House Engrossed Senate Bill

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

SENATE BILL 1284

AN ACT

AMENDING TITLE 12, CHAPTER 2, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-290; CHANGING THE DESIGNATION OF TITLE 38, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, TO "FIREFIGHTER, PEACE OFFICER AND CORRECTIONS OFFICER CANCER INSURANCE"; AMENDING SECTIONS 38-641, 38-642, 38-643, 38-644, 38-645, 38-848, 38-853.01, 38-891 AND 38-961, ARIZONA REVISED STATUTES; AMENDING LAWS 2012, CHAPTER 287, SECTION 2; RELATING TO PUBLIC SAFETY OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 12, chapter 2, article 8, Arizona Revised Statutes, is amended by adding section 12-290, to read:

12-290. Records maintained by clerk of the superior court; confidentiality; definitions

A. A PEACE OFFICER WHO BELIEVES THAT THE LIFE OR SAFETY OF THE OFFICER OR ANOTHER PERSON IS IN DANGER AND THAT RESTRICTING ACCESS TO THE OFFICER'S PERSONAL IDENTIFYING INFORMATION WILL SERVE TO REDUCE THE DANGER MAY REQUEST THAT THE GENERAL PUBLIC BE PROHIBITED FROM ACCESSING SUPERIOR COURT RECORDS MAINTAINED BY THE CLERK OF THE SUPERIOR COURT THAT CONTAIN THE PEACE OFFICER'S PERSONAL IDENTIFYING INFORMATION.

B. AN ELIGIBLE PERSON MAY REQUEST THIS ACTION BY FILING AN AFFIDAVIT IN EACH CASE IN THE SUPERIOR COURT OF THE COUNTY THAT CONTAINS THE PERSONAL IDENTIFYING INFORMATION REQUESTING THAT THE COURT ORDER THE GENERAL PUBLIC BE PROHIBITED FROM ACCESSING RECORDS THAT CONTAIN THE PERSONAL IDENTIFYING INFORMATION. EACH AFFIDAVIT SHALL CONTAIN THE OFFICER'S PERSONAL IDENTIFYING INFORMATION AND ANY OTHER INFORMATION REQUIRED BY THE COURT.

C. TO PREVENT MULTIPLE FILINGS, AN ELIGIBLE PERSON SHALL DELIVER THE AFFIDAVIT TO THE PEACE OFFICER'S COMMANDING OFFICER, OR THAT PERSON'S DESIGNEE, WHO SHALL FILE THE AFFIDAVITS AT ONE TIME. IN THE ABSENCE OF AN AFFIDAVIT THAT CONTAINS A REQUEST FOR IMMEDIATE ACTION AND THAT IS SUPPORTED BY FACTS JUSTIFYING AN EARLIER PRESENTATION, THE COMMANDING OFFICER, OR THAT PERSON'S DESIGNEE, SHALL NOT FILE AFFIDAVITS MORE OFTEN THAN QUARTERLY.

D. IF THE COURT FINDS THAT THE LIFE OR SAFETY OF THE OFFICER OR ANOTHER PERSON IS IN DANGER AND THAT RESTRICTING ACCESS TO RECORDS THAT CONTAIN THE OFFICER'S PERSONAL IDENTIFYING INFORMATION WILL SERVE TO REDUCE THE DANGER THE COURT SHALL GRANT THE PETITION AND RESTRICT ACCESS AS NECESSARY.

E. THE SUPREME COURT SHALL PROMULGATE RULES TO IMPLEMENT THIS SECTION.

F. FOR THE PURPOSES OF THIS SECTION:

1. "PEACE OFFICER" HAS THE SAME MEANING PRESCRIBED IN SECTION 1-215.

2. "PERSONAL IDENTIFYING INFORMATION" MEANS THE OFFICER'S RESIDENTIAL ADDRESS, TELEPHONE NUMBER AND CONTACT INFORMATION AS STATED IN THE RECORDS.

Sec. 2. Heading change

The article heading of title 38, chapter 4, article 3, Arizona Revised Statutes, is changed from "FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE" to "FIREFIGHTER, PEACE OFFICER AND CORRECTIONS OFFICER CANCER INSURANCE".

Sec. 3. Section 38-641, Arizona Revised Statutes, is amended to read:

38-641. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the board of trustees of the public safety personnel retirement system established by section 38-848, including its authorized employees, administrators, attorneys and agents.

