

REFERENCE TITLE: public pensions; limit on compensation

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

## **HB 2058**

Introduced by  
Representative Kavanagh

AN ACT

AMENDING SECTIONS 38-711, 38-746, 38-842, 38-843.04, 38-881 AND 38-895.01,  
ARIZONA REVISED STATUTES; 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 38-711, 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, **SUBJECT TO THE LIMITATION SPECIFIED IN**  
23 **SECTION 38-746**, the gross amount paid to a member by an employer as salary or  
24 wages, including amounts that are subject to deferred compensation or tax  
25 shelter agreements, for services rendered to or for an employer, or that  
26 would have been paid to the member except for the member's election or a  
27 legal requirement that all or part of the gross amount be used for other  
28 purposes, but does not include amounts paid in excess of compensation limits  
29 established in section 38-746. Compensation includes amounts paid as salary  
30 or wages to a member by a second employer if the member meets the  
31 requirements prescribed in paragraph 23, subdivision (b) of this section with  
32 that second employer. Compensation, as provided in paragraph 5, subdivision  
33 (b) or (c) of this section, does not include:

34 (a) Lump sum payments, on termination of employment, for accumulated  
35 vacation or annual leave, sick leave, compensatory time or any other form of  
36 termination pay whether the payments are made in one payment or by  
37 installments over a period of time.

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

1 performed, the contributions for the period shall be based on the amount of  
2 compensation that would have been paid if the service had been performed.

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

5 (d) Merit awards pursuant to section 38-613 and performance bonuses  
6 paid to assistant attorneys general pursuant to section 41-192.

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

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

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

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

16 (a) Annualized compensation of the typical pay period amount  
17 immediately before the date of a request to ASRS to purchase credited service  
18 pursuant to section 38-743, 38-744 or 38-745. The typical pay period amount  
19 shall be determined by taking the five pay periods immediately before the  
20 date of a request, disregarding the highest and lowest compensation amount  
21 pay periods and averaging the three remaining pay periods.

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

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

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

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

35 11. "Early retirement" means retirement before a member's normal  
36 retirement date after five years of total credited service and attainment of  
37 age fifty.

38 12. "Effective date" means July 1, 1970, except with respect to  
39 employers and members whose contributions to ASRS commence thereafter, the  
40 effective date of their membership in ASRS is as specified in the applicable  
41 joinder agreement.

42 13. "Employer" means:

43 (a) This state.

44 (b) Participating political subdivisions.

45 (c) Participating political subdivision entities.

- 1           14. "Employer contributions" means all amounts paid into ASRS by an  
2 employer on behalf of a member.
- 3           15. "Fiscal year" means the period from July 1 of any year to June 30  
4 of the following year.
- 5           16. "Inactive member" means a member who previously made contributions  
6 to ASRS and who satisfies each of the following:
- 7           (a) Has not retired.
- 8           (b) Is not eligible for active membership in ASRS.
- 9           (c) Is not currently making contributions to ASRS.
- 10          (d) Has not withdrawn contributions from ASRS.
- 11          17. "Interest" means the assumed actuarial investment earnings rate  
12 approved by the board.
- 13          18. "Internal revenue code" means the United States internal revenue  
14 code of 1986, as amended.
- 15          19. "Investment manager" means the persons, companies, banks, insurance  
16 company investment funds, mutual fund companies, management or any  
17 combinations of those entities that are appointed by ASRS and that have  
18 responsibility and authority for investment of the monies of ASRS.
- 19          20. "Late retirement" means retirement after normal retirement.
- 20          21. "Leave of absence" means any unpaid leave authorized by the  
21 employer, including leaves authorized for sickness or disability or to pursue  
22 education or training.
- 23          22. "Life annuity" means equal monthly installments payable during the  
24 member's lifetime after retirement.
- 25          23. "Member":
- 26           (a) Means any employee of an employer on the effective date.
- 27           (b) Means all employees of an employer who are eligible for membership  
28 pursuant to section 38-727 and who are engaged to work at least twenty weeks  
29 in each fiscal year and at least twenty hours each week.
- 30           (c) Means any person receiving a benefit under ASRS.
- 31           (d) Means any person who is a former active member of ASRS and who has  
32 not withdrawn contributions from ASRS pursuant to section 38-740.
- 33           (e) Does not include any employee of an employer who is otherwise  
34 eligible pursuant to this article and who begins service in a limited  
35 appointment for not more than eighteen months on or after July 1, 1979. If  
36 the employment exceeds eighteen months, the employee shall be covered by ASRS  
37 as of the beginning of the nineteenth month of employment. In order to be  
38 excluded under this subdivision, classifications of employees designated by  
39 employers as limited appointments must be approved by the director.
- 40           (f) Does not include any leased employee. For the purposes of section  
41 414(n) of the internal revenue code, "leased employee" means an individual  
42 who:
- 43           (i) Is not otherwise an employee of an employer.

