

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

HOUSE BILL 2643

AN ACT

AMENDING SECTIONS 38-843.05, 38-847, 38-849, 38-884 AND 38-891.01, ARIZONA
REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-843.05, Arizona Revised Statutes, is amended to
3 read:

4 38-843.05. Retired members; return to work; employer
5 contributions

6 A. An employer shall pay contributions at an alternate contribution
7 rate on behalf of a retired member who returns to work in any capacity in a
8 position ordinarily filled by an employee of the employer of an eligible
9 group, unless the retired member is required to participate in another state
10 retirement system and the retired member returned to work before July
11 20, 2011. For the purposes of this subsection, "returns to work in any
12 capacity" includes a retired member who returns to work and is ineligible for
13 benefits pursuant to section 38-849, subsection E.

14 B. The alternate contribution rate shall be equal to that portion of
15 the INDIVIDUAL EMPLOYER'S total required contribution that is applied to the
16 amortization of the unfunded actuarial accrued liability for the fiscal year
17 beginning July 1, based on the system's actuary's calculation of the total
18 required contribution for the preceding fiscal year ended on June 30. The
19 alternate contribution rate shall be applied to the compensation, gross
20 salary or contract fee of a retired member who meets the requirements of this
21 section.

22 C. The alternate contribution rate shall not be less than eight ~~per~~
23 ~~cent~~ PERCENT in any fiscal year.

24 D. All contributions made by the employer and allocated to the fund
25 are irrevocable and shall be used as benefits under this article or to pay
26 the expenses of the system. Payments made pursuant to this section by
27 employers become delinquent after the due date prescribed in section 38-843,
28 subsection D, and thereafter shall be increased by interest from and after
29 that date until payment is received by the system.

30 E. An employer of a retired member shall immediately notify the local
31 board after the employment of a retired member and shall submit any reports,
32 data, paperwork or materials that are requested by the board or the local
33 board that are necessary to determine the compensation, gross salary or
34 contract fee associated with a retired member who returns to work or to
35 determine the function, use, efficacy or operation of the return to work
36 program.

37 Sec. 2. Section 38-847, Arizona Revised Statutes, is amended to read:

38 38-847. Local boards

39 A. The administration of the system and responsibility for making the
40 provisions of the system effective for each employer are vested in a local
41 board. The department of public safety, the Arizona game and fish
42 department, the department of emergency and military affairs, the university
43 of Arizona, Arizona state university, northern Arizona university, each
44 county sheriff's office, each county attorney's office, each county parks
45 department, each municipal fire department, each eligible fire district, each

1 community college district, each municipal police department, the department
2 of law, the department of liquor licenses and control, the Arizona department
3 of agriculture, the Arizona state parks board, each Indian reservation police
4 agency and each Indian reservation ~~fire fighting~~ FIREFIGHTING agency shall
5 have a local board. A nonprofit corporation operating pursuant to sections
6 28-8423 and 28-8424 shall have one local board for all of its members. Each
7 local board shall be constituted as follows:

8 1. For political subdivisions or Indian tribes, the mayor or chief
9 elected official or a designee of the mayor or chief elected official
10 approved by the respective governing body as chairman, two members elected by
11 secret ballot by members employed by the appropriate employer and two
12 citizens, one of whom shall be the head of the merit system, or the head's
13 designee from among the other members of the merit system, if it exists for
14 the group of members, appointed by the mayor or chief elected official and
15 with the approval of the governing body of the city or the governing body of
16 the employer. The appointed two citizens shall serve on both local boards in
17 a city or Indian tribes where both fire and police department employees are
18 members.

19 2. For state agencies and nonprofit corporations operating pursuant to
20 sections 28-8423 and 28-8424, two members elected by secret ballot by the
21 members employed by the appropriate employer and three citizens appointed by
22 the governor. Each state agency local board shall elect a chairman.