2. "Employer" means this state or any political subdivision of this state, including cities, towns, fire districts and Indian tribes, that

employs ~~fire fighters~~ FIREFIGHTERS, ~~or~~ peace officers, CORRECTIONS OFFICERS OR DETENTION OFFICERS and that participates in the public safety personnel retirement system established by chapter 5, article 4 of this title OR THE CORRECTIONS OFFICER RETIREMENT PLAN ESTABLISHED BY CHAPTER 5, ARTICLE 6 OF THIS TITLE.

3. "Peace officer" means a certified peace officer as defined in section 38-842.

4. "Program" means the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program established by this article.

Sec. 4. Section 38-642, Arizona Revised Statutes, is amended to read:

38-642. Firefighter, peace officer and corrections officer cancer insurance policy program

A. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, the board shall establish and administer a ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program for participating employers that employ ~~fire fighters~~ FIREFIGHTERS, ~~or~~ peace officers, CORRECTIONS OFFICERS OR DETENTION OFFICERS. For the purposes of the internal revenue code, the program is an integral part of a political subdivision of this state.

B. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, participating employers that employ ~~fire fighters~~ FIREFIGHTERS or peace officers shall participate in the program.

C. The board shall contract for a group cancer insurance policy to provide coverage as prescribed by section 38-645 or may self-insure the program by establishing an insurance policy that is of its own design and that is underwritten by the assets of the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program account established by section 38-643. When procuring, establishing or administering any cancer insurance policy provided pursuant to this article the board is exempt from the requirements of title 41, chapter 23.

D. THE BOARD SHALL ADMINISTER A FIREFIGHTER, PEACE OFFICER AND CORRECTIONS OFFICER CANCER INSURANCE POLICY PROGRAM FOR EMPLOYERS AND THEIR EMPLOYEES WHO ARE CORRECTIONS OFFICERS OR DETENTION OFFICERS AND WHO JOIN THE PROGRAM. THE STATE DEPARTMENT OF CORRECTIONS, THE STATE DEPARTMENT OF JUVENILE CORRECTIONS OR A COUNTY, CITY OR TOWN MAY ESTABLISH A VOLUNTARY CANCER INSURANCE POLICY PROGRAM FOR EMPLOYEES WHO ARE CORRECTIONS OFFICERS OR DETENTION OFFICERS. THE STATE DEPARTMENT OF CORRECTIONS, THE STATE DEPARTMENT OF JUVENILE CORRECTIONS OR A COUNTY, CITY OR TOWN THAT, IN ITS DISCRETION, ESTABLISHES A PROGRAM SHALL COLLECT THE PAYMENTS FOR THE PROGRAM AND SUBMIT THE MONIES TO THE BOARD ON BEHALF OF THE EMPLOYEES WHO VOLUNTARILY ENROLL IN THE PROGRAM AND MAKE PAYMENTS FOR THE CANCER INSURANCE. IF A COUNTY, CITY OR TOWN ESTABLISHES A CANCER INSURANCE POLICY PROGRAM, THE COUNTY, CITY OR TOWN IS NOT REQUIRED TO MAKE PAYMENTS FOR THE CANCER INSURANCE. IF THE STATE DEPARTMENT OF CORRECTIONS OR STATE DEPARTMENT OF

JUVENILE CORRECTIONS ESTABLISHES A CANCER INSURANCE POLICY PROGRAM, THE DEPARTMENT SHALL NOT MAKE PAYMENTS FOR THE CANCER INSURANCE. THE BOARD MAY ADOPT POLICIES THAT ESTABLISH CRITERIA FOR PARTICIPATION IN THE PROGRAM PURSUANT TO THIS SUBSECTION.

~~D.~~ E. On or before July 31 of each year, the board shall notify each employer required to participate in the program of the total amount payable to the board to pay for the costs of the program. The amount charged to each employer shall not exceed one hundred eighty dollars for each employee of the employer who is a ~~fire fighter~~ FIREFIGHTER, ~~or~~ peace officer, CORRECTIONS OFFICER OR DETENTION OFFICER on record with the board as of June 30 of that year. Each employer shall pay this amount to the board on or before August 31 of each year.

~~E.~~ F. Employers that fail to pay the amount required by subsection ~~D~~ E of this section by August 31 shall pay a fifteen per cent late charge to the board on all delinquent amounts accrued monthly. If the amount due and the late charge are not paid within thirty days, the board may recover the amounts due from the employer by either:

1. Filing an action in a court of competent jurisdiction to recover the amount due.

2. Requesting a deduction of any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

~~F.~~ G. If the board self-insures the program the board and the program are exempt from title 20 and any rules adopted pursuant to title 20.

