

REFERENCE TITLE: public safety officers; omnibus

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

## **SB 1284**

Introduced by  
Senator Crandell

### 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 AND 38-853.01, ARIZONA REVISED STATUTES; REPEALING LAWS 2012, CHAPTER 287, SECTION 2; RELATING TO PUBLIC SAFETY OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 12-290. Records maintained by clerk of the superior court:  
5 confidentiality: definition

6 A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, IN ANY COUNTY  
7 A PEACE OFFICER MAY REQUEST THAT THE GENERAL PUBLIC BE PROHIBITED FROM  
8 ACCESSING THE PEACE OFFICER'S PERSONAL IDENTIFYING INFORMATION THAT IS  
9 CONTAINED IN ANY RECORD MAINTAINED BY THE CLERK OF THE SUPERIOR COURT.

10 B. A PEACE OFFICER MAY REQUEST THIS ACTION BY FILING AN AFFIDAVIT THAT  
11 STATES ALL OF THE FOLLOWING ON AN APPLICATION FORM DEVELOPED BY THE  
12 ADMINISTRATIVE OFFICE OF THE COURTS IN AGREEMENT WITH AN ORGANIZATION OF  
13 PEACE OFFICERS:

14 1. THE OFFICER'S FULL LEGAL NAME AND RESIDENTIAL ADDRESS.

15 2. THE CASE NUMBER THAT CONTAINS THE INFORMATION.

16 3. THE POSITION THE OFFICER CURRENTLY HOLDS AND A DESCRIPTION OF THE  
17 OFFICER'S DUTIES.

18 4. THE REASONS THE OFFICER REASONABLY BELIEVES THAT THE OFFICER'S LIFE  
19 OR SAFETY OR THAT OF ANOTHER PERSON IS IN DANGER AND THAT REDACTING THE  
20 INFORMATION WILL SERVE TO REDUCE THE DANGER.

21 C. THE PEACE OFFICER SHALL FILE THE AFFIDAVIT WITH THE PRESIDING JUDGE  
22 OF THE SUPERIOR COURT IN THE COUNTY IN WHICH THE AFFIANT RESIDES. TO PREVENT  
23 MULTIPLE FILINGS, A PEACE OFFICER SHALL DELIVER THE AFFIDAVIT TO THE PEACE  
24 OFFICER'S COMMANDING OFFICER OR TO THE HEAD OF THE LAW ENFORCEMENT AGENCY, AS  
25 APPLICABLE, OR THAT PERSON'S DESIGNEE, WHO SHALL FILE THE AFFIDAVITS AT ONE  
26 TIME. IN THE ABSENCE OF AN AFFIDAVIT THAT CONTAINS A REQUEST FOR IMMEDIATE  
27 ACTION AND THAT IS SUPPORTED BY FACTS JUSTIFYING AN EARLIER PRESENTATION, THE  
28 COMMANDING OFFICER OR THE HEAD OF THE LAW ENFORCEMENT AGENCY, AS APPLICABLE,  
29 OR THAT PERSON'S DESIGNEE, MAY NOT FILE AFFIDAVITS MORE OFTEN THAN QUARTERLY.

30 D. ON RECEIPT OF AN AFFIDAVIT OR AFFIDAVITS, THE PRESIDING JUDGE OF  
31 THE SUPERIOR COURT SHALL FILE WITH THE CLERK OF THE SUPERIOR COURT A PETITION  
32 ON BEHALF OF ALL REQUESTING AFFIANTS. EACH AFFIDAVIT PRESENTED SHALL BE  
33 ATTACHED TO THE PETITION. IN THE ABSENCE OF AN AFFIDAVIT THAT CONTAINS A  
34 REQUEST FOR IMMEDIATE ACTION AND THAT IS SUPPORTED BY FACTS JUSTIFYING AN  
35 EARLIER CONSIDERATION, THE PRESIDING JUDGE MAY ACCUMULATE AFFIDAVITS AND FILE  
36 A PETITION AT THE END OF EACH QUARTER.

37 E. THE PRESIDING JUDGE OF THE SUPERIOR COURT SHALL REVIEW THE PETITION  
38 AND EACH ATTACHED AFFIDAVIT TO DETERMINE WHETHER THE ACTION REQUESTED BY EACH  
39 AFFIANT SHOULD BE GRANTED. IF THE PRESIDING JUDGE OF THE SUPERIOR COURT  
40 CONCLUDES THAT THE ACTION REQUESTED BY THE AFFIANT WILL REDUCE A DANGER TO  
41 THE LIFE OR SAFETY OF THE AFFIANT OR ANOTHER PERSON, THE PRESIDING JUDGE OF  
42 THE SUPERIOR COURT SHALL ORDER THE REDACTION OF THE AFFIANT'S INFORMATION  
43 MAINTAINED BY THE CLERK OF THE SUPERIOR COURT. THE REDACTION SHALL BE IN  
44 EFFECT FOR FIVE YEARS.

