired member becomes employed in any capacity by the
41 employer from which the member retired before ~~sixty consecutive days~~ ONE YEAR
42 after the member's date of retirement, the system shall not make pension
43 payments to the retired member during the period of reemployment. If a
44 retired member is reemployed by an employer, no employee contributions shall
45 be made on the retired member's account, nor any service credited, during the
46 period of the reemployment. THIS SUBSECTION DOES NOT APPLY TO A RETIRED

1 MEMBER WHO IS ASSIGNED VOLUNTARY DUTIES ACTING AS A LIMITED AUTHORITY PEACE
2 OFFICER FOR AN EMPLOYER PURSUANT TO THE ARIZONA PEACE OFFICER STANDARDS AND
3 TRAINING BOARD RULES, TO A RETIRED MEMBER WHO SUBSEQUENTLY BECOMES EMPLOYED
4 BY AN EMPLOYER FROM WHICH THE MEMBER RETIRED AFTER NO LESS THAN SIXTY
5 CONSECUTIVE DAYS FROM THE MEMBER'S RETIREMENT DATE IF THE RETIRED MEMBER IS
6 HIRED AS A RESULT OF PARTICIPATING IN AN OPEN COMPETITIVE NEW HIRE PROCESS
7 FOR AN ENTRY LEVEL NONSUPERVISORY POSITION OR IF THE RETIRED MEMBER IS HIRED
8 AS A FIRE INSPECTOR OR ARSON INVESTIGATOR. Notwithstanding this subsection,
9 if a retired member subsequently becomes employed in the same position by the
10 employer from which the member retired, the system shall not make pension
11 payments to the retired member during the period of reemployment. On
12 subsequent termination of employment by the retired member, the retired
13 member is entitled to receive a pension based on the member's service and
14 compensation before the date of the member's reemployment. If a member who
15 retired under disability is reemployed by an employer as an employee, that
16 member shall be treated as if the member had been on an uncompensated leave
17 of absence during the period of the member's disability retirement and shall
18 be a contributing member of the system. Within ten days after a retired
19 member is reemployed by the employer from which the member retired, the
20 employer shall advise the board in writing as to whether the retired member
21 has been reemployed in the same position from which the member retired. The
22 board shall review all reemployment determinations. If the board is not
23 provided the necessary information to make a reemployment determination, the
24 board shall suspend pension payments until information is received and a
25 determination is made that the reemployment meets the requirements of this
26 subsection. For the purposes of this subsection, "same position" means the
27 member is in a position where the member performs substantially similar
28 duties that were performed and exercises substantially similar authority that
29 was exercised by the retired member before retirement.

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

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

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

2 38-853. Transfer of credited service

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

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

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

19 38-853.01. Redemption of prior service; calculation

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

25 1. Prior service in this state as an employee with an employer now
26 covered by the system or prior service with an agency of the United States
27 government, a state of the United States or a political subdivision of this
28 state or of a state of the United States as a full-time paid firefighter or
29 full-time paid certified peace officer.

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

35 B. Any present active member who elects to redeem any part of the
36 prior service or employment for which the employee is deemed eligible by the
37 board under this section shall pay into the system the amounts previously
38 withdrawn by the member, if any, as a refund of the member's accumulated
39 contributions plus accumulated interest as determined by the board and the
40 additional amount, if any, computed by the system's actuary that is necessary
41 to equal the increase in the actuarial present value of projected benefits
42 resulting from the redemption calculated using the actuarial methods and
43 assumptions prescribed by the system's actuary. **THE DISCOUNT RATE USED BY**
44 **THE ACTUARY FOR THE REDEMPTION CALCULATION PURSUANT TO THIS SUBSECTION IS AN**
45 **AMOUNT EQUAL TO THE LESSER OF THE ASSUMED RATE OF RETURN THAT IS PRESCRIBED**
46 **BY THE BOARD OR AN AMOUNT EQUAL TO THE YIELD ON A TEN-YEAR TREASURY NOTE AS**

1 OF MARCH 1 THAT IS PUBLISHED BY THE FEDERAL RESERVE BOARD PLUS TWO PER CENT.
2 THE DISCOUNT RATE IS EFFECTIVE BEGINNING IN THE NEXT FISCAL YEAR, AND THE
3 BOARD SHALL RECALCULATE THE RATE EACH YEAR.

