

REFERENCE TITLE: retirement plans; compensation; definition

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2049

Introduced by
Representative Allen

AN ACT

AMENDING SECTIONS 38-711, 38-842 AND 38-881, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-711, Arizona Revised Statutes, is amended to
3 read:

4 38-711. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Active member" means a member as defined in paragraph 23,
7 subdivision (b) of this section who satisfies the eligibility criteria
8 prescribed in section 38-727 and who is currently making member contributions
9 as prescribed in section 38-736.

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

14 3. "ASRS" means the Arizona state retirement system established by
15 this article.

16 4. "Assets" means the resources of ASRS, including all cash,
17 investments or securities.

18 5. "Average monthly compensation" means:

19 (a) For a member whose membership in ASRS commenced before January 1,
20 1984 and who left the member's contributions on deposit or reinstated
21 forfeited credited service pursuant to section 38-742 for a period of
22 employment that commenced before January 1, 1984, the higher of either:

23 (i) The monthly average of compensation that is calculated pursuant to
24 subdivision (b) of this paragraph.

25 (ii) The monthly average of compensation on which contributions were
26 remitted during a period of sixty consecutive months during which the member
27 receives the highest compensation within the last one hundred twenty months
28 of credited service. Any month for which no contributions are reported to
29 ASRS or that falls within a period of nonpaid or partially paid leave of
30 absence or sabbatical leave shall be excluded from the computation. The
31 sixty consecutive months may entirely precede, may be both before and after
32 or may be completely after any excluded months. If the member was employed
33 for less than sixty consecutive months, the average monthly compensation is
34 based on the total consecutive months worked. Payments for accumulated
35 vacation or annual leave, sick leave, compensatory time or other forms of
36 termination pay which, before August 12, 2005, constitute compensation for
37 members whose membership in ASRS commenced before January 1, 1984, do not
38 cease to be included as compensation if paid in the form of nonelective
39 employer contributions under a 26 United States Code section 403(b) plan if
40 all payments of employer and employee contributions are made at the time of
41 termination. Contributions shall be made to ASRS on these amounts pursuant
42 to sections 38-735, 38-736 and 38-737.

43 (b) For a member whose membership in ASRS commenced on or after
44 January 1, 1984 but before July 1, 2011, the monthly average of compensation
45 on which contributions were remitted during a period of thirty-six

1 consecutive months during which a member receives the highest compensation
2 within the last one hundred twenty months of credited service. Any month for
3 which no contributions are reported to ASRS or that falls within a period of
4 nonpaid or partially paid leave of absence or sabbatical leave shall be
5 excluded from the computation. The thirty-six consecutive months may
6 entirely precede, may be both before and after or may be completely after any
7 excluded months. If the member was employed for less than thirty-six
8 consecutive months, the average monthly compensation shall be based on the
9 total consecutive months worked.

10 (c) For a member whose membership in ASRS commenced on or after July
11 1, 2011, the monthly average of compensation on which contributions were
12 remitted during a period of sixty consecutive months during which a member
13 receives the highest compensation within the last one hundred twenty months
14 of credited service. Any month for which no contributions are reported to
15 ASRS or that falls within a period of nonpaid or partially paid leave of
16 absence or sabbatical leave shall be excluded from the computation. The
17 sixty consecutive months may entirely precede, may be both before and after
18 or may be completely after any excluded months. If the member was employed
19 for less than sixty consecutive months, the average monthly compensation
20 shall be based on the total consecutive months worked.

21 6. "Board" means the ASRS board established in section 38-713.

22 7. "Compensation" means the gross amount paid to a member by an
23 employer as salary or wages, including amounts that are subject to deferred
24 compensation or tax shelter agreements, for services rendered to or for an
25 employer, or that would have been paid to the member except for the member's
26 election or a legal requirement that all or part of the gross amount be used
27 for other purposes, but does not include amounts paid in excess of
28 compensation limits established in section 38-746. **COMPENSATION INCLUDES**
29 **AMOUNTS PAID AS SHIFT DIFFERENTIAL PAY AND MILITARY DIFFERENTIAL WAGE PAY.**
30 Compensation includes amounts paid as salary or wages to a member by a second
31 employer if the member meets the requirements prescribed in paragraph 23,
32 subdivision (b) of this section with that second employer. Compensation, as
33 provided in paragraph 5, subdivision (b) or (c) of this section, does not
34 include:

