

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2056

Introduced by
Representative Lovas

AN ACT

AMENDING SECTIONS 38-643, 38-842, 38-843, 38-844, 38-846, 38-848, 38-849, 38-853.02, 38-857 AND 38-859, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-643, Arizona Revised Statutes, is amended to
3 read:

4 38-643. Fire fighter and peace officer cancer insurance policy
5 program account

6 A. The fire fighter and peace officer cancer insurance policy program
7 account is established and shall be under the exclusive control of the
8 board. The board shall deposit monies collected pursuant to section 38-642
9 in the account to pay the cost of providing a group cancer insurance policy
10 under the program and the cost of administering the program.

11 B. The board may use up to ten per cent of the monies deposited in the
12 account each year ending July 31 to pay the costs of administering the
13 program, except that board attorney fees and court costs relating to the
14 program shall be paid out of the account and are not subject to this
15 limitation. IF NO MONIES ARE DEPOSITED IN THE ACCOUNT IN A GIVEN YEAR, THE
16 BOARD MAY USE UP TO TEN PER CENT OF THE MONIES DEPOSITED IN THE ACCOUNT IN
17 THE MOST RECENT YEAR IN WHICH THERE WAS A DEPOSIT TO PAY THE COSTS OF
18 ADMINISTERING THE PROGRAM.

19 C. The board shall cause an independent audit of the account to be
20 performed at the end of each fiscal year and shall report the results of the
21 audit to each employer within six months following the end of the fiscal
22 year.

23 D. The employer contributions and securities in the account and
24 investment earnings on monies in the account are exempt from state, county
25 and municipal taxes.

26 E. The program is a welfare benefit plan or trust intended to pay
27 expenses incurred in the treatment of cancer as provided in the policy of
28 insurance secured or established by the board pursuant to section 38-642.
29 The legislature intends that the program's income be excluded as gross income
30 for the purposes of the assessment of federal income tax under section 115 of
31 the internal revenue code and that coverage under the program be excluded as
32 gross income to the employees or retirees under section 106 of the internal
33 revenue code. The board may adopt additional program provisions as are
34 necessary to fulfill its intent that the program's income and premiums are
35 not subject to federal income tax.

36 F. Employers, the board of trustees and any member of a local board do
37 not guarantee the account in any manner against loss or depreciation and are
38 not liable for any act or failure to act made in good faith pursuant to this
39 article, including determinations on program claims.

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

41 38-842. Definitions

42 In this article, unless the context otherwise requires:

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

- 1 classification and that was incurred in the performance of the employee's
2 duty.
- 3 2. "Accumulated contributions" means, for each member, the sum of the
4 amount of the member's aggregate contributions made to the fund and the
5 amount, if any, attributable to the employee's contributions before the
6 member's effective date under another public retirement system, other than
7 the federal social security act, and transferred to the fund minus the
8 benefits paid to or on behalf of the member.
- 9 3. "Actuarial equivalent" means equality in present value of the
10 aggregate amounts expected to be received under two different forms of
11 payment, based on mortality and interest assumptions adopted by the board.
- 12 4. "Alternate payee" means the spouse or former spouse of a
13 participant as designated in a domestic relations order.
- 14 5. "Alternate payee's portion" means benefits that are payable to an
15 alternate payee pursuant to a plan approved domestic relations order.
- 16 6. "Annuitant" means a person who is receiving a benefit pursuant to
17 section 38-846.01.
- 18 7. "Average monthly benefit compensation" means the result obtained by
19 dividing the total compensation paid to an employee during a considered
20 period by the number of months, including fractional months, in which such
21 compensation was received. For an employee who becomes a member of the
22 system before January 1, 2012, the considered period shall be the three
23 consecutive years within the last twenty completed years of credited service
24 that yield the highest average. For an employee who becomes a member of the
25 system on or after January 1, 2012, the considered period is the five
26 consecutive years within the last twenty completed years of credited service
27 that yield the highest average. In the computation under this paragraph, a
28 period of nonpaid or partially paid industrial leave shall be considered
29 based on the compensation the employee would have received in the employee's
30 job classification if the employee was not on industrial leave.
- 31 8. "Board" means the board of trustees of the system, who are the
32 persons appointed to invest and operate the fund.
- 33 9. "Catastrophic disability" means a physical and not a psychological
34 condition that the local board determines prevents the employee from totally
35 and permanently engaging in any gainful employment and that results from a
36 physical injury incurred in the performance of the employee's duty.
- 37 10. "Certified peace officer" means a peace officer certified by the
38 Arizona peace ~~officers~~ OFFICER standards and training board.
- 39 11. "Claimant" means any member or beneficiary who files an application
40 for benefits pursuant to this article.
- 41 12. "Compensation" means, for the purpose of computing retirement
42 benefits, base salary, overtime pay, shift differential pay, military
43 differential wage pay, compensatory time used by an employee in lieu of
44 overtime not otherwise paid by an employer and holiday pay paid to an
45 employee by the employer on a regular monthly, semimonthly or biweekly

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

22 13. "Credited service" means the member's total period of service
23 before the member's effective date of participation, plus those compensated
24 periods of the member's service thereafter for which the member made
25 contributions to the fund.

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

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

34 16. "Determination" means a written document that indicates to a
35 participant and alternate payee whether a domestic relations order qualifies
36 as a plan approved domestic relations order.

37 17. "Determination period" means the ninety-day period in which the
38 system must review a domestic relations order that is submitted by a
39 participant or alternate payee to determine whether the domestic relations
40 order qualifies as a plan approved domestic relations order, calculated from
41 the time the system mails a notice of receipt to the participant and
42 alternate payee.

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

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

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

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

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

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

17 (a) Is under eighteen years of age.

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

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

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

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

26 (b) Municipal fire fighters.

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

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

32 (e) State fire fighters.

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

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

35 (h) Police officers who are certified peace officers and fire fighters
36 of a nonprofit corporation operating a public airport pursuant to sections
37 28-8423 and 28-8424. A police officer shall be designated pursuant to
38 section 28-8426 to aid and supplement state and local law enforcement
39 agencies and a fire fighter's sole duty shall be to perform fire fighting
40 services, including services required by federal regulations.

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

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

1 (k) State attorney general investigators who are certified peace
2 officers.

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

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

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

8 (o) Department of liquor licenses and control investigators who are
9 certified peace officers.

10 (p) Arizona department of agriculture officers who are certified peace
11 officers.

12 (q) Arizona state parks board rangers and managers who are certified
13 peace officers.

14 (r) County park rangers who are certified peace officers.

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

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

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

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

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

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

27 (f) An eligible deferred compensation plan described in section 457(b)
28 of the internal revenue code that is maintained by a state, a political
29 subdivision of a state or any agency or instrumentality of a state or a
30 political subdivision of a state and that agrees to separately account for
31 amounts transferred into the eligible deferred compensation plan from this
32 plan.

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

35 (a) Any distribution that is one of a series of substantially equal
36 periodic payments made not less frequently than annually for the life or life
37 expectancy of the member or the joint lives or joint life expectancies of the
38 member and the member's beneficiary or for a specified period of ten years or
39 more.

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

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

44 27. "Employee" means any person who is employed by a participating
45 employer and who is a member of an eligible group but does not include any

1 persons compensated on a contractual or fee basis. If an eligible group
2 requires certified peace officer status or fire fighter certification and at
3 the option of the local board, employee may include a person who is training
4 to become a certified peace officer or fire fighter.