- 1 (ii) Pursuant to a leasing agreement between the employer and another  
2 person, performs services for the employer on a substantially full-time basis  
3 for at least one year.
- 4 (iii) Performs services under the primary direction or control of the  
5 employer.
- 6 24. "Member contributions" means all amounts paid to ASRS by a member.
- 7 25. "Normal costs" means the sum of the individual normal costs for all  
8 active members for each fiscal year. The normal cost for an individual  
9 active member is the cost that is assigned to the fiscal year using the  
10 projected unit credit method.
- 11 26. "Normal retirement age" means the age at which a member reaches the  
12 member's normal retirement date.
- 13 27. "Normal retirement date" means the earliest of the following:
- 14 (a) For a member whose membership commenced before July 1, 2011:
- 15 (i) A member's sixty-fifth birthday.
- 16 (ii) A member's sixty-second birthday and completion of at least ten  
17 years of credited service.
- 18 (iii) The first day that the sum of a member's age and years of total  
19 credited service equals eighty.
- 20 (b) For a member whose membership commenced on or after July 1, 2011:
- 21 (i) A member's sixty-fifth birthday.
- 22 (ii) A member's sixty-second birthday and completion of at least ten  
23 years of credited service.
- 24 (iii) A member's sixtieth birthday and completion of at least  
25 twenty-five years of credited service.
- 26 (iv) A member's fifty-fifth birthday and completion of at least thirty  
27 years of credited service.
- 28 28. "Political subdivision" means any political subdivision of this  
29 state and includes a political subdivision entity.
- 30 29. "Political subdivision entity" means an entity:
- 31 (a) That is located in this state.
- 32 (b) That is created in whole or in part by political subdivisions,  
33 including instrumentalities of political subdivisions.
- 34 (c) Where a majority of the membership of the entity is composed of  
35 political subdivisions.
- 36 (d) Whose primary purpose is the performance of a government related  
37 service.
- 38 30. "Retired member" means a member who is receiving retirement  
39 benefits pursuant to this article.
- 40 31. "Service year" means fiscal year, except that:
- 41 (a) If the normal work year required of a member is less than the full  
42 fiscal year but is for a period of at least nine months, the service year is  
43 the normal work year.
- 44 (b) For a salaried member employed on a contract basis under one  
45 contract, or two or more consecutive contracts, for a total period of at

1 least nine months, the service year is the total period of the contract or  
2 consecutive contracts.

3 (c) In determining average monthly compensation pursuant to paragraph  
4 5 of this section, the service year is considered to be twelve months of  
5 compensation.

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

8 33. "Vested" means that a member is eligible to receive a future  
9 retirement benefit.

10 Sec. 2. Section 38-746, Arizona Revised Statutes, is amended to read:

11 38-746. Compensation limitation; adjustments

12 A. Except as provided in ~~subsection~~ SUBSECTIONS E AND F OF THIS  
13 SECTION, beginning on July 1, 2002, the annual compensation of each employee  
14 taken into account under ASRS for any fiscal year or for any other specified  
15 twelve consecutive month period shall not exceed two hundred thousand  
16 dollars. In determining benefit accruals under ASRS for fiscal years  
17 beginning after December 31, 2001 and except as provided for in subsection E  
18 OF THIS SECTION, the annual compensation limit under this subsection for  
19 fiscal years beginning before January 1, 2002 is two hundred thousand  
20 dollars.

