

REFERENCE TITLE: EORP; closure; defined contribution

State of Arizona
House of Representatives
Fifty-first Legislature
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2013

HB 2608

Introduced by

Representatives Lovas, Allen, Boyer, Lesko, Mitchell, Montenegro, Petersen, Pierce J, Robson, Smith, Tobin, Senators Burges, Pierce, Reagan, Worsley, Yarbrough; Representatives Borrelli, Brophy McGee, Fann, Forese, Gray, Kwasman, Livingston, Mesnard, Olson, Shope, Thorpe, Townsend, Ugenti, Senators Barto, Biggs, Crandell, Griffin, McComish, Melvin, Murphy, Shooter, Ward, Yee

AN ACT

AMENDING SECTIONS 38-651.01, 38-714, 38-715, 38-727, 38-782, 38-797, 38-797.07, 38-801, 38-804, 38-810 AND 38-810.04, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 3.1; AMENDING SECTION 38-848, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 38, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES, TO "DEFINED CONTRIBUTION PLANS"; AMENDING SECTION 38-951, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO PUBLIC PENSIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-651.01, Arizona Revised Statutes, is amended to
3 read:

4 38-651.01. Group health and accident coverage for retired
5 public employees and elected officials and their
6 dependents

7 A. The department of administration, by rule, shall adopt standards to
8 establish group health and accident coverage for former employees who worked
9 for the state of Arizona and who opt on retirement to enroll or continue
10 enrollment in the group health and accident coverage for active employees
11 working for the state of Arizona, or disabled, and receiving either income
12 from a retirement program of this state or long-term disability income
13 benefits pursuant to section 38-651.03 or chapter 5, article 2.1 of this
14 title and their dependents and to establish eligibility for retired or
15 disabled state employees to participate in the coverage. The department of
16 administration may adopt rules that provide that if a retired or disabled
17 insured dies before an insured surviving dependent, the insured surviving
18 dependent is entitled to extended coverage at group rates if the insured
19 surviving dependent elects to continue in the coverage within six months of
20 the retired or disabled insured's death and the insured surviving dependent
21 agrees to pay the cost of the premium for group health and accident
22 insurance. On notification of the retired or disabled insured's death, the
23 department of administration shall immediately notify an insured surviving
24 dependent of the provisions of this section. The department of
25 administration may enter into agreements with disabled former state employees
26 and their dependents who elect to obtain the coverage provided by this
27 section. The agreements may include provisions for the payment of amounts
28 sufficient to pay for the premium and administrative expense of providing the
29 coverage. The department of administration may adopt rules that provide that
30 on the death of a state employee who at the time of death was eligible for
31 normal retirement pursuant to section 38-757 under the Arizona state
32 retirement system, the insured surviving spouse and eligible dependent
33 children are entitled to continue coverage under group rates provided that
34 the deceased insured state employee, spouse and dependent children were
35 insured at the time of the employee's death. The insured surviving spouse
36 shall be charged an amount sufficient to pay the full premium for the
37 coverage.

38 B. The department of administration, by rule, may adopt standards to
39 establish group health and accident coverage for former elected officials of
40 this state or its political subdivisions and their dependents and to
41 establish eligibility for former elected officials to participate in the
42 coverage. Qualifications for eligibility shall include that the former
43 elected official has at least five years of credited service in the elected
44 officials' retirement plan pursuant to chapter 5 of this title, had been
45 covered under a group health or group health and accident plan while serving

1 as an elected official and had been serving as an elected official on or
2 after January 1, 1983. The department of administration may adopt rules that
3 provide that on the death of an elected official or insured former elected
4 official, the insured surviving spouse is entitled to coverage at group rates
5 provided that the deceased insured former elected official met or would have
6 met the qualifications for eligibility pursuant to this subsection or that
7 the deceased elected official would have met the qualifications for
8 eligibility had the deceased not been in office at the time of death. Except
9 as provided in subsection J of this section, the insured former elected
10 official or the insured surviving spouse shall be charged amounts that are
11 sufficient to pay for the premium and state administrative expense of
12 providing coverage. Notwithstanding subsection J of this section, the
13 standards shall provide that all or any portion of the former state employees
14 or former elected officials or their dependents shall be grouped with
15 officers and employees of the state and its departments and agencies or their
16 dependents as necessary to obtain health and accident coverage at favorable
17 rates.

18 C. The Arizona state retirement system board may enter into agreements
19 with retired and disabled state employee members of the system and plan **AND**
20 **RETIRED MEMBERS OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT**
21 **SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE** who elect
22 to obtain the coverage provided pursuant to subsection A of this section.
23 The agreements may include provision for the deduction from the retirement
24 benefits of participants of a retirement program of this state who elect to
25 obtain coverage of amounts sufficient to pay for the premium not covered
26 under retirement benefits and state administrative expense of providing
27 coverage.

28 D. Retired state employee or disabled state employee members of the
29 public safety personnel retirement system, the elected officials' retirement
30 plan, **THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM**
31 **ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS TITLE**, the corrections
32 officer retirement plan or the optional retirement programs authorized
33 pursuant to section 15-1628 who opt on retirement to enroll or continue
34 enrollment in the group health and accident coverage for active employees
35 working for the state of Arizona and their dependents and who are receiving
36 benefits from the public safety personnel retirement system, the elected
37 officials' retirement plan, **THE ELECTED OFFICIALS' DEFINED CONTRIBUTION**
38 **RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS**
39 **TITLE**, the corrections officer retirement plan or the optional retirement
40 programs authorized pursuant to section 15-1628 may participate in group
41 health and accident coverage provided pursuant to this section. The
42 department of administration shall adopt rules that are necessary for the
43 implementation of this subsection.

44 E. The board of trustees of the public safety personnel retirement
45 system may enter into agreements with retired state employee members and

1 their dependents who elect to obtain the coverage provided pursuant to this
2 section. The agreements may include provision for the deduction from the
3 retirement benefits of participants of a retirement program of this state who
4 elect to obtain coverage of amounts sufficient to pay for the premium not
5 covered under retirement benefits and state administrative expense of
6 providing coverage.

7 F. The board of trustees of the public safety personnel retirement
8 system may enter into agreements with retired judges and retired elected
9 officials and their dependents who elect to obtain the coverage provided
10 pursuant to this section. The agreements may include provision for the
11 deduction from the retirement benefits of participants of a retirement
12 program of this state who elect to obtain coverage of amounts sufficient to
13 pay for the premium not covered under retirement benefits and state
14 administrative expense of providing coverage.

15 G. The board of trustees of the public safety personnel retirement
16 system may contract with an insurance carrier and adopt standards to
17 establish a group health and accident insurance coverage program for retired
18 members of the public safety personnel retirement system, their dependents
19 and their spouses. Any members or spouses who elect to obtain the group
20 health and accident coverage provided under this subsection shall agree to a
21 deduction from their monthly retirement benefits of an amount sufficient to
22 pay for the premium not covered under retirement benefits and the
23 administrative expense of providing coverage.

24 H. A county board of supervisors may enter into agreements to
25 establish group health and accident coverage for retired or disabled county
26 employees and their dependents who elect to obtain the coverage provided
27 pursuant to section 11-263, subsection B. The agreements may include
28 provision for the deduction from the retirement benefits of participants of a
29 retirement program of this state who elect to obtain the coverage of amounts
30 sufficient to pay for the premium not covered under retirement benefits and
31 the administrative expense of providing for the coverage.

32 I. Nonmedicare eligible retirees who live in this state, who enroll in
33 a qualifying plan under this section and who reside outside the area of a
34 qualifying health maintenance organization shall be offered the option to
35 enroll with a qualified health maintenance organization offered through their
36 provider under the same premiums as if they lived within the area boundaries
37 of the qualified health maintenance organization provided that:

38 1. All medical services are rendered and received at an office
39 designated by the qualifying health maintenance organization or at a facility
40 referred by the health maintenance organization.

41 2. All nonemergency or nonurgent travel, ambulatory and other expenses
42 from the residence area of the retiree to the designated office of the
43 qualifying health maintenance organization or the facility referred by the
44 health maintenance organization are the responsibility of and at the expense
45 of the retiree.

1 3. All emergency or urgent travel, ambulatory and other expenses from
2 the residence area of the retiree to the designated office of the qualifying
3 health maintenance organization or the facility referred by the health
4 maintenance organization shall be paid pursuant to any agreement between the
5 health maintenance organization and the retiree living outside the area of
6 the qualifying health maintenance organization.

7 J. Public funds shall not be expended to pay all or any part of the
8 premium of insurance pursuant to this section except for monies authorized to
9 be paid for any insured from the retirement plan from which the insured is
10 receiving benefits.

11 K. A RETIRED MEMBER OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION
12 RETIREMENT SYSTEM ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 3.1 OF THIS
13 TITLE MAY ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO SUBSECTION A OF
14 THIS SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE SELECTED AND IS NOT
15 ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR 38-817.