23 3. For fire districts ~~organized pursuant to section 48-804, the~~
24 ~~secretary-treasurer as chairman~~, THE CHAIRPERSON OF THE FIRE DISTRICT
25 GOVERNING BOARD OR THE CHAIRPERSON'S DESIGNEE, two members elected by secret
26 ballot by members employed by the fire district and two citizens appointed by
27 the ~~secretary-treasurer~~ CHAIRPERSON OF THE FIRE DISTRICT GOVERNING BOARD, one
28 of whom is a resident of the fire district and one of whom has experience in
29 personnel administration but who is not required to be a resident of the fire
30 district.

31 4. For joint powers authorities organized pursuant to section
32 48-805.01, the joint powers authority board chairman or a designee approved
33 by the governing body, two members elected by secret ballot by members
34 employed by the joint powers authority and two citizens, one of whom is a
35 resident of one of the partner entities and one of whom has experience in
36 personnel administration but who is not required to be a resident of a
37 partner entity.

38 B. On the taking effect of this system for an employer, the
39 appointments and elections of local board members shall take place with one
40 elective and appointive local board member serving a term ending two years
41 after the effective date of participation for the employer and other local
42 board members serving a term ending four years after the effective date.
43 Thereafter, every second year, and as a vacancy occurs, an office shall be
44 filled for a term of four years in the same manner as previously provided.

1 C. Each local board shall be fully constituted pursuant to subsection
2 A of this section within sixty days after the employer's effective date of
3 participation in the system. If the deadline is not met, on the written
4 request of any member who is covered by the local board or the employer to
5 the board of trustees, the board of trustees may appoint all vacancies of the
6 local board pursuant to subsection A of this section and designate whether
7 each appointive position is for a two year or four year term. If the board
8 of trustees cannot find individuals to serve on the local board who meet the
9 requirements of subsection A of this section, the board of trustees may
10 appoint individuals to serve as interim local board members until qualified
11 individuals are appointed or elected. Each local board shall meet at least
12 twice a year. Each member of a local board, within ten days after the
13 member's appointment or election, shall take an oath of office that, so far
14 as it devolves on the member, the member shall diligently and honestly
15 administer the affairs of the local board and that the member shall not
16 knowingly violate or willingly permit to be violated any of the provisions of
17 law applicable to the system.

18 D. Except as limited by subsection E of this section, a local board
19 shall have such powers as may be necessary to discharge the following duties:

20 1. To decide all questions of eligibility for membership, service
21 credits and benefits and determine the amount, manner and time of payment of
22 any benefits under the system.

23 2. To prescribe procedures to be followed by claimants in filing
24 applications for benefits.

25 3. To make a determination as to the right of any claimant to a
26 benefit and to afford any claimant or the board of trustees, or both, a right
27 to a rehearing on the original determination. Except as otherwise required
28 by law, unless all parties involved in a matter presented to the local board
29 for determination otherwise agree, the local board shall commence a hearing
30 on the matter within ninety days after the date the matter is presented to
31 the local board for determination. If a local board fails to commence a
32 hearing as provided in this paragraph, on a matter presented to the local
33 board for determination, the relief demanded by the party petitioning the
34 local board is deemed granted and approved by the local board. The granting
35 and approval of this relief is considered final and binding unless a timely
36 request for rehearing or appeal is made as provided in this article, unless
37 the board of trustees determines that granting the relief requested would
38 violate the internal revenue code or threaten to impair the system's status
39 as a qualified plan under the internal revenue code. If the board of
40 trustees determines that granting the requested relief would violate the
41 internal revenue code or threaten to impair the system's status as a
42 qualified plan, the board of trustees may refuse to grant the relief by
43 issuing a written determination to the local board and the party petitioning
44 the local board for relief. The decision by the board of trustees is subject
45 to judicial review pursuant to title 12, chapter 7, article 6.

1 4. To request and receive from the employers and from members such
2 information as is necessary for the proper administration of the system and
3 action on claims for eligibility for membership and benefits, and to forward
4 such information to the board of trustees.

5 5. To distribute, in such manner as the local board determines to be
6 appropriate, information explaining the system received from the board of
7 trustees.

8 6. To furnish the employer, the board of trustees and the legislature,
9 on request, with such annual reports with respect to the administration of
10 the system as are reasonable and appropriate.

11 7. To receive and review the actuarial valuation of the system for its
12 group of members.

