

REFERENCE TITLE: defined contribution retirement plans; option

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

## **HB 2090**

Introduced by  
Representatives Lovas, Allen, Kwasman, Lesko, Livingston, Mitchell, Olson,  
Orr; Mesnard, Petersen, Shope

AN ACT

AMENDING SECTIONS 38-651.01, 38-727, 38-782, 38-842 AND 38-884, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-957 AND 38-958; RELATING TO DEFINED CONTRIBUTION RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

18 C. The Arizona state retirement system board may enter into agreements  
19 with retired and disabled state employee members of the system and plan, ~~and~~  
20 retired members of the elected officials' defined contribution retirement  
21 system established pursuant to chapter 5, article 3.1 of this title **AND**  
22 **RETIRED MEMBERS OF THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED**  
23 **PURSUANT TO SECTION 38-957** who elect to obtain the coverage provided pursuant  
24 to subsection A of this section. The agreements may include provision for  
25 the deduction from the retirement benefits of participants of a retirement  
26 program of this state who elect to obtain coverage of amounts sufficient to  
27 pay for the premium not covered under retirement benefits and state  
28 administrative expense of providing coverage.

29 D. Retired state employee or disabled state employee members of the  
30 public safety personnel retirement system, the elected officials' retirement  
31 plan, the elected officials' defined contribution retirement system  
32 established pursuant to chapter 5, article 3.1 of this title, the corrections  
33 officer retirement plan, **THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED**  
34 **PURSUANT TO SECTION 38-957** or the optional retirement programs authorized  
35 pursuant to section 15-1628 who opt on retirement to enroll or continue  
36 enrollment in the group health and accident coverage for active employees  
37 working for the state of Arizona and their dependents and who are receiving  
38 benefits from the public safety personnel retirement system, the elected  
39 officials' retirement plan, the elected officials' defined contribution  
40 retirement system established pursuant to chapter 5, article 3.1 of this  
41 title, the corrections officer retirement plan, **THE DEFINED CONTRIBUTION**  
42 **RETIREMENT PLAN ESTABLISHED PURSUANT TO SECTION 38-957** or the optional  
43 retirement programs authorized pursuant to section 15-1628 may participate in  
44 group health and accident coverage provided pursuant to this section. The

1 department of administration shall adopt rules that are necessary for the  
2 implementation of this subsection.

3 E. The board of trustees of the public safety personnel retirement  
4 system may enter into agreements with retired state employee members and  
5 their dependents who elect to obtain the coverage provided pursuant to this  
6 section. The agreements may include provision for the deduction from the  
7 retirement benefits of participants of a retirement program of this state who  
8 elect to obtain coverage of amounts sufficient to pay for the premium not  
9 covered under retirement benefits and state administrative expense of  
10 providing coverage.

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

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

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

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

42 1. All medical services are rendered and received at an office  
43 designated by the qualifying health maintenance organization or at a facility  
44 referred by the health maintenance organization.

1           2. All nonemergency or nonurgent travel, ambulatory and other expenses  
2 from the residence area of the retiree to the designated office of the  
3 qualifying health maintenance organization or the facility referred by the  
4 health maintenance organization are the responsibility of and at the expense  
5 of the retiree.

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

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

16           K. A retired member of the elected officials' defined contribution  
17 retirement system established pursuant to chapter 5, article 3.1 of this  
18 title [OR THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO](#)  
19 [SECTION 38-957](#) may elect to obtain the coverage provided pursuant to  
20 subsection A of this section, but shall pay the premium for the coverage  
21 selected and is not eligible for benefits pursuant to section 38-783 or  
22 38-817.

23           Sec. 2. Section 38-727, Arizona Revised Statutes, is amended to read:  
24 [38-727. Eligibility; options](#)

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

27           1. All employees and officers of this state and all officers and  
28 employees of political subdivisions establishing a retirement plan  
29 administered by the board pursuant to this article who as a result of state  
30 service or service for the political subdivision are included in agreements  
31 providing for their coverage under the federal old age and survivors  
32 insurance system are subject to this article, except that membership is not  
33 mandatory:

34           (a) On the part of any employee who is eligible and who elects to  
35 participate in the optional retirement programs established by the Arizona  
36 board of regents pursuant to the authority conferred by section 15-1628 or by  
37 a community college district board pursuant to authority conferred by section  
38 15-1451.

39           (b) For a state elected official who is subject to term limits, who is  
40 elected or appointed before January 1, 2014, who is eligible for  
41 participation in ASRS because the state elected official elected not to  
42 participate in the elected officials' retirement plan as provided in section  
43 38-804, subsection A and who elects not to participate in ASRS as provided in  
44 paragraph 7 of this section.