16 Sec. 2. Section 38-714, Arizona Revised Statutes, is amended to read:
17 38-714. Powers and duties of ASRS and board

18 A. ASRS shall have the powers and privileges of a corporation, shall
19 have an official seal and shall transact all business in the name "Arizona
20 state retirement system", and in that name may sue and be sued.

21 B. The board is responsible for supervising the administration of this
22 article AND ARTICLE 3.1 OF THIS CHAPTER by the director of ASRS.

23 C. The board is responsible for the performance of fiduciary duties
24 and other responsibilities required to preserve and protect the retirement
25 trust fund established by section 38-712.

26 D. The board shall not advocate for or against legislation providing
27 for benefit modifications, except that the board shall provide technical and
28 administrative information regarding the impact of benefit modification
29 legislation.

30 E. The board may:

31 1. Determine the rights, benefits or obligations of any person under
32 this article and afford any person dissatisfied with a determination a
33 hearing on the determination.

34 2. Determine the amount, manner and time of payment of any benefits
35 under this article.

36 3. Recommend amendments to this article and articles 2.1 and 7 of this
37 chapter that are required for efficient and effective administration.

38 4. Adopt, amend or repeal rules for the administration of the plan,
39 this article and articles 2.1 and 7 of this chapter.

40 F. The board shall submit to the governor and legislature for each
41 fiscal year no later than eight months after the close of the fiscal year a
42 report of its operations and the operations of ASRS. The report shall follow
43 generally accepted accounting principles and generally accepted financial
44 reporting standards and shall include:

- 1 1. A report on an actuarial valuation of ASRS assets and liabilities.
2 2. Any other statistical and financial data that may be necessary for
3 the proper understanding of the financial condition of ASRS and the results
4 of board operations.
5 3. On request of the governor or the legislature, a list of
6 investments owned. This list shall be provided in electronic format.
7 G. The board shall:
8 1. Prepare and publish a synopsis of the annual report for the
9 information of ASRS members.
10 2. Contract for a study of the mortality, disability, service and
11 other experiences of the members and employers participating in ASRS. The
12 study shall be conducted for fiscal year 1990-1991 and for at least every
13 fifth fiscal year thereafter. A report of the study shall be completed
14 within eight months of the close of the applicable fiscal year and shall be
15 submitted to the governor and the legislature.
16 3. Conduct an annual actuarial valuation of ASRS assets and
17 liabilities.
18 H. The auditor general may make an annual audit of ASRS and transmit
19 the results to the governor and the legislature.
20 Sec. 3. Section 38-715, Arizona Revised Statutes, is amended to read:
21 38-715. Director; powers and duties
22 A. The board shall appoint a director. The director shall serve at
23 the pleasure of the board.
24 B. The director shall appoint a deputy director and assistant
25 directors with the approval of the board.
26 C. The director, under the supervision of the board, shall:
27 1. Administer this article AND ARTICLE 3.1 OF THIS CHAPTER.
28 2. Be responsible for the recruitment, hiring and day-to-day
29 management of employees.
30 3. Prescribe procedures to be followed by members and their
31 beneficiaries in filing applications for benefits.
32 4. Prescribe procedures to be followed by employers for remitting data
33 and monies to ASRS and for receiving data and monies from ASRS.
34 5. Be responsible for:
35 (a) Income and the collection of income and the accuracy of all
36 expenditures.
37 (b) Maintaining books and maintaining and processing records of ASRS.
38 (c) Providing continuing education programs for the board to keep the
39 board members informed of current issues and information needed to carry out
40 their duties.
41 6. Perform additional powers and duties as may be prescribed by the
42 board and delegated to the director.
43 D. The director, under the supervision and approval of the board, may:
44 1. Delegate duties and responsibilities to such state departments as
45 the director deems feasible and desirable to administer this article.

1 2. Appoint a custodian for the safekeeping of all investments owned by
2 ASRS and register stocks, bonds and other investments in the name of a
3 nominee.

4 3. Establish one or more reserve holding accounts, into which the
5 board shall close periodically the account balances of inactive accounts. If
6 any person files a claim and furnishes proof of ownership of any amounts in
7 any inactive account the claim shall be paid from the reserve holding account
8 on the same basis as if no action had been taken under this paragraph.
9 Interest and supplemental credits shall be allocated to each reserve holding
10 account on June 30 of each year, as determined by the board. For the
11 purposes of this paragraph, "inactive account" means an account to which
12 contributions have not been paid for six months or more.

13 4. Make retirement under this article effective retroactively to on or
14 after the day following the date employment is terminated if the member was
15 unable to apply before the retroactive effective date through no fault of the
16 member.

17 E. The director, under supervision of the governing committee for tax
18 deferred annuity and deferred compensation plans, may hire and supervise
19 employees and obtain services the director deems necessary to administer
20 article 5 of this chapter. The tax deferred annuity and deferred
21 compensation programs established pursuant to article 5 of this chapter shall
22 bear the costs for these employees and services.

23 F. The director and all persons employed by the director are subject
24 to section 38-611 and title 41, chapter 4, article 4.

25 G. In consultation with the director of the department of
26 administration, the board may enter into employment agreements and establish
27 the terms of those agreements with persons holding any of the following ASRS
28 positions:

- 29 1. Director.
- 30 2. Deputy director.
- 31 3. Chief investment officer.
- 32 4. Fiduciary or investment counsel.

33 Sec. 4. Section 38-727, Arizona Revised Statutes, is amended to read:
34 38-727. Eligibility; options

35 A. The following provisions apply to all employees hired on or after
36 the effective date:

37 1. All employees and officers of this state and all officers and
38 employees of political subdivisions establishing a retirement plan
39 administered by the board pursuant to this article who as a result of state
40 service or service for the political subdivision are included in agreements
41 providing for their coverage under the federal old age and survivors
42 insurance system are subject to this article, except that membership is not
43 mandatory:

44 (a) On the part of any employee who is eligible and who elects to
45 participate in the optional retirement programs established by the Arizona

1 board of regents pursuant to the authority conferred by section 15-1628 or by
2 a community college district board pursuant to authority conferred by section
3 15-1451.

4 (b) For a state elected official who is subject to term limits, WHO IS
5 ELECTED OR APPOINTED BEFORE JULY 1, 2013, who is eligible for participation
6 in ASRS because the state elected official elected not to participate in the
7 elected officials' retirement plan as provided in section 38-804, subsection
8 A and who elects not to participate in ASRS as provided in paragraph 7 of
9 this section.

10 (c) On the part of any employee or officer who is eligible to
11 participate and who participates in the elected officials' retirement plan
12 pursuant to article 3 of this chapter, THE ELECTED OFFICIALS' DEFINED
13 CONTRIBUTION RETIREMENT SYSTEM PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER, the
14 public safety personnel retirement system pursuant to article 4 of this
15 chapter or the corrections officer retirement plan pursuant to article 6 of
16 this chapter.

17 2. All employees and officers of political subdivisions whose
18 compensation is provided wholly or in part from state monies and who are
19 declared to be state employees and officers by the legislature for retirement
20 purposes are subject, on legislative enactment, to this article and are
21 members of ASRS.

22 3. Any member whose service terminates other than by death or
23 withdrawal from membership is deemed to be a member of ASRS until the
24 member's death benefit is paid.

25 4. Employees and officers shall not become members of ASRS and, if
26 they are members immediately before becoming employed as provided by this
27 section, shall have their membership status suspended while they are employed
28 by state departments paying the salaries of their officers and employees
29 wholly or in part from monies received from sources other than appropriations
30 from the state general fund for the period or periods payment of the employer
31 contributions is not made by or on behalf of the departments.

32 5. Notwithstanding other provisions of this section, a temporary
33 employee of the legislature whose projected term of employment is for not
34 more than six months is ineligible for membership in ASRS. If the employment
35 continues beyond six successive months, the employee may elect to either:

36 (a) Receive credit for service for the first six months of employment
37 and establish membership in ASRS as of the beginning of the current term of
38 employment if, within forty-five days after the first six months of
39 employment, both the employer and the employee contribute to ASRS the amount
40 that would have been required to be contributed to ASRS during the first six
41 months of employment as if the employee had been a member of ASRS during
42 those six months.

43 (b) Establish membership in ASRS as of the day following the
44 completion of six months of employment.

1 6. A person who is employed in postgraduate training in an approved
2 medical residency training program of an employer or a postdoctoral scholar
3 who is employed by a university under the jurisdiction of the Arizona board
4 of regents is ineligible for membership in ASRS.

