

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 178
HOUSE BILL 2074

AN ACT

AMENDING SECTIONS 12-820.02, 38-641, 38-642, 38-643, 38-644, 38-645 AND
38-848, ARIZONA REVISED STATUTES; RELATING TO PUBLIC SAFETY EMPLOYEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 12-820.02, Arizona Revised Statutes, is amended to
3 read:
4 12-820.02. Qualified immunity
5 A. Unless a public employee acting within the scope of the public
6 employee's employment intended to cause injury or was grossly negligent,
7 neither a public entity nor a public employee is liable for:
8 1. The failure to make an arrest or the failure to retain an arrested
9 person in custody.
10 2. An injury caused by an escaping or escaped prisoner or a youth
11 committed to the department of juvenile corrections.
12 3. An injury resulting from the probation, community supervision or
13 discharge of a prisoner or a youth committed to the department of juvenile
14 corrections, from the terms and conditions of the prisoner's or youth's
15 probation or community supervision or from the revocation of the prisoner's
16 or youth's probation, community supervision or conditional release under the
17 psychiatric security review board.
18 4. An injury caused by a prisoner to any other prisoner or an injury
19 caused by a youth committed to the department of juvenile corrections to any
20 other committed youth.
21 5. The issuance of or failure to revoke or suspend any permit,
22 license, certificate, approval, order or similar authorization for which
23 absolute immunity is not provided pursuant to section 12-820.01.
24 6. The failure to discover violations of any provision of law when
25 inspections are done of property other than property owned by the public
26 entity in question.
27 7. An injury to the driver of a motor vehicle that is attributable to
28 the violation by the driver of section 28-693, 28-1381 or 28-1382.
29 8. The failure to prevent the sale or transfer of a handgun to a
30 person whose receipt or possession of the handgun is unlawful under any
31 federal law or any law of this state.
32 9. Preventing the sale or transfer of a handgun to a person who may
33 lawfully receive or possess a handgun.
34 10. The failure to detain a juvenile taken into temporary custody or
35 arrested for a criminal offense or delinquent or incorrigible act in the
36 appropriate detention facility, jail or lockup described in section 8-305.
37 11. AN INJURY CAUSED BY A PEACE OFFICER IF THE INJURY WAS CAUSED BY ANY
38 ACT OR OMISSION WHILE RENDERING EMERGENCY CARE AT THE SCENE OF AN EMERGENCY
39 OCCURRENCE.
40 B. The qualified immunity provided in this section applies to a public
41 entity or public employee if the injury or damage was caused by a
42 contractor's employee or a contractor of a public entity acting within the
43 scope of the contract. The qualified immunity provided in this section does
44 not apply to the contractor or the contractor's employee.

1 Sec. 2. Heading change

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

5 Sec. 3. Section 38-641, Arizona Revised Statutes, is amended to read:
6 38-641. Definitions

7 In this article, unless the context otherwise requires:

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

11 2. "Employer" means this state or any political subdivision of this
12 state, including cities, towns, fire districts and Indian tribes, that
13 employs firefighters, peace officers, corrections officers, ~~or~~ detention
14 officers OR OTHER MEMBERS AS DEFINED IN SECTION 38-881 and that participates
15 in the public safety personnel retirement system established by chapter 5,
16 article 4 of this title or the corrections officer retirement plan
17 established by chapter 5, article 6 of this title.

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

20 4. "Program" means the ~~firefighter, peace officer and corrections~~
21 ~~officer~~ PUBLIC SAFETY cancer insurance policy program established by this
22 article.

23 Sec. 4. Section 38-642, Arizona Revised Statutes, is amended to read:
24 38-642. Public safety cancer insurance policy program

25 A. Except as provided in subsection D of this section, the board shall
26 establish and administer a ~~firefighter, peace officer and corrections officer~~
27 PUBLIC SAFETY cancer insurance policy program for participating employers
28 that employ firefighters, ~~OR~~ peace officers, ~~corrections officers or~~
29 ~~detention officers~~. For the purposes of the internal revenue code, the
30 program is an integral part of a political subdivision of this state.

31 B. Except as provided in subsection D of this section, participating
32 employers that employ firefighters or peace officers shall participate in the
33 program.

34 C. The board shall contract for a group cancer insurance policy to
35 provide coverage as prescribed by section 38-645 or may self-insure the
36 program by establishing an insurance policy that is of its own design and
37 that is underwritten by the assets of the ~~firefighter, peace officer and~~
38 ~~corrections officer~~ PUBLIC SAFETY cancer insurance policy program account
39 established by section 38-643. When procuring, establishing or administering
40 any cancer insurance policy provided pursuant to this article the board is
41 exempt from the requirements of title 41, chapter 23.