5 28. "Employers" means:

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

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

14 (c) The state highway patrol covered under the state highway patrol
15 retirement system.

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

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

24 29. "Fund" means the public safety personnel retirement fund, which is
25 the fund established to receive and invest contributions accumulated under
26 the system and from which benefits are paid.

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

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

32 (a) Who is either a paid municipal police officer, a paid fire
33 fighter, a law enforcement officer who is employed by this state including
34 the director thereof, a state fire fighter who is primarily assigned to fire
35 fighting duties, a fire fighter or police officer of a nonprofit corporation
36 operating a public airport pursuant to sections 28-8423 and 28-8424, all
37 ranks designated by the Arizona law enforcement merit system council, a state
38 attorney general investigator who is a certified peace officer, a county
39 attorney investigator who is a certified peace officer, a department of
40 liquor licenses and control investigator who is a certified peace officer, an
41 Arizona department of agriculture officer who is a certified peace officer,
42 an Arizona state parks board ranger or manager who is a certified peace
43 officer, a county park ranger who is a certified peace officer, a person who
44 is a certified peace officer and who is employed by an Indian reservation
45 police agency, a fire fighter who is employed by an Indian reservation fire

1 fighting agency or an employee included in a group designated as eligible
2 employees under a joinder agreement entered into by their employer after July
3 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning
4 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

13 (e) Who, if economic conditions exist, is required to take furlough
14 days or reduce the hours of the employee's normal work week below forty hours
15 but not less than thirty hours per pay cycle, and maintain the employee's
16 active member status within the system as long as the hour change does not
17 extend beyond twelve consecutive months.

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

22 32. "Normal retirement date" means:

23 (a) For an employee who becomes a member of the system before January
24 1, 2012, the first day of the calendar month immediately following the
25 employee's completion of twenty years of service or the employee's
26 sixty-second birthday and the employee's completion of fifteen years of
27 service.

28 (b) For an employee who becomes a member of the system on or after
29 January 1, 2012, the first day of the calendar month immediately following
30 the employee's completion of twenty-five years of service if the employee is
31 at least fifty-two and one-half years of age.

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

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

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

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

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

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

6 ~~39.~~ 39. "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32,
7 CHAPTER 13 OR 17.

8 ~~39.~~ 40. "Plan approved domestic relations order" means a domestic
9 relations order that the system approves as meeting all the requirements for
10 a plan approved domestic relations order as otherwise prescribed in this
11 article.

12 ~~40.~~ 41. "Regularly assigned to hazardous duty" means regularly
13 assigned to duties of the type normally expected of municipal police
14 officers, municipal or state fire fighters, eligible fire district fire
15 fighters, state highway patrol officers, county sheriffs and deputies, fish
16 and game wardens, fire fighters and police officers of a nonprofit
17 corporation operating a public airport pursuant to sections 28-8423 and
18 28-8424, police officers who are appointed by the Arizona board of regents or
19 a community college district governing board, state attorney general
20 investigators who are certified peace officers, county attorney investigators
21 who are certified peace officers, department of liquor licenses and control
22 investigators who are certified peace officers, Arizona department of
23 agriculture officers who are certified peace officers, Arizona state parks
24 board rangers and managers who are certified peace officers, county park
25 rangers who are certified peace officers, police officers who are certified
26 peace officers and who are employed by an Indian reservation police agency or
27 fire fighters who are employed by an Indian reservation fire fighting agency.
28 Those individuals who are assigned solely to support duties such as
29 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
30 personnel, mechanics and dispatchers are not assigned to hazardous duty
31 regardless of their position classification title. Since the normal duties
32 of those jobs described in this paragraph are constantly changing, questions
33 as to whether a person is or was previously regularly assigned to hazardous
34 duty shall be resolved by the local board on a case-by-case basis.
35 Resolutions by local boards are subject to rehearing and appeal.

36 ~~41.~~ 42. "Retirement" or "retired" means termination of employment
37 after a member has fulfilled all requirements for a pension or, for an
38 employee who becomes a member of the system on or after January 1, 2012,
39 attains the age and service requirements for a normal retirement date.
40 Retirement shall be considered as commencing on the first day of the month
41 immediately following a member's last day of employment or authorized leave
42 of absence, if later.

43 ~~42.~~ 43. "Segregated funds" means the amount of benefits that would
44 currently be payable to an alternate payee pursuant to a domestic relations
45 order under review by the system, or a domestic relations order submitted to

1 the system that failed to qualify as a plan approved domestic relations
2 order, if the domestic relations order were determined to be a plan approved
3 domestic relations order.

4 ~~43-~~ 44. "Service" means the last period of continuous employment of an
5 employee by the employers before the employee's retirement, except that if
6 such period includes employment during which the employee would not have
7 qualified as a member had the system then been effective, such as employment
8 as a volunteer fire fighter, then only twenty-five per cent of such
9 noncovered employment shall be considered as service. Any absence that is
10 authorized by an employer shall not be considered as interrupting continuity
11 of employment if the employee returns within the period of authorized
12 absence. Transfers between employers also shall not be considered as
13 interrupting continuity of employment. Any period during which a member is
14 receiving sick leave payments or a temporary disability pension shall be
15 considered as service. Notwithstanding any other provision of this
16 paragraph, any period during which a person was employed as a full-time paid
17 fire fighter for a corporation that contracted with an employer to provide
18 firefighting services on behalf of the employer shall be considered as
19 service if the employer has elected at its option to treat part or all of the
20 period the firefighter worked for the company as service in its applicable
21 joinder agreement. Any reference in this system to the number of years of
22 service of an employee shall be deemed to include fractional portions of a
23 year.

24 ~~44-~~ 45. "State" means the state of Arizona, including any department,
25 office, board, commission, agency or other instrumentality of the state.

26 ~~45-~~ 46. "System" means the public safety personnel retirement system
27 established by this article.

28 ~~46-~~ 47. "Temporary disability" means a physical or mental condition
29 that the local board finds totally and temporarily prevents an employee from
30 performing a reasonable range of duties within the employee's department and
31 that was incurred in the performance of the employee's duty.