1 F. ON MOTION TO THE COURT, IF THE PRESIDING JUDGE OF THE SUPERIOR  
2 COURT CONCLUDES THAT A RECORD MAINTAINED BY THE CLERK OF THE SUPERIOR COURT  
3 HAS BEEN REDACTED OR SEALED IN ERROR, THAT THE ORIGINAL AFFIANT NO LONGER  
4 LIVES AT THE ADDRESS LISTED IN THE ORIGINAL AFFIDAVIT, THAT THE CAUSE FOR THE  
5 ORIGINAL AFFIDAVIT NO LONGER EXISTS OR THAT TEMPORARY ACCESS TO THE  
6 INSTRUMENT OR WRITING IS NEEDED, THE PRESIDING JUDGE MAY TEMPORARILY STAY OR  
7 PERMANENTLY VACATE ALL OR PART OF THE COURT ORDER PROHIBITING PUBLIC ACCESS  
8 TO THE RECORD.

9 G. ON ENTRY OF THE COURT ORDER, THE CLERK OF THE SUPERIOR COURT SHALL  
10 FILE THE COURT ORDER AND A COPY OF THE AFFIDAVIT REQUIRED BY SUBSECTION B OF  
11 THIS SECTION. NO MORE THAN TEN DAYS AFTER THE DATE ON WHICH THE CLERK OF THE  
12 SUPERIOR COURT RECEIVES THE ORDER, THE CLERK OF THE SUPERIOR COURT SHALL  
13 RESTRICT ACCESS TO THE INFORMATION AS REQUIRED BY SUBSECTION E OF THIS  
14 SECTION.

15 H. IF THE COURT DENIES AN AFFIANT'S REQUEST PURSUANT TO THIS SECTION,  
16 THE AFFIANT MAY REQUEST A COURT HEARING. THE HEARING SHALL BE CONDUCTED BY  
17 THE COURT IN THE COUNTY WHERE THE PETITION WAS FILED.

18 I. THE CLERK OF THE SUPERIOR COURT SHALL REMOVE THE RESTRICTIONS ON  
19 ALL RECORDS THAT ARE REDACTED PURSUANT TO THIS SECTION BY JANUARY 5 IN THE  
20 YEAR AFTER THE COURT ORDER EXPIRES. THE CLERK OF THE SUPERIOR COURT SHALL  
21 SEND BY MAIL ONE NOTICE TO EITHER THE PEACE OFFICER OR THE EMPLOYING AGENCY  
22 OF A PEACE OFFICER WHO WAS GRANTED AN ORDER PURSUANT TO THIS SECTION OF THE  
23 ORDER'S EXPIRATION DATE AT LEAST SIX MONTHS BEFORE THE EXPIRATION DATE. IF  
24 THE NOTICE IS SENT TO THE EMPLOYING AGENCY, THE EMPLOYING AGENCY SHALL  
25 IMMEDIATELY NOTIFY THE PERSON WHO WAS GRANTED THE ORDER OF THE UPCOMING  
26 EXPIRATION DATE.

27 J. FOR THE PURPOSES OF THIS SECTION, "PEACE OFFICER" MEANS ANY PERSON  
28 VESTED BY LAW, OR FORMERLY VESTED BY LAW, WITH A DUTY TO MAINTAIN PUBLIC  
29 ORDER AND MAKE ARRESTS.

30 Sec. 2. Heading change

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

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

35 38-641. Definitions

36 In this article, unless the context otherwise requires:

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

40 2. "Employer" means this state or any political subdivision of this  
41 state, including cities, towns, fire districts and Indian tribes, that  
42 employs ~~fire fighters~~ FIREFIGHTERS, ~~or~~ peace officers, CORRECTIONS OFFICERS  
43 OR DETENTION OFFICERS and that participates in the public safety personnel  
44 retirement system established by chapter 5, article 4 of this title OR THE

1 CORRECTIONS OFFICER RETIREMENT PLAN ESTABLISHED BY CHAPTER 5, ARTICLE 6 OF  
2 THIS TITLE.

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

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

8 Sec. 4. Section 38-642, Arizona Revised Statutes, is amended to read:  
9 ~~38-642. Firefighter, peace officer and corrections officer~~  
10 ~~cancer insurance policy program~~