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

11 Sec. 11. Section 38-859, Arizona Revised Statutes, is amended to read:
12 38-859. Medical boards; purposes; composition; medical
13 examinations

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

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

18 2. Evaluate a member's eligibility for an accidental disability
19 pension.

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

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

22 5. Evaluate a member's eligibility for a catastrophic disability
23 pension.

24 6. FOR THE PURPOSES OF SECTION 38-846, DETERMINE THROUGH APPROPRIATE
25 MEDICAL EVIDENCE THE PROXIMATE CAUSE OF DEATH FOR MEMBERS WHO ARE KILLED IN
26 THE LINE OF DUTY IF THE DEATH OCCURS MORE THAN ONE YEAR AFTER THE DATE OF
27 INJURY.

28 B. For the purpose of determining a disability, the medical board
29 shall be composed of a designated physician or a clinic other than the
30 employer's regular employee or contractee. Employees employed after October
31 1, 1992 shall undergo a medical examination for the purpose of identifying a
32 physical or mental condition or injury that existed or occurred prior to a
33 member's date of membership in the system and for which benefits may
34 otherwise be limited by section 38-844, subsection D, and for this purpose,
35 the medical board shall be composed of a designated physician or a clinic
36 that may be the employer's regular employee or contractee.

37 C. A finding of accidental, ordinary, temporary or catastrophic
38 disability shall be based on medical evidence by a physician or clinic
39 appointed by the local board pursuant to section 38-847, subsection D,
40 paragraph 9 that established the disability. The local board shall resolve
41 material conflicts in medical evidence. If required, the local board may
42 employ other physicians or clinics to report on special cases. With the
43 approval of the local board, a physician or clinic employed by the local
44 board may employ occupational specialists to assist the physician or clinic
45 in rendering an opinion.

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

5 E. The examining physician or clinic shall report the results of
6 examinations to the local board, and the secretary of the local board shall
7 preserve the report as a permanent record. Medical examinations conducted
8 pursuant to this article shall not be conducted or utilized for the purposes
9 of hiring, advancement, discharge, job training or other terms, conditions
10 and privileges of employment unrelated to the receipt of or qualification for
11 pension benefits or service credits under the system.

12 F. This section does not affect or impair the right of an employer to
13 prescribe medical or physical standards for employees or prospective
14 employees.

15 Sec. 12. Section 38-860, Arizona Revised Statutes, is amended to read:

16 38-860. Domestic relations orders; procedures; payments

17 A. Notwithstanding any other law, in a judicial proceeding for
18 annulment, dissolution of marriage or legal separation that provides for the
19 distribution of community property, or in any judicial proceeding to amend or
20 enforce such a property distribution, a court in this state may issue a
21 domestic relations order that provides that all or any part of a
22 participant's benefit or refund in the system that would otherwise be payable
23 to that participant shall instead be paid by the system to an alternate
24 payee.

25 B. A domestic relations order is not effective against the system
26 unless the domestic relations order is approved by the system and qualifies
27 as a plan approved domestic relations order. To qualify as a plan approved
28 domestic relations order, a domestic relations order shall comply with any
29 policies or procedures adopted pursuant to subsection K and shall also meet
30 all of the following requirements:

31 1. The domestic relations order shall state the name and the last
32 known mailing address of the participant and the name and last known mailing
33 address of the alternate payee that is covered by the domestic relations
34 order.

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

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

41 4. The domestic relations order shall state that the domestic
42 relations order applies to the system.