13 8. To receive and review reports of the financial condition and of the
14 receipts and disbursements of the fund from the board of trustees.

15 9. To appoint medical boards as provided in section 38-859.

16 10. To sue and be sued to effectuate the duties and responsibilities
17 set forth in this article.

18 E. A local board shall have no power to add to, subtract from, modify
19 or waive any of the terms of the system, change or add to any benefits
20 provided by the system or waive or fail to apply any requirement of
21 eligibility for membership or benefits under the system. Notwithstanding any
22 limitations periods imposed in this article, including subsection D,
23 paragraph 3 and subsections G and H of this section, if the board of trustees
24 determines a local board decision violates the internal revenue code or
25 threatens to impair the system's status as a qualified plan under the
26 internal revenue code, the local board's decision is not final and binding
27 and the board of trustees may refrain from implementing or complying with the
28 local board decision.

29 F. A local board, from time to time, shall establish and adopt such
30 rules as it deems necessary or desirable for its administration. All rules
31 and decisions of a local board shall be uniformly and consistently applied to
32 all members in similar circumstances. If a claim or dispute is presented to
33 a local board for determination but the local board has not yet adopted
34 uniform rules of procedure for adjudication of the claim or dispute, the
35 local board shall adopt and use the model uniform rules of local board
36 procedure that are issued by the board of trustees' fiduciary counsel to
37 adjudicate the claim or dispute.

38 G. Except as otherwise provided in this article, any action by a
39 majority vote of the members of a local board that is not inconsistent with
40 the provisions of the system and the internal revenue code shall be final,
41 conclusive and binding on all persons affected by it unless a timely
42 application for a rehearing or appeal is filed as provided in this article.
43 No later than twenty days after taking action, the local board shall submit
44 to the board of trustees the minutes from the local board meeting that
45 include the name of the member affected by its decision, a description of the

1 action taken and an explanation of the reasons and all documents submitted to
2 the local board for the action taken, including the reports of a medical
3 board. The board of trustees may not implement and comply with any local
4 board action that does not comply with the internal revenue code or that
5 threatens to jeopardize the system's status as a qualified plan under the
6 internal revenue code.

7 H. A claimant or the board of trustees may apply for a rehearing
8 before the local board within the time periods prescribed in this subsection,
9 except that if a decision of a local board violates the internal revenue code
10 or threatens to jeopardize the system's status as a qualified plan under the
11 internal revenue code, no limitation period for the board of trustees to seek
12 a rehearing of a local board decision applies. An application for a
13 rehearing shall be filed in writing with a member of the local board or its
14 secretary within sixty days after:

15 1. The applicant-claimant receives notification of the local board's
16 original action by certified mail, by attending the meeting at which the
17 action is taken or by receiving benefits from the system pursuant to the
18 local board's original action, whichever occurs first.

19 2. The applicant-board of trustees receives notification of the local
20 board's original action as prescribed by subsection G of this section by
21 certified mail.

22 I. A hearing before a local board on a matter remanded from the
23 superior court is not subject to a rehearing before the local board.

24 J. Decisions of local boards are subject to judicial review pursuant
25 to title 12, chapter 7, article 6.

26 K. When making a ruling, determination or calculation, the local board
27 shall be entitled to rely on information furnished by the employer, a medical
28 board, the board of trustees, independent legal counsel or the actuary for
29 the system.

30 L. Each member of a local board is entitled to one vote. A majority
31 is necessary for a decision by the members of a local board at any meeting of
32 the local board.

33 M. The local board shall adopt such bylaws as it deems desirable. The
34 local board shall elect a secretary who may, but need not, be a member of the
35 local board. The secretary of the local board shall keep a record and
36 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of
37 this title and forward the minutes and all necessary communications to the
38 board of trustees as prescribed by subsection G of this section.

39 N. The fees of the medical board and of the local board's independent
40 legal counsel and all other expenses of the local board necessary for the
41 administration of the system shall be paid by the employer and not the board
42 of trustees or system at such rates and in such amounts as the local board
43 shall approve. Legal counsel that is employed by the local board is
44 independent of the employer and any employee organization or member and owes

1 its duty of loyalty only to the local board in connection with its
2 representation of the local board.