1 (c) On the part of any employee or officer who is eligible to  
2 participate and who participates in the elected officials' retirement plan  
3 pursuant to article 3 of this chapter, the elected officials' defined  
4 contribution retirement system pursuant to article 3.1 of this chapter, the  
5 public safety personnel retirement system pursuant to article 4 of this  
6 chapter or the corrections officer retirement plan pursuant to article 6 of  
7 this chapter.

8 (d) ON THE PART OF ANY EMPLOYEE WHO IS HIRED ON OR AFTER THE EFFECTIVE  
9 DATE OF THIS AMENDMENT TO THIS SECTION, WHO IS ELIGIBLE AND WHO ELECTS TO  
10 PARTICIPATE IN THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT  
11 TO SECTION 38-957.

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

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

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

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

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

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

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

44 7. A state elected official who is subject to term limits, who is  
45 elected or appointed before January 1, 2014 and who is eligible for

1 participation in ASRS because the state elected official elected not to  
2 participate in the elected officials' retirement plan as provided in section  
3 38-804, subsection A may elect not to participate in ASRS. The election not  
4 to participate is specific for that term of office. The state elected  
5 official who is subject to term limits shall make the election in writing and  
6 file the election with ASRS within thirty days after the elected official's  
7 retirement plan mails the notice to the state elected official of the state  
8 elected official's eligibility to participate in ASRS. The election is  
9 effective on the first day of the state elected official's eligibility. If a  
10 state elected official who is subject to term limits fails to make an  
11 election as provided in this paragraph, the state elected official is deemed  
12 to have elected to participate in ASRS. The election not to participate in  
13 ASRS is irrevocable and constitutes a waiver of all benefits provided by ASRS  
14 for the state elected official's entire term, except for any benefits accrued  
15 by the state elected official in ASRS for periods of participation before  
16 being elected to an office subject to term limits or any benefits expressly  
17 provided by law.

18 8. Before July 1, 2015, a person may elect not to participate in ASRS  
19 if the person becomes employed by an employer after the person has attained  
20 at least sixty-five years of age, is not an active member, inactive member,  
21 retired member or receiving benefits pursuant to article 2.1 of this chapter  
22 and does not have any credited service or prior service in ASRS. The  
23 employee shall make the election not to participate in writing and file the  
24 election with ASRS within thirty days of employment. The election not to  
25 participate is irrevocable for the remainder of the person's employment for  
26 which the person made the election and constitutes a waiver of all benefits  
27 provided by the Arizona state retirement system. The period the person works  
28 is not eligible for purchase under section 38-743 or 38-744.

29 B. The following elected officials are subject to this article if the  
30 member's employer is an employer under article 3 of this chapter and the  
31 member elects to participate in ASRS pursuant to subsection C of this  
32 section:

33 1. A state elected official who is subject to term limits, who is  
34 elected or appointed on or before December 31, 2013 and who is an active or  
35 inactive member of ASRS because the state elected official had previously  
36 elected not to participate in the elected officials' retirement plan as  
37 provided in section 38-804, subsection A.

38 2. Notwithstanding any exclusion from an agreement providing for  
39 coverage under the federal old age and survivors insurance system, an elected  
40 official, as defined in section 38-831, who is an active or inactive member  
41 of ASRS, if the elected official's employer is a participating employer under  
42 this article.

43 C. If an elected official as described in subsection B of this section  
44 elects to continue or resume the member's participation in ASRS, the election  
45 shall be made in writing and filed with ASRS within thirty days after the

1 elected official's term begins. The election is irrevocable for the  
2 remainder of the elected official's term for which the election was made. If  
3 the elected official does not make an election under this subsection, the  
4 elected official shall be enrolled in the elected officials' defined  
5 contribution retirement system pursuant to article 3.1 of this chapter.

6 Sec. 3. Section 38-782, Arizona Revised Statutes, is amended to read:  
7 38-782. Group health and accident coverage for retired public  
8 employees and elected officials and their dependents:  
9 definition

10 A. The board shall establish group health and accident coverage for  
11 eligible retired, surviving and disabled members and their dependents. The  
12 board may establish a self-insurance program for the purposes of this  
13 subsection if the board determines that self-insuring would be less expensive  
14 than and at least as effective as a fully insured plan, while considering the  
15 risks and costs. If the board establishes a self-insurance program, the  
16 board shall provide that the self-insurance program include all health  
17 coverage benefits that are required pursuant to title 20. ASRS shall  
18 establish a separate account for any self-insurance program established  
19 pursuant to this section in an amount determined appropriate by ASRS. ASRS  
20 shall not use or divert any part of the corpus or income of the account for  
21 any purpose other than to administer the self-insurance program unless the  
22 board determines that a self-insurance program should no longer be offered.  
23 If a self-insurance program is no longer offered, monies in the account shall  
24 be transferred to another account of ASRS as determined by ASRS. If an  
25 insured retired or disabled member dies before the insured member's dependent  
26 beneficiary or an insured surviving dependent, the dependent beneficiary or  
27 insured surviving dependent is entitled to coverage at group rates if the  
28 dependent beneficiary or surviving dependent elects to continue in the  
29 coverage within six months of the insured member's death and the dependent  
30 beneficiary or surviving dependent agrees to pay the cost of the premium for  
31 group health and accident insurance. On notification of the insured member's  
32 death, the board shall immediately notify a dependent beneficiary or an  
33 insured surviving dependent of the provisions of this section.