32 Sec. 3. Section 38-843, Arizona Revised Statutes, is amended to read:

33 ~~38-843.~~ Contributions

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

1 B. As determined by actuarial valuations reported to the employer and
2 the local board by the board of trustees, each employer shall make level per
3 cent of compensation contributions sufficient under such actuarial valuations
4 to meet both the normal cost plus the actuarially determined amount required
5 to amortize the unfunded accrued liability over, beginning July 1, 2005, a
6 rolling period of at least twenty and not more than thirty years that is
7 established by the board of trustees taking into account the recommendation
8 of the system's actuary, except that, beginning with fiscal year 2006-2007,
9 except as otherwise provided, the employer contribution rate shall not be
10 less than eight per cent of compensation. For any employer whose actual
11 contribution rate is less than eight per cent of compensation for fiscal year
12 2006-2007, that employer's contribution rate is not subject to the eight per
13 cent minimum but, for fiscal year 2006-2007 and each year thereafter, shall
14 be at least five per cent and not more than the employer's actual
15 contribution rate. An employer shall have the option of paying a higher
16 level per cent of compensation thereby reducing its unfunded past service
17 liability. An employer shall also have the option of increasing its
18 contributions in order to reduce the contributions required from its members
19 under subsection C OF THIS SECTION, except that if an employer elects this
20 option the employer shall pay the same higher level percentage contribution
21 for all members of the eligible group. During a period when an employee is
22 on industrial leave and the employee elects to continue contributions during
23 the period of industrial leave, the employer shall make the contributions
24 based on the compensation the employee would have received in the employee's
25 job classification if the employee was in normal employment status. All
26 contributions made by the employers and all state taxes allocated to the fund
27 shall be irrevocable and shall be used to pay benefits under the system or to
28 pay expenses of the system and fund. The minimum employer contribution that
29 is paid and that is in excess of the normal cost plus the actuarially
30 determined amount required to amortize the unfunded accrued liability as
31 calculated pursuant to this subsection shall be used to reduce future
32 employer contribution increases and shall not be used to pay for an increase
33 in benefits that are otherwise payable to members. The board shall
34 separately account for these monies in the fund. Forfeitures arising because
35 of severance of employment before a member becomes eligible for a pension or
36 any other reason shall be applied to reduce the cost of the employer, not to
37 increase the benefits otherwise payable to members. After the close of any
38 fiscal year, if the system's actuary determines that the actuarial valuation
39 of an employer's account contains excess valuation assets other than excess
40 valuation assets that were in the employer's account as of fiscal year
41 2004-2005 and is more than one hundred per cent funded, the board shall
42 account for fifty per cent of the excess valuation assets in a stabilization
43 reserve account. After the close of any fiscal year, if the system's actuary
44 determines that the actuarial valuation of an employer's account has a
45 valuation asset deficiency and an unfunded actuarial accrued liability, the

1 board shall use any valuation assets in the stabilization reserve account for
2 that employer, to the extent available, to limit the decline in that
3 employer's funding ratio to not more than two per cent.

4 C. Each member, throughout the member's period of service from the
5 member's effective date of participation, shall contribute to the fund an
6 amount equal to the amount prescribed in subsection E OF THIS SECTION, except
7 as provided in subsection B OF THIS SECTION. During a period when an
8 employee is on industrial leave and the employee elects to continue
9 contributions during the period of industrial leave, the employee shall make
10 the employee's contribution based on the compensation the employee would have
11 received in the employee's job classification if the employee was in normal
12 employment status. Contributions of members shall be required as a condition
13 of employment and membership in the system and shall be made by payroll
14 deductions. Every employee shall be deemed to consent to such deductions.
15 Payment of an employee's compensation, less such payroll deductions, shall
16 constitute a full and complete discharge and satisfaction of all claims and
17 demands by the employee relating to remuneration for the employee's services
18 rendered during the period covered by the payment, except with respect to the
19 benefits provided under the system. A MEMBER MAY NOT, UNDER ANY
20 CIRCUMSTANCE, BORROW FROM, TAKE A LOAN AGAINST OR REMOVE CONTRIBUTIONS FROM
21 THE MEMBER'S ACCOUNT BEFORE THE TERMINATION OF MEMBERSHIP IN THE PLAN OR THE
22 RECEIPT OF A PENSION.

23 D. Each employer shall transfer to the board the employer and employee
24 contributions provided for in subsections B and C OF THIS SECTION within ten
25 working days after each payroll date. Contributions transferred after that
26 date shall include a penalty of ten per cent per annum, compounded annually,
27 for each day the contributions are late, such penalty to be paid by the
28 employer. Delinquent payments due under this subsection, together with
29 interest charges as provided in this subsection, may be recovered by action
30 in a court of competent jurisdiction against an employer liable for the
31 payments or, at the request of the board, may be deducted from any other
32 monies, including excise revenue taxes, payable to such employer by any
33 department or agency of this state.

34 E. The amount contributed by a member pursuant to subsection C OF THIS
35 SECTION is:

- 36 1. Through June 30, 2011, 7.65 per cent of the member's compensation.
- 37 2. For fiscal year 2011-2012, 8.65 per cent of the member's
38 compensation.
- 39 3. For fiscal year 2012-2013, 9.55 per cent of the member's
40 compensation.
- 41 4. For fiscal year 2013-2014, 10.35 per cent of the member's
42 compensation.
- 43 5. For fiscal year 2014-2015, 11.05 per cent of the member's
44 compensation.

1 catastrophic disability pension. On or before January 31, the board of
2 trustees shall report to the president of the senate and the speaker of the
3 house of representatives the number of catastrophic disability pensions that
4 were approved by the local boards in the preceding calendar year. For the
5 purposes of this subsection, "allowable catastrophic disability pensions"
6 means for calendar year 2004, ten, and for subsequent calendar years the
7 number of allowable catastrophic disability pensions allowed in the prior
8 calendar year minus the number of catastrophic disability pensions approved
9 by the local boards in the prior calendar year plus four.

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

14 1. An injury suffered while engaged in a felonious criminal act or
15 enterprise.

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

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

20 E. Accidental or ordinary disability shall be considered to have
21 ceased and an accidental or ordinary disability pension terminates if the
22 member:

23 1. Has sufficiently recovered, in the opinion of the local board,
24 based on a medical examination by a DESIGNATED physician or A PHYSICIAN
25 WORKING IN A clinic THAT IS appointed by the local board, to be able to
26 engage in a reasonable range of duties within the member's department and the
27 member refuses an offer of employment by an employer in the system.

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

31 F. Sixty months after the award of a catastrophic disability pension,
32 the local board shall reevaluate the member. If the member still qualifies
33 for the catastrophic disability pension, the member is entitled to continue
34 to receive the pension at the reduced amount prescribed in section 38-845,
35 subsection E. A catastrophic disability shall be considered to have ceased
36 and a catastrophic disability pension terminates if the local board
37 determines that the member has sufficiently recovered and is able to engage
38 in gainful employment based on a medical examination by a DESIGNATED
39 physician or a PHYSICIAN WORKING IN A clinic THAT IS appointed by the local
40 board. After the sixty-month review, the catastrophic disability shall be
41 considered to have ceased and a catastrophic disability pension terminates if
42 the local board determines that the member has sufficiently recovered and is
43 able to engage in gainful employment based on a medical examination by a
44 DESIGNATED physician or a PHYSICIAN WORKING IN A clinic THAT IS appointed by
45 the local board, except that the medical examination shall not be required

1 more frequently than once in a calendar year. The medical review after the
2 sixty-month period does not apply after the date the catastrophic disability
3 pensioner would have attained twenty-five years of service assuming the
4 pensioner remained a member of the system. The local board shall also
5 terminate a catastrophic disability pension if the member refuses to undergo
6 any medical examination requested by the local board. A member whose
7 catastrophic disability pension is terminated may apply for and if eligible
8 is entitled to receive an accidental disability pension as provided in this
9 section.

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

13 H. If accidental or ordinary disability ceases before a retired member
14 attains the member's normal retirement date and the member is reemployed by
15 an employer, the MEMBER SHALL BE TREATED AS IF THE MEMBER HAS BEEN ON AN
16 UNCOMPENSATED LEAVE OF ABSENCE DURING THE PERIOD OF THE MEMBER'S DISABILITY
17 RETIREMENT AND SHALL BE A CONTRIBUTING MEMBER OF THE SYSTEM. THE pension
18 payable on the member's subsequent retirement shall be determined as provided
19 in section ~~38-849, subsection E~~ 38-845.

20 I. A member shall be eligible for a temporary disability pension if
21 the member's employment is terminated before the member's normal retirement
22 date by reason of temporary disability. Payment of a temporary disability
23 pension shall commence as of the first day of the month following the date of
24 disability or the expiration of a period during which the member is receiving
25 compensation and sick leave payments, whichever is later. The last payment
26 shall be made as of the first day of the month in which either the death of
27 the member occurs or the local board deems the member is no longer under
28 temporary disability, whichever first occurs, provided that no more than
29 twelve monthly temporary disability payments shall be made in total to the
30 member.