35 (a) Lump sum, **INSTALLMENT OR PERIODIC** payments, ~~on termination of~~
36 ~~employment,~~ for accumulated vacation ~~or~~ **LEAVE**, annual leave, sick leave,
37 compensatory time, **PERSONAL LEAVE** or any other form of ~~termination pay~~
38 ~~whether the payments are made in one payment or by installments over a period~~
39 ~~of time~~ **ACCUMULATED LEAVE.**

40 (b) Damages, costs, attorney fees, interest or other penalties paid
41 pursuant to a court order or a compromise settlement or agreement to satisfy
42 a grievance or claim even though the amount of the payment is based in whole
43 or in part on previous salary or wage levels, except that, if the court order
44 or compromise settlement or agreement directs salary or wages to be paid for
45 a specific period of time, the payment is compensation for that specific

1 period of time. If the amount directed to be paid is less than the actual
2 salary or wages that would have been paid for the period if service had been
3 performed, the contributions for the period shall be based on the amount of
4 compensation that would have been paid if the service had been performed.

5 (c) Payment, at the member's option, in lieu of fringe benefits that
6 are normally paid for or provided by the employer.

7 (d) Merit awards PAID pursuant to ~~section~~ SECTIONS 38-613 AND 38-614,
8 ~~and~~ performance bonuses paid to assistant attorneys general pursuant to
9 section 41-192, OVERTIME PAY, INCENTIVE PAY, INCLUDING PAYMENTS RECEIVED
10 PURSUANT TO SECTIONS 38-611.01 AND 38-611.02, BONUS PAY, LONGEVITY PAY,
11 PERFORMANCE PAY, TERMINATION INCENTIVE PAY, ACCOUNTABLE OR NONACCOUNTABLE
12 REIMBURSEMENTS, CLAIM RESOLUTION INCIDENTALS, CONTRACT TERMINATION PAYMENTS,
13 INDIRECT BENEFITS, LEAVE BALANCE PURCHASES, NONMONETARY BENEFITS, TERMINATION
14 PAY, POST-TERMINATION PAY, UNIDENTIFIED PAY, VOLUNTARY SEPARATION PAY,
15 SHORT-TERM DISABILITY INCOME OR WORKERS' COMPENSATION BENEFITS.

16 (e) Amounts that are paid as salary or wages to a member for which
17 employer contributions have not been paid.

18 8. "Contingent annuitant" means the person named by a member to
19 receive retirement income payable following a member's death after retirement
20 as provided in section 38-760.

21 9. "Credited service" means, subject to section 38-739, the number of
22 years standing to the member's credit on the books of ASRS during which the
23 member made the required contributions.

24 10. "Current annual compensation" means the greater of:

25 (a) Annualized compensation of the typical pay period amount
26 immediately before the date of a request to ASRS to purchase credited service
27 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount
28 shall be determined by taking the five pay periods immediately before the
29 date of a request, disregarding the highest and lowest compensation amount
30 pay periods and averaging the three remaining pay periods.

31 (b) Annualized compensation of the partial year, disregarding the
32 first compensation amount pay period, if the member has less than twelve
33 months total compensation on the date of a request to purchase credited
34 service pursuant to section 38-743, 38-744 or 38-745.

35 (c) The sum of the twelve months of compensation immediately before
36 the date of a request to ASRS to purchase credited service pursuant to
37 section 38-743, 38-744 or 38-745.

38 (d) The sum of the thirty-six months of compensation immediately
39 before the date of a request to ASRS to purchase credited service pursuant to
40 section 38-743, 38-744 or 38-745 divided by three.

41 (e) If the member has retired one or more times from ASRS, the average
42 monthly compensation that was used for calculating the member's last pension
43 benefit times twelve.