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

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

3 7. The domestic relations order shall not require the payment of
4 benefits to an alternate payee if the benefits are required to be paid to
5 another alternate payee under a separate plan approved domestic relations
6 order.

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

10 C. On receipt by the system of a certified copy of a domestic
11 relations order and a written request for a determination that the domestic
12 relations order is a plan approved domestic relations order, the system shall
13 promptly issue a written notice of receipt stating that the domestic
14 relations order and request were received to the participant and alternate
15 payee at the addresses on file, if any.

16 D. The system has a determination period to issue a written
17 determination indicating whether a domestic relations order qualifies as a
18 plan approved domestic relations order. If the participant is receiving
19 benefits during the determination period, and if the system can determine the
20 amount of the benefits that currently would be payable to the alternate payee
21 if the domestic relations order were a plan approved domestic relations
22 order, the system shall hold the segregated funds and shall pay the remaining
23 portion of the benefits to the participant. If the system determines the
24 domestic relations order is a plan approved domestic relations order, the
25 system shall pay the participant and alternate payee pursuant to the plan
26 approved domestic relations order in the month following the month in which
27 the determination was issued, or in the month following the month in which a
28 benefit is payable under the plan approved domestic relations order,
29 whichever is later. If the system determines the domestic relations order
30 fails to qualify as a plan approved domestic relations order, the system
31 shall specify in its determination how the domestic relations order is
32 deficient and how it may be amended to qualify as a plan approved domestic
33 relations order. If the participant is currently receiving benefits, and if
34 the system can determine the amount of segregated funds that would be payable
35 to the alternate payee if the domestic relations order were a plan approved
36 domestic relations order, the system shall hold the segregated funds during
37 the cure period to allow the parties to submit a certified copy of an amended
38 domestic relations order and a written request for a determination that the
39 amended domestic relations order is a plan approved domestic relations order.
40 During the cure period, the system shall pay the participant's portion to the
41 participant. At the end of the cure period, if the issue of whether an
42 amended domestic relations order qualifies as a plan approved domestic
43 relations order remains undetermined or if an amended domestic relations
44 order is determined not to be a plan approved domestic relations order, the
45 system shall pay the segregated funds and the participant's portion to the
46 participant. The participant shall hold the segregated funds in trust for

1 the alternate payee as provided in subsection J. If an amended domestic
2 relations order that is submitted after the expiration of the cure period is
3 determined to be a plan approved domestic relations order, the system shall
4 make payments to an alternate payee under the plan approved domestic
5 relations order only prospectively. A determination by the system that a
6 domestic relations order is not a plan approved domestic relations order does
7 not prohibit a participant or alternate payee from submitting an amended
8 domestic relations order to the system.

9 E. Each participant and alternate payee is responsible for maintaining
10 a current mailing address on file with the system. The system has no duty to
11 attempt to locate any participant or alternate payee. The system has no duty
12 to provide a notice of receipt or determination or pay benefits by means
13 other than mailing the notice or payments to the participant or alternate
14 payee at the last known address that is on file with the system. If the
15 address of an alternate payee is unknown to the system, but benefits are
16 payable to the alternate payee pursuant to a plan approved domestic relations
17 order, the system shall either:

18 1. Hold the alternate payee's portion until such a time as the
19 alternate payee provides the system with a current address. Once the system
20 is notified of the alternate payee's current address, the system shall
21 prospectively pay the alternate payee's portion to the alternate payee.

22 2. Pay the alternate payee's portion to the participant, who shall
23 hold the alternate payee's portion in trust as provided in subsection J,
24 until such a time as the alternate payee is located. At that time the
25 participant shall pay the alternate payee's portion directly to the alternate
26 payee.

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

31 G. If the alternate payee identified in a plan approved domestic
32 relations order predeceases the participant and the plan approved domestic
33 relations order does not otherwise provide for the disposition of the
34 alternate payee's interest the system shall pay the alternate payee's portion
35 to the personal representative of the deceased alternate payee pursuant to
36 this subsection. The personal representative is responsible for maintaining
37 a current mailing address on file with the system. The system has no duty to
38 attempt to locate any personal representative. The system is not responsible
39 for making benefit payments to a personal representative until the personal
40 representative has both:

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

43 2. Provided the system with an address to which the payments should be
44 sent.