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

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

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

29 D. THE BOARD SHALL ADMINISTER A FIREFIGHTER, PEACE OFFICER AND  
30 CORRECTIONS OFFICER CANCER INSURANCE POLICY PROGRAM FOR EMPLOYERS AND THEIR  
31 EMPLOYEES WHO ARE CORRECTIONS OFFICERS OR DETENTION OFFICERS AND WHO JOIN THE  
32 PROGRAM. THE STATE DEPARTMENT OF CORRECTIONS OR COUNTIES MAY ESTABLISH A  
33 VOLUNTARY CANCER INSURANCE POLICY PROGRAM FOR EMPLOYEES WHO ARE CORRECTIONS  
34 OFFICERS OR DETENTION OFFICERS. THE STATE DEPARTMENT OF CORRECTIONS OR A  
35 COUNTY ESTABLISHING THE PROGRAM SHALL COLLECT THE PAYMENTS FOR THE PROGRAM  
36 AND SUBMIT THE MONIES TO THE BOARD ON BEHALF OF THE EMPLOYEES WHO VOLUNTARILY  
37 ENROLL IN THE PROGRAM AND MAKE PAYMENTS FOR THE CANCER INSURANCE. THE BOARD  
38 MAY ADOPT POLICIES THAT ESTABLISH CRITERIA FOR PARTICIPATION IN THE PROGRAM  
39 PURSUANT TO THIS SUBSECTION.

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

1 year. Each employer shall pay this amount to the board on or before August  
2 31 of each year.

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

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

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

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

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

15 38-643. Firefighter, peace officer and correctional officer  
16 cancer insurance policy program account

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

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

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

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

38 E. The program is a welfare benefit plan or trust intended to pay  
39 expenses incurred in the treatment of cancer as provided in the policy of  
40 insurance secured or established by the board pursuant to section 38-642.  
41 The legislature intends that the program's income be excluded as gross income  
42 for the purposes of the assessment of federal income tax under section 115 of  
43 the internal revenue code and that coverage under the program be excluded as  
44 gross income to the employees or retirees under section 106 of the internal  
45 revenue code. The board may adopt additional program provisions as are

1 necessary to fulfill its intent that the program's income and premiums are  
2 not subject to federal income tax.

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

7 Sec. 6. Section 38-644, Arizona Revised Statutes, is amended to read:  
8 38-644. Eligibility

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

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

14 2. Be a firefighter who is or was regularly assigned to hazardous duty  
15 of the type normally expected of a firefighter or be a peace officer.

16 **3. BE A CORRECTIONS OFFICER EMPLOYED BY THE STATE DEPARTMENT OF**  
17 **CORRECTIONS OR A DETENTION OFFICER EMPLOYED BY A COUNTY, IF THE DEPARTMENT OR**  
18 **COUNTY HAS VOLUNTARILY ESTABLISHED A PROGRAM PURSUANT TO SECTION 38-642,**  
19 **SUBSECTION D.**

20 ~~3.~~ **4.** Have cancer that was first diagnosed after the person's date of  
21 membership in the public safety personnel retirement system **OR CORRECTIONS**  
22 **OFFICER RETIREMENT PLAN**.

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

27 C. On retirement, persons who were either receiving benefits under the  
28 program before retirement or who are diagnosed with cancer subsequent to  
29 retirement remain eligible for coverage under the program for five months for  
30 each year of credited service accumulated toward retirement under the public  
31 safety personnel retirement system **OR CORRECTIONS OFFICER RETIREMENT PLAN**.

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

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

41 Sec. 7. Section 38-645, Arizona Revised Statutes, is amended to read:  
42 38-645. Coverage

43 A. Coverage provided under the program shall provide benefits to  
44 eligible persons to pay for expenses that are designated by the board and

1 that are incurred in the treatment of cancer, including treatments by clinics  
2 or providers outside of the United States.

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

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

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

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

19 ~~38-848.~~ Board of trustees; powers and duties; independent trust  
20 fund; administrator; agents and employees

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

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

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

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

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

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

40 B. All monies in the fund shall be deposited and held in a public  
41 safety personnel retirement system depository. Monies in the fund shall be  
42 disbursed from the depository separate and apart from all monies or funds of  
43 this state and the agencies, instrumentalities and subdivisions of this  
44 state, except that the board may commingle the assets of the fund and the  
45 assets of all other plans entrusted to its management in one or more group