34 B. Retired members of the public safety personnel retirement system,  
35 the elected officials' retirement plan, the elected officials' defined  
36 contribution retirement system established pursuant to article 3.1 of this  
37 chapter, the corrections officer retirement plan, THE DEFINED CONTRIBUTION  
38 RETIREMENT PLAN ESTABLISHED PURSUANT TO SECTION 38-957 or the optional  
39 retirement programs authorized pursuant to sections 15-1451 and 15-1628 and  
40 their dependents who are receiving benefits from the public safety personnel  
41 retirement system, the elected officials' retirement plan, the elected  
42 officials' defined contribution retirement system established pursuant to  
43 article 3.1 of this chapter, the corrections officer retirement plan, THE  
44 DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO SECTION 38-957  
45 or the optional retirement programs authorized pursuant to sections 15-1451

1 and 15-1628 and who are not covered by section 38-651.01 may participate in  
2 group health and accident coverage provided pursuant to this section. On the  
3 death of an insured member of the public safety personnel retirement system,  
4 the elected officials' retirement plan, the elected officials' defined  
5 contribution retirement system established pursuant to article 3.1 of this  
6 chapter, the corrections officer retirement plan, **THE DEFINED CONTRIBUTION**  
7 **RETIREMENT PLAN ESTABLISHED PURSUANT TO SECTION 38-957** or the optional  
8 retirement programs authorized pursuant to sections 15-1451 and 15-1628, the  
9 insured surviving dependent is entitled to coverage at group rates. Except  
10 as provided in subsection H of this section, the surviving dependent shall be  
11 charged amounts that are sufficient to pay for the premium and administrative  
12 expense of providing the coverage.

13 C. The board may enter into agreements with retired, surviving and  
14 disabled members of ASRS, **and** retired members of the elected officials'  
15 defined contribution retirement system established pursuant to article 3.1 of  
16 this chapter **AND THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED**  
17 **PURSUANT TO SECTION 38-957** who elect to obtain the coverage provided pursuant  
18 to subsection A of this section. Those agreements may include provisions for  
19 the deduction from the retirement benefits of the members who elect to obtain  
20 the coverage of amounts sufficient to pay for the premium not covered under  
21 retirement benefits and the administrative expense of providing the coverage.

22 D. The board of trustees of the public safety personnel retirement  
23 system may enter into agreements with retired members of the public safety  
24 personnel retirement system, the elected officials' retirement plan, the  
25 corrections officer retirement plan and their dependents who elect to obtain  
26 the coverage provided pursuant to this section. Those agreements may include  
27 provisions for the deduction from the retirement benefits of the members who  
28 elect to obtain the coverage of amounts sufficient to pay for the premium not  
29 covered under their retirement benefits and the administrative expense of  
30 providing the coverage.

31 E. The board may enter into agreements with retired members of the  
32 optional retirement programs authorized pursuant to sections 15-1451 and  
33 15-1628 and their dependents who elect to obtain the coverage provided  
34 pursuant to this section. Those agreements may include provisions for the  
35 payment of amounts sufficient to pay for the premium and administrative  
36 expense of providing the coverage.

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

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

1           2. The member shall pay the full premium cost of the coverage  
2 selected, and the member is not eligible for benefits pursuant to section  
3 38-783.

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

10          G. Retired, surviving or disabled members who are not eligible for  
11 medicare, who live in this state, who enroll in a qualifying health  
12 maintenance organization under this section and who reside outside the area  
13 of a qualifying health maintenance organization shall be offered the option  
14 of enrolling with a qualified health maintenance organization offered through  
15 their provider under the same premiums as if they lived within the area  
16 boundaries of the qualified health maintenance organization provided that:

17           1. All medical services are rendered and received at an office  
18 designated by the qualifying health maintenance organization or at a facility  
19 referred by the health maintenance organization.

20           2. All nonemergency or nonurgent travel, ambulatory and other expenses  
21 from the residence area of the member to the designated office of the  
22 qualifying health maintenance organization or the facility referred by the  
23 health maintenance organization are the responsibility of and at the expense  
24 of the member.