Sec. 5. Section 38-643, Arizona Revised Statutes, is amended to read:

38-643. Firefighter, peace officer and correctional officer cancer insurance policy program account

A. The ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program account is established and shall be under the exclusive control of the board. The board shall deposit monies collected pursuant to section 38-642 in the account to pay the cost of providing a group cancer insurance policy under the program and the cost of administering the program.

B. The board may use up to ten per cent of the monies deposited in the account each year ending July 31 to pay the costs of administering the program, except that board attorney fees and court costs relating to the program shall be paid out of the account and are not subject to this limitation. If no monies are deposited in the account in a given year, the board may use up to five per cent of the monies deposited in the account in the most recent year in which there was a deposit to pay the costs of administering the program.

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

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

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

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

Sec. 6. Section 38-644, Arizona Revised Statutes, is amended to read:

38-644. Eligibility

A. Except as provided in subsections B, C and D OF THIS SECTION, to qualify for covered benefits under the program, a person must satisfy all of the following criteria:

1. Be an active or retired member of the public safety personnel retirement system OR THE CORRECTIONS OFFICER RETIREMENT PLAN.

2. BE ONE OF THE FOLLOWING:

~~2. Be~~ (a) A firefighter who is or was regularly assigned to hazardous duty of the type normally expected of a firefighter ~~or be~~.

(b) A peace officer.

(c) A CORRECTIONS OFFICER EMPLOYED BY THE STATE DEPARTMENT OF CORRECTIONS OR THE STATE DEPARTMENT OF JUVENILE CORRECTIONS OR A DETENTION OFFICER EMPLOYED BY A COUNTY, CITY OR TOWN IF THE DEPARTMENT, COUNTY, CITY OR TOWN HAS VOLUNTARILY ESTABLISHED A PROGRAM AND THE CORRECTIONS OFFICER OR DETENTION OFFICER VOLUNTARILY ENROLLED IN THE PROGRAM AND MADE THE PAYMENTS PURSUANT TO SECTION 38-642, SUBSECTION D.

3. Have cancer that was first diagnosed after the person's date of membership in the public safety personnel retirement system OR CORRECTIONS OFFICER RETIREMENT PLAN.

B. Persons who terminate employment with a participating employer are not eligible for benefits under the program unless the person has made a valid claim for payment of expenses under the program before termination of employment.

C. On retirement, persons who were either receiving benefits under the program before retirement or who are diagnosed with cancer subsequent to retirement remain eligible for coverage under the program for five months for

each year of credited service accumulated toward retirement under the public safety personnel retirement system OR CORRECTIONS OFFICER RETIREMENT PLAN.

D. A person whose eligibility to receive benefits under subsection C OF THIS SECTION is expiring may continue to remain eligible for coverage under the program if the person makes an election with the board and pays to the board the cost of the premium as determined by the board at the time determined by the board.

E. A person is not eligible for benefits under the program if there is any evidence that the cancer that forms the basis for a benefit claim under the program existed before the person's membership in the public safety personnel retirement system OR CORRECTIONS OFFICER RETIREMENT PLAN.

Sec. 7. Section 38-645, Arizona Revised Statutes, is amended to read:

38-645. Coverage

A. Coverage provided under the program shall provide benefits to eligible persons to pay for expenses that are designated by the board and that are incurred in the treatment of cancer, including treatments by clinics or providers outside of the United States.

B. The board may provide for additional coverage or exclusions under the program based on available monies in the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program account.

C. Coverage under the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program may be canceled, changed or terminated by the board at any time without notice. If the program is terminated, the board shall refund monies in the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program account on a pro rata basis to employers, excluding monies held in reserve for benefits as determined by the board.

D. If the program is self-insured, benefits are limited to the assets in the ~~fire fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer insurance policy program account and those benefits may be reduced or eliminated at any time.