3 O. The local board shall issue directions to the board of trustees
4 concerning all benefits that are to be paid from the employer's account
5 pursuant to the provisions of the fund. The local board shall keep on file,
6 in such manner as it may deem convenient or proper, all reports from the
7 board of trustees and the actuary.

8 P. The local board and the individual members of the local board shall
9 be indemnified from the assets of the employer for any judgment against the
10 local board or its members, including attorney fees and costs, arising from
11 any act, or failure to act, made in good faith pursuant to the provisions of
12 the system, including expenses reasonably incurred in the defense of any
13 claim relating to the act or failure to act.

14 Sec. 3. Section 38-849, Arizona Revised Statutes, is amended to read:

15 38-849. Limitations on receiving pension; violation;
16 classification; reemployment after severance;
17 reinstatement of service credits; reemployment of
18 retired member or member with a disability;
19 definition

20 A. If a member is convicted of, or discharged because of, theft,
21 embezzlement, fraud or misappropriation of an employer's property or property
22 under the control of the employer, the member shall be subject to restitution
23 and fines imposed by a court of competent jurisdiction. The court may order
24 the restitution or fines to be paid from any payments otherwise payable to
25 the member from the retirement system.

26 B. A person who knowingly makes any false statement or who falsifies
27 or permits to be falsified any record of the system with an intent to defraud
28 the system is guilty of a class 5 felony. If any change or error in the
29 records results in any member or beneficiary receiving from the system more
30 or less than the member or beneficiary would have been entitled to receive
31 had the records been correct, the local board shall correct such error, and
32 as far as practicable shall adjust the payments in such manner that the
33 actuarial equivalent of the benefit to which such member or beneficiary was
34 correctly entitled shall be paid. If a member is convicted of a crime
35 specified in this subsection, section 13-713 applies.

36 C. If a member who received a severance refund on termination of
37 employment pursuant to section 38-846.02 becomes reemployed with the same
38 employer within two years after the former member's termination date, the
39 member may have forfeited credited service attributable to service rendered
40 during a prior period of service as an employee restored on satisfaction of
41 each of the following conditions:

42 1. The member files with the system a written application for
43 reinstatement of forfeited credited service within ninety days after again
44 becoming an employee.

1 2. The retirement fund is paid the total amount previously withdrawn
2 pursuant to section 38-846.02 plus compound interest from the date of
3 withdrawal to the date of repayment. Interest shall be computed at the rate
4 of nine ~~per cent~~ PERCENT for each year compounded each year from the date of
5 withdrawal to the date of repayment. Forfeited credited service shall not be
6 restored until complete payment is received by the fund.

7 3. The required payment is completed within one year after returning
8 to employee status.

9 D. If a member who received a severance refund on termination of
10 employment, as provided in section 38-846.02, is subsequently reemployed by
11 an employer, the member's prior service credits shall be cancelled and
12 service shall be credited only from the date the member's most recent
13 reemployment period commenced. However, a present active member of the
14 system who forfeited credited service, received a severance refund pursuant
15 to section 38-846.02 and becomes reemployed with the same employer two years
16 or more after the member's termination date or becomes reemployed with
17 another employer may elect to redeem any part of that forfeited credited
18 service by paying into the system any amounts required pursuant to this
19 subsection. A present active member who elects to redeem any part of
20 forfeited credited service for which the member is deemed eligible by the
21 board shall pay into the system the amounts previously paid or transferred to
22 the member as a severance refund plus an amount, computed by the system's
23 actuary that is necessary to equal the increase in the actuarial present
24 value of projected benefits resulting from the redemption calculated using
25 the actuarial methods and assumptions prescribed by the system's actuary. On
26 satisfaction of this obligation the member's prior service credits shall be
27 reinstated.

28 E. If a retired member becomes reemployed in any capacity by the
29 employer from which the member retired before one year from the date of
30 retirement or in the same position at any time following retirement:

31 1. The following apply:

32 (a) Within ten days after the retired member is reemployed, the local
33 board shall advise the system in writing of the retired member's
34 reemployment.

35 (b) The system shall not make pension payments to the retired member
36 during the period of reemployment.