25           3. All emergency or urgent travel, ambulatory and other expenses from  
26 the residence area of the member to the designated office of the qualifying  
27 health maintenance organization or the facility referred by the health  
28 maintenance organization shall be paid pursuant to any agreement between the  
29 health maintenance organization and the member living outside the area of the  
30 qualifying health maintenance organization.

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

35          I. A retired member of the elected officials' defined contribution  
36 retirement system established pursuant to article 3.1 of this chapter **OR THE**  
37 **DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO SECTION 38-957**  
38 may elect to obtain the coverage provided pursuant to subsection A of this  
39 section, but shall pay the premium for the coverage selected and is not  
40 eligible for benefits pursuant to section 38-783 or 38-817.

41          J. For the purposes of this section, "eligible retired, surviving and  
42 disabled member" means a retired member who is receiving retirement benefits  
43 from ASRS, a designated beneficiary of a deceased member who is receiving a  
44 survivor benefit pursuant to section 38-762, subsection C as monthly income  
45 or a disabled member who is receiving long-term disability benefits pursuant

1 to section 38-651.03 or article 2.1 of this chapter, and who does not  
2 otherwise elect to obtain coverage under a group health and accident  
3 insurance plan or program.

4 Sec. 4. Section 38-842, Arizona Revised Statutes, is amended to read:

5 **38-842. Definitions**

6 In this article, unless the context otherwise requires:

7 1. "Accidental disability" means a physical or mental condition that  
8 the local board finds totally and permanently prevents an employee from  
9 performing a reasonable range of duties within the employee's job  
10 classification and that was incurred in the performance of the employee's  
11 duty.

12 2. "Accumulated contributions" means, for each member, the sum of the  
13 amount of the member's aggregate contributions made to the fund and the  
14 amount, if any, attributable to the employee's contributions before the  
15 member's effective date under another public retirement system, other than  
16 the federal social security act, and transferred to the fund minus the  
17 benefits paid to or on behalf of the member.

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

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

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

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

27 7. "Average monthly benefit compensation" means the result obtained by  
28 dividing the total compensation paid to an employee during a considered  
29 period by the number of months, including fractional months, in which such  
30 compensation was received. For an employee who becomes a member of the  
31 system before January 1, 2012, the considered period shall be the three  
32 consecutive years within the last twenty completed years of credited service  
33 that yield the highest average. For an employee who becomes a member of the  
34 system on or after January 1, 2012, the considered period is the five  
35 consecutive years within the last twenty completed years of credited service  
36 that yield the highest average. In the computation under this paragraph, a  
37 period of nonpaid or partially paid industrial leave shall be considered  
38 based on the compensation the employee would have received in the employee's  
39 job classification if the employee was not on industrial leave.

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

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

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

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

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

32           13. "Credited service" means the member's total period of service  
33 before the member's effective date of participation, plus those compensated  
34 periods of the member's service thereafter for which the member made  
35 contributions to the fund.

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

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

1           16. "Determination" means a written document that indicates to a  
2 participant and alternate payee whether a domestic relations order qualifies  
3 as a plan approved domestic relations order.

4           17. "Determination period" means the ninety-day period in which the  
5 system must review a domestic relations order that is submitted by a  
6 participant or alternate payee to determine whether the domestic relations  
7 order qualifies as a plan approved domestic relations order, calculated from  
8 the time the system mails a notice of receipt to the participant and  
9 alternate payee.

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

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

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

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

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

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

28           (a) Is under eighteen years of age.

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

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

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

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

37           (b) Municipal fire fighters.

38           (c) Paid full-time fire fighters employed directly by a fire district  
39 organized pursuant to section 48-803 or 48-804 or a joint powers authority  
40 pursuant to section 48-805.01 with three or more full-time fire fighters, but  
41 not including fire fighters employed by a fire district pursuant to a  
42 contract with a corporation.

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

44           (e) State fire fighters.