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

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

- 40 1. The calendar year in which the member attains seventy and one-half
41 years of age.
- 42 2. The date the member terminates employment.

1 Sec. 5. Section 38-846, Arizona Revised Statutes, is amended to read:
2 38-846. Death benefits

3 A. The surviving spouse of a deceased retired member shall be paid a
4 surviving spouse's pension if the spouse was married to the member for a
5 period of at least two consecutive years at the time of the member's death.
6 Payment of a surviving spouse's pension shall commence as of the last day of
7 the month following the retired member's date of death. The last payment
8 shall be made as of the last day of the month in which the surviving spouse's
9 death occurs.

10 B. The surviving spouse of a deceased member shall be paid a surviving
11 spouse's pension if the spouse was married to the member on the date of the
12 member's death. Payment of a surviving spouse's pension commences as of the
13 last day of the month following the member's date of death. The last payment
14 shall be made as of the last day of the month in which the surviving spouse's
15 death occurs.

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

19 D. The surviving spouse of a deceased member who was not killed in the
20 line of duty or did not die from injuries suffered in the line of duty is
21 entitled to receive a monthly amount calculated in the same manner as an
22 accidental disability pension is calculated pursuant to section 38-845,
23 subsection B. The surviving spouse of a deceased member who is killed in the
24 line of duty or dies from injuries suffered in the line of duty is entitled
25 to receive a monthly amount equal to the deceased member's average monthly
26 benefit compensation less any amount payable for an eligible child under this
27 section. A member who was eligible for or receiving a temporary disability
28 pension at the time of the member's death is not deemed to be retired for the
29 purposes of this subsection. For the purposes of this subsection, "killed in
30 the line of duty" means the decedent's death was the direct and proximate
31 result of the performance of the decedent's public safety duties and does not
32 include suicide.

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

35 F. If at least one eligible child is surviving at the death of a
36 member or retired member, but no surviving spouse's pension then becomes
37 payable, a guardian's or conservator's pension shall be payable to the person
38 who is serving, or who is deemed by the local board to be serving, as the
39 legally appointed guardian or custodian of the eligible child. If an
40 eligible child of a member or retired member is surviving at the member's or
41 retired member's death, the eligible child is entitled to receive a child's
42 pension payable to the person who is serving or who is deemed by the local
43 board to be serving as the legally appointed guardian or custodian of the
44 eligible child **UNTIL THE ELIGIBLE CHILD REACHES EIGHTEEN YEARS OF AGE, AT**
45 **WHICH TIME THE ELIGIBLE CHILD'S PENSION SHALL BE PAID DIRECTLY TO THE**

1 ELIGIBLE CHILD IF THE PERSON REMAINS ELIGIBLE TO RECEIVE THE PENSION AND IS
2 NOT SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO DISABILITY OR
3 INCAPACITY. THE PENSION OF A DISABLED CHILD WHO IS EIGHTEEN YEARS OF AGE OR
4 OLDER AND WHO IS SUBJECT TO A GUARDIANSHIP OR CONSERVATORSHIP DUE TO
5 DISABILITY OR INCAPACITY SHALL CONTINUE TO BE PAID TO THE GUARDIAN OR
6 CONSERVATOR IF THE CHILD REMAINS ELIGIBLE FOR THE PENSION PAYMENT. A child's
7 pension or a guardian's or conservator's pension terminates if the child is
8 adopted. In the case of a disabled child, the child's pension or the
9 guardian's or conservator's pension terminates if the child ceases to be
10 under a disability or ceases to be a dependent of the surviving spouse or
11 guardian. The member may also direct by designation to the local board that
12 the guardian or conservator pension or child's pension be paid to the trustee
13 of a trust created for the benefit of the eligible child. A guardian's or
14 conservator's pension shall also become payable if at least one eligible
15 child is surviving when a surviving spouse's pension terminates. The
16 guardian or conservator shall file a written application with the system in
17 order to receive the guardian's or conservator's pension and child's pension.

18 G. The board shall pay a guardian's or conservator's pension during
19 the same period in which a pension is payable to at least one eligible child.
20 The guardian, conservator or designated trustee is entitled to receive the
21 same monthly amount as would have been payable to the decedent's surviving
22 spouse had a surviving spouse's pension become payable on the decedent's
23 death.

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

34 I. If a member has accumulated contributions remaining in the system
35 at the date of death of the last beneficiary, a lump sum refund of such
36 accumulated contributions shall be payable to the person whom the member has
37 designated to the local board as the member's refund beneficiary, or if the
38 member's refund beneficiary is not then surviving, to the designated
39 contingent refund beneficiary, or if the designated contingent refund
40 beneficiary is not then surviving or if the surviving designated beneficiary
41 does not apply for the benefit within twelve months from the date of the
42 member's death, at the election of the local board to the person's nearest of
43 kin as determined by the local board or to the estate of the deceased member.
44 The amount of the lump sum refund shall be the remaining accumulated

1 contributions. The beneficiary or person who is claiming to be the nearest
2 of kin shall file a written application in order to receive the refund.

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

7 Sec. 6. Section 38-848, Arizona Revised Statutes, is amended to read:

8 38-848. Board of trustees; powers and duties; independent trust
9 fund; administrator; agents and employees

10 A. The board of trustees shall consist of seven members and shall have
11 the rights, powers and duties that are set forth in this section. The term
12 of office of members shall be five years to expire on the third Monday in
13 January of the appropriate year. Members are eligible to receive
14 compensation in an amount of fifty dollars a day, but not to exceed one
15 thousand dollars in any one fiscal year, and are eligible for reimbursement
16 of expenses pursuant to chapter 4, article 2 of this title. The board
17 consists of the following members appointed by the governor pursuant to
18 section 38-211:

19 1. Two elected members from a local board to represent the employees.

20 2. One member to represent this state as an employer of public safety
21 personnel. This member shall have the qualifications prescribed in
22 subsection T of this section.

23 3. One member to represent the cities as employers of public safety
24 personnel.

25 4. An elected county or state official or a judge of the superior
26 court, court of appeals or supreme court.

27 5. Two public members. These members shall have the qualifications
28 prescribed in subsection T of this section.

29 B. All monies in the fund shall be deposited and held in a public
30 safety personnel retirement system depository. Monies in the fund shall be
31 disbursed from the depository separate and apart from all monies or funds of
32 this state and the agencies, instrumentalities and subdivisions of this
33 state, except that the board may commingle the assets of the fund and the
34 assets of all other plans entrusted to its management in one or more group
35 trusts, subject to the crediting of receipts and earnings and charging of
36 payments to the appropriate employer, system or plan. The monies shall be
37 secured by the depository in which they are deposited and held to the same
38 extent and in the same manner as required by the general depository law of
39 this state. For purposes of making the decision to invest in securities
40 owned by the fund or any plan OR TRUST administered by the board, the fund
41 and assets of the plans AND THE PLANS' TRUSTS are subject to the sole
42 management of the board for the purpose of this article except that, on the
43 board's election to invest in a particular security or make a particular
44 investment, the assets comprising the security or investment may be chosen
45 and managed by third parties approved by the board. The board may invest in

1 portfolios of securities chosen and managed by a third party. The board's
2 decision to invest in securities such as mutual funds, commingled investment
3 funds, exchange traded funds, private equity or venture capital limited
4 partnerships, real estate limited partnerships or limited liability companies
5 and real estate investment trusts whose assets are chosen and managed by
6 third parties does not constitute an improper delegation of the board's
7 investment authority.