37 (c) Employee contributions shall not be made on the retired member's
38 account, nor shall any service be credited during the period of reemployment.
39 On subsequent termination of employment by the retired member, the retired
40 member is entitled to receive a pension based on the member's service and
41 compensation before the date of the member's reemployment. The employer
42 shall pay the alternate contribution rate pursuant to section 38-843.05.

43 2. Paragraph 1, subdivisions (a) and (b) of this subsection do not
44 apply if either:

1 (a) The retired member becomes reemployed after sixty consecutive days
2 from the member's retirement date as a result of participating in an open
3 competitive new hire process for an entry level, nonsupervisory position,
4 except if the retired member is hired for the same position.

5 (b) The retired member is hired as a fire inspector or arson
6 investigator.

7 F. If a retired member is assigned voluntary duties acting as a
8 limited authority peace officer, pursuant to the Arizona peace officer
9 standards and training board rules, employee contributions shall not be made
10 on the retired member's account, and any service shall not be credited during
11 the period of reemployment. The employer shall not pay the alternate
12 contribution rate pursuant to section 38-843.05.

13 G. If after one year from the date of retirement a retired member
14 becomes reemployed by the employer from which the member retired in a
15 position other than the same position from which the member retired, employee
16 contributions shall not be made on the retired member's account, and any
17 service shall not be credited during the period of reemployment. The
18 employer shall pay the alternate contribution rate pursuant to section
19 38-843.05.

20 H. At any time following retirement, if the retired member becomes
21 employed by an employer, other than the employer from which the member
22 retired, in a position ordinarily filled by an employee of an eligible group,
23 employee contributions shall not be made on the retired member's account, and
24 any service shall not be credited during the period of reemployment. The
25 employer shall pay the alternate contribution rate pursuant to section
26 38-843.05.

27 I. If a member who retired under an accidental or ordinary disability
28 becomes reemployed as an employee of an eligible group, section 38-844
29 applies and a determination shall be made by the local board as to whether
30 subsection E, F, G or H of this section applies.

31 J. The local board shall review all reemployment determinations and
32 voluntary assignments as described in subsection F of this section. If the
33 local board or the system is not provided the necessary information required
34 by the system to make a reemployment determination, the local board and the
35 system shall suspend pension payments until information is received and a
36 determination is made regarding whether the reemployment meets the
37 requirements of subsection E, F, G, H or I of this section.

38 K. A person who defrauds the system or who takes, converts, steals or
39 embezzles monies owned by or from the system and who fails or refuses to
40 return the monies to the system on the board's written request is subject to
41 civil suit by the system in the superior court in Maricopa county. On entry
42 of an order finding the person has defrauded the system or taken, converted,
43 stolen or embezzled monies owned by or from the system, the court shall enter
44 an order against that person and for the system awarding the system all of
45 its costs and expenses of any kind, including attorney fees, that were

1 necessary to successfully prosecute the action. The court shall also grant
2 the system a judicial lien on all of the nonexempt property of the person
3 against whom judgment is entered pursuant to this subsection in an amount
4 equal to all amounts awarded to the system, plus interest at the rate
5 prescribed by section 44-1201, until all amounts owed are paid to the system.

6 L. Notwithstanding any other provision of this article, the board may
7 offset against any benefits otherwise payable by the system to an active or
8 retired member or survivor any court ordered amounts awarded to the board and
9 system and assessed against the member or survivor.

10 M. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A MEMBER WHO
11 RETIRES HAVING MET ALL OF THE QUALIFICATIONS FOR RETIREMENT AND WHO
12 SUBSEQUENTLY BECOMES AN ELECTED OFFICIAL, BY ELECTION OR APPOINTMENT, IS NOT
13 CONSIDERED REEMPLOYED BY THE SAME EMPLOYER.

14 ~~M.~~ N. For the purposes of this section, "same position" means a
15 position in which the member performs substantially similar duties that were
16 performed and exercises substantially similar authority that was exercised by
17 the retired member before retirement.