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

- 1 (g) Game and fish wardens who are certified peace officers.
- 2 (h) Police officers who are certified peace officers and fire fighters
- 3 of a nonprofit corporation operating a public airport pursuant to sections
- 4 28-8423 and 28-8424. A police officer shall be designated pursuant to
- 5 section 28-8426 to aid and supplement state and local law enforcement
- 6 agencies and a fire fighter's sole duty shall be to perform fire fighting
- 7 services, including services required by federal regulations.
- 8 (i) Police officers who are certified peace officers and who are
- 9 appointed by the Arizona board of regents.
- 10 (j) Police officers who are certified peace officers and who are
- 11 appointed by a community college district governing board.
- 12 (k) State attorney general investigators who are certified peace
- 13 officers.
- 14 (l) County attorney investigators who are certified peace officers.
- 15 (m) Police officers who are certified peace officers and who are
- 16 employed by an Indian reservation police agency.
- 17 (n) Fire fighters who are employed by an Indian reservation fire
- 18 fighting agency.
- 19 (o) Department of liquor licenses and control investigators who are
- 20 certified peace officers.
- 21 (p) Arizona department of agriculture officers who are certified peace
- 22 officers.
- 23 (q) Arizona state parks board rangers and managers who are certified
- 24 peace officers.
- 25 (r) County park rangers who are certified peace officers.
- 26 25. "Eligible retirement plan" means any of the following that accepts
- 27 a distributee's eligible rollover distribution:
- 28 (a) An individual retirement account described in section 408(a) of
- 29 the internal revenue code.
- 30 (b) An individual retirement annuity described in section 408(b) of
- 31 the internal revenue code.
- 32 (c) An annuity plan described in section 403(a) of the internal
- 33 revenue code.
- 34 (d) A qualified trust described in section 401(a) of the internal
- 35 revenue code.
- 36 (e) An annuity contract described in section 403(b) of the internal
- 37 revenue code.
- 38 (f) An eligible deferred compensation plan described in section 457(b)
- 39 of the internal revenue code that is maintained by a state, a political
- 40 subdivision of a state or any agency or instrumentality of a state or a
- 41 political subdivision of a state and that agrees to separately account for
- 42 amounts transferred into the eligible deferred compensation plan from this
- 43 plan.

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

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

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

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

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

18          28. "Employers" means:

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

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

27          (c) The state highway patrol covered under the state highway patrol  
28 retirement system.

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

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

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

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

1           31. "Member"

2           (a) Means any full-time employee who meets all of the following  
3 qualifications:

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

22           ~~(b)~~ (ii) Who, on or after the employee's effective date of  
23 participation, is receiving compensation for personal services rendered to an  
24 employer or would be receiving compensation except for an authorized leave of  
25 absence.

26           ~~(c)~~ (iii) Whose customary employment is at least forty hours per week  
27 or, for those employees who customarily work fluctuating work weeks, whose  
28 customary employment averages at least forty hours per week.

29           ~~(d)~~ (iv) Who is engaged to work for more than six months in a  
30 calendar year.

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

36           ~~(f)~~ (vi) Who has not attained age sixty-five before the employee's  
37 effective date of participation or who was over age sixty-five with  
38 twenty-five years or more of service prior to the employee's effective date  
39 of participation.

40           (b) DOES NOT INCLUDE AN EMPLOYEE WHO IS HIRED ON OR AFTER THE  
41 EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION AND WHO ELECTS TO  
42 PARTICIPATE IN THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT  
43 TO SECTION 38-957.

- 1           32. "Normal retirement date" means:  
2           (a) For an employee who becomes a member of the system before January  
3 1, 2012, the first day of the calendar month immediately following the  
4 employee's completion of twenty years of service or the employee's  
5 sixty-second birthday and the employee's completion of fifteen years of  
6 service.  
7           (b) For an employee who becomes a member of the system on or after  
8 January 1, 2012, the first day of the calendar month immediately following  
9 the employee's completion of twenty-five years of service if the employee is  
10 at least fifty-two and one-half years of age.
- 11           33. "Notice of receipt" means a written document that is issued by the  
12 system to a participant and alternate payee and that states that the system  
13 has received a domestic relations order and a request for a determination  
14 that the domestic relations order is a plan approved domestic relations  
15 order.
- 16           34. "Ordinary disability" means a physical condition that the local  
17 board determines will prevent an employee totally and permanently from  
18 performing a reasonable range of duties within the employee's department or a  
19 mental condition that the local board determines will prevent an employee  
20 totally and permanently from engaging in any substantial gainful activity.
- 21           35. "Participant" means a member who is subject to a domestic relations  
22 order.
- 23           36. "Participant's portion" means benefits that are payable to a  
24 participant pursuant to a plan approved domestic relations order.
- 25           37. "Pension" means a series of monthly amounts that are payable to a  
26 person who is entitled to receive benefits under the plan but does not  
27 include an annuity that is payable pursuant to section 38-846.01.
- 28           38. "Personal representative" means the personal representative of a  
29 deceased alternate payee.
- 30           39. "Physician" means a physician who is licensed pursuant to title 32,  
31 chapter 13 or 17.
- 32           40. "Plan approved domestic relations order" means a domestic relations  
33 order that the system approves as meeting all the requirements for a plan  
34 approved domestic relations order as otherwise prescribed in this article.
- 35           41. "Regularly assigned to hazardous duty" means regularly assigned to  
36 duties of the type normally expected of municipal police officers, municipal  
37 or state fire fighters, eligible fire district fire fighters, state highway  
38 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
39 fighters and police officers of a nonprofit corporation operating a public  
40 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
41 appointed by the Arizona board of regents or a community college district  
42 governing board, state attorney general investigators who are certified peace  
43 officers, county attorney investigators who are certified peace officers,  
44 department of liquor licenses and control investigators who are certified  
45 peace officers, Arizona department of agriculture officers who are certified

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

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

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

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



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

4           (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
5 member contributions deducted from the member's salary pursuant to section  
6 38-891, subsection B.