Sec. 8. Section 38-848, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

D. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system

and other retirement plans and trusts that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the administrator, employed by the board pursuant to subsection K, paragraph 6 of this section, and any assistant administrators to invest the monies of the system and other retirement plans and trusts that the board administers if the administrator, investment management and any assistant administrators follow the investment policies that are adopted by the board. The board may commingle securities and monies of the fund, the elected officials' retirement plan, the corrections officer retirement plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, provided:

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

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

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

4. That corporate stocks and exchange traded funds eligible for direct purchase shall be restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks, stocks acquired for coinvestment in connection with the system's or the plans' or trusts' commingled investments and interests in limited liability companies and mutual funds, are either:

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

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

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

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

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

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

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

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

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

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

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

3. Also:

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

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

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

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

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

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

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

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

7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or appointed representative to protect the fund or the assets of other plans that the board administers. The board is not responsible for the actions or omissions of the local boards under this system but may seek review or rehearing of actions or omissions of local boards. The board does not have a duty to review actions of the local boards but may do so in its discretion in order to protect the fund. No limitations period precludes the board or administrator from contesting, or requires the board or administrator to implement or comply with, a local board decision that violates the internal

revenue code or that threatens to impair the tax qualified status of the system or any plan administered by the board or administrator.

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

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

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

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

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

1. A balance sheet.

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

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

4. A list of investments owned.

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

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

7. An analysis of the long-term level per cent of employer contributions and compensation structure and whether the funding methodology is sufficient to pay one hundred per cent of the unfunded accrued liability under the elected officials' retirement plan.

K. The board shall:

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

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

3. Contract on a fee basis with an independent investment counsel to advise the board in the investment management of the fund and assets of other

plans that the board administers and with an independent auditing firm to audit the board's accounting.

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

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

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

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

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

1. Administer this article.

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

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

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

5. In accordance with the board's governance policy and procedures and the budget adopted by the board, hire such employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more assistant administrators to manage the system's operations, investments and legal affairs.

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

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

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

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

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

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

1. Administrator.
2. Deputy or assistant administrator.
3. Chief investment officer.
4. Deputy chief investment officer.
5. Fiduciary or investment counsel.

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

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

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

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

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

1. A portfolio manager acting in a fiduciary capacity.

2. A securities analyst.

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

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

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

6. An economist.

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

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

Sec. 9. Section 38-853.01, Arizona Revised Statutes, is amended to read:

38-853.01. Redemption of prior service; calculation

A. Each present active member of the system who has at least five years of service with the system may elect to redeem up to sixty months of any part of the following prior service or employment by paying into the system any amounts required under subsection B OF THIS SECTION if the prior service or employment is not on account with any other retirement system:

1. Prior service in this state as an employee with an employer now covered by the system or prior service with an agency of the United States

government, a state of the United States or a political subdivision of this state or of a state of the United States as a full-time paid firefighter, ~~or~~ full-time paid certified peace officer OR FULL-TIME PAID CORRECTIONS OFFICER ENGAGED IN LAW ENFORCEMENT DUTIES.

2. Subject to any limitations prescribed by federal law, prior employment as an employee of a corporation that contracted with an employer now covered by the system to provide firefighting services on behalf of that employer as a full-time paid firefighter or that provided firefighting services for a political subdivision of this state.

B. Any present active member who elects to redeem any part of the prior service or employment for which the employee is deemed eligible by the board under this section shall pay into the system the amounts previously withdrawn by the member, if any, as a refund of the member's accumulated contributions plus accumulated interest as determined by the board and the additional amount, if any, computed by the system's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the system's actuary. The discount rate used by the actuary for the redemption calculation pursuant to this subsection is an amount equal to the lesser of the assumed rate of return that is prescribed by the board or an amount equal to the yield on a ten-year treasury note as of March 1 that is published by the federal reserve board plus two per cent. The discount rate is effective beginning in the next fiscal year, and the board shall recalculate the rate each year.

C. A member electing to redeem service pursuant to this section may pay for service being redeemed in the form of a lump sum payment to the system, a trustee-to-trustee transfer or a direct rollover of an eligible distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible distribution from an individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

Sec. 10. Section 38-891, Arizona Revised Statutes, is amended to read:

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the board, each employer shall make level per cent of salary contributions sufficient under the actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the board taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than six per cent of salary. For any employer whose actual contribution rate is less than six per cent of salary for fiscal year 2006-2007 and each year thereafter, that employer's contribution rate shall be at least five per cent and not more than the

employer's actual contribution rate. An employer may pay a higher level per cent of salary thereby reducing its unfunded past service liability. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two per cent.