5 7. A state elected official who is subject to term limits, WHO IS
6 ELECTED OR APPOINTED BEFORE JULY 1, 2013 and who is eligible for
7 participation in ASRS because the state elected official elected not to
8 participate in the elected officials' retirement plan as provided in section
9 38-804, subsection A may elect not to participate in ASRS. The election not
10 to participate is specific for that term of office. The state elected
11 official who is subject to term limits shall make the election in writing and
12 file the election with ASRS within thirty days after the elected official's
13 retirement plan mails the notice to the state elected official of the state
14 elected official's eligibility to participate in ASRS. The election is
15 effective on the first day of the state elected official's eligibility. If a
16 state elected official who is subject to term limits fails to make an
17 election as provided in this paragraph, the state elected official is deemed
18 to have elected to participate in ASRS. The election not to participate in
19 ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS
20 for the state elected official's entire term, except for any benefits accrued
21 by the state elected official in ASRS for periods of participation before
22 being elected to an office subject to term limits or any benefits expressly
23 provided by law.

24 8. Every full-time superior court commissioner who is appointed on or
25 after July 1 of the first fiscal year after the social security
26 administration approves the inclusion of superior court commissioners on this
27 state's section 218 agreement is a member of ASRS and is subject to this
28 article.

29 9. Before July 1, 2015, a person may elect not to participate in ASRS
30 if the person becomes employed by an employer after the person has attained
31 at least sixty-five years of age, is not an active member, inactive member,
32 retired member or receiving benefits pursuant to article 2.1 of this chapter
33 and does not have any credited service or prior service in ASRS. The
34 employee shall make the election not to participate in writing and file the
35 election with ASRS within thirty days of employment. The election not to
36 participate is irrevocable for the remainder of the person's employment for
37 which the person made the election and constitutes a waiver of all benefits
38 provided by the Arizona state retirement system. The period the person works
39 is not eligible for purchase under section 38-743 or 38-744.

40 Sec. 5. Section 38-782, Arizona Revised Statutes, is amended to read:
41 38-782. Group health and accident coverage for retired public
42 employees and elected officials and their dependents

43 A. The board shall establish group health and accident coverage for
44 eligible retired and disabled members and their dependents. Eligible retired
45 and disabled members are those members who are receiving retirement benefits

1 from ASRS or long-term disability benefits pursuant to section 38-651.03 or
2 article 2.1 of this chapter and who elect not to obtain health and accident
3 insurance through their former employer. If an insured retired or disabled
4 member dies before the insured member's dependent beneficiary or an insured
5 surviving dependent, the dependent beneficiary or insured surviving dependent
6 is entitled to coverage at group rates if the dependent beneficiary or
7 surviving dependent elects to continue in the coverage within six months of
8 the insured member's death and the dependent beneficiary or surviving
9 dependent agrees to pay the cost of the premium for group health and accident
10 insurance. On notification of the insured member's death, the board shall
11 immediately notify a dependent beneficiary or an insured surviving dependent
12 of the provisions of this section.

13 B. Retired members of the public safety personnel retirement system,
14 the elected officials' retirement plan, **THE ELECTED OFFICIALS' DEFINED**
15 **CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS**
16 **CHAPTER**, the corrections officer retirement plan or the optional retirement
17 programs authorized pursuant to sections 15-1451 and 15-1628 and their
18 dependents who are receiving benefits from the public safety personnel
19 retirement system, the elected officials' retirement plan, **THE ELECTED**
20 **OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO**
21 **ARTICLE 3.1 OF THIS CHAPTER**, the corrections officer retirement plan or the
22 optional retirement programs authorized pursuant to sections 15-1451 and
23 15-1628 and who are not covered by section 38-651.01 may participate in group
24 health and accident coverage provided pursuant to this section. On the death
25 of an insured member of the public safety personnel retirement system, the
26 elected officials' retirement plan, **THE ELECTED OFFICIALS' DEFINED**
27 **CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS**
28 **CHAPTER**, the corrections officer retirement plan or the optional retirement
29 programs authorized pursuant to sections 15-1451 and 15-1628, the insured
30 surviving dependent is entitled to coverage at group rates. Except as
31 provided in subsection H of this section, the surviving dependent shall be
32 charged amounts that are sufficient to pay for the premium and administrative
33 expense of providing the coverage.

34 C. The board may enter into agreements with retired and disabled
35 members of ASRS **AND RETIRED MEMBERS OF THE ELECTED OFFICIALS' DEFINED**
36 **CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS**
37 **CHAPTER** who elect to obtain the coverage provided pursuant to subsection A of
38 this section. Those agreements may include provisions for the deduction from
39 the retirement benefits of the members who elect to obtain the coverage of
40 amounts sufficient to pay for the premium not covered under retirement
41 benefits and the administrative expense of providing the coverage.

42 D. The board of trustees of the public safety personnel retirement
43 system may enter into agreements with retired members of the public safety
44 personnel retirement system, the elected officials' retirement plan, the
45 corrections officer retirement plan and their dependents who elect to obtain

1 the coverage provided pursuant to this section. Those agreements may include
2 provisions for the deduction from the retirement benefits of the members who
3 elect to obtain the coverage of amounts sufficient to pay for the premium not
4 covered under their retirement benefits and the administrative expense of
5 providing the coverage.

6 E. The board may enter into agreements with retired members of the
7 optional retirement programs authorized pursuant to sections 15-1451 and
8 15-1628 and their dependents who elect to obtain the coverage provided
9 pursuant to this section. Those agreements may include provisions for the
10 payment of amounts sufficient to pay for the premium and administrative
11 expense of providing the coverage.

12 F. If an insured member receiving long-term disability benefits
13 pursuant to article 2.1 of this chapter becomes ineligible for the long-term
14 disability benefits, the member and the covered dependents of the member may
15 continue to participate in the group health and accident coverage provided
16 pursuant to this section subject to the following conditions:

17 1. Participation in the coverage is limited to twelve months from the
18 date the member ceases eligibility for benefits under article 2.1 of this
19 chapter or the member commences employment, whichever occurs first.

20 2. The member shall pay the full premium cost of the coverage
21 selected, and the member is not eligible for benefits pursuant to section
22 38-783.

23 3. If a member who participates in the coverage dies during the twelve
24 month period provided by this subsection, covered dependents of the member
25 may continue coverage after the death of the member through the end of the
26 twelve month period. Covered dependents of the member who continue coverage
27 pursuant to this paragraph shall pay the full premium cost of the coverage
28 selected and are not eligible for benefits pursuant to section 38-783.

29 G. Retired or disabled members who are not eligible for medicare, who
30 live in this state, who enroll in a qualifying health maintenance
31 organization under this section and who reside outside the area of a
32 qualifying health maintenance organization shall be offered the option of
33 enrolling with a qualified health maintenance organization offered through
34 their provider under the same premiums as if they lived within the area
35 boundaries of the qualified health maintenance organization provided that:

36 1. All medical services are rendered and received at an office
37 designated by the qualifying health maintenance organization or at a facility
38 referred by the health maintenance organization.

39 2. All nonemergency or nonurgent travel, ambulatory and other expenses
40 from the residence area of the member to the designated office of the
41 qualifying health maintenance organization or the facility referred by the
42 health maintenance organization are the responsibility of and at the expense
43 of the member.

44 3. All emergency or urgent travel, ambulatory and other expenses from
45 the residence area of the member to the designated office of the qualifying

1 health maintenance organization or the facility referred by the health
2 maintenance organization shall be paid pursuant to any agreement between the
3 health maintenance organization and the member living outside the area of the
4 qualifying health maintenance organization.

5 H. Public monies shall not be spent to pay all or any part of the
6 insurance premium pursuant to this section except for monies authorized to be
7 paid for any insured from the retirement plan from which the insured is
8 receiving benefits.

9 I. A RETIRED MEMBER OF THE ELECTED OFFICIALS' DEFINED CONTRIBUTION
10 RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER MAY
11 ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO SUBSECTION A OF THIS
12 SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE SELECTED AND IS NOT
13 ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR 38-817.

14 Sec. 6. Section 38-797, Arizona Revised Statutes, is amended to read:
15 38-797. Definitions

16 In this article, unless the context otherwise requires:

17 1. "ASRS" means the Arizona state retirement system established by
18 article 2 of this chapter.

19 2. "Assets" means the accumulated resources of the LTD program.

20 3. "Board" means the ASRS board established pursuant to section
21 38-713.

22 4. "Compensation" has the same meaning prescribed in section 38-711.

23 5. "Depository" means a bank in which the monies of the LTD program
24 are deposited and collateralized as provided by law.

25 6. "Employer" has the same meaning prescribed in section 38-711.

26 7. "Employer contributions" means all amounts paid into the LTD
27 program by an employer.

28 8. "Fiscal year" has the same meaning prescribed in section 38-711.

29 9. "LTD program" means the long-term disability program established by
30 this article.

31 10. "Member":

32 (a) Has the same meaning prescribed in section 38-711.

33 (b) INCLUDES A MEMBER PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER.

34 11. "Monthly compensation" means one-twelfth of a member's annual
35 compensation paid and payable in the fiscal year during which a member
36 becomes disabled.

37 12. "Normal retirement date":

38 (a) Has the same meaning prescribed in section 38-711 FOR MEMBERS
39 ELIGIBLE PURSUANT TO ARTICLE 2 OF THIS CHAPTER.