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

10          (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
11 member contributions deducted from the member's salary pursuant to section  
12 38-891, subsection B.

13          (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
14 member contributions deducted from the member's salary pursuant to section  
15 38-891, subsection B.

16          (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
17 member contributions deducted from the member's salary pursuant to section  
18 38-891, subsection B.

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

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

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

36          F. If the refund includes monies that are an eligible rollover  
37 distribution and the member elects to have the distribution paid directly to  
38 an eligible retirement plan or individual retirement account or annuity and  
39 specifies the eligible retirement plan or individual retirement account or  
40 annuity to which the distribution is to be paid, the distribution shall be  
41 made in the form of a direct trustee-to-trustee transfer to the specified  
42 eligible retirement plan. The distribution shall be made in the form and at  
43 the time prescribed by the board.

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

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

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

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

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

24 3. The required payment is completed within one year after returning  
25 to employee status.

26 J. If a member who receives a severance refund on termination of  
27 employment pursuant to subsection C, D or E of this section is subsequently  
28 reemployed by an employer, the member's prior service credits are cancelled,  
29 and the board shall credit service only from the date the member's most  
30 recent reemployment period commenced. However, a present active member of  
31 the plan who received a refund of accumulated contributions from the plan  
32 pursuant to subsection C, D or E of this section, forfeited credited service  
33 pursuant to subsection H of this section and becomes reemployed with the same  
34 employer two years or more after the member's termination date or becomes  
35 reemployed with another employer may elect to redeem any part of that  
36 forfeited credited service by paying into the plan any amounts required  
37 pursuant to this subsection. A present active member who elects to redeem  
38 any part of forfeited credited service for which the member is deemed  
39 eligible by the board shall pay into the plan the amounts previously paid or  
40 transferred as a refund of the member's accumulated contributions plus an  
41 amount, computed by the plan's actuary that is necessary to equal the  
42 increase in the actuarial present value of projected benefits resulting from  
43 the redemption calculated using the actuarial methods and assumptions  
44 prescribed by the plan's actuary. On satisfaction of this obligation, the  
45 board shall reinstate the member's prior service credits.

1 K. A retired member may become employed by an employer in a designated  
2 position and continue to receive a pension if the employment occurs at least  
3 twelve months after retirement. The retired member shall not contribute to  
4 the fund and shall not accrue credited service. If a retired member becomes  
5 employed by an employer in a designated position before twelve months after  
6 retirement:

7 1. Payment of the retired member's pension shall be suspended until  
8 the retired member again ceases to be an employee. The amount of pension  
9 shall not be changed on account of service as an employee subsequent to  
10 retirement.

11 2. The retired member shall not contribute to the fund and shall not  
12 accrue credited service.

13 Sec. 6. Title 38, chapter 5, article 8, Arizona Revised Statutes, is  
14 amended by adding sections 38-957 and 38-958, to read:

15 38-957. Defined contribution retirement plan; establishment;  
16 administration

17 A. THE ARIZONA STATE RETIREMENT SYSTEM BOARD SHALL ESTABLISH,  
18 ADMINISTER, MANAGE AND OPERATE A DEFINED CONTRIBUTION RETIREMENT PLAN FOR  
19 EMPLOYEES WHO ARE OTHERWISE ELIGIBLE UNDER ARTICLE 2 OF THIS CHAPTER BUT WHO  
20 ELECT TO PARTICIPATE IN THE DEFINED CONTRIBUTION RETIREMENT PLAN. THE BOARD  
21 OF TRUSTEES ESTABLISHED BY SECTION 38-848 SHALL ESTABLISH, ADMINISTER, MANAGE  
22 AND OPERATE A SINGLE DEFINED CONTRIBUTION RETIREMENT PLAN FOR EMPLOYEES WHO  
23 WOULD OTHERWISE BE MEMBERS OF THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM  
24 AND THE CORRECTIONS OFFICER RETIREMENT PLAN BUT WHO ELECT TO PARTICIPATE IN  
25 THE DEFINED CONTRIBUTION RETIREMENT PLAN.

26 B. THE ARIZONA STATE RETIREMENT SYSTEM BOARD MAY DELEGATE AUTHORITY TO  
27 IMPLEMENT THE PLAN TO ITS DIRECTOR APPOINTED PURSUANT TO SECTION 38-715.