1 trusts, subject to the crediting of receipts and earnings and charging of  
2 payments to the appropriate employer, system or plan. The monies shall be  
3 secured by the depository in which they are deposited and held to the same  
4 extent and in the same manner as required by the general depository law of  
5 this state. For purposes of making the decision to invest in securities  
6 owned by the fund or any plan or trust administered by the board, the fund  
7 and assets of the plans and the plans' trusts are subject to the sole  
8 management of the board for the purpose of this article except that, on the  
9 board's election to invest in a particular security or make a particular  
10 investment, the assets comprising the security or investment may be chosen  
11 and managed by third parties approved by the board. The board may invest in  
12 portfolios of securities chosen and managed by a third party. The board's  
13 decision to invest in securities such as mutual funds, commingled investment  
14 funds, exchange traded funds, private equity or venture capital limited  
15 partnerships, real estate limited partnerships or limited liability companies  
16 and real estate investment trusts whose assets are chosen and managed by  
17 third parties does not constitute an improper delegation of the board's  
18 investment authority.

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

29 D. The board shall have the full power in its sole discretion to  
30 invest and reinvest, alter and change the monies accumulated under the system  
31 and other retirement plans and trusts that the board administers as provided  
32 in this article. In addition to its power to make investments managed by  
33 others, the board may delegate the authority the board deems necessary and  
34 prudent to investment management pursuant to section 38-848.03, as well as to  
35 the administrator, employed by the board pursuant to subsection K, paragraph  
36 6 of this section, and any assistant administrators to invest the monies of  
37 the system and other retirement plans and trusts that the board administers  
38 if the administrator, investment management and any assistant administrators  
39 follow the investment policies that are adopted by the board. The board may  
40 commingle securities and monies of the fund, the elected officials'  
41 retirement plan, the corrections officer retirement plan and other plans or  
42 monies entrusted to its care, subject to the crediting of receipts and  
43 earnings and charging of payments to the account of the appropriate employer,  
44 system or plan. In making every investment, the board shall exercise the  
45 judgment and care under the circumstances then prevailing that persons of

1 ordinary prudence, discretion and intelligence exercise in the management of  
2 their own affairs, not in regard to speculation but in regard to the  
3 permanent disposition of their funds, considering the probable income from  
4 their funds as well as the probable safety of their capital, provided:

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

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

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

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

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

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

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

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

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

43 E. Notwithstanding any other law, the board shall not be required to  
44 invest in any type of investment that is dictated or required by any entity  
45 of the federal government and that is intended to fund economic development

1 projects, public works or social programs, but may consider such economically  
2 targeted investments pursuant to its fiduciary responsibility. The board, on  
3 behalf of the system and all other plans or trusts the board administers, may  
4 invest in, lend monies to or guarantee the repayment of monies by a limited  
5 liability company, limited partnership, joint venture, partnership, limited  
6 liability partnership or trust in which the system and plans or trusts have a  
7 financial interest, whether the entity is closely held or publicly traded and  
8 that, in turn, may be engaged in any lawful activity, including venture  
9 capital, private equity, the ownership, development, management, improvement  
10 or operation of real property and any improvements or businesses on real  
11 property or the lending of monies.

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

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

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

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

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

31 3. Also:

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

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

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

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

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

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

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

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

16           7. Appear before local boards and the courts of this state and  
17 political subdivisions of this state through counsel or appointed  
18 representative to protect the fund or the assets of other plans that the  
19 board administers. The board is not responsible for the actions or omissions  
20 of the local boards under this system but may seek review or rehearing of  
21 actions or omissions of local boards. The board does not have a duty to  
22 review actions of the local boards but may do so in its discretion in order  
23 to protect the fund. No limitations period precludes the board or  
24 administrator from contesting, or requires the board or administrator to  
25 implement or comply with, a local board decision that violates the internal  
26 revenue code or that threatens to impair the tax qualified status of the  
27 system or any plan administered by the board or administrator.

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

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

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

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

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

- 45           1. A balance sheet.