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

4 1. Hold the alternate payee's portion until the time a personal
5 representative makes a proper demand for payment of the alternate payee's
6 portion.

7 2. Remit the alternate payee's portion to the participant, who shall
8 hold the amounts in trust for the estate of the alternate payee until the
9 personal representative is identified. At that time the participant shall
10 pay the alternate payee's portion paid by the system to the participant to
11 the personal representative.

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

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

16 J. The system is not liable to the participant, the alternate payee,
17 any personal representative of the estate of an alternate payee or any other
18 person for any amount paid, withheld or disbursed by the system pursuant to
19 this section. If one or more payments are made by the system to a person not
20 otherwise entitled to receive the payments, the recipient of the payment is
21 designated a constructive trustee for the payment received and, together with
22 the marital community, if any, is the sole party against whom an action may
23 be brought to recover the payment.

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

26 Sec. 13. Section 38-884, Arizona Revised Statutes, is amended to read:
27 38-884. Membership of retirement plan; termination; credited
28 service; redemption

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

37 B. The purpose of the medical examination authorized by this section
38 is to identify a member's physical or mental condition or injury that existed
39 or occurred before the member's date of membership in the plan. Any employee
40 who fails or refuses to submit to the medical examination prescribed in this
41 section is deemed to waive all rights to disability benefits under this
42 article. Medical examinations conducted under this article shall not be
43 conducted or used for purposes of hiring, advancement, discharge, job
44 training or other terms, conditions and privileges of employment unrelated to
45 receipt or qualification for pension benefits or service credits from the
46 fund. This subsection does not affect or impair the right of an employer to

1 prescribe medical or physical standards for employees or prospective
2 employees.

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

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

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

15 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
16 member contributions deducted from the member's salary pursuant to section
17 38-891, subsection B.

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

21 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-891, subsection B.

24 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
25 member contributions deducted from the member's salary pursuant to section
26 38-891, subsection B.

27 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
28 member contributions deducted from the member's salary pursuant to section
29 38-891, subsection B.

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

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

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

1 F. If the refund includes monies that are an eligible rollover
2 distribution and the member elects to have the distribution paid directly to
3 an eligible retirement plan or individual retirement account or annuity and
4 specifies the eligible retirement plan or individual retirement account or
5 annuity to which the distribution is to be paid, the distribution shall be
6 made in the form of a direct trustee-to-trustee transfer to the specified
7 eligible retirement plan. The distribution shall be made in the form and at
8 the time prescribed by the board.

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

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

18 I. If a former member becomes reemployed with the same employer within
19 two years after the former member's termination date, a member may have
20 forfeited credited service attributable to service rendered during a prior
21 period of service as an employee restored on satisfaction of each of the
22 following conditions:

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

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

32 3. The required payment is completed within one year after returning
33 to employee status.

34 J. IF A MEMBER WHO RECEIVES A SEVERANCE REFUND ON TERMINATION OF
35 EMPLOYMENT PURSUANT TO SUBSECTION C, D OR E OF THIS SECTION IS SUBSEQUENTLY
36 REEMPLOYED BY AN EMPLOYER, THE MEMBER'S PRIOR SERVICE CREDITS ARE CANCELLED,
37 AND THE BOARD SHALL CREDIT SERVICE ONLY FROM THE DATE THE MEMBER'S MOST
38 RECENT REEMPLOYMENT PERIOD COMMENCED. HOWEVER, a present active member of
39 the plan who received a refund of accumulated contributions from the plan
40 pursuant to subsection C, D or E of this section ~~and~~, forfeited credited
41 service pursuant to subsection H of this section AND BECOMES REEMPLOYED WITH
42 THE SAME EMPLOYER TWO YEARS OR MORE AFTER THE MEMBER'S TERMINATION DATE OR
43 BECOMES REEMPLOYED WITH ANOTHER EMPLOYER may elect to redeem any part of that
44 forfeited credited service by paying into the plan any amounts required
45 pursuant to this subsection. A present active member who elects to redeem
46 any part of forfeited credited service for which the member is deemed