B. Each member shall contribute the amount prescribed in subsection H of this section to the retirement plan. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution. Payment of the member's salary less the deducted contributions constitutes full and complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment. A member may not, under any circumstance, borrow from, take a loan against or remove contributions from the member's account before the termination of membership in the plan or the receipt of a pension.

C. Each employer shall transfer to the board the employer and employee contributions provided for in this section within ten working days after each payroll date. Contributions transferred after that date shall include a penalty of ten per cent per annum, compounded annually, for each day the contributions are late. The employer shall pay this penalty. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by action in a court of competent jurisdiction against an employer liable for the payments or, at the request of the board, may be deducted from any other monies, including excise

revenue taxes, payable to the employer by any department or agency of this state.

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the salary the employee would have received in the employee's job classification if the employee was in normal employment status.

E. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a position within that department as a designated position if the position is filled by an employee who has at least five years of credited service under the plan, who is transferred to temporarily fill the position and who makes a written request to the local board to specify the position as a designated position within ninety days of being transferred. On the employee leaving the position, the position is no longer a designated position.

F. The local board of the state department of corrections, ~~or~~ the local board of the department of juvenile corrections OR THE LOCAL BOARD OF A COUNTY, CITY OR TOWN THAT OPERATES DETENTION FACILITIES may specify a designated position within the department OR FACILITY as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a designated position.

G. The local board of the judiciary may specify positions within the administrative office of the courts that require direct contact with and primarily provide training or technical expertise to county probation, surveillance or juvenile detention officers as a designated position if the position is filled by an employee who is a member of the plan currently employed in a designated position as a probation, surveillance or juvenile detention officer and who has at least five years of credited service under the plan. An employee who fills such a position shall make a written request to the local board to specify the position as a designated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a nondesignated position.

H. The amount contributed by a member pursuant to subsection B of this section is:

1. Through June 30, 2011, 8.41 per cent of the member's salary, except for a full-time dispatcher. The amount contributed by a full-time dispatcher through June 30, 2011 is 7.96 per cent of the member's salary.

2. For fiscal year 2011-2012 and each fiscal year thereafter, 8.41 per cent of the member's salary or fifty per cent of the sum of the member's contribution rate from the preceding fiscal year and the aggregate computed employer contribution rate that is calculated pursuant to subsection A of this section, whichever is lower, except that the member contribution rate

shall not be less than 7.65 per cent of the member's salary and the employer contribution rate shall not be less than the rate prescribed in subsection A of this section.

I. Notwithstanding subsection H, paragraph 2 of this section, the contribution rate for a full-time dispatcher is forty-five basis points less than the member contribution amount calculated pursuant to subsection H, paragraph 2 of this section, except that after the close of any fiscal year, if the plan's actuary determines that the aggregate ratio of the funding value of the accrued assets to the accrued liabilities of the fund is at least one hundred per cent, from and after June 30 of the following year the member contribution rate for a full-time dispatcher is equal to the member contribution rate for a member who is not a full-time dispatcher.

J. For fiscal year 2011-2012 and each fiscal year thereafter, the amount of the member's contribution that exceeds 8.41 per cent of the member's salary for a member other than a full-time dispatcher or 7.96 per cent of the member's salary for a full-time dispatcher shall not be used to reduce the employer's contributions that are calculated pursuant to subsection A of this section.

Sec. 11. Section 38-961, Arizona Revised Statutes, is amended to read:

38-961. Public safety officer; duty-related injury; supplemental benefits plan; definitions

A. This state or a political subdivision of this state that employs a public safety employee on a full-time basis shall establish a supplemental benefits plan for a public safety employee who is injured while on duty to the extent that the public safety employee cannot perform the functions of the position. To become eligible for the supplemental benefits plan, the public safety employee must be receiving workers' compensation benefits pursuant to title 23, chapter 6. This state or a political subdivision of this state shall design the supplemental benefits plan so that, with the addition of other benefits being paid to the public safety employee pursuant to title 23, chapter 6, the public safety employee will receive approximately the identical base salary less the amount of taxes the public safety employee was paying.

B. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee's employer shall continue to pay the employer portion of the health care benefits that was being paid to the public safety employee on the date of the employee's injury.

C. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee's employer shall pay the employee contribution to the public safety personnel retirement system or corrections officer retirement plan, as applicable, and shall continue to pay the employer contribution to the respective retirement system or plan. The public safety employee is entitled to accrue credited service for the period of time enrolled in the supplemental benefits plan.