8 C. All contributions under this system and other retirement plans that
9 the board administers shall be forwarded to the board and shall be held,
10 invested and reinvested by the board as provided in this article. All
11 property and monies of the fund and other retirement plans that the board
12 administers, including income from investments and from all other sources,
13 shall be retained for the exclusive benefit of members, as provided in the
14 system and other retirement plans that the board administers, and shall be
15 used to pay benefits to members or their beneficiaries or to pay expenses of
16 operation and administration of the system and fund and other retirement
17 plans that the board administers.

18 D. The board shall have the full power in its sole discretion to
19 invest and reinvest, alter and change the monies accumulated under the system
20 and other retirement plans AND TRUSTS that the board administers as provided
21 in this article. In addition to its power to make investments managed by
22 others, the board may delegate the authority the board deems necessary and
23 prudent to investment management pursuant to section 38-848.03, as well as to
24 the administrator, employed by the board pursuant to subsection K, paragraph
25 6 of this section, and any assistant administrators to invest the monies of
26 the system and other retirement plans AND TRUSTS that the board administers
27 if the administrator, investment management and any assistant administrators
28 follow the investment policies that are adopted by the board. The board may
29 commingle securities and monies of the fund, the elected officials'
30 retirement plan, the corrections officer retirement plan and other plans or
31 monies entrusted to its care, subject to the crediting of receipts and
32 earnings and charging of payments to the account of the appropriate employer,
33 system or plan. In making every investment, the board shall exercise the
34 judgment and care under the circumstances then prevailing that persons of
35 ordinary prudence, discretion and intelligence exercise in the management of
36 their own affairs, not in regard to speculation but in regard to the
37 permanent disposition of their funds, considering the probable income from
38 their funds as well as the probable safety of their capital, provided:

39 1. That not more than eighty per cent of the combined assets of the
40 system or other plans that the board manages shall be invested at any given
41 time in corporate stocks, based on cost value of such stocks irrespective of
42 capital appreciation.

43 2. That no more than five per cent of the combined assets of the
44 system or other plans that the board manages shall be invested in corporate
45 stock issued by any one corporation, other than corporate stock issued by

1 corporations chartered by the United States government or corporate stock
2 issued by a bank or insurance company.

3 3. That not more than five per cent of the voting stock of any one
4 corporation shall be owned by the system and other plans that the board
5 administers, except that this limitation does not apply to membership
6 interests in limited liability companies.

7 4. That corporate stocks and exchange traded funds eligible for **DIRECT**
8 purchase shall be restricted to stocks and exchange traded funds that, except
9 for bank stocks, insurance stocks, **STOCKS ACQUIRED FOR COINVESTMENT IN**
10 **CONNECTION WITH THE SYSTEM'S OR THE PLANS' OR TRUSTS' COMMINGLED INVESTMENTS**
11 and ~~membership~~ interests in limited liability companies **AND MUTUAL FUNDS**, are
12 either:

13 (a) Listed or approved on issuance for listing on an exchange
14 registered under the securities exchange act of 1934, as amended (15 United
15 States Code sections 78a through 7811).

16 (b) Designated or approved on notice of issuance for designation on
17 the national market system of a national securities association registered
18 under the securities exchange act of 1934, as amended (15 United States Code
19 sections 78a through 7811).

20 (c) Listed or approved on issuance for listing on an exchange
21 registered under the laws of this state or any other state.

22 (d) Listed or approved on issuance for listing on an exchange of a
23 foreign country with which the United States is maintaining diplomatic
24 relations at the time of purchase, except that no more than twenty per cent
25 of the combined assets of the system and other plans that the board manages
26 shall be invested in foreign securities, based on the cost value of the
27 stocks irrespective of capital appreciation.

28 (e) An exchange traded fund that is recommended by the chief
29 investment officer of the system, that is registered under the investment
30 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
31 that is both traded on a public exchange and based on a publicly recognized
32 index.

33 E. Notwithstanding any other law, the board shall not be required to
34 invest in any type of investment that is dictated or required by any entity
35 of the federal government and that is intended to fund economic development
36 projects, public works or social programs, but may consider such economically
37 targeted investments pursuant to its fiduciary responsibility. The board, on
38 behalf of the system and all other plans or trusts the board administers, may
39 invest in, lend monies to or guarantee the repayment of monies by a limited
40 liability company, limited partnership, joint venture, partnership, limited
41 liability partnership or trust in which the system and plans or trusts have a
42 financial interest, whether the entity is closely held or publicly traded and
43 that, in turn, may be engaged in any lawful activity, including venture
44 capital, private equity, the ownership, development, management, improvement

1 or operation of real property and any improvements or businesses on real
2 property or the lending of monies.

3 F. Conference call meetings of the board that are held for investment
4 purposes only are not subject to chapter 3, article 3.1 of this title, except
5 that the board shall maintain minutes of these conference call meetings and
6 make them available for public inspection within twenty-four hours after the
7 meeting. The board shall review the minutes of each conference call meeting
8 and shall ratify all legal actions taken during each conference call meeting
9 at the next scheduled meeting of the board.

10 G. The board shall not be held liable for the exercise of more than
11 ordinary care and prudence in the selection of investments and performance of
12 its duties under the system and shall not be limited to so-called "legal
13 investments for trustees", but all monies of the system and other plans that
14 the board administers shall be invested subject to all of the conditions,
15 limitations and restrictions imposed by law.

16 H. Except as provided in subsection D of this section, the board may:

17 1. Invest and reinvest the principal and income of all assets that the
18 board manages without distinction between principal and income.

19 2. Sell, exchange, convey, transfer or otherwise dispose of any
20 investments made on behalf of the system or other plans the board administers
21 in the name of the system or plans by private contract or at public auction.

22 3. Also:

23 (a) Vote on any stocks, bonds or other securities.

24 (b) Give general or special proxies or powers of attorney with or
25 without power of substitution.

26 (c) Exercise any conversion privileges, subscription rights or other
27 options and make any payments incidental to the exercise of the conversion
28 privileges, subscription rights or other options.

29 (d) Consent to or otherwise participate in corporate reorganizations
30 or other changes affecting corporate securities, delegate discretionary
31 powers and pay any assessments or charges in connection therewith.

32 (e) Generally exercise any of the powers of an owner with respect to
33 stocks, bonds, securities or other investments held in or owned by the system
34 or other plans whose assets the board administers.

35 4. Make, execute, acknowledge and deliver any other instruments that
36 may be necessary or appropriate to carry out the powers granted in this
37 section.

38 5. Register any investment held by the system or other plans whose
39 assets the board administers in the name of the system or plan or in the name
40 of a nominee or trust.

41 6. At the expense of the system or other plans that the board
42 administers, enter into an agreement with any bank or banks for the
43 safekeeping and handling of securities and other investments coming into the
44 possession of the board. The agreement shall be entered into under terms and
45 conditions that secure the proper safeguarding, inventory, withdrawal and

1 handling of the securities and other investments. No access to and no
2 deposit or withdrawal of the securities from any place of deposit selected by
3 the board shall be permitted or made except as the terms of the agreement may
4 provide.