- 1 11. "Early retirement" means retirement before a member's normal
2 retirement date after five years of total credited service and attainment of
3 age fifty.
- 4 12. "Effective date" means July 1, 1970, except with respect to
5 employers and members whose contributions to ASRS commence thereafter, the
6 effective date of their membership in ASRS is as specified in the applicable
7 joinder agreement.
- 8 13. "Employer" means:
9 (a) This state.
10 (b) Participating political subdivisions.
11 (c) Participating political subdivision entities.
- 12 14. "Employer contributions" means all amounts paid into ASRS by an
13 employer on behalf of a member.
- 14 15. "Fiscal year" means the period from July 1 of any year to June 30
15 of the following year.
- 16 16. "Inactive member" means a member who previously made contributions
17 to ASRS and who satisfies each of the following:
18 (a) Has not retired.
19 (b) Is not eligible for active membership in ASRS.
20 (c) Is not currently making contributions to ASRS.
21 (d) Has not withdrawn contributions from ASRS.
- 22 17. "Interest" means the assumed actuarial investment earnings rate
23 approved by the board.
- 24 18. "Internal revenue code" means the United States internal revenue
25 code of 1986, as amended.
- 26 19. "Investment manager" means the persons, companies, banks, insurance
27 company investment funds, mutual fund companies, management or any
28 combinations of those entities that are appointed by ASRS and that have
29 responsibility and authority for investment of the monies of ASRS.
- 30 20. "Late retirement" means retirement after normal retirement.
- 31 21. "Leave of absence" means any unpaid leave authorized by the
32 employer, including leaves authorized for sickness or disability or to pursue
33 education or training.
- 34 22. "Life annuity" means equal monthly installments payable during the
35 member's lifetime after retirement.
- 36 23. "Member":
37 (a) Means any employee of an employer on the effective date.
38 (b) Means all employees of an employer who are eligible for membership
39 pursuant to section 38-727 and who are engaged to work at least twenty weeks
40 in each fiscal year and at least twenty hours each week.
41 (c) Means any person receiving a benefit under ASRS.
42 (d) Means any person who is a former active member of ASRS and who has
43 not withdrawn contributions from ASRS pursuant to section 38-740.
44 (e) Does not include any employee of an employer who is otherwise
45 eligible pursuant to this article and who begins service in a limited

1 appointment for not more than eighteen months on or after July 1, 1979. If
2 the employment exceeds eighteen months, the employee shall be covered by ASRS
3 as of the beginning of the nineteenth month of employment. In order to be
4 excluded under this subdivision, classifications of employees designated by
5 employers as limited appointments must be approved by the director.

6 (f) Does not include any leased employee. For the purposes of section
7 414(n) of the internal revenue code, "leased employee" means an individual
8 who:

9 (i) Is not otherwise an employee of an employer.

10 (ii) Pursuant to a leasing agreement between the employer and another
11 person, performs services for the employer on a substantially full-time basis
12 for at least one year.

13 (iii) Performs services under the primary direction or control of the
14 employer.

15 24. "Member contributions" means all amounts paid to ASRS by a member.

16 25. "Normal costs" means the sum of the individual normal costs for all
17 active members for each fiscal year. The normal cost for an individual
18 active member is the cost that is assigned to the fiscal year using the
19 projected unit credit method.

20 26. "Normal retirement age" means the age at which a member reaches the
21 member's normal retirement date.

22 27. "Normal retirement date" means the earliest of the following:

23 (a) For a member whose membership commenced before July 1, 2011:

24 (i) A member's sixty-fifth birthday.

25 (ii) A member's sixty-second birthday and completion of at least ten
26 years of credited service.

27 (iii) The first day that the sum of a member's age and years of total
28 credited service equals eighty.

29 (b) For a member whose membership commenced on or after July 1, 2011:

30 (i) A member's sixty-fifth birthday.

31 (ii) A member's sixty-second birthday and completion of at least ten
32 years of credited service.

33 (iii) A member's sixtieth birthday and completion of at least
34 twenty-five years of credited service.

35 (iv) A member's fifty-fifth birthday and completion of at least thirty
36 years of credited service.

37 28. "Political subdivision" means any political subdivision of this
38 state and includes a political subdivision entity.

39 29. "Political subdivision entity" means an entity:

40 (a) That is located in this state.

41 (b) That is created in whole or in part by political subdivisions,
42 including instrumentalities of political subdivisions.

43 (c) Where a majority of the membership of the entity is composed of
44 political subdivisions.

1 (d) Whose primary purpose is the performance of a government related
2 service.

3 30. "Retired member" means a member who is receiving retirement
4 benefits pursuant to this article.

5 31. "Service year" means fiscal year, except that:

6 (a) If the normal work year required of a member is less than the full
7 fiscal year but is for a period of at least nine months, the service year is
8 the normal work year.

9 (b) For a salaried member employed on a contract basis under one
10 contract, or two or more consecutive contracts, for a total period of at
11 least nine months, the service year is the total period of the contract or
12 consecutive contracts.