21 B. If compensation under ASRS is determined on a period of time that  
22 contains fewer than twelve calendar months, the compensation limit for that  
23 period of time is equal to the dollar limit for the calendar year during  
24 which the period of time begins, multiplied by the fraction in which the  
25 numerator is the number of full months in that period of time and the  
26 denominator is twelve.

27 C. For fiscal years beginning before July 1, 1997, the annual  
28 compensation limit prescribed in this section also applies to the combined  
29 compensation of a member who is a member of the group of ten highly  
30 compensated employees, as defined in section 414(q) of the internal revenue  
31 code, and who is paid the highest compensation during the fiscal year and any  
32 family member of the member who is either the member's spouse or the member's  
33 lineal descendant and who has not attained the age of nineteen before the  
34 close of the fiscal year. If the maximum compensation is adjusted pursuant  
35 to subsection D OF THIS SECTION, the adjusted limitation shall be prorated  
36 among the affected members' compensation determined pursuant to this section  
37 before application of the adjusted limitation to the other provisions of this  
38 article.

39 D. The board shall adjust the maximum compensation under subsection A  
40 OF THIS SECTION at the same time and in the same manner as adjusted by the  
41 United States secretary of the treasury under section 401(a)(17)(B) of the  
42 internal revenue code. The adjustment under this subsection for a calendar  
43 year applies to annual compensation for the fiscal year of ASRS that begins  
44 with or within the calendar year.

1 E. The dollar limitation prescribed in subsection A **OF THIS SECTION**  
2 does not apply to an eligible member to the extent that the annual  
3 compensation of an eligible member taken into account by ASRS for any fiscal  
4 year or for any other specified twelve consecutive month period would be  
5 reduced below two hundred thirty-five thousand eight hundred forty  
6 dollars. This was the amount of compensation taken into account by ASRS as  
7 of July 1, 1993. The board shall adjust this amount as of the effective date  
8 of the increase prescribed by the United States secretary of the  
9 treasury. For the purposes of this subsection, "eligible member" means a  
10 person who first became a member of ASRS before July 1, 1996.

11 **F. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR EMPLOYEES**  
12 **HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE**  
13 **ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT UNDER ASRS FOR ANY**  
14 **FISCAL YEAR OR FOR ANY OTHER SPECIFIED TWELVE CONSECUTIVE MONTH PERIOD MAY**  
15 **NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS.**

16 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:  
17 **38-842. Definitions**

18 In this article, unless the context otherwise requires:

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

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

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

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

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

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

39 7. "Average monthly benefit compensation" means the result obtained by  
40 dividing the total compensation paid to an employee during a considered  
41 period by the number of months, including fractional months, in which such  
42 compensation was received. For an employee who becomes a member of the  
43 system before January 1, 2012, the considered period shall be the three  
44 consecutive years within the last twenty completed years of credited service  
45 that yield the highest average. For an employee who becomes a member of the

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

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

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

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

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

17 12. "Compensation" means, for the purpose of computing retirement  
18 benefits **AND SUBJECT TO THE LIMITATION SPECIFIED IN SECTION 38-843.04**, base  
19 salary, overtime pay, shift differential pay, military differential wage pay,  
20 compensatory time used by an employee in lieu of overtime not otherwise paid  
21 by an employer and holiday pay paid to an employee by the employer for the  
22 employee's performance of services in an eligible group on a regular monthly,  
23 semimonthly or biweekly payroll basis and longevity pay paid to an employee  
24 at least every six months for which contributions are made to the system  
25 pursuant to section 38-843, subsection D. Compensation does not include, for  
26 the purpose of computing retirement benefits, payment for unused sick leave,  
27 payment in lieu of vacation, payment for unused compensatory time or payment  
28 for any fringe benefits. In addition, compensation does not include, for the  
29 purpose of computing retirement benefits, payments made directly or  
30 indirectly by the employer to the employee for work performed for a third  
31 party on a contracted basis or any other type of agreement under which the  
32 third party pays or reimburses the employer for the work performed by the  
33 employee for that third party, except for third party contracts between  
34 public agencies for law enforcement, criminal, traffic and crime suppression  
35 activities training or fire, wildfire, emergency medical or emergency  
36 management activities or where the employer supervises the employee's  
37 performance of law enforcement, criminal, traffic and crime suppression  
38 activities training or fire, wildfire, emergency medical or emergency  
39 management activities. For the purposes of this paragraph, "base salary"  
40 means the amount of compensation each employee is regularly paid for personal  
41 services rendered to an employer before the addition of any extra monies,  
42 including overtime pay, shift differential pay, holiday pay, longevity pay,  
43 fringe benefit pay and similar extra payments.