18 Sec. 4. Section 38-884, Arizona Revised Statutes, is amended to read:

19 ~~38-884.~~ Membership of retirement plan; termination; credited
20 service; redemption; reemployment; definition

21 A. Each employee of a participating employer is a member of the plan
22 unless the employee is receiving a pension from the plan. A person employed
23 shall undergo a medical examination performed by a designated physician or a
24 physician working in a clinic that is appointed by the local board or, in the
25 case of a state correctional officer who is employed by the state department
26 of corrections, complete a physical examination pursuant to section 41-1822,
27 subsection B. For the purposes of subsection B of this section, the
28 designated physician or a physician working in a clinic that is appointed by
29 the local board may be the employer's regular employee or contractor.

30 B. The purpose of the medical examination authorized by this section
31 is to identify a member's physical or mental condition or injury that existed
32 or occurred before the member's date of membership in the plan. Any employee
33 who fails or refuses to submit to the medical examination prescribed in this
34 section is deemed to waive all rights to disability benefits under this
35 article. Medical examinations conducted under this article shall be
36 conducted by a physician and shall not be conducted or used for purposes of
37 hiring, advancement, discharge, job training or other terms, conditions and
38 privileges of employment unrelated to receipt or qualification for pension
39 benefits or service credits from the fund. This subsection does not affect
40 or impair the right of an employer to prescribe medical or physical standards
41 for employees or prospective employees.

42 C. If a member who becomes a member of the plan before January 1, 2012
43 ceases to be an employee for any reason other than death or retirement,
44 within twenty days after filing a completed application with the board, the
45 member is entitled to receive the following amounts, less any benefit

1 payments the member has received and any amount the member may owe to the
2 plan:

3 1. If the member has less than five years of credited service with the
4 plan, the member may withdraw the member's accumulated contributions from the
5 plan.

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

9 (a) 5.0 to 5.9 years of credited service, twenty-five percent of all
10 member contributions deducted from the member's salary pursuant to section
11 38-891, subsection B.

12 (b) 6.0 to 6.9 years of credited service, forty percent of all member
13 contributions deducted from the member's salary pursuant to section 38-891,
14 subsection B.

15 (c) 7.0 to 7.9 years of credited service, fifty-five percent of all
16 member contributions deducted from the member's salary pursuant to section
17 38-891, subsection B.

18 (d) 8.0 to 8.9 years of credited service, seventy percent of all
19 member contributions deducted from the member's salary pursuant to section
20 38-891, subsection B.

21 (e) 9.0 to 9.9 years of credited service, eighty-five percent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-891, subsection B.

24 (f) 10.0 or more years of credited service, one hundred percent of all
25 member contributions deducted from the member's salary pursuant to section
26 38-891, subsection B.

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

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

41 F. If the refund includes monies that are an eligible rollover
42 distribution and the member elects to have the distribution paid directly to
43 an eligible retirement plan or individual retirement account or annuity and
44 specifies the eligible retirement plan or individual retirement account or
45 annuity to which the distribution is to be paid, the distribution shall be

1 made in the form of a direct trustee-to-trustee transfer to the specified
2 eligible retirement plan. The distribution shall be made in the form and at
3 the time prescribed by the board.

4 G. For distributions occurring from and after December 31, 2007, a
5 member or a member's beneficiary, including a nonspouse designated
6 beneficiary to the extent permitted under subsection H of this section, may
7 roll over an eligible rollover distribution as defined in section 402(c)(4)
8 of the internal revenue code to a Roth individual retirement account, if, for
9 distributions occurring before January 1, 2010, the member or the member's
10 beneficiary satisfies the requirements for making a Roth individual
11 retirement account contribution under section 408A(c)(3)(B) of the internal
12 revenue code, as in effect on the date of the rollover. Any amount rolled
13 over to a Roth individual retirement account is included in the gross income
14 of the member or the member's beneficiary to the extent the amounts would
15 have been included in gross income if not rolled over as required under
16 section 408A(d)(3)(A) of the internal revenue code. For the purposes of this
17 subsection, the administrator is not responsible for ensuring the member or
18 the member's beneficiary is eligible to make a rollover to a Roth individual
19 retirement account.