13 (c) In determining average monthly compensation pursuant to paragraph
14 5 of this section, the service year is considered to be twelve months of
15 compensation.

16 32. "State" means this state, including any department, office, board,
17 commission, agency, institution or other instrumentality of this state.

18 33. "Vested" means that a member is eligible to receive a future
19 retirement benefit.

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

21 38-842. Definitions

22 In this article, unless the context otherwise requires:

23 1. "Accidental disability" means a physical or mental condition that
24 the local board finds totally and permanently prevents an employee from
25 performing a reasonable range of duties within the employee's job
26 classification and that was incurred in the performance of the employee's
27 duty.

28 2. "Accumulated contributions" means, for each member, the sum of the
29 amount of the member's aggregate contributions made to the fund and the
30 amount, if any, attributable to the employee's contributions before the
31 member's effective date under another public retirement system, other than
32 the federal social security act, and transferred to the fund minus the
33 benefits paid to or on behalf of the member.

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

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

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

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

43 7. "Average monthly benefit compensation" means the result obtained by
44 dividing the total compensation paid to an employee during a considered
45 period by the number of months, including fractional months, in which such

1 compensation was received. For an employee who becomes a member of the
2 system before January 1, 2012, the considered period shall be the three
3 consecutive years within the last twenty completed years of credited service
4 that yield the highest average. For an employee who becomes a member of the
5 system on or after January 1, 2012, the considered period is the five
6 consecutive years within the last twenty completed years of credited service
7 that yield the highest average. In the computation under this paragraph, a
8 period of nonpaid or partially paid industrial leave shall be considered
9 based on the compensation the employee would have received in the employee's
10 job classification if the employee was not on industrial leave.

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

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

17 10. "Certified peace officer" means a peace officer certified by the
18 Arizona peace officer standards and training board.

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

21 12. "Compensation" means, for the purpose of computing retirement
22 benefits, base salary, ~~overtime pay~~, shift differential pay, military
23 differential wage pay, compensatory time used by an employee in lieu of
24 overtime not otherwise paid by an employer and holiday pay paid to an
25 employee by the employer for the employee's performance of services in an
26 eligible group on a regular monthly, semimonthly or biweekly payroll basis
27 ~~and longevity pay paid to an employee at least every six months~~ for which
28 contributions are made to the system pursuant to section 38-843,
29 subsection D. Compensation does not include, for the purpose of computing
30 retirement benefits, payment for unused sick leave, payment in lieu of
31 vacation, payment for unused compensatory time, ~~or~~ payment for any fringe
32 **NONMONETARY OR INDIRECT benefits, BONUS PAY, OVERTIME PAY, LONGEVITY PAY,**
33 **PERFORMANCE PAY, TERMINATION INCENTIVE PAY, ACCOUNTABLE OR NONACCOUNTABLE**
34 **REIMBURSEMENTS, CLAIM RESOLUTION INCIDENTALS, CONTRACT TERMINATION PAYMENTS,**
35 **LEAVE BALANCE PURCHASES, TERMINATION PAY, POST-TERMINATION PAY, UNIDENTIFIED**
36 **PAY, VOLUNTARY SEPARATION PAY, SHORT-TERM DISABILITY INCOME OR WORKERS'**
37 **COMPENSATION BENEFITS.** In addition, compensation does not include, for the
38 purpose of computing retirement benefits, payments made directly or
39 indirectly by the employer to the employee for work performed for a third
40 party on a contracted basis or any other type of agreement under which the
41 third party pays or reimburses the employer for the work performed by the
42 employee for that third party, except for third party contracts between
43 public agencies for law enforcement, criminal, traffic and crime suppression
44 activities training or fire, wildfire, emergency medical or emergency
45 management activities or where the employer supervises the employee's

1 performance of law enforcement, criminal, traffic and crime suppression
2 activities training or fire, wildfire, emergency medical or emergency
3 management activities. For the purposes of this paragraph, "base salary"
4 means the amount of compensation each employee is regularly paid for personal
5 services rendered to an employer before the addition of any extra monies,
6 including overtime pay, shift differential pay, holiday pay, longevity pay,
7 fringe benefit pay and similar extra payments.

8 13. "Credited service" means the member's total period of service
9 before the member's effective date of participation, plus those compensated
10 periods of the member's service thereafter for which the member made
11 contributions to the fund.