44 13. "Credited service" means the member's total period of service  
45 before the member's effective date of participation, plus those compensated

1 periods of the member's service thereafter for which the member made  
2 contributions to the fund.

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

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

11 16. "Determination" means a written document that indicates to a  
12 participant and alternate payee whether a domestic relations order qualifies  
13 as a plan approved domestic relations order.

14 17. "Determination period" means the ninety-day period in which the  
15 system must review a domestic relations order that is submitted by a  
16 participant or alternate payee to determine whether the domestic relations  
17 order qualifies as a plan approved domestic relations order, calculated from  
18 the time the system mails a notice of receipt to the participant and  
19 alternate payee.

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

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

25 20. "Domestic relations order" means an order of a court of this state  
26 that is made pursuant to the domestic relations laws of this state and that  
27 creates or recognizes the existence of an alternate payee's right to, or  
28 assigns to an alternate payee the right to, receive a portion of the benefits  
29 payable to a participant.

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

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

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

38 (a) Is under eighteen years of age.

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

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

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

- 1 (a) Municipal police officers who are certified peace officers.
- 2 (b) Municipal fire fighters.
- 3 (c) Paid full-time fire fighters employed directly by a fire district
- 4 organized pursuant to section 48-803 or 48-804 or a joint powers authority
- 5 pursuant to section 48-805.01 with three or more full-time fire fighters, but
- 6 not including fire fighters employed by a fire district pursuant to a
- 7 contract with a corporation.
- 8 (d) State highway patrol officers who are certified peace officers.
- 9 (e) State fire fighters.
- 10 (f) County sheriffs and deputies who are certified peace officers.
- 11 (g) Game and fish wardens who are certified peace officers.
- 12 (h) Police officers who are certified peace officers and fire fighters
- 13 of a nonprofit corporation operating a public airport pursuant to sections
- 14 28-8423 and 28-8424. A police officer shall be designated pursuant to
- 15 section 28-8426 to aid and supplement state and local law enforcement
- 16 agencies and a fire fighter's sole duty shall be to perform fire fighting
- 17 services, including services required by federal regulations.
- 18 (i) Police officers who are certified peace officers and who are
- 19 appointed by the Arizona board of regents.
- 20 (j) Police officers who are certified peace officers and who are
- 21 appointed by a community college district governing board.
- 22 (k) State attorney general investigators who are certified peace
- 23 officers.
- 24 (l) County attorney investigators who are certified peace officers.
- 25 (m) Police officers who are certified peace officers and who are
- 26 employed by an Indian reservation police agency.
- 27 (n) Fire fighters who are employed by an Indian reservation fire
- 28 fighting agency.
- 29 (o) Department of liquor licenses and control investigators who are
- 30 certified peace officers.
- 31 (p) Arizona department of agriculture officers who are certified peace
- 32 officers.
- 33 (q) Arizona state parks board rangers and managers who are certified
- 34 peace officers.
- 35 (r) County park rangers who are certified peace officers.
- 36 25. "Eligible retirement plan" means any of the following that accepts
- 37 a distributee's eligible rollover distribution:
- 38 (a) An individual retirement account described in section 408(a) of
- 39 the internal revenue code.
- 40 (b) An individual retirement annuity described in section 408(b) of
- 41 the internal revenue code.
- 42 (c) An annuity plan described in section 403(a) of the internal
- 43 revenue code.
- 44 (d) A qualified trust described in section 401(a) of the internal
- 45 revenue code.