42 D. The board shall administer a ~~firefighter, peace officer and~~
43 ~~corrections officer~~ PUBLIC SAFETY cancer insurance policy program for
44 employers and their employees who are corrections officers, ~~or~~ detention
45 officers OR OTHER MEMBERS AS DEFINED IN SECTION 38-881 and who join the
46 program. The state department of corrections, the ~~state~~ department of

1 juvenile corrections, **THE DEPARTMENT OF PUBLIC SAFETY** or a county, city or
2 town may establish a voluntary cancer insurance policy program for employees
3 who are corrections officers ~~or~~, detention officers **OR OTHER MEMBERS AS**
4 **DEFINED IN SECTION 38-881**. The state department of corrections, the ~~state~~
5 department of juvenile corrections, **THE DEPARTMENT OF PUBLIC SAFETY** or a
6 county, city or town that, in its discretion, establishes a program shall
7 collect the payments for the program and submit the monies to the board on
8 behalf of the employees who voluntarily enroll in the program and make
9 payments for the cancer insurance. If a county, city or town establishes a
10 **VOLUNTARY** cancer insurance policy program, the county, city or town is not
11 required to make payments for the cancer insurance. If the state department
12 of corrections, ~~or state~~ **THE** department of juvenile corrections **OR THE**
13 **DEPARTMENT OF PUBLIC SAFETY** establishes a **VOLUNTARY** cancer insurance policy
14 program, the department shall not make payments for the cancer insurance.
15 The board may adopt policies that establish criteria for participation in the
16 program pursuant to this subsection.

17 E. On or before July 31 of each year, the board shall notify each
18 employer required to participate in the program of the total amount payable
19 to the board to pay for the costs of the program. The amount charged to each
20 employer shall not exceed one hundred eighty dollars for each employee of the
21 employer who is a firefighter, peace officer, corrections officer, ~~or~~
22 detention officer **OR ANY OTHER MEMBER AS DEFINED IN SECTION 38-881** on record
23 with the board as of June 30 of that year. Each employer shall pay this
24 amount to the board on or before August 31 of each year.

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

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

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

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

36 Sec. 5. Section 38-643, Arizona Revised Statutes, is amended to read:
37 **38-643. Public safety cancer insurance policy program account**

38 A. The ~~firefighter, peace officer and corrections officer~~ **PUBLIC**
39 **SAFETY** cancer insurance policy program account is established and shall be
40 under the exclusive control of the board. The board shall deposit monies
41 collected pursuant to section 38-642 in the account to pay the cost of
42 providing a group cancer insurance policy under the program and the cost of
43 administering the program.

44 B. The board may use up to ten ~~per-cent~~ **PERCENT** of the monies
45 deposited in the account each year ending July 31 to pay the costs of
46 administering the program, except that board attorney fees and court costs

1 relating to the program shall be paid out of the account and are not subject
2 to this limitation. If no monies are deposited in the account in a given
3 year, the board may use up to five ~~per cent~~ PERCENT of the monies deposited
4 in the account in the most recent year in which there was a deposit to pay
5 the costs of administering the program.

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

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

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

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

27 Sec. 6. Section 38-644, Arizona Revised Statutes, is amended to read:
28 38-644. Eligibility

29 A. Except as provided in subsections B, C and D of this section, to
30 qualify for covered benefits under the program, a person must satisfy all of
31 the following criteria:

32 1. Be an active or retired member of the public safety personnel
33 retirement system or the corrections officer retirement plan.

34 2. Be one of the following:

35 (a) A firefighter who is or was regularly assigned to hazardous duty
36 of the type normally expected of a firefighter.

37 (b) A peace officer.

38 (c) A corrections officer employed by the state department of
39 corrections or the ~~state~~ department of juvenile corrections, ~~or~~ a detention
40 officer employed by a county, city or town **OR ANY OTHER MEMBER AS DEFINED IN**
41 **SECTION 38-881** if the department, county, city, ~~or~~ town **OR PARTICIPATING**
42 **EMPLOYER AS DEFINED IN SECTION 38-881** has voluntarily established a program
43 and the corrections officer, ~~or~~ detention officer **OR OTHER MEMBER AS DEFINED**
44 **IN SECTION 38-881** voluntarily enrolled in the program and made the payments
45 pursuant to section 38-642, subsection D.

1 of office of members shall be five years to expire on the third Monday in
2 January of the appropriate year. Members are eligible to receive
3 compensation in an amount of fifty dollars a day, but not to exceed one
4 thousand dollars in any one fiscal year, and are eligible for reimbursement
5 of expenses pursuant to chapter 4, article 2 of this title. The board
6 consists of the following members appointed by the governor pursuant to
7 section 38-211:

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

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

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

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

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

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

42 C. All contributions under this system and other retirement plans that
43 the board administers shall be forwarded to the board and shall be held,
44 invested and reinvested by the board as provided in this article. All
45 property and monies of the fund and other retirement plans that the board
46 administers, including income from investments and from all other sources,

1 shall be retained for the exclusive benefit of members, as provided in the
2 system and other retirement plans that the board administers, and shall be
3 used to pay benefits to members or their beneficiaries or to pay expenses of
4 operation and administration of the system and fund and other retirement
5 plans that the board administers.