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

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

20 16. "Determination" means a written document that indicates to a
21 participant and alternate payee whether a domestic relations order qualifies
22 as a plan approved domestic relations order.

23 17. "Determination period" means the ninety-day period in which the
24 system must review a domestic relations order that is submitted by a
25 participant or alternate payee to determine whether the domestic relations
26 order qualifies as a plan approved domestic relations order, calculated from
27 the time the system mails a notice of receipt to the participant and
28 alternate payee.

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

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

34 20. "Domestic relations order" means an order of a court of this state
35 that is made pursuant to the domestic relations laws of this state and that
36 creates or recognizes the existence of an alternate payee's right to, or
37 assigns to an alternate payee the right to, receive a portion of the benefits
38 payable to a participant.

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

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

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

- 3 (a) Is under eighteen years of age.
- 4 (b) Is at least eighteen years of age and under twenty-three years of
5 age only during any period that the child is a full-time student.
- 6 (c) Is under a disability that began before the child attained
7 twenty-three years of age and remains a dependent of the surviving spouse or
8 guardian.

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

- 11 (a) Municipal police officers who are certified peace officers.
- 12 (b) Municipal fire fighters.
- 13 (c) Paid full-time fire fighters employed directly by a fire district
14 organized pursuant to section 48-803 or 48-804 or a joint powers authority
15 pursuant to section 48-805.01 with three or more full-time fire fighters, but
16 not including fire fighters employed by a fire district pursuant to a
17 contract with a corporation.
- 18 (d) State highway patrol officers who are certified peace officers.
- 19 (e) State fire fighters.
- 20 (f) County sheriffs and deputies who are certified peace officers.
- 21 (g) Game and fish wardens who are certified peace officers.
- 22 (h) Police officers who are certified peace officers and fire fighters
23 of a nonprofit corporation operating a public airport pursuant to sections
24 28-8423 and 28-8424. A police officer shall be designated pursuant to
25 section 28-8426 to aid and supplement state and local law enforcement
26 agencies and a fire fighter's sole duty shall be to perform fire fighting
27 services, including services required by federal regulations.
- 28 (i) Police officers who are certified peace officers and who are
29 appointed by the Arizona board of regents.
- 30 (j) Police officers who are certified peace officers and who are
31 appointed by a community college district governing board.
- 32 (k) State attorney general investigators who are certified peace
33 officers.
- 34 (l) County attorney investigators who are certified peace officers.
- 35 (m) Police officers who are certified peace officers and who are
36 employed by an Indian reservation police agency.
- 37 (n) Fire fighters who are employed by an Indian reservation fire
38 fighting agency.
- 39 (o) Department of liquor licenses and control investigators who are
40 certified peace officers.
- 41 (p) Arizona department of agriculture officers who are certified peace
42 officers.
- 43 (q) Arizona state parks board rangers and managers who are certified
44 peace officers.
- 45 (r) County park rangers who are certified peace officers.

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

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

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

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

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

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

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

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

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

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

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

30 27. "Employee" means any person who is employed by a participating
31 employer and who is a member of an eligible group but does not include any
32 persons compensated on a contractual or fee basis. If an eligible group
33 requires certified peace officer status or fire fighter certification and at
34 the option of the local board, employee may include a person who is training
35 to become a certified peace officer or fire fighter.

36 28. "Employers" means:

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

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

1 (c) The state highway patrol covered under the state highway patrol
2 retirement system.

3 (d) The state, or any political subdivision of this state, including
4 towns, cities, fire districts, joint powers authorities, counties and
5 nonprofit corporations operating public airports pursuant to sections 28-8423
6 and 28-8424, that has elected to participate in the system on behalf of an
7 eligible group of public safety personnel pursuant to a joinder agreement
8 entered into after July 1, 1968.