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

3 (f) An eligible deferred compensation plan described in section 457(b)  
4 of the internal revenue code that is maintained by a state, a political  
5 subdivision of a state or any agency or instrumentality of a state or a  
6 political subdivision of a state and that agrees to separately account for  
7 amounts transferred into the eligible deferred compensation plan from this  
8 plan.

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

11 (a) Any distribution that is one of a series of substantially equal  
12 periodic payments made not less frequently than annually for the life or life  
13 expectancy of the member or the joint lives or joint life expectancies of the  
14 member and the member's beneficiary or for a specified period of ten years or  
15 more.

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

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

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

26 28. "Employers" means:

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

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

35 (c) The state highway patrol covered under the state highway patrol  
36 retirement system.

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

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

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

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

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

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

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

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

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

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

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

44           32. "Normal retirement date" means:

1 (a) For an employee who becomes a member of the system before January  
2 1, 2012, the first day of the calendar month immediately following the  
3 employee's completion of twenty years of service or the employee's  
4 sixty-second birthday and the employee's completion of fifteen years of  
5 service.

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

10 33. "Notice of receipt" means a written document that is issued by the  
11 system to a participant and alternate payee and that states that the system  
12 has received a domestic relations order and a request for a determination  
13 that the domestic relations order is a plan approved domestic relations  
14 order.

15 34. "Ordinary disability" means a physical condition that the local  
16 board determines will prevent an employee totally and permanently from  
17 performing a reasonable range of duties within the employee's department or a  
18 mental condition that the local board determines will prevent an employee  
19 totally and permanently from engaging in any substantial gainful activity.

20 35. "Participant" means a member who is subject to a domestic relations  
21 order.

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

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

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

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

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

34 41. "Regularly assigned to hazardous duty" means regularly assigned to  
35 duties of the type normally expected of municipal police officers, municipal  
36 or state fire fighters, eligible fire district fire fighters, state highway  
37 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
38 fighters and police officers of a nonprofit corporation operating a public  
39 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
40 appointed by the Arizona board of regents or a community college district  
41 governing board, state attorney general investigators who are certified peace  
42 officers, county attorney investigators who are certified peace officers,  
43 department of liquor licenses and control investigators who are certified  
44 peace officers, Arizona department of agriculture officers who are certified  
45 peace officers, Arizona state parks board rangers and managers who are

1 certified peace officers, county park rangers who are certified peace  
 2 officers, police officers who are certified peace officers and who are  
 3 employed by an Indian reservation police agency or fire fighters who are  
 4 employed by an Indian reservation fire fighting agency. Those individuals  
 5 who are assigned solely to support duties such as secretaries, stenographers,  
 6 clerical personnel, clerks, cooks, maintenance personnel, mechanics and  
 7 dispatchers are not assigned to hazardous duty regardless of their position  
 8 classification title. Since the normal duties of those jobs described in  
 9 this paragraph are constantly changing, questions as to whether a person is  
 10 or was previously regularly assigned to hazardous duty shall be resolved by  
 11 the local board on a case-by-case basis. Resolutions by local boards are  
 12 subject to rehearing and appeal.

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

19 43. "Segregated funds" means the amount of benefits that would  
 20 currently be payable to an alternate payee pursuant to a domestic relations  
 21 order under review by the system, or a domestic relations order submitted to  
 22 the system that failed to qualify as a plan approved domestic relations  
 23 order, if the domestic relations order were determined to be a plan approved  
 24 domestic relations order.