1 eligible by the board shall pay into the plan the amounts previously paid or
2 transferred as a refund of the member's accumulated contributions plus an
3 amount, computed by the plan's actuary that is necessary to equal the
4 increase in the actuarial present value of projected benefits resulting from
5 the redemption calculated using the actuarial methods and assumptions
6 prescribed by the plan's actuary. **ON SATISFACTION OF THIS OBLIGATION, THE**
7 **BOARD SHALL REINSTATE THE MEMBER'S PRIOR SERVICE CREDITS.**

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

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

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

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

21 **38-893. Local boards; powers and duties; rules; hearings;**
22 **administrative review**

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

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

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

44 3. For political subdivisions, the mayor or chief elected official or
45 a designee of the mayor or chief elected official approved by the respective
46 governing body as chairman, two members elected by secret ballot by members

1 employed by the appropriate employer and two citizens, one of whom shall be
2 the head of the merit system if it exists for the group of members, appointed
3 by the mayor or chief elected official and with the approval of the city
4 council or governing body of the employer.

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

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

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

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

35 1. Decide all questions of eligibility and service credits and
36 determine the amount, manner and time of payment of any benefit under the
37 plan.

38 2. Make a determination as to the right of a claimant to a benefit and
39 afford a claimant or the board of trustees, or both, a right to a rehearing
40 on the original determination. ~~—~~ EXCEPT AS OTHERWISE REQUIRED BY LAW,
41 UNLESS ALL PARTIES INVOLVED IN A MATTER PRESENTED TO THE LOCAL BOARD FOR
42 DETERMINATION OTHERWISE AGREE, THE LOCAL BOARD SHALL COMMENCE A HEARING ON
43 THE MATTER WITHIN NINETY DAYS AFTER THE DATE THE MATTER IS PRESENTED TO THE
44 LOCAL BOARD FOR DETERMINATION. IF A LOCAL BOARD FAILS TO COMMENCE A HEARING
45 AS PROVIDED IN THIS PARAGRAPH, ON A MATTER PRESENTED TO THE LOCAL BOARD FOR
46 DETERMINATION, THE RELIEF DEMANDED BY THE PARTY PETITIONING THE LOCAL BOARD

1 IS DEEMED GRANTED AND APPROVED BY THE LOCAL BOARD. THE GRANTING AND APPROVAL
2 OF THIS RELIEF IS CONSIDERED FINAL AND BINDING UNLESS A TIMELY REQUEST FOR
3 REHEARING OR APPEAL IS MADE AS PROVIDED IN THIS ARTICLE, unless the board of
4 trustees determines that granting the relief requested would violate the
5 internal revenue code or threaten to impair the plan's status as a qualified
6 plan under the internal revenue code. If the board of trustees determines
7 that granting the requested relief would violate the internal revenue code or
8 threaten to impair the plan's status as a qualified plan, the board of
9 trustees may refuse to grant the relief by issuing a written determination to
10 the local board and the party petitioning the local board for relief. The
11 decision by the board of trustees is subject to judicial review pursuant to
12 title 12, chapter 7, article 6.

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

16 4. Distribute, in the manner the local board determines to be
17 appropriate, information explaining the plan that is received from the board
18 of trustees.

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

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

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

30 8. Prescribe procedures to be followed by claimants in filing
31 applications for benefits.