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

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

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

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

20 (a) Who is either a paid municipal police officer, a paid fire
21 fighter, a law enforcement officer who is employed by this state including
22 the director thereof, a state fire fighter who is primarily assigned to fire
23 fighting duties, a fire fighter or police officer of a nonprofit corporation
24 operating a public airport pursuant to sections 28-8423 and 28-8424, all
25 ranks designated by the Arizona law enforcement merit system council, a state
26 attorney general investigator who is a certified peace officer, a county
27 attorney investigator who is a certified peace officer, a department of
28 liquor licenses and control investigator who is a certified peace officer, an
29 Arizona department of agriculture officer who is a certified peace officer,
30 an Arizona state parks board ranger or manager who is a certified peace
31 officer, a county park ranger who is a certified peace officer, a person who
32 is a certified peace officer and who is employed by an Indian reservation
33 police agency, a fire fighter who is employed by an Indian reservation fire
34 fighting agency or an employee included in a group designated as eligible
35 employees under a joinder agreement entered into by their employer after July
36 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning
37 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

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

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

10 32. "Normal retirement date" means:

11 (a) For an employee who becomes a member of the system before January
12 1, 2012, the first day of the calendar month immediately following the
13 employee's completion of twenty years of service or the employee's
14 sixty-second birthday and the employee's completion of fifteen years of
15 service.

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

20 33. "Notice of receipt" means a written document that is issued by the
21 system to a participant and alternate payee and that states that the system
22 has received a domestic relations order and a request for a determination
23 that the domestic relations order is a plan approved domestic relations
24 order.

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

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

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

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

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

39 39. "Physician" means a physician who is licensed pursuant to title 32,
40 chapter 13 or 17.

41 40. "Plan approved domestic relations order" means a domestic relations
42 order that the system approves as meeting all the requirements for a plan
43 approved domestic relations order as otherwise prescribed in this article.

44 41. "Regularly assigned to hazardous duty" means regularly assigned to
45 duties of the type normally expected of municipal police officers, municipal

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

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

29 43. "Segregated funds" means the amount of benefits that would
30 currently be payable to an alternate payee pursuant to a domestic relations
31 order under review by the system, or a domestic relations order submitted to
32 the system that failed to qualify as a plan approved domestic relations
33 order, if the domestic relations order were determined to be a plan approved
34 domestic relations order.

35 44. "Service" means the last period of continuous employment of an
36 employee by the employers before the employee's retirement, except that if
37 such period includes employment during which the employee would not have
38 qualified as a member had the system then been effective, such as employment
39 as a volunteer fire fighter, then only twenty-five per cent of such
40 noncovered employment shall be considered as service. Any absence that is
41 authorized by an employer shall not be considered as interrupting continuity
42 of employment if the employee returns within the period of authorized
43 absence. Transfers between employers also shall not be considered as
44 interrupting continuity of employment. Any period during which a member is
45 receiving sick leave payments or a temporary disability pension shall be

1 considered as service. Notwithstanding any other provision of this
2 paragraph, any period during which a person was employed as a full-time paid
3 fire fighter for a corporation that contracted with an employer to provide
4 firefighting services on behalf of the employer shall be considered as
5 service if the employer has elected at its option to treat part or all of the
6 period the firefighter worked for the company as service in its applicable
7 joinder agreement. Any reference in this system to the number of years of
8 service of an employee shall be deemed to include fractional portions of a
9 year.

10 45. "State" means the state of Arizona, including any department,
11 office, board, commission, agency or other instrumentality of the state.

12 46. "System" means the public safety personnel retirement system
13 established by this article.

14 47. "Temporary disability" means a physical or mental condition that
15 the local board finds totally and temporarily prevents an employee from
16 performing a reasonable range of duties within the employee's department and
17 that was incurred in the performance of the employee's duty.

18 Sec. 3. Section 38-881, Arizona Revised Statutes, is amended to read:

19 38-881. Definitions

20 In this article, unless the context otherwise requires:

21 1. "Accidental disability" means a physical or mental condition that
22 the local board finds totally and permanently prevents an employee from
23 performing a reasonable range of duties within the employee's department, was
24 incurred in the performance of the employee's duties and was the result of
25 any of the following:

26 (a) Physical contact with inmates, prisoners, parolees or persons on
27 probation.

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

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

36 2. "Accumulated member contributions" means for each member the sum of
37 the amount of all the member's contributions deducted from the member's
38 salary and paid to the fund, plus member contributions transferred to the
39 fund by another retirement plan covering public employees of this state, plus
40 previously withdrawn accumulated member contributions that are repaid to the
41 fund in accordance with this article, minus any benefits paid to or on behalf
42 of a member.