28 C. THE BOARD OF TRUSTEES MAY DELEGATE AUTHORITY TO IMPLEMENT THE PLAN  
29 TO THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION 38-848, SUBSECTION K,  
30 PARAGRAPH 6.

31 D. THE BOARD MAY:

32 1. EMPLOY SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES, FOR  
33 THE OPERATION AND ADMINISTRATION OF THE PLAN.

34 2. ADMINISTER THE PLAN THROUGH CONTRACTS WITH MULTIPLE VENDORS.

35 3. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT  
36 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

37 4. FOR THE PURPOSES OF THIS ARTICLE, ENTER INTO INTERGOVERNMENTAL  
38 AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

39 E. NOTWITHSTANDING TITLE 41, CHAPTER 23, THE BOARD MAY EMPLOY THE  
40 SERVICES OF THE THIRD-PARTY ADMINISTRATOR THAT IS CONTRACTED ON THE EFFECTIVE  
41 DATE OF THIS SECTION TO ADMINISTER THE SUPPLEMENTAL DEFINED CONTRIBUTION PLAN  
42 PURSUANT TO THIS ARTICLE TO ALSO ADMINISTER THE DEFINED CONTRIBUTION  
43 RETIREMENT PLAN ESTABLISHED PURSUANT TO THIS SECTION UNTIL THE END OF THE  
44 CURRENT CONTRACT. ON EXPIRATION OF THAT CONTRACT, THE BOARD SHALL  
45 PARTICIPATE IN A COMPETITIVE BID PROCESS AT LEAST ONCE EVERY FIVE YEARS TO

1 CONTRACT WITH A PRIVATE PERSON OR ANY QUALIFIED COMPANY OR COMPANIES TO  
2 ADMINISTER THE DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
3 THIS SECTION.

4 F. THE DEFINED CONTRIBUTION RETIREMENT PLAN SHALL BE DESIGNED TO BE A  
5 QUALIFIED GOVERNMENTAL PLAN UNDER SECTION 401(a) OF THE INTERNAL REVENUE  
6 CODE. THE LEGISLATURE INTENDS THAT A DEFINED CONTRIBUTION RETIREMENT PLAN IS  
7 A QUALIFIED PLAN UNDER SECTION 401 OF THE INTERNAL REVENUE CODE, AS AMENDED,  
8 OR SUCCESSOR PROVISIONS OF LAW, AND THAT THE PLAN IS EXEMPT FROM TAXATION  
9 UNDER SECTION 501 OF THE INTERNAL REVENUE CODE. THE BOARD MAY ADOPT ANY  
10 ADDITIONAL PROVISIONS TO THE PLAN THAT ARE NECESSARY TO FULFILL THIS INTENT.

11 G. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL EMPLOYEE  
12 CONTRIBUTIONS MADE TO A PLAN MUST BE PICKED UP AND PAID BY THE EMPLOYER IN  
13 LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE CONTRIBUTIONS PICKED UP BY AN  
14 EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE EMPLOYEE'S COMPENSATION OR AN  
15 OFFSET AGAINST FUTURE COMPENSATION INCREASES, OR A COMBINATION OF BOTH. AN  
16 EMPLOYEE PARTICIPATING IN A PLAN DOES NOT HAVE THE OPTION OF CHOOSING TO  
17 RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE EMPLOYER PAYING THE  
18 AMOUNTS TO THE PLAN. IT IS INTENDED THAT ALL EMPLOYEE CONTRIBUTIONS THAT ARE  
19 PICKED UP BY THE EMPLOYER AS PROVIDED IN THIS SUBSECTION BE TREATED AS  
20 EMPLOYER CONTRIBUTIONS UNDER SECTION 414(h) OF THE INTERNAL REVENUE CODE, BE  
21 EXCLUDED FROM EMPLOYEES' GROSS INCOME FOR FEDERAL AND STATE INCOME TAX  
22 PURPOSES AND ARE INCLUDABLE IN THE GROSS INCOME OF THE EMPLOYEES OR THEIR  
23 BENEFICIARIES ONLY IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED.

24 38-958. Defined contribution retirement plan option;  
25 participation; election; contribution rate;  
26 definition

27 A. AN EMPLOYEE MAY ELECT TO PARTICIPATE IN THE DEFINED CONTRIBUTION  
28 RETIREMENT PLAN OPTION. AN EMPLOYEE SHALL MAKE THE ELECTION IN WRITING AND  
29 FILE THE ELECTION WITH THE RETIREMENT SYSTEM OR PLAN IN WHICH THE EMPLOYEE  
30 WOULD OTHERWISE BE A MEMBER AND WITH THE DESIGNATED OFFICER OF THE EMPLOYEE'S  
31 EMPLOYER. THE ELECTION IS IRREVOCABLE FOR THE REMAINDER OF THE EMPLOYEE'S  
32 EMPLOYMENT WITH THE EMPLOYER AND MUST BE EXECUTED WITHIN THIRTY DAYS OF THE  
33 EMPLOYEE BECOMING EMPLOYED BY THE EMPLOYER.