40 (b) MEANS SIXTY-FIVE YEARS OF AGE FOR MEMBERS ELIGIBLE PURSUANT TO
41 ARTICLE 3.1 OF THIS CHAPTER.

42 13. "Political subdivision" has the same meaning prescribed in section
43 38-711.

44 14. "State" has the same meaning prescribed in section 38-711.

1 Sec. 7. Section 38-797.07, Arizona Revised Statutes, is amended to
2 read:

3 38-797.07. LTD program benefits; limitations; definitions

4 A. The LTD program is subject to the following limitations:

5 1. Except as provided in paragraph 9 of this subsection, monthly LTD
6 program benefits shall not exceed two-thirds of a member's monthly
7 compensation at the time disability commences, reduced by:

8 (a) For a member whose disability commences before July 1, 2008,
9 sixty-four per cent of social security disability benefits that the member
10 and the member's dependents are eligible to receive.

11 (b) For a member whose disability commences on or after July 1, 2008,
12 eighty-five per cent of social security disability benefits that the member
13 and the member's dependents are eligible to receive, but not including:

14 (i) The amount of attorney fees approved pursuant to social security
15 administration rules and reasonable documented costs paid to an attorney to
16 secure that disability benefit.

17 (ii) Any cost-of-living adjustments that are granted after the member
18 commences benefits under this section.

19 (c) For a member whose disability commences before July 1, 2008,
20 eighty-three per cent of social security retirement benefits that the member
21 is eligible to receive.

22 (d) For a member whose disability commences on or after July 1, 2008,
23 eighty-five per cent of social security retirement benefits that the member
24 is eligible to receive, but not including any cost-of-living adjustments that
25 are granted after the member commences benefits under this section.

26 (e) All of any workers' compensation benefits.

27 (f) All of any payments for a veteran's disability if both of the
28 following apply:

29 (i) The veteran's disability payment is for the same condition or a
30 condition related to the condition currently causing the member's total
31 disability.

32 (ii) The veteran's disability is due to, or a result of, service in
33 the armed forces of the United States.

34 (g) All of any other benefits by reason of employment that are
35 financed partly or wholly by an employer, including payments for sick leave.
36 This subdivision does not include any retirement benefit that is received by
37 the member pursuant to a state retirement system or plan other than ASRS.

38 (h) Fifty per cent of any salary, wages, commissions or other
39 employment related pay that the member receives or is entitled to receive
40 from any gainful employment in which the member actually engages.

41 2. For a member whose disability commences on or after ~~the effective~~
42 ~~date of this amendment to this section~~ AUGUST 2, 2012, a member's monthly
43 income from the monthly LTD program benefits and sources listed in paragraph
44 1 of this subsection shall not exceed one hundred per cent of the member's
45 monthly compensation at the time disability commences. ASRS shall offset the

1 member's monthly LTD program benefits by the amount necessary to reduce the
2 member's total monthly income to meet the limit prescribed in this paragraph.

3 3. Monthly LTD program benefits are not payable until a member has
4 been totally disabled for a period of six consecutive months.

5 4. Monthly LTD program benefits are not payable to a member who files
6 an initial claim for disability more than twelve months after the date of the
7 member's date of disability unless the member demonstrates to ASRS good cause
8 for not filing the initial claim within twelve months after the date of
9 disability.

10 5. Monthly LTD program benefits are not payable to a member who is
11 receiving retirement benefits from ASRS.

12 6. Monthly LTD program benefits are not payable to a member whose
13 disability is due to, or a result of, any of the following:

14 (a) An intentionally self-inflicted injury.

15 (b) War, whether declared or not.

16 (c) An injury incurred while engaged in a felonious criminal act or
17 enterprise.

18 (d) For a member whose most recent membership in the LTD program
19 commences before July 1, 2008, an injury or sickness for which the member
20 received medical treatment within three months before the date of the
21 member's coverage under the LTD program. This subdivision does not apply to
22 a member who either:

23 (i) Has been an active member of an employer for twelve continuous
24 months.

25 (ii) Is employed by an employer before July 1, 1988.

26 (e) For a member whose most recent membership in the LTD program
27 commences on or after July 1, 2008, an injury or sickness for which the
28 member received medical treatment within six months before the date of the
29 member's coverage under the LTD program. This subdivision does not apply to
30 a member who has been an active member of an employer for twelve continuous
31 months.

32 7. Monthly LTD program benefits cease to be payable to a member at the
33 earliest of the following:

34 (a) The date the member ceases to be totally disabled.

35 (b) The date the member:

36 (i) Ceases to be under the direct care of a doctor.

37 (ii) Refuses to undergo any medical examination or refuses to
38 participate in any work rehabilitation program for which the member is
39 reasonably qualified by education, training or experience and that is
40 requested by the insurance company or claims administrator that is selected
41 by the board to administer the LTD program.

42 (c) The date the member withdraws employee contributions with interest
43 and ceases to be a member.

44 (d) The later of the following:

45 (i) The member's normal retirement date.

1 (ii) The month following sixty months of payments if disability occurs
2 before sixty-five years of age.

3 (iii) The month following attainment of seventy years of age if
4 disability occurs at sixty-five years of age or after but before sixty-nine
5 years of age.

6 (iv) The month following twelve months of payments if disability
7 occurs at or after sixty-nine years of age.

8 (e) If the member is convicted of a criminal offense and sentenced to
9 more than six months in a jail, prison or other penal institution, the first
10 day of the month following the first thirty continuous days of the member's
11 confinement for the remainder of the confinement.

12 8. Monthly LTD program benefits are payable only for disabilities that
13 commence on or after July 1, 1988.

14 9. The minimum benefit for a member who is entitled to receive monthly
15 LTD program benefits is fifty dollars per month.

16 10. Members are eligible to receive the LTD program benefits and
17 payments described in paragraph 1 of this subsection, and the reductions
18 provided by paragraph 1 of this subsection apply even though the social
19 security benefits are not actually paid as follows:

20 (a) For primary and dependent social security benefits, the members
21 are eligible for the social security benefits until the social security
22 benefits are actually awarded, or if the social security benefits are denied,
23 until the member pursues the social security appeal process through a hearing
24 before a social security administrative law judge or until the insurance
25 company or claims administrator determines that the member is not eligible
26 for social security benefits.

27 (b) For benefits and payments from any other source provided in
28 paragraph 1 of this subsection, the members are eligible for the benefits if
29 it is reasonable to believe that those benefits will be paid on proper
30 completion of the claim or would have been paid except for the failure of the
31 member to pursue the claim in time.

32 11. A member shall be considered totally disabled if based on objective
33 medical evidence:

34 (a) During the first thirty months of a period of disability, the
35 member is unable to perform all duties of the position held by the member
36 when the member became totally disabled.

37 (b) For a member who has received monthly LTD program benefits for
38 twenty-four months within a five-year period, the member is unable to perform
39 any work for compensation or gain for which the member is reasonably
40 qualified by education, training or experience in an amount at least equal to
41 the scheduled LTD program benefits prescribed in paragraph 1 of this
42 subsection.

43 B. A member WHO IS ELIGIBLE PURSUANT TO ARTICLE 2 OF THIS CHAPTER AND
44 who receives monthly LTD program benefits is entitled to receive service
45 credit pursuant to article 2 of this chapter from the time disability

1 commences until LTD program benefits cease to be payable, except that for a
2 member who receives monthly LTD program benefits on or after June 30, 1999
3 the number of years of service credited to the member's retirement account
4 during the period the member receives LTD program benefit payments shall not
5 cause the member's total credited service for retirement benefits to exceed
6 the greater of thirty years or the total years of service credited to the
7 member's retirement account on the commencement of disability.

8 C. This section does not prohibit a member whose disability has been
9 established to the satisfaction of the board from relying on treatment by
10 prayer through spiritual means in accordance with the tenets and practice of
11 a recognized church, religious denomination or Native American traditional
12 medicine by a duly accredited practitioner of the church, denomination or
13 Native American traditional medicine without suffering reduction or
14 suspension of the member's monthly LTD program benefits.

15 D. ASRS may suspend or terminate benefits under this article if a
16 member fails to provide information, data, paperwork or other materials that
17 are requested by ASRS or the insurance company or claims administrator that
18 is selected by the board to administer the LTD program. If the member
19 provides the information requested, ASRS shall retroactively reinstate the
20 benefits or claim for which the member qualifies under this article.

21 E. For the purposes of this section:

22 1. "Objective medical evidence" means evidence that established facts
23 and conditions, as perceived without distortion by personal feelings,
24 prejudices or interpretations, and includes x-rays, quantitative tests,
25 laboratory findings, data, records, reports from the attending physician and
26 reports from a consulting physician, as applicable.

27 2. "Received medical treatment" means that the member consulted with
28 or received the advice of a licensed medical or dental practitioner,
29 including advice given during a routine examination, and it includes
30 situations in which the member received medical or dental care, treatment or
31 services, including the taking of drugs, medication, insulin or similar
32 substances.