43 3. "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 4. "Alternate payee" means the spouse or former spouse of a
2 participant as designated in a domestic relations order.
- 3 5. "Alternate payee's portion" means benefits that are payable to an
4 alternate payee pursuant to a plan approved domestic relations order.
- 5 6. "Annuitant" means a person who is receiving a benefit pursuant to
6 section 38-911.
- 7 7. "Average monthly salary" means, for an employee who becomes a
8 member of the plan before January 1, 2012, one-thirty-sixth of the aggregate
9 amount of salary that is paid a member by a participating employer during a
10 period of thirty-six consecutive months of service in which the member
11 received the highest salary within the last one hundred twenty months of
12 service and, for an employee who becomes a member of the plan on or after
13 January 1, 2012, one-sixtieth of the aggregate amount of salary that is paid
14 a member by a participating employer during a period of sixty consecutive
15 months of service in which the member received the highest salary within the
16 last one hundred twenty months of service. Average monthly salary means the
17 aggregate amount of salary that is paid a member divided by the member's
18 months of service if the member has less than thirty-six or sixty months of
19 service. In the computation under this paragraph, a period of nonpaid or
20 partially paid industrial leave shall be considered based on the salary the
21 employee would have received in the employee's job classification if the
22 employee was not on industrial leave.
- 23 8. "Beneficiary" means an individual who is being paid or who has
24 entitlement to the future payment of a pension on account of a reason other
25 than the individual's membership in the retirement plan.
- 26 9. "Board" means the board of trustees of the public safety personnel
27 retirement system.
- 28 10. "Claimant" means a member, beneficiary or estate that files an
29 application for benefits with the retirement plan.
- 30 11. "Credited service" means credited service transferred to the
31 retirement plan from another retirement system or plan for public employees
32 of this state, plus those compensated periods of service as a member of the
33 retirement plan for which member contributions are on deposit in the fund.
- 34 12. "Cure period" means the ninety-day period in which a participant or
35 alternate payee may submit an amended domestic relations order and request a
36 determination, calculated from the time the plan issues a determination
37 finding that a previously submitted domestic relations order did not qualify
38 as a plan approved domestic relations order.
- 39 13. "Designated position" means:
40 (a) For a county:
41 (i) A county detention officer.
42 (ii) A nonuniformed employee of a sheriff's department whose primary
43 duties require direct contact with inmates.
44 (b) For the state department of corrections and the department of
45 juvenile corrections, only the following specifically designated positions:

- 1 (i) Food service.
- 2 (ii) Nursing personnel.
- 3 (iii) Corrections physician assistant.
- 4 (iv) Therapist.
- 5 (v) Corrections dental assistant.
- 6 (vi) Hygienist.
- 7 (vii) Corrections medical assistant.
- 8 (viii) Correctional service officer, including assistant deputy
- 9 warden, deputy warden, warden and superintendent.
- 10 (ix) State correctional program officer.
- 11 (x) Parole or community supervision officers.
- 12 (xi) Investigators.
- 13 (xii) Teachers.
- 14 (xiii) Institutional maintenance workers.
- 15 (xiv) Youth corrections officer.
- 16 (xv) Youth program officer.
- 17 (xvi) Behavioral health treatment unit managers.
- 18 (xvii) The director and assistant directors of the department of
- 19 juvenile corrections and the superintendent of the state educational system
- 20 for committed youth.
- 21 (xviii) The director, deputy directors and assistant directors of the
- 22 state department of corrections.
- 23 (xix) Other positions designated by the local board of the state
- 24 department of corrections or the local board of the department of juvenile
- 25 corrections pursuant to section 38-891.
- 26 (c) For a city or town, a city or town detention officer.
- 27 (d) For an employer of an eligible group as defined in section 38-842,
- 28 full-time dispatchers.
- 29 (e) For the judiciary, probation, surveillance and juvenile detention
- 30 officers and those positions designated by the local board of the judiciary
- 31 pursuant to section 38-891.
- 32 (f) For the department of public safety, state detention officers.
- 33 14. "Determination" means a written document that indicates to a
- 34 participant and alternate payee whether a domestic relations order qualifies
- 35 as a plan approved domestic relations order.
- 36 15. "Determination period" means the ninety-day period in which the
- 37 plan must review a domestic relations order that is submitted by a
- 38 participant or alternate payee to determine whether the domestic relations
- 39 order qualifies as a plan approved domestic relations order, calculated from
- 40 the time the plan mails a notice of receipt to the participant and alternate
- 41 payee.
- 42 16. "Direct rollover" means a payment by the plan to an eligible
- 43 retirement plan that is specified by the distributee.

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

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

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

11 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 23. "Employer" means an agency or department of this state or a
4 political subdivision of this state that has one or more employees in a
5 designated position.