34 B. EACH EMPLOYEE SHALL CONTRIBUTE SEVEN AND ONE-HALF PER CENT OF THE  
35 EMPLOYEE'S COMPENSATION, AS DEFINED UNDER THE SYSTEM OR PLAN IN WHICH THE  
36 EMPLOYEE WOULD HAVE BEEN ENROLLED HAD THE EMPLOYEE NOT ELECTED TO PARTICIPATE  
37 IN THE DEFINED CONTRIBUTION RETIREMENT PLAN, BY SALARY REDUCTION THAT IS  
38 DEPOSITED IN THE EMPLOYEE'S RETIREMENT SAVINGS ACCOUNT. EACH EMPLOYER SHALL  
39 CONTRIBUTE THE FOLLOWING:

40 1. AN EMPLOYER WHOSE EMPLOYEE WOULD HAVE BEEN A MEMBER OF THE ARIZONA  
41 STATE RETIREMENT SYSTEM SHALL CONTRIBUTE TO THE ARIZONA STATE RETIREMENT  
42 SYSTEM THE ALTERNATE CONTRIBUTION RATE AMOUNT DETERMINED PURSUANT TO SECTION  
43 38-766.02. THE EMPLOYER SHALL CONTRIBUTE AN AMOUNT EQUAL TO THE CONTRIBUTION  
44 RATE AS DETERMINED PURSUANT TO SECTION 38-737 MINUS THE ALTERNATE  
45 CONTRIBUTION RATE AMOUNT DETERMINED PURSUANT TO SECTION 38-766.02, UP TO

1 EIGHT PER CENT, WHICH SHALL BE DEPOSITED IN THE EMPLOYEE'S RETIREMENT SAVINGS  
2 ACCOUNT.

3 2. AN EMPLOYER WHOSE EMPLOYEE WOULD HAVE BEEN A MEMBER OF THE PUBLIC  
4 SAFETY PERSONNEL RETIREMENT SYSTEM SHALL CONTRIBUTE TO THE PUBLIC SAFETY  
5 PERSONNEL RETIREMENT SYSTEM THE ALTERNATE CONTRIBUTION RATE AMOUNT DETERMINED  
6 PURSUANT TO SECTION 38-843.05. THE EMPLOYER SHALL CONTRIBUTE THE PERCENTAGE  
7 DETERMINED BY THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO PARAGRAPH 1 OF  
8 THIS SUBSECTION, WHICH SHALL BE DEPOSITED IN THE EMPLOYEE'S RETIREMENT  
9 SAVINGS ACCOUNT.

10 3. AN EMPLOYER WHOSE EMPLOYEE WOULD HAVE BEEN A MEMBER OF THE  
11 CORRECTIONS OFFICER RETIREMENT PLAN SHALL CONTRIBUTE TO THE PUBLIC SAFETY  
12 PERSONNEL RETIREMENT SYSTEM THE ALTERNATE CONTRIBUTION RATE AMOUNT DETERMINED  
13 PURSUANT TO SECTION 38-891.01. THE EMPLOYER SHALL CONTRIBUTE THE PERCENTAGE  
14 DETERMINED BY THE ARIZONA STATE RETIREMENT SYSTEM PURSUANT TO PARAGRAPH 1 OF  
15 THIS SUBSECTION, WHICH SHALL BE DEPOSITED IN THE EMPLOYEE'S RETIREMENT  
16 SAVINGS ACCOUNT.

17 C. EMPLOYEE AND EMPLOYER CONTRIBUTIONS UNDER SUBSECTION B OF THIS  
18 SECTION AND EARNINGS ON THOSE CONTRIBUTIONS ARE IMMEDIATELY VESTED.

19 D. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE" MEANS A PERSON WHO:  
20 1. IS HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION.  
21 2. IS NOT AN ACTIVE, AN INACTIVE, A RETIRED OR A DISABLED MEMBER OF  
22 THE ARIZONA STATE RETIREMENT SYSTEM, THE PUBLIC SAFETY PERSONNEL RETIREMENT  
23 SYSTEM OR THE CORRECTIONS OFFICER RETIREMENT PLAN.

24 3. WOULD OTHERWISE BE ELIGIBLE UNDER ARTICLE 2, 4 OR 6 OF THIS CHAPTER  
25 BUT WHO HAS ELECTED TO PARTICIPATE IN THE DEFINED CONTRIBUTION RETIREMENT  
26 PLAN ESTABLISHED PURSUANT TO SECTION 38-957.