25 44. "Service" means the last period of continuous employment of an  
 26 employee by the employers before the employee's retirement, except that if  
 27 such period includes employment during which the employee would not have  
 28 qualified as a member had the system then been effective, such as employment  
 29 as a volunteer fire fighter, then only twenty-five per cent of such  
 30 noncovered employment shall be considered as service. Any absence that is  
 31 authorized by an employer shall not be considered as interrupting continuity  
 32 of employment if the employee returns within the period of authorized  
 33 absence. Transfers between employers also shall not be considered as  
 34 interrupting continuity of employment. Any period during which a member is  
 35 receiving sick leave payments or a temporary disability pension shall be  
 36 considered as service. Notwithstanding any other provision of this  
 37 paragraph, any period during which a person was employed as a full-time paid  
 38 fire fighter for a corporation that contracted with an employer to provide  
 39 firefighting services on behalf of the employer shall be considered as  
 40 service if the employer has elected at its option to treat part or all of the  
 41 period the firefighter worked for the company as service in its applicable  
 42 joinder agreement. Any reference in this system to the number of years of  
 43 service of an employee shall be deemed to include fractional portions of a  
 44 year.

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

3 46. "System" means the public safety personnel retirement system  
4 established by this article.

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

9 Sec. 4. Section 38-843.04, Arizona Revised Statutes, is amended to  
10 read:

11 38-843.04. Compensation limitation; adjustments

12 A. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, the annual  
13 compensation of each member taken into account for purposes of the system  
14 shall not exceed the following:

15 1. Beginning January 1, 1996 through December 31, 2001, one hundred  
16 fifty thousand dollars.

17 2. Beginning January 1, 2002, two hundred thousand dollars.

18 B. If compensation under the system is determined on a period of time  
19 that contains fewer than twelve calendar months, the compensation limit for  
20 that period of time is equal to the dollar limit for the calendar year during  
21 which the period of time begins, multiplied by the fraction in which the  
22 numerator is the number of full months in that period of time and the  
23 denominator is twelve.

24 C. The board shall adjust the annual compensation limits under this  
25 section at the same time and in the same manner as adjusted by the United  
26 States secretary of the treasury under section 401(a)(17)(B) of the internal  
27 revenue code. The adjustment under this subsection for a calendar year  
28 applies to annual compensation for the plan year that begins with or within  
29 the calendar year.

30 D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR EMPLOYEES  
31 HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE  
32 ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR PURPOSES OF THE  
33 SYSTEM MAY NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS.

34 Sec. 5. Section 38-881, Arizona Revised Statutes, is amended to read:

35 38-881. Definitions

36 In this article, unless the context otherwise requires:

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

42 (a) Physical contact with inmates, prisoners, parolees or persons on  
43 probation.

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

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

7 2. "Accumulated member contributions" means for each member the sum of  
8 the amount of all the member's contributions deducted from the member's  
9 salary and paid to the fund, plus member contributions transferred to the  
10 fund by another retirement plan covering public employees of this state, plus  
11 previously withdrawn accumulated member contributions that are repaid to the  
12 fund in accordance with this article, minus any benefits paid to or on behalf  
13 of a member.

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

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

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

21 6. "Annuitant" means a person who is receiving a benefit pursuant to  
22 section 38-911.

23 7. "Average monthly salary" means, for an employee who becomes a  
24 member of the plan before January 1, 2012, one-thirty-sixth of the aggregate  
25 amount of salary that is paid a member by a participating employer during a  
26 period of thirty-six consecutive months of service in which the member  
27 received the highest salary within the last one hundred twenty months of  
28 service and, for an employee who becomes a member of the plan on or after  
29 January 1, 2012, one-sixtieth of the aggregate amount of salary that is paid  
30 a member by a participating employer during a period of sixty consecutive  
31 months of service in which the member received the highest salary within the  
32 last one hundred twenty months of service. Average monthly salary means the  
33 aggregate amount of salary that is paid a member divided by the member's  
34 months of service if the member has less than thirty-six or sixty months of  
35 service. In the computation under this paragraph, a period of nonpaid or  
36 partially paid industrial leave shall be considered based on the salary the  
37 employee would have received in the employee's job classification if the  
38 employee was not on industrial leave.

39 8. "Beneficiary" means an individual who is being paid or who has  
40 entitlement to the future payment of a pension on account of a reason other  
41 than the individual's membership in the retirement plan.

42 9. "Board" means the board of trustees of the public safety personnel  
43 retirement system.

44 10. "Claimant" means a member, beneficiary or estate that files an  
45 application for benefits with the retirement plan.