33 3. "Social security" and "social security disability" includes the
34 railroad retirement act of 1974 (P.L. 93-445; 88 Stat. 1305; 45 United States
35 Code sections 231 through 231u).

36 Sec. 8. Section 38-801, Arizona Revised Statutes, is amended to read:

37 38-801. Definitions

38 In this article, unless the context otherwise requires:

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

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

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

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

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

9 (a) For an elected official who becomes a member of the plan before
10 January 1, 2012, the three consecutive years within the last ten completed
11 years of credited service as an elected official that yield the highest
12 average. If a member does not have three consecutive years of credited
13 service as an elected official, the considered period is the member's last
14 consecutive period of employment with a plan employer immediately before
15 retirement.

16 (b) For an elected official who becomes a member of the plan on or
17 after January 1, 2012, the five consecutive years within the last ten
18 completed years of credited service as an elected official that yield the
19 highest average. If a member does not have five consecutive years of
20 credited service as an elected official, the considered period is the
21 member's last consecutive period of employment with a plan employer
22 immediately before retirement.

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

24 7. "Credited service" means the number of whole and fractional years
25 of a member's service as an elected official after the elected official's
26 effective date of participation for which member and employer contributions
27 are on deposit with the fund, plus credited service transferred to the plan
28 from another retirement system or plan for public employees of this state,
29 plus service as an elected official before the elected official's effective
30 date of participation that is being funded pursuant to a joinder agreement
31 pursuant to ~~section 38-810, subsection C and~~ section 38-815 or service that
32 was redeemed pursuant to section 38-816. Credited service does not include
33 periods of service for which an active member is uncompensated by the
34 employer and for which no contributions to the plan are made.

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

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

43 10. "Determination period" means the ninety-day period in which the
44 plan must review a domestic relations order that is submitted by a
45 participant or alternate payee to determine whether the domestic relations

1 order qualifies as a plan approved domestic relations order, calculated from
2 the time the plan mails a notice of receipt to the participant and alternate
3 payee.

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

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

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

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

18 15. "Elected official" means:

19 (a) Every elected official of this state WHO WAS A MEMBER OF THE PLAN
20 ON JUNE 30, 2013.

21 (b) Every elected official of each county of this state WHO WAS A
22 MEMBER OF THE PLAN ON JUNE 30, 2013.

23 (c) Every justice of the supreme court WHO WAS A MEMBER OF THE PLAN ON
24 JUNE 30, 2013.

25 (d) Every judge of the court of appeals WHO WAS A MEMBER OF THE PLAN
26 ON JUNE 30, 2013.

27 (e) Every judge of the superior court WHO WAS A MEMBER OF THE PLAN ON
28 JUNE 30, 2013.

29 (f) Every full-time superior court commissioner who is a member of the
30 plan before July 1 of the first fiscal year after the social security
31 administration approves the inclusion of superior court commissioners on this
32 state's section 218 agreement, except full-time superior court commissioners
33 who failed to make a timely election of membership under the judges'
34 retirement plan, repealed on August 7, 1985.

35 (g) The administrator of the board if the administrator is a natural
36 person but only if the administrator is employed by the board before January
37 1, 2012.

38 (h) Each elected official of an incorporated city or town whose
39 employer has executed a proper joinder agreement for coverage of its elected
40 officials AND WHO WAS A MEMBER OF THE PLAN ON JUNE 30, 2013.

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

43 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 22. "Participant" means a member who is subject to a domestic relations
42 order.

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

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

3 25. "Personal representative" means the personal representative of a
4 deceased alternate payee.

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

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

9 28. "Retired member" means a person who is being paid a pension based
10 on the person's credited service as a member of the plan.

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

17 30. "System" means the public safety personnel retirement system.

18 Sec. 9. Section 38-804, Arizona Revised Statutes, is amended to read:

19 38-804. Membership; termination; definition

20 A. **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION**, all elected officials
21 are members of the plan, except that a state elected official who is subject
22 to term limits may elect not to participate in the plan. The state elected
23 official who is subject to term limits shall make the election in writing and
24 file the election with the board within thirty days after the state elected
25 official assumes office. The election is effective on the first day of the
26 state elected official's eligibility for that term of office. The election
27 not to participate is specific for that term of office. If a state elected
28 official who is subject to term limits fails to make an election as provided
29 in this subsection, the state elected official is deemed to have elected to
30 participate in the plan. The election not to participate in the plan is
31 irrevocable and constitutes a waiver of all benefits provided by the plan for
32 the state elected official's entire term, except for any benefits accrued by
33 the state elected official in the plan for periods of participation before
34 being elected to an office subject to term limits or any benefits expressly
35 provided by law. The state elected official who elects not to participate in
36 the plan shall participate in the Arizona state retirement system unless the
37 state elected official makes an irrevocable election not to participate in
38 the Arizona state retirement system as provided in section 38-727.

39 B. **ALL ELECTED OFFICIALS WHO ARE MEMBERS OF THE PLAN ON JUNE 30, 2013**
40 **MAY REMAIN MEMBERS OF THE PLAN UNDER THE TERMS AND LIMITATIONS OF THIS**
41 **ARTICLE.**

42 ~~B.~~ C. If a member who becomes a member of the plan before January 1,
43 2012 ceases to hold office for any reason other than death or retirement,
44 within twenty days after filing a completed application with the board, the
45 member is entitled to receive the following amounts, less any benefit

1 payments the member has received and any amount the member may owe to the
2 plan:

3 1. If the member has less than five years of credited service with the
4 plan, the member may withdraw the member's accumulated contributions from the
5 plan.

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

9 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
10 member contributions deducted from the member's salary pursuant to section
11 38-810, subsection A.

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

15 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
16 member contributions deducted from the member's salary pursuant to section
17 38-810, subsection A.

18 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
19 member contributions deducted from the member's salary pursuant to section
20 38-810, subsection A.

21 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-810, subsection A.

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

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

34 ~~D.~~ E. If an elected official who becomes a member of the plan on or
35 after January 1, 2012 ceases to hold office for any reason other than death
36 or retirement, within twenty days after filing a completed application with
37 the board, the member may withdraw the member's accumulated contributions
38 from the plan and shall be paid the member's accumulated contributions plus
39 interest at a rate determined by the board as of the date of termination,
40 less any benefit payments the member has received and any amount the member
41 may owe to the plan.

42 ~~E.~~ F. If the amount prescribed in subsection ~~B~~, C, ~~or~~ D OR E of this
43 section includes monies that are an eligible rollover distribution and the
44 member elects to have the distribution paid directly to an eligible
45 retirement plan or individual retirement account or annuity and specifies the

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

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

11 ~~G.~~ H. If an elected official who has terminated the member's
 12 membership in the plan pursuant to subsection ~~B- C~~ of this section is
 13 subsequently elected ~~or otherwise becomes eligible for membership in the plan~~
 14 ~~pursuant to subsection A of this section, credited service only accrues from~~
 15 ~~the date of the member's most recent eligibility as an elected official~~ OR
 16 APPOINTED ON OR AFTER JULY 1, 2013, THE ELECTED OFFICIAL IS NOT ELIGIBLE TO
 17 BECOME A MEMBER OF THE PLAN BUT IS SUBJECT TO ARTICLE 3.1 OF THIS CHAPTER.

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

27 J. AN ELECTED OFFICIAL WHO IS ELECTED OR APPOINTED ON OR AFTER JULY 1,
 28 2013 AND WHO WAS NOT A MEMBER OF THE PLAN ON JUNE 30, 2013 IS NOT ELIGIBLE TO
 29 BECOME A MEMBER OF THE PLAN BUT IS SUBJECT TO ARTICLE 3.1 OF THIS CHAPTER.

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

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

1 Sec. 10. Section 38-810, Arizona Revised Statutes, is amended to read:

2 38-810. Contributions

3 A. Each member shall contribute to the fund an amount equal to the
4 amount prescribed in subsection ~~F~~ G of this section. Contributions of
5 members shall be made by payroll deductions. Every member is deemed to
6 consent to these deductions. Payment of a member's compensation, less these
7 payroll deductions, constitutes a full and complete discharge and
8 satisfaction of all claims and demands by the member relating to remuneration
9 for the member's services rendered during the period covered by the payment,
10 except with respect to the benefits provided under the plan.