D. A public safety employee who is eligible for the supplemental benefits plan shall apply for benefits to this state or a political subdivision of this state. This state or a political subdivision of this state, on an individual basis, shall determine if the public safety employee is entitled to the benefits in the plan. This state or a political subdivision of this state may establish injury standards for eligibility into the plan that may include the exclusion of a public safety employee whose injury is a result of the public safety employee's gross negligence, or any other condition that this state or the political subdivision chooses to consider within the plan.

E. A public safety employee who is accepted into the plan shall comply with all risk management requirements, including evaluation for light duty options and rehabilitation programs. If a public safety employee fails to comply with risk management decisions, the public safety employee's participation in the supplemental benefits plan will be terminated. The public safety employee who is accepted into the plan is responsible for the public safety employee's portion of the health care benefit costs the public safety employee was paying on the date of the injury. The public safety employee remains responsible for any elective health care plan deductions, health related optional deductions or optional life insurance deductions.

F. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee shall not accrue any additional sick or annual leave and any sick or annual leave amount on the public safety employee's account shall not be decreased while the public safety employee is participating in the plan.

G. A public safety employee who is accepted into the supplemental benefits plan is not precluded from disciplinary action, including termination of employment, pursuant to chapter 8 of this title or any agreements that supplant, revise or otherwise alter the provisions of this title, including preexisting agreements between the employer and the public safety employee's lawful representative association.

H. This section shall not supersede any plan or policy that provides a greater benefit being offered by this state or a political subdivision of this state to a public safety employee who is injured while on duty. This state or a political subdivision of this state shall offer the supplemental benefits plan for an initial six-month period. This state or the political subdivision may determine if the plan shall be extended, on an individual basis, an additional six months, for a maximum of one year.

I. For the purposes of this section:

1. "Member" includes a retired member of the public safety personnel retirement system who is a certified peace officer.

2. "Public safety employee" means:

(a) An individual who is a member of the public safety personnel retirement system or the corrections officer retirement plan.

(b) A probation officer, surveillance officer or juvenile detention officer who is employed by this state or a political subdivision of this state.

J. STATE EMPLOYEE APPEALS FOR DENIALS FOR SUPPLEMENTAL BENEFITS ARE EXEMPT FROM THE HEARING PROCESS SET FORTH IN TITLE 41, CHAPTER 6, ARTICLE 10. FOR STATE EMPLOYEES EXERCISING APPEALS FOR DENIAL OF SUPPLEMENTAL BENEFITS, THE DEPARTMENT OF ADMINISTRATION MAY ESTABLISH AN ALTERNATIVE APPEAL HEARING PROCESS, INCLUDING THE REQUIREMENT THAT PARTIES AGREE TO ARBITRATION HEARD BY THE INDUSTRIAL COMMISSION PURSUANT TO SECTION 23-107, OR AN ALTERNATIVE PROCEDURE ESTABLISHED BY THE ARIZONA DEPARTMENT OF ADMINISTRATION. IF THE DEPARTMENT ESTABLISHES AN ALTERNATIVE HEARING PROCESS FOR THE DENIAL OF CLAIMS FOR SUPPLEMENTAL BENEFITS, THE DEPARTMENT OF ADMINISTRATION MAY CONTRACT WITH ANOTHER GOVERNMENT AGENCY OR WITH A THIRD PARTY TO CONDUCT HEARINGS OF APPEALS PURSUANT TO SECTION 38-961. THE DEPARTMENT MAY SPECIFY BY RULE OR ADMINISTRATIVE POLICY THE SCOPE OF THE PROGRAM AND THE ALTERNATIVE HEARING PROCEDURES.

K. THE DEPARTMENT OF ADMINISTRATION SHALL REPORT BY MARCH 1 EACH YEAR ON THE OVERALL CLAIM, APPEAL AND PAYMENT HISTORY FOR STATE EMPLOYEE CLAIMS AND APPEALS MADE PURSUANT TO THIS SECTION DURING THE PRIOR YEAR. THE REPORT SHALL INCLUDE CLAIMS MADE AND CLAIMS RESOLVED.

Sec. 12. Laws 2012, chapter 287, section 2 is amended to read:

Sec. 2. Delayed repeal

Title 38, chapter 6, Arizona Revised Statutes, as added by this act, is repealed from and after September 30, ~~2014~~ 2017.

Sec. 13. Effective date

Section 12-290, Arizona Revised Statutes, as added by this act, is effective from and after December 31, 2014.