5 7. Appear before local boards and the courts of this state and
6 political subdivisions of this state through counsel or appointed
7 representative to protect the fund or the assets of other plans that the
8 board administers. The board is not responsible for the actions or omissions
9 of the local boards under this system but may seek review or rehearing of
10 actions or omissions of local boards. The board does not have a duty to
11 review actions of the local boards but may do so in its discretion in order
12 to protect the fund. No limitations period precludes the board or
13 administrator from contesting, or requires the board or administrator to
14 implement or comply with, a local board decision that violates the internal
15 revenue code or that threatens to impair the tax qualified status of the
16 system or any plan administered by the board or administrator.

17 8. Empower the fund administrator to take actions on behalf of the
18 board that are necessary for the protection and administration of the fund or
19 the assets of other plans that the board administers pursuant to the
20 guidelines of the board.

21 9. Do all acts, whether or not expressly authorized, that may be
22 deemed necessary or proper for the protection of the investments held in the
23 fund or owned by other plans or trusts that the board administers.

24 10. Settle threatened or actual litigation against any system or plan
25 that the board administers.

26 I. Investment expenses and operation and administrative expenses of
27 the board shall be accounted for separately and allocated against investment
28 income.

29 J. The board, as soon as possible within a period of six months
30 following the close of any fiscal year, shall transmit to the governor and
31 the legislature a comprehensive annual financial report on the operation of
32 the system and other plans that the board administers containing, among other
33 things:

- 34 1. A balance sheet.
- 35 2. A statement of income and expenditures for the year.
- 36 3. A report on an actuarial valuation of its assets and liabilities.
- 37 4. A list of investments owned.
- 38 5. The total rate of return, yield on cost, and per cent of cost to
39 market value of the fund and the assets of other plans that the board
40 administers.

41 6. Any other statistical and financial data that may be necessary for
42 the proper understanding of the financial condition of the system and other
43 plans that the board administers and the results of their operations. A
44 synopsis of the annual report shall be published for the information of

1 members of the system, the elected officials' retirement plan or the
2 corrections officer retirement plan.

3 K. The board shall:

4 1. Maintain the accounts of the system and other plans that the board
5 administers and issue statements to each employer annually and to each member
6 who may request it.

7 2. Report the results of the actuarial valuations to the local boards
8 and employers.

9 3. Contract on a fee basis with an independent investment counsel to
10 advise the board in the investment management of the fund and assets of other
11 plans that the board administers and with an independent auditing firm to
12 audit the board's accounting.

13 4. Permit the auditor general to make an annual audit and the results
14 shall be transmitted to the governor and the legislature.

15 5. Contract on a fee basis with an actuary who shall make actuarial
16 valuations of the system and other plans that the board administers, be the
17 technical adviser of the board on matters regarding the operation of the
18 funds created by the provisions of the system, the elected officials'
19 retirement plan, the corrections officer retirement plan and the fire fighter
20 and peace officer cancer insurance policy program and perform other duties
21 required in connection therewith. The actuary must be a member of a
22 nationally recognized association or society of actuaries.

23 6. Employ, as administrator, a person, state department or other body
24 to serve at the pleasure of the board.

25 7. Establish procedures and guidelines for contracts with actuaries,
26 auditors, investment counsel and legal counsel and for safeguarding of
27 securities.

28 L. The administrator, under the direction of the board, shall:

29 1. Administer this article.

30 2. Be responsible for the recruitment, hiring and day-to-day
31 management of employees.

32 3. Invest the funds of the system and other plans that the board
33 administers as the board deems necessary and prudent as provided in
34 subsections D and H of this section and subject to the investment policies
35 and fund objectives adopted by the board.

36 4. Establish and maintain an adequate system of accounts and records
37 for the system and other plans that the board administers, which shall be
38 integrated with the accounts, records and procedures of the employers so that
39 the system and other plans that the board administers operates most
40 effectively and at minimum expense and that duplication of records and
41 accounts is avoided.

42 5. In accordance with the board's governance policy and procedures and
43 the budget adopted by the board, hire such employees and services the
44 administrator deems necessary and prescribe their duties, including the

1 hiring of one or more assistant administrators to manage the system's
2 operations, investments and legal affairs.

3 6. Be responsible for income, the collection of the income and the
4 accuracy of all expenditures.

5 7. Recommend to the board annual contracts for the system's actuary,
6 auditor, investment counsel, legal counsel and safeguarding of securities.

7 8. Perform additional duties and powers prescribed by the board and
8 delegated to the administrator.

9 M. The system is an independent trust fund and the board is not
10 subject to title 41, chapter 6. Contracts for goods and services approved by
11 the board are not subject to title 41, chapter 23. As an independent trust
12 fund whose assets are separate and apart from all other funds of this state,
13 the system and the board are not subject to the restrictions prescribed in
14 section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.
15 Loans, guarantees, investment management agreements and investment contracts
16 that are entered into by the board are contracts memorializing obligations or
17 interests in securities that the board has concluded, after thorough due
18 diligence, do not involve investments in Sudan or Iran or otherwise provide
19 support to terrorists or in any way facilitate illegal immigration into the
20 United States. These contracts do not involve the procurement, supply or
21 provision of goods, equipment, labor, materials or services that would
22 require the certifications or warranties required by sections 35-391.06,
23 35-393.06 and 41-4401.

24 N. The board, the administrator, the assistant administrators and all
25 persons employed by them are subject to title 41, chapter 4, article 4. The
26 administrator, assistant administrators and other employees of the board are
27 entitled to receive compensation pursuant to section 38-611.

28 O. In consultation with the director of the department of
29 administration, the board may enter into employment agreements and establish
30 the terms of those agreements with persons holding any of the following
31 system positions:

- 32 1. Administrator.
- 33 2. Deputy or assistant administrator.
- 34 3. Chief investment officer.
- 35 4. Deputy chief investment officer.
- 36 5. Fiduciary or investment counsel.

37 P. The attorney general or an attorney approved by the attorney
38 general and paid by the fund shall be the attorney for the board and shall
39 represent the board in any legal proceeding or forum that the board deems
40 appropriate. The board, administrator, assistant administrators and
41 employees of the board are not personally liable for any acts done in their
42 official capacity in good faith reliance on the written opinions of the
43 board's attorney.

1 Q. At least once in each five-year period after the effective date,
2 the actuary shall make an actuarial investigation into the mortality, service
3 and compensation experience of the members and beneficiaries of the system
4 and other plans that the board administers and shall make a special valuation
5 of the assets and liabilities of the monies of the system and plans. Taking
6 into account the results of the investigation and special valuation, the
7 board shall adopt for the system and other plans that the board administers
8 those mortality, service and other tables deemed necessary.

9 R. On the basis of the tables the board adopts, the actuary shall make
10 a valuation of the assets and liabilities of the funds of the system and
11 other plans that the board administers not less frequently than every year.
12 By November 1 of each year the board shall provide a preliminary report and
13 by December 15 of each year provide a final report to the governor, the
14 speaker of the house of representatives and the president of the senate on
15 the contribution rate for the ensuing fiscal year.

16 S. Neither the board nor any member or employee of the board shall
17 directly or indirectly, for himself or as an agent, in any manner use the
18 monies or deposits of the fund except to make current and necessary payments,
19 nor shall the board or any member or employee become an endorser or surety or
20 in any manner an obligor for monies loaned by or borrowed from the fund or
21 the assets of any other plans that the board administers.