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

7 25. "Juvenile detention officer" means a juvenile detention officer
8 responsible for the direct custodial supervision of juveniles who are
9 detained in a county juvenile detention center.

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

13 27. "Member" means any employee who meets all of the following
14 qualifications:

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

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

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

21 28. "Normal retirement date" means:

22 (a) For an employee who becomes a member of the plan before January 1,
23 2012, the first day of the calendar month immediately following the
24 employee's completion of twenty years of service or, in the case of a
25 dispatcher, twenty-five years of service, the employee's sixty-second
26 birthday and completion of ten years of service or the month in which the sum
27 of the employee's age and years of credited service equals eighty.

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

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

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

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

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

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

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

7 35. "Personal representative" means the personal representative of a
8 deceased alternate payee.

9 36. "Physician" means a physician who is licensed pursuant to title 32,
10 chapter 13 or 17.

11 37. "Plan approved domestic relations order" means a domestic relations
12 order that the plan approves as meeting all the requirements for a plan
13 approved domestic relations order as otherwise prescribed in this article.

14 38. "Probation or surveillance officer" means an officer appointed
15 pursuant to section 8-203, 12-251 or 12-259 but does not include other
16 personnel, office assistants or support staff.

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

19 40. "Retirement" or "retired" means termination of employment after a
20 member has fulfilled all requirements for a pension or, for an employee who
21 becomes a member of the plan on or after January 1, 2012, attains the age and
22 service requirements for a normal retirement date.

23 41. "Retirement plan" or "plan" means the corrections officer
24 retirement plan established by this article.

25 42. "Salary" means the base salary, shift differential pay, military
26 differential wage pay and holiday pay paid a member for personal services
27 rendered in a designated position to a participating employer on a regular
28 monthly, semimonthly or biweekly payroll basis. Salary includes amounts that
29 are subject to deferred compensation or tax shelter agreements. Salary does
30 not include payment for any remuneration or reimbursement other than as
31 prescribed by this paragraph, INCLUDING LUMP SUM INSTALLMENT OR PERIODIC
32 PAYMENTS FOR ACCUMULATED VACATION LEAVE, ANNUAL LEAVE, SICK LEAVE,
33 COMPENSATORY TIME OR PERSONAL LEAVE OR ANY OTHER FORM OF ACCUMULATED LEAVE,
34 MERIT AWARDS PURSUANT TO SECTIONS 38-613 AND 38-614, OVERTIME PAY, INCENTIVE
35 PAY, BONUS PAY, LONGEVITY PAY, PERFORMANCE PAY, TERMINATION INCENTIVE PAY,
36 ACCOUNTABLE OR NONACCOUNTABLE REIMBURSEMENTS, CLAIM RESOLUTION INCIDENTALS,
37 CONTRACT TERMINATION PAYMENTS, INDIRECT BENEFITS, LEAVE BALANCE PURCHASES,
38 NONMONETARY BENEFITS, TERMINATION PAY, POST-TERMINATION PAY, UNIDENTIFIED
39 PAY, VOLUNTARY SEPARATION PAY, SHORT-TERM DISABILITY INCOME OR WORKERS'
40 COMPENSATION BENEFITS. For the purposes of this paragraph, "base salary"
41 means the amount of compensation each member is regularly paid for personal
42 services rendered to an employer before the addition of any extra monies,
43 including overtime pay, shift differential pay, holiday pay, fringe benefit
44 pay and similar extra payments.

1 43. "Segregated funds" means the amount of benefits that would
2 currently be payable to an alternate payee pursuant to a domestic relations
3 order under review by the plan, or a domestic relations order submitted to
4 the plan that failed to qualify as a plan approved domestic relations order,
5 if the domestic relations order were determined to be a plan approved
6 domestic relations order.

7 44. "Service" means employment rendered to a participating employer as
8 an employee in a designated position. Any absence that is authorized by an
9 employer, including any periods during which the employee is on an employer
10 sponsored long-term disability program, is considered as service if the
11 employee returns or is deemed by the employer to have returned to a
12 designated position within the period of the authorized absence.

13 45. "Total and permanent disability" means a physical or mental
14 condition that is not an accidental disability, that the local board finds
15 totally and permanently prevents a member from engaging in any gainful
16 employment and that is the direct and proximate result of the member's
17 performance of the member's duty as an employee of a participating employer.