- 1           11. "Credited service" means credited service transferred to the  
2 retirement plan from another retirement system or plan for public employees  
3 of this state, plus those compensated periods of service as a member of the  
4 retirement plan for which member contributions are on deposit in the fund.
- 5           12. "Cure period" means the ninety-day period in which a participant or  
6 alternate payee may submit an amended domestic relations order and request a  
7 determination, calculated from the time the plan issues a determination  
8 finding that a previously submitted domestic relations order did not qualify  
9 as a plan approved domestic relations order.
- 10          13. "Designated position" means:
- 11           (a) For a county:
- 12           (i) A county detention officer.
- 13           (ii) A nonuniformed employee of a sheriff's department whose primary  
14 duties require direct contact with inmates.
- 15           (b) For the state department of corrections and the department of  
16 juvenile corrections, only the following specifically designated positions:
- 17           (i) Food service.
- 18           (ii) Nursing personnel.
- 19           (iii) Corrections physician assistant.
- 20           (iv) Therapist.
- 21           (v) Corrections dental assistant.
- 22           (vi) Hygienist.
- 23           (vii) Corrections medical assistant.
- 24           (viii) Correctional service officer, including assistant deputy  
25 warden, deputy warden, warden and superintendent.
- 26           (ix) State correctional program officer.
- 27           (x) Parole or community supervision officers.
- 28           (xi) Investigators.
- 29           (xii) Teachers.
- 30           (xiii) Institutional maintenance workers.
- 31           (xiv) Youth corrections officer.
- 32           (xv) Youth program officer.
- 33           (xvi) Behavioral health treatment unit managers.
- 34           (xvii) The director and assistant directors of the department of  
35 juvenile corrections and the superintendent of the state educational system  
36 for committed youth.
- 37           (xviii) The director, deputy directors and assistant directors of the  
38 state department of corrections.
- 39           (xix) Other positions designated by the local board of the state  
40 department of corrections or the local board of the department of juvenile  
41 corrections pursuant to section 38-891.
- 42           (c) For a city or town, a city or town detention officer.
- 43           (d) For an employer of an eligible group as defined in section 38-842,  
44 full-time dispatchers.

1 (e) For the judiciary, probation, surveillance and juvenile detention  
2 officers and those positions designated by the local board of the judiciary  
3 pursuant to section 38-891.

4 (f) For the department of public safety, state detention officers.

5 14. "Determination" means a written document that indicates to a  
6 participant and alternate payee whether a domestic relations order qualifies  
7 as a plan approved domestic relations order.

8 15. "Determination period" means the ninety-day period in which the  
9 plan must review a domestic relations order that is submitted by a  
10 participant or alternate payee to determine whether the domestic relations  
11 order qualifies as a plan approved domestic relations order, calculated from  
12 the time the plan mails a notice of receipt to the participant and alternate  
13 payee.

14 16. "Direct rollover" means a payment by the plan to an eligible  
15 retirement plan that is specified by the distributee.

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

19 18. "Domestic relations order" means an order of a court of this state  
20 that is made pursuant to the domestic relations laws of this state and that  
21 creates or recognizes the existence of an alternate payee's right to, or  
22 assigns to an alternate payee the right to, receive a portion of the benefits  
23 payable to a participant.

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

26 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

44 (f) An eligible deferred compensation plan described in section 457(b)  
45 of the internal revenue code that is maintained by a state, a political

1 subdivision of a state or any agency or instrumentality of a state or a  
2 political subdivision of a state and that agrees to separately account for  
3 amounts transferred into the eligible deferred compensation plan from this  
4 plan.

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

7 (a) Any distribution that is one of a series of substantially equal  
8 periodic payments made not less frequently than annually for the life or life  
9 expectancy of the member or the joint lives or joint life expectancies of the  
10 member and the member's beneficiary or for a specified period of ten years or  
11 more.

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

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

16 22. "Employee" means a person employed by a participating employer in a  
17 designated position.

18 23. "Employer" means an agency or department of this state or a  
19 political subdivision of this state that has one or more employees in a  
20 designated position.

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

22 25. "Juvenile detention officer" means a juvenile detention officer  
23 responsible for the direct custodial supervision of juveniles who are  
24 detained in a county juvenile detention center.