22 T. The members of the board who are appointed pursuant to subsection
23 A, paragraphs 2 and 5 of this section shall have at least ten years'
24 substantial experience as any one or a combination of the following:

- 25 1. A portfolio manager acting in a fiduciary capacity.
- 26 2. A securities analyst.
- 27 3. An employee or principal of a trust institution, investment
28 organization or endowment fund acting either in a management or an investment
29 related capacity.
- 30 4. A chartered financial analyst in good standing as determined by the
31 association for investment management and research.
- 32 5. A professor at the university level teaching economics or
33 investment related subjects.
- 34 6. An economist.
- 35 7. Any other professional engaged in the field of public or private
36 finances.

37 U. Financial or commercial information that is provided to the board,
38 employees of the board and attorneys of the board in connection with
39 investments in which the board has invested or investments the board has
40 considered for investment is confidential, proprietary and not a public
41 record if the information is information that would customarily not be
42 released to the public by the person or entity from whom the information was
43 obtained.

1 Sec. 7. Section 38-849, Arizona Revised Statutes, is amended to read:

2 38-849. Limitations on receiving pension: violation:
3 classification; reemployment after severance:
4 reinstatement of service credits; reemployment of
5 retired or disabled member; definition

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

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

22 C. If a member who received a severance refund on termination of
23 employment pursuant to section 38-846.02 becomes reemployed with the same
24 employer within two years after the former member's termination date, the
25 member may have forfeited credited service attributable to service rendered
26 during a prior period of service as an employee restored on satisfaction of
27 each of the following conditions:

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

31 2. The retirement fund is paid the total amount previously withdrawn
32 pursuant to section 38-846.02 plus compound interest from the date of
33 withdrawal to the date of repayment. Interest shall be computed at the rate
34 of nine per cent for each year compounded each year from the date of
35 withdrawal to the date of repayment. Forfeited credited service shall not be
36 restored until complete payment is received by the fund.

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

39 D. If a member who received a severance refund on termination of
40 employment, as provided in section 38-846.02, is subsequently reemployed by
41 an employer, the member's prior service credits shall be cancelled and
42 service shall be credited only from the date the member's most recent
43 reemployment period commenced. However, a present active member of the
44 system who forfeited credited service, received a severance refund pursuant
45 to section 38-846.02 and becomes reemployed with the same employer two years

1 or more after the member's termination date or becomes reemployed with
2 another employer may elect to redeem any part of that forfeited credited
3 service by paying into the system any amounts required pursuant to this
4 subsection. A present active member who elects to redeem any part of
5 forfeited credited service for which the member is deemed eligible by the
6 board shall pay into the system the amounts previously paid or transferred to
7 the member as a severance refund plus an amount, computed by the system's
8 actuary that is necessary to equal the increase in the actuarial present
9 value of projected benefits resulting from the redemption calculated using
10 the actuarial methods and assumptions prescribed by the system's actuary. On
11 satisfaction of this obligation the member's prior service credits shall be
12 reinstated.

13 E. If a retired member becomes ~~employed~~ REEMPLOYED in any capacity by
14 the employer from which the member retired before one year ~~after the member's~~
15 FROM THE date of retirement, ~~OR IN THE SAME POSITION AT ANY TIME FOLLOWING~~
16 RETIREMENT:

17 1. THE FOLLOWING APPLY:

18 (a) WITHIN TEN DAYS AFTER THE RETIRED MEMBER IS REEMPLOYED, THE LOCAL
19 BOARD SHALL ADVISE THE SYSTEM IN WRITING OF THE RETIRED MEMBER'S
20 REEMPLOYMENT.

21 (b) The system shall not make pension payments to the retired member
22 during the period of reemployment. ~~If a retired member is reemployed by an~~
23 ~~employer, no employee contributions shall be made on the retired member's~~
24 ~~account, nor any service credited, during the period of the reemployment.~~
25 ~~This subsection does not apply to a retired member who is assigned voluntary~~
26 ~~duties acting as a limited authority peace officer for an employer pursuant~~
27 ~~to the Arizona peace officer standards and training board rules, to a retired~~
28 ~~member who subsequently becomes employed by an employer from which the member~~
29 ~~retired after no less than sixty consecutive days from the member's~~
30 ~~retirement date if the retired member is hired as a result of participating~~
31 ~~in an open competitive new hire process for an entry level nonsupervisory~~
32 ~~position or if the retired member is hired as a fire inspector or arson~~
33 ~~investigator. Notwithstanding this subsection, if a retired member~~
34 ~~subsequently becomes employed in the same position by the employer from which~~
35 ~~the member retired, the system shall not make pension payments to the retired~~
36 ~~member during the period of reemployment. On subsequent termination of~~
37 ~~employment by the retired member, the retired member is entitled to receive a~~
38 ~~pension based on the member's service and compensation before the date of the~~
39 ~~member's reemployment. If a member who retired under disability is~~
40 ~~reemployed by an employer as an employee, that member shall be treated as if~~
41 ~~the member had been on an uncompensated leave of absence during the period of~~
42 ~~the member's disability retirement and shall be a contributing member of the~~
43 ~~system. Within ten days after a retired member is reemployed by the employer~~
44 ~~from which the member retired, the employer shall advise the board in writing~~
45 ~~as to whether the retired member has been reemployed in the same position~~

1 ~~from which the member retired. The board shall review all reemployment~~
2 ~~determinations. If the board is not provided the necessary information to~~
3 ~~make a reemployment determination, the board shall suspend pension payments~~
4 ~~until information is received and a determination is made that the~~
5 ~~reemployment meets the requirements of this subsection. For the purposes of~~
6 ~~this subsection, "same position" means the member is in a position where the~~
7 ~~member performs substantially similar duties that were performed and~~
8 ~~exercises substantially similar authority that was exercised by the retired~~
9 ~~member before retirement.~~

10 (c) EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S
11 ACCOUNT, NOR SHALL ANY SERVICE BE CREDITED DURING THE PERIOD OF REEMPLOYMENT.
12 ON 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. THE EMPLOYER
15 SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION 38-843.05.

16 2. PARAGRAPH 1, SUBDIVISIONS (a) AND (b) OF THIS SUBSECTION DO NOT
17 APPLY IF EITHER:

18 (a) THE RETIRED MEMBER BECOMES REEMPLOYED AFTER SIXTY CONSECUTIVE DAYS
19 FROM THE MEMBER'S RETIREMENT DATE AS A RESULT OF PARTICIPATING IN AN OPEN
20 COMPETITIVE NEW HIRE PROCESS FOR AN ENTRY LEVEL, NONSUPERVISORY POSITION,
21 EXCEPT IF THE RETIRED MEMBER IS HIRED FOR THE SAME POSITION.

22 (b) THE RETIRED MEMBER IS HIRED AS A FIRE INSPECTOR OR ARSON
23 INVESTIGATOR.

24 F. IF A RETIRED MEMBER IS ASSIGNED VOLUNTARY DUTIES ACTING AS A
25 LIMITED AUTHORITY PEACE OFFICER, PURSUANT TO THE ARIZONA PEACE OFFICER
26 STANDARDS AND TRAINING BOARD RULES, EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE
27 ON THE RETIRED MEMBER'S ACCOUNT, AND ANY SERVICE SHALL NOT BE CREDITED DURING
28 THE PERIOD OF REEMPLOYMENT. THE EMPLOYER SHALL NOT PAY THE ALTERNATE
29 CONTRIBUTION RATE PURSUANT TO SECTION 38-843.05.