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

18 C. BEGINNING ON JULY 1, 2013 THROUGH JUNE 30, 2043, EACH EMPLOYER
19 SHALL MAKE LEVEL PER CENT COMPENSATION CONTRIBUTIONS OF TWENTY-THREE AND
20 ONE-HALF PER CENT OF THE COMPENSATION OF ALL EMPLOYEES OF THE EMPLOYER WHO
21 ARE EITHER MEMBERS UNDER THIS ARTICLE OR ARTICLE 3.1 OF THIS CHAPTER TO MEET
22 THE NORMAL COST PLUS AN AMOUNT TO AMORTIZE THE UNFUNDED ACCRUED LIABILITY AND
23 THE EMPLOYER'S CONTRIBUTION UNDER THE ELECTED OFFICIALS' DEFINED CONTRIBUTION
24 RETIREMENT SYSTEM ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER AND
25 SHALL PAY THE AMOUNT REQUIRED BY SECTION 38-797.05 FOR MEMBERS UNDER ARTICLE
26 3.1 OF THIS CHAPTER. THE MONIES DEPOSITED IN THE FUND PURSUANT TO SUBSECTION
27 B OF THIS SECTION SHALL BE USED TO SUPPLEMENT THE CONTRIBUTIONS REQUIRED OF
28 ALL EMPLOYERS UNDER THE PLAN. THE EMPLOYER CONTRIBUTION THAT IS PAID
29 PURSUANT TO THIS SUBSECTION, LESS THE AMOUNT CONTRIBUTED BY THE EMPLOYER
30 PURSUANT TO SECTION 38-833, SHALL NOT BE USED TO PAY FOR AN INCREASE IN
31 BENEFITS THAT IS OTHERWISE PAYABLE TO MEMBERS BUT SHALL BE USED TO MEET THE
32 NORMAL COST PLUS AN AMOUNT TO AMORTIZE THE UNFUNDED ACCRUED LIABILITY.

33 ~~E.~~ D. BEGINNING JULY 1, 2043, as determined by actuarial valuations
34 performed by the plan's actuary, each employer shall make level per cent
35 compensation contributions sufficient under the actuarial valuation to meet
36 both the normal cost plus the actuarially determined amount required to
37 amortize the unfunded accrued liability over, ~~beginning July 1, 2005,~~ a
38 rolling period of at least twenty and not more than thirty years that is
39 established by the board taking into account the recommendation of the plan's
40 actuary, except that, ~~beginning with fiscal year 2006-2007,~~ the employer
41 contribution rate shall not be less than ten per cent of salary. The monies
42 deposited in the fund pursuant to subsection B of this section shall be used
43 to ~~reduce~~ SUPPLEMENT the contributions required of ~~state and county~~ ALL
44 employers ~~only~~ UNDER THE PLAN. ~~Employers that entered the plan under a~~
45 ~~joinder agreement shall also contribute an amount equal to the unfunded~~

1 ~~accrued liability for that employer. The unfunded liability for each new~~
 2 ~~employer shall be actuarially determined by the plan's actuary as of the~~
 3 ~~effective date of participation of each employer and shall be payable on the~~
 4 ~~effective date of participation.~~ The minimum employer contribution that is
 5 paid and that is in excess of the normal cost plus the actuarially determined
 6 amount required to amortize the unfunded accrued liability as calculated
 7 pursuant to this subsection shall be used to reduce future employer
 8 contribution increases and shall not be used to pay for an increase in
 9 benefits that are otherwise payable to members. The board shall separately
 10 account for these monies in the fund. After the close of any fiscal year, if
 11 the plan's actuary determines that the actuarial valuation of the fund
 12 contains excess valuation assets and is more than one hundred per cent
 13 funded, the board shall account for fifty per cent of the excess valuation
 14 assets in a stabilization reserve account. After the close of any fiscal
 15 year, if the plan's actuary determines that the actuarial valuation of the
 16 fund has a valuation asset deficiency and an unfunded actuarial accrued
 17 liability, the board shall use any valuation assets in the stabilization
 18 reserve account, to the extent available, to limit the decline in the fund's
 19 funding ratio to not more than two per cent.

20 ~~D.~~ E. The department of administration and the treasurer of each
 21 county and participating city and town shall transfer to the board the
 22 contributions provided for in subsections A, ~~and C~~ AND D of this section
 23 within ten working days after each payroll date. The state, county
 24 treasurers and clerks of the superior court shall transfer the monies
 25 credited under subsection B of this section to the board on or before the
 26 fifteenth day of each calendar month that follows the month in which the
 27 court fees were collected. Contributions and monies credited under
 28 subsection B of this section and transferred after these dates shall include
 29 a penalty equal to ten per cent a year, compounded annually, for each day
 30 that the contributions or monies credited under subsection B of this section
 31 are late. Delinquent payments due under this subsection, together with
 32 interest charges as provided in this subsection and court costs, may be
 33 recovered by action in a court of competent jurisdiction against the person
 34 or persons responsible for the payments or, at the request of the board, may
 35 be deducted from any other monies, including excise revenue taxes, payable to
 36 a political subdivision by any department or agency of this state. If
 37 requested by the board, the state, county treasurers or clerks of the
 38 superior court shall transfer the monies credited under subsection B of this
 39 section, in an amount determined by the board, directly to the qualified
 40 governmental excess benefit arrangement established pursuant to section
 41 38-803.01.

42 ~~E.~~ F. The employer shall pay the member contributions required of
 43 members on account of compensation earned after August 7, 1985. The paid
 44 contributions shall be treated as employer contributions for the purpose of
 45 determining tax treatment under the United States internal revenue code. The

1 effective date of the employer payment shall not be before the date the
2 retirement plan has received notification from the United States internal
3 revenue service that pursuant to section 414(h) of the United States internal
4 revenue code the member contributions paid will not be included in gross
5 income for income tax purposes until the paid contributions are distributed
6 by refund or pension payments. The employer shall pay the member
7 contributions from monies established and available in the retirement
8 deduction account, which monies would otherwise have been designated as
9 member contributions and paid to the retirement plan. Member contributions
10 paid pursuant to this subsection shall be treated for all other purposes, in
11 the same manner and to the same extent, as member contributions made before
12 August 7, 1985.

13 ~~F.~~ G. The amount contributed by a member pursuant to subsection A of
14 this section is:

- 15 1. Through June 30, 2011, seven per cent of the member's gross salary.
- 16 2. For fiscal year 2011-2012, ten per cent of the member's gross
17 salary.
- 18 3. For fiscal year 2012-2013, eleven and one-half per cent of the
19 member's gross salary.
- 20 4. For fiscal year 2013-2014 and each fiscal year thereafter, thirteen
21 per cent of the member's gross salary. ~~or 33.3 per cent of the sum of the~~
22 ~~member's contribution rate from the preceding fiscal year and the normal cost~~
23 ~~plus the actuarially determined amount required to amortize the unfunded~~
24 ~~accrued liability for the employer as calculated pursuant to subsection C of~~
25 ~~this section, whichever is lower, except that the member contribution rate~~
26 ~~shall not be less than seven per cent of the member's compensation and the~~
27 ~~employer contribution rate shall not be less than the rate prescribed in~~
28 ~~subsection C of this section.~~

29 ~~G.~~ H. For fiscal year 2011-2012 and each fiscal year thereafter, the
30 amount of the member's contribution that exceeds seven per cent of the
31 member's compensation shall not be used to reduce the employer's
32 contributions that are calculated pursuant to subsection C of this section.

33 Sec. 11. Section 38-810.04, Arizona Revised Statutes, is amended to
34 read:

35 38-810.04. Retired member; return to work; employer
36 contributions

37 A. An employer shall pay contributions at an alternate contribution
38 rate on behalf of a retired member who returns to work in any capacity in a
39 position ordinarily filled by an elected official of the employer. This
40 section applies to a retired member who has been retired for more than one
41 full term for that office.

42 B. The alternate contribution rate shall be equal to that portion of
43 the total required contribution that is applied to the amortization of the
44 unfunded actuarial accrued liability for the fiscal year beginning July 1,
45 based on the plan's actuary's calculation of the total required contribution

1 for the preceding fiscal year ended on June 30. The alternate contribution
2 rate shall be applied to the compensation, gross salary or contract fee of a
3 retired member who meets the requirements of this section.

4 C. The alternate contribution rate shall not be less than ten per cent
5 in any fiscal year.

6 D. All contributions made by the employer and allocated to the fund
7 established by section 38-802 are irrevocable and shall be used as benefits
8 under this article or to pay the expenses of the plan. Payments made
9 pursuant to this section by employers become delinquent after the due date
10 prescribed in SECTION 38-810, subsection ~~D~~ E, and thereafter shall be
11 increased by interest from and after that date until payment is received by
12 the plan.

13 E. An employer of a retired member shall submit any reports, data,
14 paperwork or materials that are requested by the board and that are necessary
15 to determine the compensation, gross salary or contract fee associated with a
16 retired member who returns to work or to determine the function, use,
17 efficacy or operation of the return to work program.

18 Sec. 12. Title 38, chapter 5, Arizona Revised Statutes, is amended by
19 adding article 3.1, to read:

20 ARTICLE 3.1. ELECTED OFFICIALS' DEFINED
21 CONTRIBUTION RETIREMENT SYSTEM

22 38-831. Definitions

23 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

24 1. "ANNUITY ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED FOR EACH
25 MEMBER TO RECORD THE DEPOSIT OF MEMBER CONTRIBUTIONS, EMPLOYER CONTRIBUTIONS
26 AND INTEREST, DIVIDENDS OR OTHER ACCUMULATIONS CREDITED ON BEHALF OF THE
27 MEMBER.