- 1           2. A statement of income and expenditures for the year.
- 2           3. A report on an actuarial valuation of its assets and liabilities.
- 3           4. A list of investments owned.
- 4           5. The total rate of return, yield on cost, and per cent of cost to
- 5 market value of the fund and the assets of other plans that the board
- 6 administers.
- 7           6. Any other statistical and financial data that may be necessary for
- 8 the proper understanding of the financial condition of the system and other
- 9 plans that the board administers and the results of their operations. A
- 10 synopsis of the annual report shall be published for the information of
- 11 members of the system, the elected officials' retirement plan or the
- 12 corrections officer retirement plan.
- 13           7. An analysis of the long-term level per cent of employer
- 14 contributions and compensation structure and whether the funding methodology
- 15 is sufficient to pay one hundred per cent of the unfunded accrued liability
- 16 under the elected officials' retirement plan.
- 17           K. The board shall:
- 18           1. Maintain the accounts of the system and other plans that the board
- 19 administers and issue statements to each employer annually and to each member
- 20 who may request it.
- 21           2. Report the results of the actuarial valuations to the local boards
- 22 and employers.
- 23           3. Contract on a fee basis with an independent investment counsel to
- 24 advise the board in the investment management of the fund and assets of other
- 25 plans that the board administers and with an independent auditing firm to
- 26 audit the board's accounting.
- 27           4. Permit the auditor general to make an annual audit and the results
- 28 shall be transmitted to the governor and the legislature.
- 29           5. Contract on a fee basis with an actuary who shall make actuarial
- 30 valuations of the system and other plans that the board administers, be the
- 31 technical adviser of the board on matters regarding the operation of the
- 32 funds created by the provisions of the system, the elected officials'
- 33 retirement plan, the corrections officer retirement plan and the ~~fire~~
- 34 ~~fighter~~ FIREFIGHTER, ~~and~~ peace officer AND CORRECTIONS OFFICER cancer
- 35 insurance policy program and perform other duties required in connection
- 36 therewith. The actuary must be a member of a nationally recognized
- 37 association or society of actuaries.
- 38           6. Employ, as administrator, a person, state department or other body
- 39 to serve at the pleasure of the board.
- 40           7. Establish procedures and guidelines for contracts with actuaries,
- 41 auditors, investment counsel and legal counsel and for safeguarding of
- 42 securities.
- 43           L. The administrator, under the direction of the board, shall:
- 44           1. Administer this article.

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

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

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

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

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

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

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

24           M. The system is an independent trust fund and the board is not  
25 subject to title 41, chapter 6. Contracts for goods and services approved by  
26 the board are not subject to title 41, chapter 23. As an independent trust  
27 fund whose assets are separate and apart from all other funds of this state,  
28 the system and the board are not subject to the restrictions prescribed in  
29 section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.  
30 Loans, guarantees, investment management agreements and investment contracts  
31 that are entered into by the board are contracts memorializing obligations or  
32 interests in securities that the board has concluded, after thorough due  
33 diligence, do not involve investments in Sudan or Iran or otherwise provide  
34 support to terrorists or in any way facilitate illegal immigration into the  
35 United States. These contracts do not involve the procurement, supply or  
36 provision of goods, equipment, labor, materials or services that would  
37 require the ~~certifications or~~ warranties required by ~~sections 35-391.06,~~  
38 ~~35-393.06 and~~ SECTION 41-4401.

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

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

- 5           1. Administrator.
- 6           2. Deputy or assistant administrator.
- 7           3. Chief investment officer.
- 8           4. Deputy chief investment officer.
- 9           5. Fiduciary or investment counsel.

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

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

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

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

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

- 41           1. A portfolio manager acting in a fiduciary capacity.
- 42           2. A securities analyst.
- 43           3. An employee or principal of a trust institution, investment  
44 organization or endowment fund acting either in a management or an investment  
45 related capacity.

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

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

5           6. An economist.

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

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

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

17           38-853.01. Redemption of prior service; calculation

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

23           1. Prior service in this state as an employee with an employer now  
24 covered by the system or prior service with an agency of the United States  
25 government, a state of the United States or a political subdivision of this  
26 state or of a state of the United States as a full-time paid firefighter, ~~or~~  
27 full-time paid certified peace officer **OR FULL-TIME PAID CORRECTIONS OFFICER**  
28 **ENGAGED IN LAW ENFORCEMENT DUTIES**.

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

34           B. Any present active member who elects to redeem any part of the  
35 prior service or employment for which the employee is deemed eligible by the  
36 board under this section shall pay into the system the amounts previously  
37 withdrawn by the member, if any, as a refund of the member's accumulated  
38 contributions plus accumulated interest as determined by the board and the  
39 additional amount, if any, computed by the system's actuary that is necessary  
40 to equal the increase in the actuarial present value of projected benefits  
41 resulting from the redemption calculated using the actuarial methods and  
42 assumptions prescribed by the system's actuary. The discount rate used by  
43 the actuary for the redemption calculation pursuant to this subsection is an  
44 amount equal to the lesser of the assumed rate of return that is prescribed  
45 by the board or an amount equal to the yield on a ten-year treasury note as

1 of March 1 that is published by the federal reserve board plus two per cent.  
2 The discount rate is effective beginning in the next fiscal year, and the  
3 board shall recalculate the rate each year.

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

11 Sec. 10. Repeal

12 Laws 2012, chapter 287, section 2 is repealed.