30 G. IF AFTER ONE YEAR FROM THE DATE OF RETIREMENT A RETIRED MEMBER
31 BECOMES REEMPLOYED BY THE EMPLOYER FROM WHICH THE MEMBER RETIRED IN A
32 POSITION OTHER THAN THE SAME POSITION FROM WHICH THE MEMBER RETIRED, EMPLOYEE
33 CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S ACCOUNT, AND ANY
34 SERVICE SHALL NOT BE CREDITED DURING THE PERIOD OF REEMPLOYMENT. THE
35 EMPLOYER SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION
36 38-843.05.

37 H. AT ANY TIME FOLLOWING RETIREMENT, IF THE RETIRED MEMBER BECOMES
38 EMPLOYED BY AN EMPLOYER, OTHER THAN THE EMPLOYER FROM WHICH THE MEMBER
39 RETIRED, IN A POSITION ORDINARILY FILLED BY AN EMPLOYEE OF AN ELIGIBLE GROUP,
40 EMPLOYEE CONTRIBUTIONS SHALL NOT BE MADE ON THE RETIRED MEMBER'S ACCOUNT, AND
41 ANY SERVICE SHALL NOT BE CREDITED DURING THE PERIOD OF REEMPLOYMENT. THE
42 EMPLOYER SHALL PAY THE ALTERNATE CONTRIBUTION RATE PURSUANT TO SECTION
43 38-843.05.

44 I. IF A MEMBER WHO RETIRED UNDER AN ACCIDENTAL OR ORDINARY DISABILITY
45 BECOMES REEMPLOYED AS AN EMPLOYEE OF AN ELIGIBLE GROUP, SECTION 38-844

1 APPLIES AND A DETERMINATION SHALL BE MADE BY THE LOCAL BOARD AS TO WHETHER
2 SUBSECTION E, F, G OR H OF THIS SECTION APPLIES.

3 J. THE LOCAL BOARD SHALL REVIEW ALL REEMPLOYMENT DETERMINATIONS AND
4 VOLUNTARY ASSIGNMENTS AS DESCRIBED IN SUBSECTION F OF THIS SECTION. IF THE
5 LOCAL BOARD OR THE SYSTEM IS NOT PROVIDED THE NECESSARY INFORMATION REQUIRED
6 BY THE SYSTEM TO MAKE A REEMPLOYMENT DETERMINATION, THE LOCAL BOARD AND THE
7 SYSTEM SHALL SUSPEND PENSION PAYMENTS UNTIL INFORMATION IS RECEIVED AND A
8 DETERMINATION IS MADE REGARDING WHETHER THE REEMPLOYMENT MEETS THE
9 REQUIREMENTS OF SUBSECTION E, F, G, H OR I OF THIS SECTION.

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

23 ~~G.~~ L. Notwithstanding any other provision of this article, the board
24 may offset against any benefits otherwise payable by the system to an active
25 or retired member or survivor any court ordered amounts awarded to the board
26 and system and assessed against the member or survivor.

27 M. FOR THE PURPOSES OF THIS SECTION, "SAME POSITION" MEANS A POSITION
28 IN WHICH THE MEMBER PERFORMS SUBSTANTIALLY SIMILAR DUTIES THAT WERE PERFORMED
29 AND EXERCISES SUBSTANTIALLY SIMILAR AUTHORITY THAT WAS EXERCISED BY THE
30 RETIRED MEMBER BEFORE RETIREMENT.

31 Sec. 8. Section 38-853.02, Arizona Revised Statutes, is amended to
32 read:

33 38-853.02. Purchase of service; payment

34 A member who purchases service pursuant to this article or section
35 38-922 OR 38-924 shall make payments directly to the system in whole or in
36 part by any one or a combination of the following methods:

- 37 1. In lump sum payments.
- 38 2. Through an arrangement with the system that the payments be made in
39 installment payments over a period of time.
- 40 3. Subject to the limitations prescribed in sections 401(a)(31) and
41 402(c) of the internal revenue code, accepting a direct transfer of any
42 eligible rollover distribution or a contribution by a member of an eligible
43 rollover distribution from one or more:

44 (a) Retirement programs that are qualified under section 401(a) or
45 403(a) of the internal revenue code.

1 (b) Annuity contracts described in section 403(b) of the internal
2 revenue code.

3 (c) Eligible deferred compensation plans described in section 457(b)
4 of the internal revenue code that are maintained by a state, a political
5 subdivision of a state or any agency or instrumentality of a state or a
6 political subdivision of a state.

7 4. Subject to the limitations prescribed in section 408(d)(3)(A)(ii)
8 of the internal revenue code, accepting from a member a rollover contribution
9 of that portion of a distribution from an individual retirement account or
10 individual retirement annuity described in section 408(a) or 408(b) of the
11 internal revenue code that is eligible to be rolled over and would otherwise
12 be includable as gross income.

13 Sec. 9. Section 38-857, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

44 ~~D. A retired member or survivor of the system may elect to purchase~~
45 ~~individual health care coverage and receive a payment pursuant to this~~

~~section through the retired member's former employer if that former employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the system. This provision does not apply to a retired member or survivor of the system who is reemployed and who participates in health care coverage provided by the member's or survivor's new employer.~~

D. THIS SECTION DOES NOT APPLY TO A RETIRED MEMBER OR SURVIVOR OF THE SYSTEM WHO BECOMES A RETIRED MEMBER OR SURVIVOR ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHO IS REEMPLOYED AND PARTICIPATES IN HEALTH CARE COVERAGE PROVIDED BY THE MEMBER'S OR SURVIVOR'S NEW EMPLOYER.

Sec. 10. Section 38-859, Arizona Revised Statutes, is amended to read:

38-859. Medical boards; purposes; composition; medical examinations

A. The purposes of a medical board are to:

1. Identify a physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D.
2. Evaluate a member's eligibility for an accidental disability pension.
3. Evaluate a member's eligibility for an ordinary disability pension.
4. Evaluate a member's eligibility for a temporary disability pension.
5. Evaluate a member's eligibility for a catastrophic disability pension.
6. For the purposes of section 38-846, determine through appropriate medical evidence the proximate cause of death for members who are killed in the line of duty if the death occurs more than one year after the date of injury.

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

C. A finding of accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a **DESIGNATED** physician or **A PHYSICIAN WORKING IN A** clinic **THAT IS** appointed by the local board pursuant to section 38-847, subsection D, paragraph 9 that established the disability. The local board shall resolve material conflicts in medical evidence. If required, the local board may employ other physicians or clinics to report on special cases. With the approval of the local board, a **DESIGNATED** physician

1 or PHYSICIANS WORKING IN A clinic THAT IS employed by the local board may
2 employ occupational specialists to assist the DESIGNATED physician or
3 PHYSICIANS WORKING IN A clinic in rendering an opinion.

4 D. All employees shall undergo medical examinations before a
5 DESIGNATED physician or A PHYSICIAN WORKING IN A clinic THAT IS appointed by
6 the local board pursuant to and for the reasons prescribed in this article.
7 An employee who fails to comply with this subsection waives all rights to
8 disability benefits under this article.

9 E. The examining physician or clinic shall report the results of
10 examinations to the local board, and the secretary of the local board shall
11 preserve the report as a permanent record. Medical examinations conducted
12 pursuant to this article SHALL BE CONDUCTED BY A PHYSICIAN AND shall not be
13 conducted or utilized for the purposes of hiring, advancement, discharge, job
14 training or other terms, conditions and privileges of employment unrelated to
15 the receipt of or qualification for pension benefits or service credits under
16 the system.

17 F. This section does not affect or impair the right of an employer to
18 prescribe medical or physical standards for employees or prospective
19 employees.