28 2. "ASRS" MEANS THE ARIZONA STATE RETIREMENT SYSTEM.

29 3. "BOARD" MEANS ASRS BOARD ESTABLISHED BY SECTION 38-713.

30 4. "DEFINED CONTRIBUTION SYSTEM" MEANS THE ELECTED OFFICIALS' DEFINED
31 CONTRIBUTION RETIREMENT SYSTEM ESTABLISHED PURSUANT TO THIS ARTICLE.

32 5. "ELECTED OFFICIAL" MEANS:

33 (a) EVERY ELECTED OFFICIAL OF THIS STATE WHO WAS ELECTED OR APPOINTED
34 ON OR AFTER JULY 1, 2013 AND WHO WAS NOT A MEMBER OF THE PLAN ON JUNE 30,
35 2013.

36 (b) EVERY ELECTED OFFICIAL OF EACH COUNTY OF THIS STATE WHO WAS
37 ELECTED OR APPOINTED ON OR AFTER JULY 1, 2013 AND WHO WAS NOT A MEMBER OF THE
38 PLAN ON JUNE 30, 2013.

39 (c) EVERY JUSTICE OF THE SUPREME COURT WHO WAS APPOINTED ON OR AFTER
40 JULY 1, 2013 AND WHO WAS NOT A MEMBER OF THE PLAN ON JUNE 30, 2013.

41 (d) EVERY JUDGE OF THE COURT OF APPEALS WHO WAS APPOINTED ON OR AFTER
42 JULY 1, 2013 AND WHO WAS NOT A MEMBER OF THE PLAN ON JUNE 30, 2013.

43 (e) EVERY JUDGE OF THE SUPERIOR COURT WHO WAS ELECTED OR APPOINTED ON
44 OR AFTER JULY 1, 2013 AND WHO WAS NOT A MEMBER OF THE PLAN ON JUNE 30, 2013.

1 (f) EACH ELECTED OFFICIAL OF AN INCORPORATED CITY OR TOWN WHOSE
2 EMPLOYER HAS EXECUTED A PROPER JOINDER AGREEMENT FOR COVERAGE OF ITS ELECTED
3 OFFICIALS, WHO WAS ELECTED OR APPOINTED ON OR AFTER JULY 1, 2013 AND WHO WAS
4 NOT A MEMBER OF THE PLAN ON JUNE 30, 2013.

5 6. "EMPLOYER" MEANS A DEPARTMENT OR POLITICAL SUBDIVISION OF THIS
6 STATE THAT MAKES EMPLOYER CONTRIBUTIONS TO THE DEFINED CONTRIBUTION SYSTEM ON
7 BEHALF OF A MEMBER.

8 7. "EMPLOYER CONTRIBUTION" MEANS AN AMOUNT DEPOSITED BY AN EMPLOYER,
9 FROM THE EMPLOYER'S OWN MONIES, IN THE MEMBER'S ANNUITY ACCOUNT ON A PERIODIC
10 BASIS COINCIDING WITH THE MEMBER'S REGULAR PAY PERIOD.

11 8. "MEMBER" MEANS AN ELECTED OFFICIAL UNDER THE DEFINED CONTRIBUTION
12 SYSTEM.

13 9. "PLAN" MEANS THE ELECTED OFFICIALS' RETIREMENT PLAN ESTABLISHED IN
14 ARTICLE 3 OF THIS CHAPTER.

15 38-832. Defined contribution system

16 A. THE PURPOSE OF THIS ARTICLE IS TO PROVIDE A DEFINED CONTRIBUTION
17 SYSTEM THAT IS FULLY FUNDED ON A CURRENT BASIS FROM EMPLOYER AND MEMBER
18 CONTRIBUTIONS.

19 B. THE DEFINED CONTRIBUTION SYSTEM FOR MEMBERS UNDER THIS ARTICLE
20 SHALL BE A QUALIFIED GOVERNMENT PLAN UNDER SECTION 401(a) OF THE INTERNAL
21 REVENUE CODE, AS AMENDED, OR SUCCESSOR PROVISIONS OF LAW, AND BE EXEMPT FROM
22 TAXATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE BOARD MAY ADOPT
23 ANY ADDITIONAL PROVISIONS TO THE DEFINED CONTRIBUTION SYSTEM THAT ARE
24 NECESSARY TO FULFILL THIS INTENT.

25 38-833. Member and employer contributions; disability

26 A. BEGINNING JULY 1, 2013, THE DEFINED CONTRIBUTION SYSTEM IS THE
27 RETIREMENT PROGRAM FOR ELECTED OFFICIALS. ELECTED OFFICIALS SHALL BE
28 ENROLLED IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED BY ASRS PURSUANT TO
29 SECTION 38-952.

30 B. EACH ELECTED OFFICIAL WHO IS A MEMBER OF THE DEFINED CONTRIBUTION
31 SYSTEM SHALL CONTRIBUTE EIGHT PER CENT OF THE MEMBER'S GROSS COMPENSATION BY
32 SALARY REDUCTION THAT SHALL BE DEPOSITED IN THE MEMBER'S ANNUITY ACCOUNT.
33 EACH MEMBER SHALL ALSO CONTRIBUTE TO THE LONG-TERM DISABILITY PROGRAM
34 PURSUANT TO ARTICLE 2.1 OF THIS CHAPTER.

35 C. EACH EMPLOYER SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO FIVE PER
36 CENT OF EACH MEMBER'S GROSS COMPENSATION. THE PRO RATA SHARE OF THIS AMOUNT
37 SHALL BE PAID ON EACH DATE THAT A MEMBER CONTRIBUTION IS MADE AND SHALL BE
38 CREDITED TO THE MEMBER'S ANNUITY ACCOUNT. EACH EMPLOYER SHALL ALSO
39 CONTRIBUTE TO THE LONG-TERM DISABILITY PROGRAM PURSUANT TO ARTICLE 2.1 OF
40 THIS CHAPTER.

41 D. MEMBER AND EMPLOYER CONTRIBUTIONS AND EARNINGS ON THOSE
42 CONTRIBUTIONS ARE IMMEDIATELY VESTED. A MEMBER MAY RECEIVE BENEFITS PURSUANT
43 TO ARTICLE 2.1 OF THIS CHAPTER IF THE MEMBER BECOMES TOTALLY DISABLED, BUT IS
44 NOT ELIGIBLE FOR ANY DISABILITY PENSION BENEFITS UNDER SECTION 38-806.

1 Sec. 13. Section 38-848, Arizona Revised Statutes, is amended to read:

2 38-848. Board of trustees; powers and duties; independent trust
3 fund; administrator; agents and employees

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

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

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

17 3. One member to represent the cities as employers of public safety
18 personnel.

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

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

23 B. All monies in the fund shall be deposited and held in a public
24 safety personnel retirement system depository. Monies in the fund shall be
25 disbursed from the depository separate and apart from all monies or funds of
26 this state and the agencies, instrumentalities and subdivisions of this
27 state, except that the board may commingle the assets of the fund and the
28 assets of all other plans entrusted to its management in one or more group
29 trusts, subject to the crediting of receipts and earnings and charging of
30 payments to the appropriate employer, system or plan. The monies shall be
31 secured by the depository in which they are deposited and held to the same
32 extent and in the same manner as required by the general depository law of
33 this state. For purposes of making the decision to invest in securities
34 owned by the fund or any plan administered by the board, the fund and assets
35 of the plans are subject to the sole management of the board for the purpose
36 of this article except that, on the board's election to invest in a
37 particular security or make a particular investment, the assets comprising
38 the security or investment may be chosen and managed by third parties
39 approved by the board. The board may invest in portfolios of securities
40 chosen and managed by a third party. The board's decision to invest in
41 securities such as mutual funds, commingled investment funds, exchange traded
42 funds, private equity or venture capital limited partnerships, real estate
43 limited partnerships or limited liability companies and real estate
44 investment trusts whose assets are chosen and managed by third parties does
45 not constitute an improper delegation of the board's investment authority.

1 C. All contributions under this system and other retirement plans that
2 the board administers shall be forwarded to the board and shall be held,
3 invested and reinvested by the board as provided in this article. All
4 property and monies of the fund and other retirement plans that the board
5 administers, including income from investments and from all other sources,
6 shall be retained for the exclusive benefit of members, as provided in the
7 system and other retirement plans that the board administers, and shall be
8 used to pay benefits to members or their beneficiaries or to pay expenses of
9 operation and administration of the system and fund and other retirement
10 plans that the board administers.

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

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

36 2. That no more than five per cent of the combined assets of the
37 system or other plans that the board manages shall be invested in corporate
38 stock issued by any one corporation, other than corporate stock issued by
39 corporations chartered by the United States government or corporate stock
40 issued by a bank or insurance company.

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

1 4. That corporate stocks and exchange traded funds eligible for
2 purchase shall be restricted to stocks and exchange traded funds that, except
3 for bank stocks, insurance stocks and membership interests in limited
4 liability companies, are either:

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

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

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

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

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

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

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

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

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

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

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

13 3. Also:

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

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

17 (c) Exercise any conversion privileges, subscription rights or other
18 options and make any payments incidental to the exercise of the conversion
19 privileges, subscription rights or other options.