20 H. For distributions made from and after December 31, 2009, a
21 nonspouse designated beneficiary as defined in section 401(a)(9)(E) of the
22 internal revenue code may elect to directly roll over an eligible rollover
23 distribution to an individual retirement account under section 408(a) of the
24 internal revenue code or an individual retirement annuity under section
25 408(b) of the internal revenue code that is established on behalf of the
26 designated beneficiary and that will be treated as an inherited individual
27 retirement plan pursuant to section 402(c)(11) of the internal revenue code.
28 In order to be able to roll over the distribution, the distribution otherwise
29 must satisfy the definition of an eligible rollover distribution as defined
30 in section 402(c)(4) of the internal revenue code. In applying this
31 subsection, a nonspouse rollover is not subject to the direct rollover
32 requirements under section 401(a)(31) of the internal revenue code, the
33 rollover notice requirements under section 402(f) of the internal revenue
34 code or the mandatory withholding requirements under section 3405(c) of the
35 internal revenue code.

36 I. For plan years occurring before January 1, 2007, the period for
37 providing the rollover notice as required under section 402(f) of the
38 internal revenue code is no less than thirty days and no more than ninety
39 days before the date of distribution and, for plan years beginning from and
40 after December 31, 2006, the period for providing the rollover notice as
41 required under section 402(f) of the internal revenue code is no less than
42 thirty days and no more than one hundred eighty days before the date of
43 distribution.

44 J. Service shall be credited to a member's individual credited service
45 account in accordance with rules the local board prescribes. In no case

1 shall more than twelve months of credited service be credited on account of
2 all service rendered by a member in any one year. In no case shall service
3 be credited for any period during which the member is not employed in a
4 designated position, except as provided by sections 38-921 and 38-922.

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

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

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

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

22 3. The required payment is completed within one year after returning
23 to employee status.

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

44 N. A retired member may become employed by an employer in a designated
45 position and continue to receive a pension if the employment occurs at least

1 twelve months after retirement. The retired member shall not contribute to
2 the fund and shall not accrue credited service. If a retired member becomes
3 employed by an employer in a designated position before twelve months after
4 retirement:

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

9 2. The retired member shall not contribute to the fund and shall not
10 accrue credited service.

11 0. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A MEMBER WHO
12 RETIRES HAVING MET ALL OF THE QUALIFICATIONS FOR RETIREMENT AND WHO
13 SUBSEQUENTLY BECOMES AN ELECTED OFFICIAL, BY ELECTION OR APPOINTMENT, IS NOT
14 CONSIDERED REEMPLOYED BY THE SAME EMPLOYER.

15 Sec. 5. Section 38-891.01, Arizona Revised Statutes, is amended to
16 read:

17 38-891.01. Retired member; return to work; employer
18 contributions

19 A. An employer shall pay contributions at an alternate contribution
20 rate on behalf of a retired member who returns to work in any capacity in a
21 position ordinarily filled by an employee of the employer in a designated
22 position. This section applies to a retired member who has been retired for
23 more than twelve consecutive months.

24 B. The alternate contribution rate shall be equal to that portion of
25 the **INDIVIDUAL EMPLOYER'S** total required contribution that is applied to the
26 amortization of the unfunded actuarial accrued liability for the fiscal year
27 beginning July 1, based on the fund's actuary's calculation of the total
28 required contribution for the preceding fiscal year ended on June 30. The
29 alternate contribution rate shall be applied to the compensation, gross
30 salary or contract fee of a retired member who meets the requirements of this
31 section.

32 C. The alternate contribution rate shall not be less than six ~~per-cent~~
33 **PERCENT** in any fiscal year.

34 D. All contributions made by the employer and allocated to the fund
35 established by section 38-882 are irrevocable and shall be used as benefits
36 under this article or to pay the expenses of the plan. Payments made
37 pursuant to this section by employers become delinquent after the due date
38 prescribed in section 38-891, subsection C, and thereafter shall be increased
39 by interest from and after that date until payment is received by the plan.

40 E. An employer of a retired member shall submit any reports, data,
41 paperwork or materials that are requested by the board and that are necessary
42 to determine the compensation, gross salary or contract fee associated with a
43 retired member who returns to work or to determine the function, use,
44 efficacy or operation of the return to work program.