6 D. The board shall have the full power in its sole discretion to
7 invest and reinvest, alter and change the monies accumulated under the system
8 and other retirement plans and trusts that the board administers as provided
9 in this article. In addition to its power to make investments managed by
10 others, the board may delegate the authority the board deems necessary and
11 prudent to investment management pursuant to section 38-848.03, as well as to
12 the administrator, employed by the board pursuant to subsection K, paragraph
13 6 of this section, and any assistant administrators to invest the monies of
14 the system and other retirement plans and trusts that the board administers
15 if the administrator, investment management and any assistant administrators
16 follow the investment policies that are adopted by the board. The board may
17 commingle securities and monies of the fund, the elected officials'
18 retirement plan, the corrections officer retirement plan and other plans or
19 monies entrusted to its care, subject to the crediting of receipts and
20 earnings and charging of payments to the account of the appropriate employer,
21 system or plan. In making every investment, the board shall exercise the
22 judgment and care under the circumstances then prevailing that persons of
23 ordinary prudence, discretion and intelligence exercise in the management of
24 their own affairs, not in regard to speculation but in regard to the
25 permanent disposition of their funds, considering the probable income from
26 their funds as well as the probable safety of their capital, provided:

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

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

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

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

1 (a) Listed or approved on issuance for listing on an exchange
2 registered under the securities exchange act of 1934, as amended (15 United
3 States Code sections 78a through ~~7811~~ 78pp).

4 (b) Designated or approved on notice of issuance for designation on
5 the national market system of a national securities association registered
6 under the securities exchange act of 1934, as amended (15 United States Code
7 sections 78a through ~~7811~~ 78pp).

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

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

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

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

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

42 G. The board shall not be held liable for the exercise of more than
43 ordinary care and prudence in the selection of investments and performance of
44 its duties under the system and shall not be limited to so-called "legal
45 investments for trustees", but all monies of the system and other plans that

1 the board administers shall be invested subject to all of the conditions,
2 limitations and restrictions imposed by law.

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

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

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

9 3. Also:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 1. A balance sheet.

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

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

23 4. A list of investments owned.

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

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

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

37 8. An estimate of the aggregate employer contribution rate for the
38 public safety personnel retirement system for the next ten fiscal years and
39 an estimate of the aggregate employer contribution rate for the corrections
40 officer retirement plan for the next ten fiscal years.

41 9. An estimate of the employer contribution rates for the next ten
42 fiscal years for each of the following employers within the public safety
43 personnel retirement system:

44 (a) Department of liquor licenses and control.

45 (b) Department of public safety.

46 (c) Northern Arizona university.

- 1 (d) University of Arizona.
2 (e) Arizona state university.
3 (f) Arizona game and fish department.
4 (g) Department of law.
5 (h) Department of emergency and military affairs.
6 (i) Arizona state parks board.
7 10. An estimate of the employer contribution rates for the next ten
8 fiscal years for each of the following employers within the corrections
9 officer retirement plan:
10 (a) State department of corrections.
11 (b) Department of public safety.
12 (c) The judiciary.
13 (d) Department of juvenile corrections.
14 K. The board shall:
15 1. Maintain the accounts of the system and other plans that the board
16 administers and issue statements to each employer annually and to each member
17 who may request it.
18 2. Report the results of the actuarial valuations to the local boards
19 and employers.
20 3. Contract on a fee basis with an independent investment counsel to
21 advise the board in the investment management of the fund and assets of other
22 plans that the board administers and with an independent auditing firm to
23 audit the board's accounting.
24 4. Permit the auditor general to make an annual audit and the results
25 shall be transmitted to the governor and the legislature.
26 5. Contract on a fee basis with an actuary who shall make actuarial
27 valuations of the system and other plans that the board administers, be the
28 technical adviser of the board on matters regarding the operation of the
29 funds created by the provisions of the system, the elected officials'
30 retirement plan, the corrections officer retirement plan and the ~~firefighter,~~
31 ~~peace officer and corrections officer~~ PUBLIC SAFETY cancer insurance policy
32 program and perform other duties required in connection therewith. The
33 actuary must be a member of a nationally recognized association or society of
34 actuaries.
35 6. Employ, as administrator, a person, state department or other body
36 to serve at the pleasure of the board.
37 7. Establish procedures and guidelines for contracts with actuaries,
38 auditors, investment counsel and legal counsel and for safeguarding of
39 securities.
40 L. The administrator, under the direction of the board, shall:
41 1. Administer this article.
42 2. Be responsible for the recruitment, hiring and day-to-day
43 management of employees.
44 3. Invest the funds of the system and other plans that the board
45 administers as the board deems necessary and prudent as provided in

1 subsections D and H of this section and subject to the investment policies
2 and fund objectives adopted by the board.

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

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

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

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

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

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

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

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

- 42 1. Administrator.
- 43 2. Deputy or assistant administrator.
- 44 3. Chief investment officer.
- 45 4. Deputy chief investment officer.
- 46 5. Fiduciary or investment counsel.

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

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

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

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

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

32 1. A portfolio manager acting in a fiduciary capacity.

33 2. A securities analyst.

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

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

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

41 6. An economist.

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

44 U. Financial or commercial information that is provided to the board,
45 employees of the board and attorneys of the board in connection with
46 investments in which the board has invested or investments the board has

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1 considered for investment is confidential, proprietary and not a public
2 record if the information is information that would customarily not be
3 released to the public by the person or entity from whom the information was
4 obtained.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.