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

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

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

29 5. Register any investment held by the system or other plans whose
30 assets the board administers in the name of the system or plan or in the name
31 of a nominee or trust.

32 6. At the expense of the system or other plans that the board
33 administers, enter into an agreement with any bank or banks for the
34 safekeeping and handling of securities and other investments coming into the
35 possession of the board. The agreement shall be entered into under terms and
36 conditions that secure the proper safeguarding, inventory, withdrawal and
37 handling of the securities and other investments. No access to and no
38 deposit or withdrawal of the securities from any place of deposit selected by
39 the board shall be permitted or made except as the terms of the agreement may
40 provide.

41 7. Appear before local boards and the courts of this state and
42 political subdivisions of this state through counsel or appointed
43 representative to protect the fund or the assets of other plans that the
44 board administers. The board is not responsible for the actions or omissions
45 of the local boards under this system but may seek review or rehearing of

1 actions or omissions of local boards. The board does not have a duty to
2 review actions of the local boards but may do so in its discretion in order
3 to protect the fund. No limitations period precludes the board or
4 administrator from contesting, or requires the board or administrator to
5 implement or comply with, a local board decision that violates the internal
6 revenue code or that threatens to impair the tax qualified status of the
7 system or any plan administered by the board or administrator.

8 8. Empower the fund administrator to take actions on behalf of the
9 board that are necessary for the protection and administration of the fund or
10 the assets of other plans that the board administers pursuant to the
11 guidelines of the board.

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

15 10. Settle threatened or actual litigation against any system or plan
16 that the board administers.

17 I. Investment expenses and operation and administrative expenses of
18 the board shall be accounted for separately and allocated against investment
19 income.

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

25 1. A balance sheet.

26 2. A statement of income and expenditures for the year.

27 3. A report on an actuarial valuation of its assets and liabilities.

28 4. A list of investments owned.

29 5. The total rate of return, yield on cost, and per cent of cost to
30 market value of the fund and the assets of other plans that the board
31 administers.

32 6. Any other statistical and financial data that may be necessary for
33 the proper understanding of the financial condition of the system and other
34 plans that the board administers and the results of their operations. A
35 synopsis of the annual report shall be published for the information of
36 members of the system, the elected officials' retirement plan or the
37 corrections officer retirement plan.

38 7. AN ANALYSIS OF THE LONG-TERM LEVEL PER CENT OF EMPLOYER
39 CONTRIBUTIONS AND COMPENSATION STRUCTURE AND WHETHER THE FUNDING METHODOLOGY
40 IS SUFFICIENT TO PAY ONE HUNDRED PER CENT OF THE UNFUNDED ACCRUED LIABILITY
41 UNDER THE PLAN.

42 K. The board shall:

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

- 1 2. Report the results of the actuarial valuations to the local boards
2 and employers.
- 3 3. Contract on a fee basis with an independent investment counsel to
4 advise the board in the investment management of the fund and assets of other
5 plans that the board administers and with an independent auditing firm to
6 audit the board's accounting.
- 7 4. Permit the auditor general to make an annual audit and the results
8 shall be transmitted to the governor and the legislature.
- 9 5. Contract on a fee basis with an actuary who shall make actuarial
10 valuations of the system and other plans that the board administers, be the
11 technical adviser of the board on matters regarding the operation of the
12 funds created by the provisions of the system, the elected officials'
13 retirement plan, the corrections officer retirement plan and the fire fighter
14 and peace officer cancer insurance policy program and perform other duties
15 required in connection therewith. The actuary must be a member of a
16 nationally recognized association or society of actuaries.
- 17 6. Employ, as administrator, a person, state department or other body
18 to serve at the pleasure of the board.
- 19 7. Establish procedures and guidelines for contracts with actuaries,
20 auditors, investment counsel and legal counsel and for safeguarding of
21 securities.
 - 22 L. The administrator, under the direction of the board, shall:
 - 23 1. Administer this article.
 - 24 2. Be responsible for the recruitment, hiring and day-to-day
25 management of employees.
 - 26 3. Invest the funds of the system and other plans that the board
27 administers as the board deems necessary and prudent as provided in
28 subsections D and H of this section and subject to the investment policies
29 and fund objectives adopted by the board.
 - 30 4. Establish and maintain an adequate system of accounts and records
31 for the system and other plans that the board administers, which shall be
32 integrated with the accounts, records and procedures of the employers so that
33 the system and other plans that the board administers operates most
34 effectively and at minimum expense and that duplication of records and
35 accounts is avoided.
 - 36 5. In accordance with the board's governance policy and procedures and
37 the budget adopted by the board, hire such employees and services the
38 administrator deems necessary and prescribe their duties, including the
39 hiring of one or more assistant administrators to manage the system's
40 operations, investments and legal affairs.
 - 41 6. Be responsible for income, the collection of the income and the
42 accuracy of all expenditures.
 - 43 7. Recommend to the board annual contracts for the system's actuary,
44 auditor, investment counsel, legal counsel and safeguarding of securities.

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

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

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

22 O. In consultation with the director of the department of
23 administration, the board may enter into employment agreements and establish
24 the terms of those agreements with persons holding any of the following
25 system positions:

- 26 1. Administrator.
- 27 2. Deputy or assistant administrator.
- 28 3. Chief investment officer.
- 29 4. Deputy chief investment officer.
- 30 5. Fiduciary or investment counsel.

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

38 Q. At least once in each five-year period after the effective date,
39 the actuary shall make an actuarial investigation into the mortality, service
40 and compensation experience of the members and beneficiaries of the system
41 and other plans that the board administers and shall make a special valuation
42 of the assets and liabilities of the monies of the system and plans. Taking
43 into account the results of the investigation and special valuation, the
44 board shall adopt for the system and other plans that the board administers
45 those mortality, service and other tables deemed necessary.

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

8 S. Neither the board nor any member or employee of the board shall
9 directly or indirectly, for himself or as an agent, in any manner use the
10 monies or deposits of the fund except to make current and necessary payments,
11 nor shall the board or any member or employee become an endorser or surety or
12 in any manner an obligor for monies loaned by or borrowed from the fund or
13 the assets of any other plans that the board administers.

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

17 1. A portfolio manager acting in a fiduciary capacity.

18 2. A securities analyst.

19 3. An employee or principal of a trust institution, investment
20 organization or endowment fund acting either in a management or an investment
21 related capacity.

22 4. A chartered financial analyst in good standing as determined by the
23 association for investment management and research.

24 5. A professor at the university level teaching economics or
25 investment related subjects.

26 6. An economist.

27 7. Any other professional engaged in the field of public or private
28 finances.

29 U. Financial or commercial information that is provided to the board,
30 employees of the board and attorneys of the board in connection with
31 investments in which the board has invested or investments the board has
32 considered for investment is confidential, proprietary and not a public
33 record if the information is information that would customarily not be
34 released to the public by the person or entity from whom the information was
35 obtained.

36 Sec. 14. Heading change

37 The article heading of title 38, chapter 5, article 8, Arizona Revised
38 Statutes, is changed from "SUPPLEMENT DEFINED CONTRIBUTION PLANS" to "DEFINED
39 CONTRIBUTION PLANS".

40 Sec. 15. Section 38-951, Arizona Revised Statutes, is amended to read:

41 38-951. Definitions

42 In this article, unless the context otherwise requires:

43 1. "Board" means the Arizona state retirement system board established
44 by section 38-713 or the board of trustees established by section 38-848.

1 2. "Eligible group" means any of the following:
2 (a) The Arizona state retirement system established by article 2 of
3 this chapter.
4 (b) The elected officials' retirement plan established by article 3 of
5 this chapter.
6 (c) The public safety personnel retirement system established by
7 article 4 of this chapter.
8 (d) The corrections officer retirement plan established by article 6
9 of this chapter.
10 (e) An optional retirement program established pursuant to section
11 15-1451 or 15-1628.
12 3. "Employer" means an agency or department of this state or an agency
13 or department of a political subdivision of this state that has employees in
14 an eligible group.
15 4. "Plan" means a ~~supplemental~~ defined contribution plan authorized by
16 this article.
17 Sec. 16. Appropriations; ASRS; exemption
18 A. The following sums are appropriated from the Arizona state
19 retirement system administration account fund in fiscal year 2013-2014 to the
20 Arizona state retirement system for the implementation of this act:
21 1. 1 FTE position and \$121,400 for personal services.
22 2. \$325,000 for professional services.
23 B. The appropriation made in subsection A, paragraph 2 of this section
24 is exempt from the provisions of section 35-190, Arizona Revised Statutes,
25 relating to lapsing of appropriations.
26 Sec. 17. Emergency
27 This act is an emergency measure that is necessary to preserve the
28 public peace, health or safety and is operative immediately as provided by
29 law.