32 9. Receive and review the actuarial valuation of the plan for its
33 group of members.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 38-895.02. Payment of pension

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

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

31 38-904. Death benefits; amount

32 A. If an active or inactive member dies and no pension is payable on
33 account of the member's death, an amount equal to two times the member's
34 accumulated contributions to the retirement plan is payable to the person
35 designated by the deceased member in writing and filed with the board. If
36 the designated person or persons do not survive the deceased member OR IF THE
37 DESIGNATED PERSON DOES NOT CLAIM THE BENEFIT, the payment is payable, AT THE
38 ELECTION OF THE LOCAL BOARD, TO THE DESIGNATED PERSON'S NEAREST OF KIN AS
39 DETERMINED BY THE LOCAL BOARD OR to the estate of the deceased member. THE
40 BENEFICIARY OR PERSON WHO IS CLAIMING TO BE THE NEAREST OF KIN SHALL FILE A
41 WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND. For the purposes of this
42 subsection, "inactive member" means a person who previously made
43 contributions to the plan, who has not retired, who is not currently making
44 contributions to the plan and who has not withdrawn contributions from the
45 plan.

1 B. If the deceased retired or active member does not have an eligible
2 surviving spouse or the pension of the eligible surviving spouse is
3 terminated, each eligible child is entitled to a child's pension. A child's
4 pension terminates if the child is adopted. In the case of a disabled child,
5 the child's pension terminates if the child ceases to be under a disability
6 or ceases to be a dependent of the surviving spouse or guardian. The amount
7 of the pension of each eligible child is an equal share of the amount of the
8 surviving spouse's pension. The board shall pay the surviving minor or
9 disabled child's pension to the person who is the legally appointed guardian
10 or custodian of the eligible child.

11 Sec. 17. Section 38-909, Arizona Revised Statutes, is amended to read:
12 38-909. Redemption of prior service; calculation

13 A. Each present active member of the plan who has at least ten years
14 of credited service with the plan who had previous service in this state as
15 an employee with an employer now covered by the plan or who had previous
16 service with an agency of the United States government, a state of the United
17 States or a political subdivision of THIS STATE OR a state of the United
18 States as a full-time paid corrections officer or full-time paid certified
19 peace officer may elect to redeem up to sixty months of any part of the prior
20 service by paying into the plan any amounts required under subsection B if
21 the prior service is not on account with any other retirement system.

22 B. Any present active member who elects to redeem any part of the
23 prior service OR EMPLOYMENT for which the employee is deemed eligible by the
24 board under this section shall pay into the plan the amounts previously
25 withdrawn by the member, if any, as a refund of the member's accumulated
26 contributions plus accumulated interest as determined by the board and the
27 additional amount, if any, computed by the plan's actuary that is necessary
28 to equal the increase in the actuarial present value of projected benefits
29 resulting from the redemption calculated using the actuarial methods and
30 assumptions prescribed by the plan's actuary.

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

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

44 Sec. 18. Section 38-910, Arizona Revised Statutes, is amended to read:
45 38-910. Domestic relations orders; procedures; payments

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

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

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

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

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

24 4. The domestic relations order shall state that the domestic
25 relations order applies to the plan.

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

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

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

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

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

44 D. The plan has a determination period to issue a written
45 determination indicating whether a domestic relations order qualifies as a
46 plan approved domestic relations order. If the participant is receiving

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

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

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

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

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

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

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

26 2. Provided the plan with an address to which the payments should be
27 sent.

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

31 1. Hold the alternate payee's portion until the time a personal
32 representative makes a proper demand for payment of the alternate payee's
33 portion.

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

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

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

43 J. The plan is not liable to the participant, the alternate payee, any
44 personal representative of the estate of an alternate payee or any other
45 person for any amount paid, withheld or disbursed by the plan pursuant to
46 this section. If one or more payments are made by the plan to a person not

1 otherwise entitled to receive the payments, the recipient of the payment is
2 designated a constructive trustee for the payment received and, together with
3 the marital community, if any, is the sole party against whom an action may
4 be brought to recover the payment.

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

APPROVED BY THE GOVERNOR MARCH 29, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 29, 2012.