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

28 27. "Member" means any employee who meets all of the following  
29 qualifications:

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

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

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

36 28. "Normal retirement date" means:

37 (a) For an employee who becomes a member of the plan before January 1,  
38 2012, the first day of the calendar month immediately following the  
39 employee's completion of twenty years of service or, in the case of a  
40 dispatcher, twenty-five years of service, the employee's sixty-second  
41 birthday and completion of ten years of service or the month in which the sum  
42 of the employee's age and years of credited service equals eighty.

43 (b) For an employee who becomes a member of the plan on or after  
44 January 1, 2012, the first day of the calendar month immediately following  
45 the employee's completion of twenty-five years of service if the employee is

1 at least fifty-two and one-half years of age or the employee's sixty-second  
2 birthday and completion of ten years of service.

3 29. "Notice of receipt" means a written document that is issued by the  
4 plan to a participant and alternate payee and that states that the plan has  
5 received a domestic relations order and a request for a determination that  
6 the domestic relations order is a plan approved domestic relations order.

7 30. "Ordinary disability" means a physical condition that the local  
8 board determines will totally and permanently prevent an employee from  
9 performing a reasonable range of duties within the employee's department or a  
10 mental condition that the local board determines will totally and permanently  
11 prevent an employee from engaging in any substantial gainful activity.

12 31. "Participant" means a member who is subject to a domestic relations  
13 order.

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

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

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

22 35. "Personal representative" means the personal representative of a  
23 deceased alternate payee.

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

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

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

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

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

38 41. "Retirement plan" or "plan" means the corrections officer  
39 retirement plan established by this article.

40 42. "Salary" means, [SUBJECT TO THE LIMITATION SPECIFIED IN SECTION](#)  
41 [38-895.01](#), the base salary, shift differential pay, military differential  
42 wage pay and holiday pay paid a member for personal services rendered in a  
43 designated position to a participating employer on a regular monthly,  
44 semimonthly or biweekly payroll basis. Salary includes amounts that are  
45 subject to deferred compensation or tax shelter agreements. Salary does not

1 include payment for any remuneration or reimbursement other than as  
2 prescribed by this paragraph. For the purposes of this paragraph, "base  
3 salary" means the amount of compensation each member is regularly paid for  
4 personal services rendered to an employer before the addition of any extra  
5 monies, including overtime pay, shift differential pay, holiday pay, fringe  
6 benefit pay and similar extra payments.

7 43. "Segregated funds" means the amount of benefits that would  
8 currently be payable to an alternate payee pursuant to a domestic relations  
9 order under review by the plan, or a domestic relations order submitted to  
10 the plan that failed to qualify as a plan approved domestic relations order,  
11 if the domestic relations order were determined to be a plan approved  
12 domestic relations order.

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

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

24 Sec. 6. Section 38-895.01, Arizona Revised Statutes, is amended to  
25 read:

26 38-895.01. Compensation limitation: adjustments

27 A. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, the annual  
28 compensation of each member taken into account for purposes of the plan shall  
29 not exceed the following:

30 1. Beginning January 1, 1996 through December 31, 2001, one hundred  
31 fifty thousand dollars.

32 2. Beginning January 1, 2002, two hundred thousand dollars.

33 B. If compensation under the plan is determined on a period of time  
34 that contains fewer than twelve calendar months, the compensation limit for  
35 that period of time is equal to the dollar limit for the calendar year during  
36 which the period of time begins, multiplied by the fraction in which the  
37 numerator is the number of full months in that period of time and the  
38 denominator is twelve.

39 C. The board shall adjust the annual compensation limits under this  
40 section at the same time and in the same manner as adjusted by the United  
41 States secretary of the treasury under section 401(a)(17)(B) of the internal  
42 revenue code. The adjustment under this subsection for a calendar year  
43 applies to annual compensation for the plan year that begins with or within  
44 the calendar year.

1           D. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FOR EMPLOYEES  
2 HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE  
3 ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR PURPOSES OF THE  
4 PLAN MAY NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS.