

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 2
SENATE BILL 1428

AN ACT

AMENDING SECTIONS 38-651.01, 38-803 AND 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-842.01; AMENDING SECTIONS 38-843, 38-843.04, 38-844.05 AND 38-845, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.03; AMENDING SECTIONS 38-846.01 AND 38-848, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-848.04; REPEALING SECTIONS 38-856, 38-856.01, 38-856.02, 38-856.03 AND 38-856.04, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-856.05, 38-856.06 AND 38-861; AMENDING TITLE 38, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 4.1 AND 4.2; AMENDING SECTIONS 38-883 AND 38-952, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

18 C. The Arizona state retirement system board may enter into agreements
19 with ~~retired and~~ state employee members of the system and plan ~~with~~ WHO ARE
20 RETIRED OR WHO HAVE a disability, ~~and~~ retired members of the elected
21 officials' defined contribution retirement system established pursuant to
22 chapter 5, article 3.1 of this title AND RETIRED PARTICIPANTS OF THE PUBLIC
23 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO
24 CHAPTER 5, ARTICLE 4.1 OF THIS TITLE who elect to obtain the coverage
25 provided pursuant to subsection A of this section. The agreements may
26 include provision for the deduction from the retirement benefits of
27 participants of a retirement program of this state who elect to obtain
28 coverage of amounts sufficient to pay for the premium not covered under
29 retirement benefits and state administrative expense of providing coverage.

30 D. Retired state employee MEMBERS or state employee members with a
31 disability of the public safety personnel retirement system, THE PUBLIC
32 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO
33 CHAPTER 5, ARTICLE 4.1 OF THIS TITLE, the elected officials' retirement plan,
34 the elected officials' defined contribution retirement system established
35 pursuant to chapter 5, article 3.1 of this title, the corrections officer
36 retirement plan or the optional retirement programs authorized pursuant to
37 section 15-1628 who opt on retirement to enroll or continue enrollment in the
38 group health and accident coverage for active employees working for the state
39 of Arizona and their dependents and who are receiving benefits from the
40 public safety personnel retirement system, THE PUBLIC SAFETY PERSONNEL
41 DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO CHAPTER 5,
42 ARTICLE 4.1 OF THIS TITLE, the elected officials' retirement plan, the
43 elected officials' defined contribution retirement system established
44 pursuant to chapter 5, article 3.1 of this title, the corrections officer
45 retirement plan or the optional retirement programs authorized pursuant to
46 section 15-1628 may participate in group health and accident coverage

1 provided pursuant to this section. The department of administration shall
2 adopt rules that are necessary for the implementation of this subsection.

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

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

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

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

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

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

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

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

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

16 K. A retired member of the elected officials' defined contribution
17 retirement system established pursuant to chapter 5, article 3.1 of this
18 title may elect to obtain the coverage provided pursuant to subsection A of
19 this section, but shall pay the premium for the coverage selected and is not
20 eligible for benefits pursuant to section 38-783 or 38-817.

21 L. A RETIRED PARTICIPANT OF THE PUBLIC SAFETY PERSONNEL DEFINED
22 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO CHAPTER 5, ARTICLE 4.1
23 OF THIS TITLE MAY ELECT TO OBTAIN THE COVERAGE PROVIDED PURSUANT TO
24 SUBSECTION A OF THIS SECTION, BUT SHALL PAY THE PREMIUM FOR THE COVERAGE
25 SELECTED AND IS NOT ELIGIBLE FOR BENEFITS PURSUANT TO SECTION 38-783 OR
26 38-857.

27 Sec. 2. Section 38-803, Arizona Revised Statutes, is amended to read:
28 38-803. Powers and duties of the board

29 A. The board, in the administration, management and operation of the
30 plan and fund, shall:

31 1. Account for the operation, administration and investment expenses
32 and allocate them against investment income.

33 2. Contract on a fee basis with an actuary to make an actuarial
34 valuation of the plan based on the valuation method and valuation assumptions
35 recommended by the actuary and approved by the board. The actuary shall be a
36 member of the American academy of actuaries.

37 3. Contract on a fee basis with an independent auditing firm to make
38 an annual audit of the accounting records of the fund and file a copy of the
39 audit with the auditor general.

40 4. Invest the monies in the fund as provided in article 4 of this
41 chapter.

42 5. Within a period of six months after the close of each fiscal year,
43 submit a detailed report of the operation and the investment performance of
44 the plan to the governor, the legislature and the members of the plan.

45 6. By November 1 of each year provide a preliminary report and by
46 December 15 of each year provide a final report to the governor, the speaker

1 of the house of representatives and the president of the senate on the
2 contribution rate for the ensuing fiscal year.

3 B. The board, in the administration, management and operation of the
4 plan and fund, may:

5 1. Employ services as it deems necessary.

6 2. Either keep invested monies separate or commingle invested monies
7 as it deems appropriate.

8 3. Delegate authority as it deems necessary and prudent to the
9 administrator employed pursuant to section 38-848, subsection ~~K~~ M,
10 paragraph 6.

11 4. Do all acts, whether expressly authorized, which may be deemed
12 necessary or proper for the protection of the fund.

13 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:

14 38-842. Definitions

15 In this article, unless the context otherwise requires:

16 1. "Accidental disability" means a physical or mental condition that
17 the local board finds totally and permanently prevents an employee from
18 performing a reasonable range of duties within the employee's job
19 classification and that was incurred in the performance of the employee's
20 duty.

21 2. "Accumulated contributions" means, for each member, the sum of the
22 amount of the member's aggregate contributions made to the fund and the
23 amount, if any, attributable to the employee's contributions before the
24 member's effective date under another public retirement system, other than
25 the federal social security act, and transferred to the fund minus the
26 benefits paid to or on behalf of the member.

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

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

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

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

36 7. "Average monthly benefit compensation" means the result obtained by
37 dividing the total compensation paid to an employee during a considered
38 period by the number of months, including fractional months, in which such
39 compensation was received. For an employee who becomes a member of the
40 system:

41 (a) Before January 1, 2012, the considered period shall be the three
42 consecutive years within the last twenty completed years of credited service
43 that yield the highest average. ~~For an employee who becomes a member of the~~
44 ~~system~~

45 (b) On or after January 1, 2012 AND BEFORE JULY 1, 2017, the
46 considered period is the five consecutive years within the last twenty

1 completed years of credited service that yield the highest average. In the
2 computation under this paragraph, a period of nonpaid or partially paid
3 industrial leave shall be considered based on the compensation the employee
4 would have received in the employee's job classification if the employee was
5 not on industrial leave.

6 (c) ON OR AFTER JULY 1, 2017, THE CONSIDERED PERIOD IS THE FIVE
7 CONSECUTIVE YEARS WITHIN THE LAST FIFTEEN COMPLETED YEARS OF CREDITED SERVICE
8 THAT YIELD THE HIGHEST AVERAGE. IN THE COMPUTATION UNDER THIS PARAGRAPH, A
9 PERIOD OF NONPAID OR PARTIALLY PAID INDUSTRIAL LEAVE SHALL BE CONSIDERED
10 BASED ON THE COMPENSATION THE EMPLOYEE WOULD HAVE RECEIVED IN THE EMPLOYEE'S
11 JOB CLASSIFICATION IF THE EMPLOYEE WAS NOT ON INDUSTRIAL LEAVE.

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

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

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

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

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

1 differential pay, holiday pay, longevity pay, fringe benefit pay and similar
2 extra payments.

3 13. "Credited service" means the member's total period of service
4 before the member's effective date of participation, plus those compensated
5 periods of the member's service thereafter for which the member made
6 contributions to the fund.

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

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

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

18 17. "Determination period" means the ninety-day period in which the
19 system must review a domestic relations order that is submitted by a
20 participant or alternate payee to determine whether the domestic relations
21 order qualifies as a plan approved domestic relations order, calculated from
22 the time the system mails a notice of receipt to the participant and
23 alternate payee.

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

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

29 20. "Domestic relations order" means an order of a court of this state
30 that is made pursuant to the domestic relations laws of this state and that
31 creates or recognizes the existence of an alternate payee's right to, or
32 assigns to an alternate payee the right to, receive a portion of the benefits
33 payable to a participant.

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

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

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

42 (a) Is under eighteen years of age.

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

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

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

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

7 (b) Municipal ~~fire fighters~~ FIREFIGHTERS.

8 (c) Paid full-time ~~fire fighters~~ FIREFIGHTERS employed directly by a
9 fire district organized pursuant to section 48-803 or 48-804 or a joint
10 powers authority pursuant to section 48-805.01 with three or more full-time
11 ~~fire fighters~~ FIREFIGHTERS, but not including ~~fire fighters~~ FIREFIGHTERS
12 employed by a fire district pursuant to a contract with a corporation.

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

14 (e) State ~~fire fighters~~ FIREFIGHTERS.

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

16 (g) Game and fish wardens who are certified peace officers.

17 (h) Police officers who are certified peace officers and ~~fire fighters~~
18 FIREFIGHTERS of a nonprofit corporation operating a public airport pursuant
19 to sections 28-8423 and 28-8424. A police officer shall be designated
20 pursuant to section 28-8426 to aid and supplement state and local law
21 enforcement agencies and a ~~fire fighter's~~ FIREFIGHTER'S sole duty shall be to
22 perform ~~fire fighting~~ FIREFIGHTING services, including services required by
23 federal regulations.

24 (i) Police officers who are certified peace officers and who are
25 appointed by the Arizona board of regents.

26 (j) Police officers who are certified peace officers and who are
27 appointed by a community college district governing board.

28 (k) State attorney general investigators who are certified peace
29 officers.

30 (l) County attorney investigators who are certified peace officers.

31 (m) Police officers who are certified peace officers and who are
32 employed by an Indian reservation police agency.

33 (n) ~~Fire fighters~~ FIREFIGHTERS who are employed by an Indian
34 reservation ~~fire fighting~~ FIREFIGHTING agency.

35 (o) Department of liquor licenses and control investigators who are
36 certified peace officers.

37 (p) Arizona department of agriculture officers who are certified peace
38 officers.

39 (q) Arizona state parks board rangers and managers who are certified
40 peace officers.

41 (r) County park rangers who are certified peace officers.

42 25. "Eligible retirement plan" means any of the following that accepts
43 a distributee's eligible rollover distribution:

44 (a) An individual retirement account described in section 408(a) of
45 the internal revenue code.

1 (b) An individual retirement annuity described in section 408(b) of
2 the internal revenue code.

3 (c) An annuity plan described in section 403(a) of the internal
4 revenue code.

5 (d) A qualified trust described in section 401(a) of the internal
6 revenue code.

7 (e) An annuity contract described in section 403(b) of the internal
8 revenue code.

9 (f) An eligible deferred compensation plan described in section 457(b)
10 of the internal revenue code that is maintained by a state, a political
11 subdivision of a state or any agency or instrumentality of a state or a
12 political subdivision of a state and that agrees to separately account for
13 amounts transferred into the eligible deferred compensation plan from this
14 plan.

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

17 (a) Any distribution that is one of a series of substantially equal
18 periodic payments made not less frequently than annually for the life or life
19 expectancy of the member or the joint lives or joint life expectancies of the
20 member and the member's beneficiary or for a specified period of ten years or
21 more.

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

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

26 (d) Any distribution made to satisfy the requirements of section 415
27 of the internal revenue code.

28 (e) Hardship distributions.

29 (f) Similar items designated by the commissioner of the United States
30 internal revenue service in revenue rulings, notices and other guidance
31 published in the internal revenue bulletin.

32 27. "Employee" means any person who is employed by a participating
33 employer and who is a member of an eligible group but does not include any
34 persons compensated on a contractual or fee basis. If an eligible group
35 requires certified peace officer status or ~~fire-fighter~~ FIREFIGHTER
36 certification and at the option of the local board, employee may include a
37 person who is training to become a certified peace officer or ~~fire-fighter~~
38 FIREFIGHTER.

39 28. "Employers" means:

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

44 (b) Cities contributing under the state police pension laws as
45 provided in sections 9-911 through 9-934 or statutes amended thereby and

1 antecedent thereto, as of June 30, 1968 on behalf of their municipal
2 policemen.

3 (c) The state highway patrol covered under the state highway patrol
4 retirement system.

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

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

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

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

20 31. "Member":

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

23 ~~(a)~~ (i) Who is either a paid municipal police officer, a paid ~~fire~~
24 ~~fighter~~ FIREFIGHTER, a law enforcement officer who is employed by this state
25 including the director thereof, a state ~~fire-fighter~~ FIREFIGHTER who is
26 primarily assigned to ~~fire-fighting~~ FIREFIGHTING duties, a ~~fire-fighter~~
27 FIREFIGHTER or police officer of a nonprofit corporation operating a public
28 airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the
29 Arizona law enforcement merit system council, a state attorney general
30 investigator who is a certified peace officer, a county attorney investigator
31 who is a certified peace officer, a department of liquor licenses and control
32 investigator who is a certified peace officer, an Arizona department of
33 agriculture officer who is a certified peace officer, an Arizona state parks
34 board ranger or manager who is a certified peace officer, a county park
35 ranger who is a certified peace officer, a person who is a certified peace
36 officer and who is employed by an Indian reservation police agency, a ~~fire~~
37 ~~fighter~~ FIREFIGHTER who is employed by an Indian reservation ~~fire-fighting~~
38 FIREFIGHTING agency or an employee included in a group designated as eligible
39 employees under a joinder agreement entered into by their employer after July
40 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning
41 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

1 ~~(e)~~ (iii) Whose customary employment is at least forty hours per week
2 or, for those employees who customarily work fluctuating ~~work-weeks~~
3 **WORKWEEKS**, whose customary employment averages at least forty hours per week.

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

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

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

15 **(b) DOES NOT INCLUDE AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1,**
16 **2017, WHO MAKES THE IRREVOCABLE ELECTION TO PARTICIPATE SOLELY IN THE PUBLIC**
17 **SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO**
18 **ARTICLE 4.1 OF THIS CHAPTER AND WHO WAS NOT AN ACTIVE, AN INACTIVE OR A**
19 **RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE SYSTEM WITH A DISABILITY ON**
20 **JUNE 30, 2017.**

21 32. "Normal retirement date" means:

22 (a) For an employee who becomes a member of the system before January
23 1, 2012, the first day of the calendar month immediately following the
24 employee's completion of twenty years of service or the employee's
25 sixty-second birthday and the employee's completion of fifteen years of
26 service.

27 (b) For an employee who becomes a member of the system on or after
28 January 1, 2012 **AND BEFORE JULY 1, 2017**, the first day of the calendar month
29 immediately following the employee's completion of twenty-five years of
30 service if the employee is at least fifty-two and one-half years of age.

31 **(c) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER**
32 **JULY 1, 2017, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING THE**
33 **EMPLOYEE'S COMPLETION OF FIFTEEN YEARS OF CREDITED SERVICE IF THE EMPLOYEE IS**
34 **AT LEAST FIFTY-FIVE YEARS OF AGE.**

35 33. "Notice of receipt" means a written document that is issued by the
36 system to a participant and alternate payee and that states that the system
37 has received a domestic relations order and a request for a determination
38 that the domestic relations order is a plan approved domestic relations
39 order.

40 34. "Ordinary disability" means a physical condition that the local
41 board determines will prevent an employee totally and permanently from
42 performing a reasonable range of duties within the employee's department or a
43 mental condition that the local board determines will prevent an employee
44 totally and permanently from engaging in any substantial gainful activity.

45 35. "Participant" means a member who is subject to a domestic
46 relations order.

1 36. "Participant's portion" means benefits that are payable to a
2 participant pursuant to a plan approved domestic relations order.

3 37. "Pension" means a series of monthly amounts that are payable to a
4 person who is entitled to receive benefits under the plan but does not
5 include an annuity that is payable pursuant to section 38-846.01.

6 38. "Personal representative" means the personal representative of a
7 deceased alternate payee.

8 39. "Physician" means a physician who is licensed pursuant to title
9 32, chapter 13 or 17.

10 40. "Plan approved domestic relations order" means a domestic
11 relations order that the system approves as meeting all the requirements for
12 a plan approved domestic relations order as otherwise prescribed in this
13 article.

14 41. "Plan year" or "fiscal year" means the period beginning on July 1
15 of any year and ending on June 30 of the next succeeding year.

16 42. "Regularly assigned to hazardous duty" means regularly assigned to
17 duties of the type normally expected of municipal police officers, municipal
18 or state ~~fire fighters~~ FIREFIGHTERS, eligible fire district ~~fire fighters~~
19 FIREFIGHTERS, state highway patrol officers, county sheriffs and deputies,
20 fish and game wardens, ~~fire fighters~~ FIREFIGHTERS and police officers of a
21 nonprofit corporation operating a public airport pursuant to sections 28-8423
22 and 28-8424, police officers who are appointed by the Arizona board of
23 regents or a community college district governing board, state attorney
24 general investigators who are certified peace officers, county attorney
25 investigators who are certified peace officers, department of liquor licenses
26 and control investigators who are certified peace officers, Arizona
27 department of agriculture officers who are certified peace officers, Arizona
28 state parks board rangers and managers who are certified peace officers,
29 county park rangers who are certified peace officers, police officers who are
30 certified peace officers and who are employed by an Indian reservation police
31 agency or ~~fire fighters~~ FIREFIGHTERS who are employed by an Indian
32 reservation ~~fire fighting~~ FIREFIGHTING agency. Those individuals who are
33 assigned solely to support duties such as secretaries, stenographers,
34 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
35 dispatchers are not assigned to hazardous duty regardless of their position
36 classification title. Since the normal duties of those jobs described in
37 this paragraph are constantly changing, questions as to whether a person is
38 or was previously regularly assigned to hazardous duty shall be resolved by
39 the local board on a case-by-case basis. Resolutions by local boards are
40 subject to rehearing and appeal.

41 43. "Retirement" or "retired" means termination of employment after a
42 member has fulfilled all requirements for a pension ~~or~~, for an employee who
43 becomes a member of the system on or after January 1, 2012 AND BEFORE JULY 1,
44 2017, attains the age and service requirements for a normal retirement date
45 OR FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JULY 1,
46 2017 ATTAINS THE AGE AND CREDITED SERVICE REQUIREMENTS FOR A NORMAL

1 RETIREMENT DATE. Retirement shall be considered as commencing on the first
2 day of the month immediately following a member's last day of employment or
3 authorized leave of absence, if later.

4 44. "Segregated funds" means the amount of benefits that would
5 currently be payable to an alternate payee pursuant to a domestic relations
6 order under review by the system, or a domestic relations order submitted to
7 the system that failed to qualify as a plan approved domestic relations
8 order, if the domestic relations order were determined to be a plan approved
9 domestic relations order.

10 45. "Service" means the last period of continuous employment of an
11 employee by the employers before the employee's retirement, except that if
12 such period includes employment during which the employee would not have
13 qualified as a member had the system then been effective, such as employment
14 as a volunteer ~~fire-fighter~~ FIREFIGHTER, then only twenty-five percent of
15 such noncovered employment shall be considered as service. Any absence that
16 is authorized by an employer shall not be considered as interrupting
17 continuity of employment if the employee returns within the period of
18 authorized absence. Transfers between employers also shall not be considered
19 as interrupting continuity of employment. Any period during which a member
20 is receiving sick leave payments or a temporary disability pension shall be
21 considered as service. Notwithstanding any other provision of this
22 paragraph, any period during which a person was employed as a full-time paid
23 ~~fire-fighter~~ FIREFIGHTER for a corporation that contracted with an employer
24 to provide firefighting services on behalf of the employer shall be
25 considered as service if the employer has elected at its option to treat part
26 or all of the period the firefighter worked for the company as service in its
27 applicable joinder agreement. Any reference in this system to the number of
28 years of service of an employee shall be deemed to include fractional
29 portions of a year.

30 46. "State" means the state of Arizona, including any department,
31 office, board, commission, agency or other instrumentality of the state.

32 47. "System" means the public safety personnel retirement system
33 established by this article.

34 48. "Temporary disability" means a physical or mental condition that
35 the local board finds totally and temporarily prevents an employee from
36 performing a reasonable range of duties within the employee's department and
37 that was incurred in the performance of the employee's duty.

38 Sec. 4. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
39 amended by adding section 38-842.01, to read:

40 38-842.01. Benefit election; eligibility; disability; employees
41 hired on or after July 1, 2017

42 A. AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017 AND WHO WAS NOT
43 AN ACTIVE, AN INACTIVE OR A RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE
44 SYSTEM WITH A DISABILITY ON JUNE 30, 2017 IS ELIGIBLE TO PARTICIPATE IN THE
45 SYSTEM OR THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN
46 ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER, DEPENDING ON THE

1 EMPLOYEE'S ELECTION UNDER THIS SECTION. THE EMPLOYEE'S PARTICIPATION IN
2 EITHER THE SYSTEM OR THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION
3 RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER BEGINS
4 NINETY DAYS AFTER THE DATE THE EMPLOYEE IS HIRED. UNLESS THE ELECTIONS MADE
5 UNDER THIS SECTION ARE MADE BEFORE THE NINETIETH DAY AFTER THE DATE OF
6 EMPLOYMENT, THE EMPLOYEE IS AUTOMATICALLY ENROLLED IN THE SYSTEM FOR THE
7 REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE SYSTEM.
8 ANY ELECTION MADE UNDER THIS SECTION IS IRREVOCABLE AND IS THE EMPLOYEE'S
9 ELECTION FOR THE REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER
10 UNDER THE SYSTEM, REGARDLESS OF WHETHER THE EMPLOYEE'S EMPLOYMENT IS
11 CONTINUOUS. THE EMPLOYEE MAY MAKE ONE OF THE FOLLOWING IRREVOCABLE
12 ELECTIONS:

13 1. TO PARTICIPATE SOLELY IN THE SYSTEM.

14 2. TO PARTICIPATE SOLELY IN THE PUBLIC SAFETY PERSONNEL DEFINED
15 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS
16 CHAPTER.

17 B. AN EMPLOYEE WHO MAKES AN ELECTION TO PARTICIPATE SOLELY IN THE
18 SYSTEM OR IS AUTOMATICALLY ENROLLED IN THE SYSTEM PURSUANT TO SUBSECTION A OF
19 THIS SECTION AND WHO IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS
20 INSURANCE SYSTEM IS ALSO ENROLLED IN THE PUBLIC SAFETY PERSONNEL DEFINED
21 CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS
22 CHAPTER DURING ANY PERIOD THAT THE EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD
23 AGE AND SURVIVORS INSURANCE SYSTEM THROUGH AN EMPLOYER UNDER THE SYSTEM. IF
24 SUCH EMPLOYEE IS SUBSEQUENTLY COVERED BY THE FEDERAL OLD AGE AND SURVIVORS
25 INSURANCE SYSTEM, THE EMPLOYEE MAY NOT MAKE ANY CONTRIBUTIONS TO THE PUBLIC
26 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO
27 ARTICLE 4.1 OF THIS CHAPTER THAT ARE DESCRIBED IN SECTION 38-867, SUBSECTION
28 A, PARAGRAPH 1 OR SUBSECTION B DURING THE PERIOD THE EMPLOYEE IS COVERED BY
29 THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM. IF AT ANY LATER TIME THE
30 EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM
31 THROUGH AN EMPLOYER UNDER THE SYSTEM, THE EMPLOYEE SHALL AGAIN BE REQUIRED TO
32 CONTRIBUTE TO THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT
33 PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER AS REQUIRED BY
34 SECTION 38-867, SUBSECTION A, PARAGRAPH 1 AND, IF THE EMPLOYEE MADE AN
35 IRREVOCABLE ELECTION TO CONTRIBUTE MORE OF THE EMPLOYEE'S GROSS PENSIONABLE
36 COMPENSATION TO THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION PLAN AS
37 PROVIDED IN SECTION 38-867, SUBSECTION B, SUCH CONTRIBUTIONS SHALL BE
38 REESTABLISHED FOR THE PERIOD THE EMPLOYEE IS NOT COVERED BY THE FEDERAL OLD
39 AGE AND SURVIVORS INSURANCE SYSTEM.

40 C. IF AN EMPLOYEE IN THE EMPLOYEE'S FIRST NINETY DAYS OF EMPLOYMENT IS
41 DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL DISABILITY PENSION PURSUANT TO
42 SECTION 38-844, THE EMPLOYEE SHALL BE AUTOMATICALLY ENROLLED IN THE SYSTEM
43 FOR THE REMAINDER OF THE EMPLOYEE'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE
44 SYSTEM COMMENCING ON THE EMPLOYEE'S DATE OF DISABILITY AND SHALL RECEIVE AN
45 ACCIDENTAL DISABILITY PENSION AS PRESCRIBED IN THIS ARTICLE.

46 Sec. 5. Section 38-843, Arizona Revised Statutes, is amended to read:

1 38-843. Contributions

2 A. Each employer who participates in the system on behalf of a group
3 of employees who were covered under a prior public retirement system, other
4 than the federal social security act, shall transfer all securities and
5 monies attributable to the taxes and contributions of the state other than
6 the state contribution to social security, the employer and the employees for
7 the covered group of employees under the other system, such transfer to be
8 made to the fund subject to all existing liabilities and on or within sixty
9 days following the employer's effective date. All monies and securities
10 transferred to the fund shall be credited to the employer's account in the
11 fund. A record of the market value and the cost value of such transferred
12 contributions shall be maintained for actuarial and investment purposes.

13 B. As determined by actuarial valuations reported to the employer and
14 the local board by the board of trustees, each employer shall make ~~level per~~
15 ~~cent of compensation~~ contributions sufficient under such actuarial valuations
16 to meet both the normal cost FOR MEMBERS HIRED BEFORE JULY 1, 2017 plus the
17 actuarially determined amount required to amortize the unfunded accrued
18 liability ON A LEVEL PERCENT OF COMPENSATION BASIS FOR ALL EMPLOYEES OF THE
19 EMPLOYER WHO ARE MEMBERS OF THE SYSTEM OR PARTICIPANTS AS DEFINED IN SECTION
20 38-865, PARAGRAPH 7, SUBDIVISION (a) over, beginning July 1, ~~2005~~ 2017, a
21 ~~rolling~~ CLOSED period of ~~at least~~ NOT MORE THAN twenty ~~and not more than~~
22 ~~thirty~~ years that is established by the board of trustees taking into account
23 the recommendation of the system's actuary, except that, beginning with
24 fiscal year 2006-2007, except as otherwise provided, the employer
25 contribution rate shall not be less than eight ~~per cent~~ PERCENT of
26 compensation. For any employer whose actual contribution rate is less than
27 eight ~~per cent~~ PERCENT of compensation for fiscal year 2006-2007, that
28 employer's contribution rate is not subject to the eight ~~per cent~~ PERCENT
29 minimum but, for fiscal year 2006-2007 and each year thereafter, shall be at
30 least five ~~per cent~~ PERCENT and not more than the employer's actual
31 contribution rate. An employer shall have the option of paying a higher
32 level ~~per cent~~ PERCENT of compensation thereby reducing its unfunded past
33 service liability. An employer shall also have the option of increasing its
34 contributions in order to reduce the contributions required from its members
35 under subsection C of this section, except that if an employer elects this
36 option the employer shall pay the same higher level percentage contribution
37 for all members of the eligible group. A county employer that elected to pay
38 a higher level percentage contribution rate may eliminate that higher level
39 percentage contribution rate amount for members who are hired on or after
40 January 1, 2015. During a period when an employee is on industrial leave and
41 the employee elects to continue contributions during the period of industrial
42 leave, the employer shall make the contributions based on the compensation
43 the employee would have received in the employee's job classification if the
44 employee was in normal employment status. All contributions made by the
45 employers and all state taxes allocated to the fund shall be irrevocable and
46 shall be used to pay benefits under the system or to pay expenses of the

1 system and fund. The minimum employer contribution that is paid and that is
2 in excess of the normal cost plus the actuarially determined amount required
3 to amortize the unfunded accrued liability as calculated pursuant to this
4 subsection shall be used to reduce future employer contribution increases and
5 shall not be used to pay for an increase in benefits that are otherwise
6 payable to members. The board shall separately account for these monies in
7 the fund. Forfeitures arising because of severance of employment before a
8 member becomes eligible for a pension or any other reason shall be applied to
9 reduce the cost of the employer, not to increase the benefits otherwise
10 payable to members. After the close of any fiscal year, if the system's
11 actuary determines that the actuarial valuation of an employer's account
12 contains excess valuation assets other than excess valuation assets that were
13 in the employer's account as of fiscal year 2004-2005 and is more than one
14 hundred ~~per-cent~~ PERCENT funded, the board shall account for fifty ~~per-cent~~
15 PERCENT of the excess valuation assets in a stabilization reserve account.
16 After the close of any fiscal year, if the system's actuary determines that
17 the actuarial valuation of an employer's account has a valuation asset
18 deficiency and an unfunded actuarial accrued liability, the board shall use
19 any valuation assets in the stabilization reserve account for that employer,
20 to the extent available, to limit the decline in that employer's funding
21 ratio to not more than two ~~per-cent~~ PERCENT.

22 C. Each member WHO WAS HIRED BEFORE JULY 1, 2017, throughout the
23 member's period of service from the member's effective date of participation,
24 shall contribute to the fund an amount equal to the amount prescribed in
25 subsection E of this section, except as provided in subsection B of this
26 section. EACH MEMBER WHO WAS HIRED ON OR AFTER JULY 1, 2017, THROUGHOUT THE
27 MEMBER'S PERIOD OF SERVICE FROM THE MEMBER'S EFFECTIVE DATE OF PARTICIPATION,
28 SHALL CONTRIBUTE TO THE FUND AN AMOUNT EQUAL TO THE AMOUNT PRESCRIBED IN
29 SUBSECTION G OF THIS SECTION. During a period when an employee is on
30 industrial leave and the employee elects to continue contributions during the
31 period of industrial leave, the employee shall make the employee's
32 contribution based on the compensation the employee would have received in
33 the employee's job classification if the employee was in normal employment
34 status. Contributions of members shall be required as a condition of
35 employment and membership in the system and shall be made by payroll
36 deductions. Every employee shall be deemed to consent to such deductions.
37 Payment of an employee's compensation, less such payroll deductions, shall
38 constitute a full and complete discharge and satisfaction of all claims and
39 demands by the employee relating to remuneration for the employee's services
40 rendered during the period covered by the payment, except with respect to the
41 benefits provided under the system. A member may not, under any
42 circumstance, borrow from, take a loan against or remove contributions from
43 the member's account before the termination of membership in the plan or the
44 receipt of a pension.

45 D. Each employer shall transfer to the board the employer and employee
46 contributions provided for in subsections B, ~~and~~ C AND G of this section

1 within ten working days after each payroll date. Contributions transferred
2 after that date shall include a penalty of ten ~~per cent~~ PERCENT per annum,
3 compounded annually, for each day the contributions are late, such penalty to
4 be paid by the employer. Delinquent payments due under this subsection,
5 together with interest charges as provided in this subsection, may be
6 recovered by action in a court of competent jurisdiction against an employer
7 liable for the payments or, at the request of the board, may be deducted from
8 any other monies, including excise revenue taxes, payable to such employer by
9 any department or agency of this state.

10 E. The amount contributed by a member WHO WAS HIRED BEFORE JULY 1,
11 2017 pursuant to subsection C of this section is:

12 1. Through June 30, 2011, 7.65 ~~per cent~~ PERCENT of the member's
13 compensation.

14 2. For fiscal year 2011-2012, 8.65 ~~per cent~~ PERCENT of the member's
15 compensation.

16 3. For fiscal year 2012-2013, 9.55 ~~per cent~~ PERCENT of the member's
17 compensation.

18 4. For fiscal year 2013-2014, 10.35 ~~per cent~~ PERCENT of the member's
19 compensation.

20 5. For fiscal year 2014-2015, 11.05 ~~per cent~~ PERCENT of the member's
21 compensation.

22 6. For fiscal year 2015-2016 and each fiscal year thereafter, 11.65
23 ~~per cent~~ PERCENT of the member's compensation or 33.3 ~~per cent~~ PERCENT of the
24 sum of the member's contribution rate from the preceding fiscal year and the
25 aggregate computed employer contribution rate that is calculated pursuant to
26 subsection B of this section, whichever is lower, except that the member
27 contribution rate shall not be less than 7.65 ~~per cent~~ PERCENT of the
28 member's compensation and the employer contribution rate shall not be less
29 than the rate prescribed in subsection B of this section.

30 F. For fiscal year 2011-2012 and each fiscal year thereafter, the
31 amount of the member's contribution that exceeds 7.65 ~~per cent~~ PERCENT of the
32 member's compensation shall not be used to reduce the employer's
33 contributions that are calculated pursuant to subsection B of this section.

34 G. FOR MEMBERS HIRED ON OR AFTER JULY 1, 2017, THE EMPLOYER AND MEMBER
35 CONTRIBUTIONS ARE DETERMINED AS FOLLOWS:

36 1. AS DETERMINED BY ACTUARIAL VALUATIONS REPORTED TO THE EMPLOYER AND
37 THE LOCAL BOARD BY THE BOARD OF TRUSTEES, EACH EMPLOYER SHALL MAKE
38 CONTRIBUTIONS SUFFICIENT UNDER SUCH ACTUARIAL VALUATIONS TO PAY FIFTY PERCENT
39 OF BOTH THE NORMAL COST PLUS THE ACTUARIALLY DETERMINED AMOUNT REQUIRED TO
40 AMORTIZE THE TOTAL UNFUNDED ACCRUED LIABILITY FOR EACH EMPLOYER ATTRIBUTABLE
41 ONLY TO THOSE MEMBERS HIRED ON OR AFTER JULY 1, 2017. FOR EACH YEAR THAT NEW
42 UNFUNDED LIABILITIES ARE ATTRIBUTABLE TO THE EMPLOYER'S OWN MEMBERS HIRED ON
43 OR AFTER JULY 1, 2017, A NEW AMORTIZATION BASE REPRESENTING THE MOST RECENT
44 ANNUAL GAIN OR LOSS, SMOOTHED OVER A PERIOD NOT MORE THAN FIVE YEARS AS
45 DETERMINED BY THE BOARD, SHALL BE CREATED ON A LEVEL-DOLLAR BASIS OVER A

1 CLOSED PERIOD EQUAL TO THE AVERAGE EXPECTED REMAINING SERVICE LIVES OF ALL
2 MEMBERS BUT NOT MORE THAN TEN YEARS, AS DETERMINED BY THE BOARD.

3 2. THE REMAINING FIFTY PERCENT OF BOTH THE NORMAL COST AND ACTUARIALLY
4 DETERMINED AMOUNT REQUIRED TO AMORTIZE THE TOTAL UNFUNDED ACCRUED LIABILITY
5 AS DETERMINED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION SHALL BE DIVIDED BY
6 THE TOTAL NUMBER OF THE EMPLOYER'S MEMBERS WHO WERE HIRED ON OR AFTER JULY 1,
7 2017 SUCH THAT EACH MEMBER CONTRIBUTES AN EQUAL PERCENTAGE OF THE MEMBER'S
8 COMPENSATION. MEMBER CONTRIBUTIONS SHALL BEGIN SIMULTANEOUSLY WITH
9 MEMBERSHIP IN THE SYSTEM AND SHALL BE MADE BY PAYROLL DEDUCTION.

10 H. IN ANY FISCAL YEAR, AN EMPLOYER'S CONTRIBUTION TO THE SYSTEM IN
11 COMBINATION WITH MEMBER CONTRIBUTIONS MAY NOT BE LESS THAN THE ACTUARIALLY
12 DETERMINED NORMAL COST FOR THAT FISCAL YEAR. THE BOARD MAY NOT SUSPEND
13 CONTRIBUTIONS TO THE SYSTEM UNLESS BOTH OF THE FOLLOWING APPLY:

14 1. THE RETIREMENT SYSTEM ACTUARY, BASED ON THE ANNUAL VALUATION,
15 DETERMINES THAT CONTINUING TO ACCRUE EXCESS EARNINGS COULD RESULT IN
16 DISQUALIFICATION OF THE SYSTEM'S TAX-EXEMPT STATUS UNDER THE PROVISIONS OF
17 THE UNITED STATES INTERNAL REVENUE CODE.

18 2. THE BOARD DETERMINES THAT THE RECEIPT OF ANY ADDITIONAL
19 CONTRIBUTIONS REQUIRED UNDER THIS SECTION WOULD CONFLICT WITH ITS FIDUCIARY
20 RESPONSIBILITY.

21 I. IF A MEMBER'S EMPLOYMENT IS TERMINATED WITH AN EMPLOYER BY EITHER
22 PARTY, THE TOTAL LIABILITY UNDER THE SYSTEM ASSOCIATED WITH THE MEMBER'S
23 SERVICE WITH THE EMPLOYER REMAINS WITH THE EMPLOYER.

24 Sec. 6. Section 38-843.04, Arizona Revised Statutes, is amended to
25 read:

26 38-843.04. Compensation limitation; adjustments; definition

27 A. The annual compensation of each member taken into account for
28 purposes of the system shall not exceed the following:

29 1. Beginning January 1, 1996 through December 31, 2001, one hundred
30 fifty thousand dollars.

31 2. EXCEPT FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017,
32 beginning January 1, 2002, two hundred thousand dollars. THE BOARD SHALL
33 ADJUST THE TWO HUNDRED THOUSAND DOLLAR ANNUAL COMPENSATION LIMIT UNDER THIS
34 PARAGRAPH AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE UNITED
35 STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE INTERNAL
36 REVENUE CODE. THE ADJUSTMENT UNDER THIS PARAGRAPH FOR A CALENDAR YEAR
37 APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR WITHIN
38 THE CALENDAR YEAR.

39 3. FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017, ONE HUNDRED TEN
40 THOUSAND DOLLARS. THE BOARD SHALL ADJUST THE ONE HUNDRED TEN THOUSAND DOLLAR
41 ANNUAL COMPENSATION LIMIT UNDER THIS PARAGRAPH AS PRESCRIBED IN SUBSECTION C
42 OF THIS SECTION. NOTWITHSTANDING THE ADJUSTMENTS MADE UNDER SUBSECTION C OF
43 THIS SECTION, THE LIMIT UNDER THIS PARAGRAPH, AS ADJUSTED BY THE BOARD, MAY
44 NOT EXCEED THE MAXIMUM COMPENSATION LIMIT OF SECTION 401(a)(17) OF THE
45 INTERNAL REVENUE CODE, AS ADJUSTED BY THE UNITED STATES SECRETARY OF THE
46 TREASURY.

1 B. If compensation under the system is determined on a period of time
2 that contains fewer than twelve calendar months, the compensation limit for
3 that period of time is equal to the dollar limit for the calendar year during
4 which the period of time begins, multiplied by the fraction in which the
5 numerator is the number of full months in that period of time and the
6 denominator is twelve.

7 ~~C. The board shall adjust the annual compensation limits under this~~
8 ~~section at the same time and in the same manner as adjusted by the United~~
9 ~~States secretary of the treasury under section 401(a)(17)(B) of the internal~~
10 ~~revenue code. The adjustment under this subsection for a calendar year~~
11 ~~applies to annual compensation for the plan year that begins with or within~~
12 ~~the calendar year.~~

13 C. BEGINNING IN FISCAL YEAR 2020-2021, AND EVERY THIRD FISCAL YEAR
14 THEREAFTER, THE BOARD SHALL ADJUST THE ANNUAL COMPENSATION LIMIT SPECIFIED IN
15 SUBSECTION A, PARAGRAPH 3 OF THIS SECTION BY THE AVERAGE CHANGE IN THE PUBLIC
16 SAFETY WAGE INDEX AS DETERMINED IN THIS SUBSECTION. THE BOARD SHALL ANNUALLY
17 PUBLISH THE PUBLIC SAFETY WAGE INDEX IN JANUARY. TO DETERMINE THE PUBLIC
18 SAFETY WAGE INDEX:

19 1. EMPLOYERS REPRESENTED IN THE PUBLIC SAFETY WAGE INDEX SHALL PROVIDE
20 THE BOARD PAY SCALES FOR THE MONTH OF JULY FOR THE ENFORCEMENT
21 CLASSIFICATIONS OF PUBLIC SAFETY OFFICERS ANNUALLY IN JULY.

22 2. THE BOARD SHALL DETERMINE THE WEIGHTED AVERAGE OF THE CHANGE IN THE
23 TOP OF THE PAY SCALE FOR PUBLIC SAFETY OFFICERS OF THE EMPLOYERS REPRESENTED
24 IN THE PUBLIC SAFETY WAGE INDEX. THE AVERAGE CHANGE SHALL BE WEIGHTED BY
25 MEASURING EACH EMPLOYER'S TOTAL NUMBER OF MEMBERS DIVIDED BY THE TOTAL NUMBER
26 OF MEMBERS OF ALL EMPLOYERS REPRESENTED IN THE PUBLIC SAFETY WAGE INDEX.

27 D. THE BOARD SHALL ESTABLISH A PUBLIC SAFETY WAGE INDEX THAT IS
28 COMPOSED OF A GROUP OF EMPLOYERS THAT REPRESENT GEOGRAPHIC DIVERSITY ACROSS
29 THIS STATE AND THAT REPRESENT:

30 1. SEVEN LARGE EMPLOYERS, EACH OF WHICH HAS ONE THOUSAND OR MORE TOTAL
31 SYSTEM MEMBERS, COMPOSED OF ONE STATE LAW ENFORCEMENT AGENCY, ONE COUNTY LAW
32 ENFORCEMENT AGENCY, THREE MUNICIPAL LAW ENFORCEMENT AGENCIES AND TWO
33 MUNICIPAL FIRE AGENCIES.

34 2. NINE MIDSIZED EMPLOYERS, EACH OF WHICH HAS MORE THAN TWO HUNDRED
35 BUT LESS THAN ONE THOUSAND TOTAL SYSTEM MEMBERS, COMPOSED OF ONE STATE LAW
36 ENFORCEMENT AGENCY, TWO COUNTY LAW ENFORCEMENT AGENCIES, FOUR MUNICIPAL LAW
37 ENFORCEMENT AGENCIES, ONE MUNICIPAL FIRE AGENCY AND ONE FIRE DISTRICT.

38 3. TEN SMALL EMPLOYERS, EACH OF WHICH HAS TWO HUNDRED OR LESS TOTAL
39 SYSTEM MEMBERS, COMPOSED OF THREE MUNICIPAL LAW ENFORCEMENT AGENCIES, FOUR
40 MUNICIPAL FIRE AGENCIES AND THREE FIRE DISTRICTS.

41 E. THE BOARD MAY NOT CHANGE THE EMPLOYERS REPRESENTED IN THE PUBLIC
42 SAFETY WAGE INDEX MORE FREQUENTLY THAN EVERY TEN YEARS, UNLESS REQUIRED TO
43 MAINTAIN THE COMPOSITION OF EMPLOYERS AS PRESCRIBED IN SUBSECTION D OF THIS
44 SECTION.

1 F. FOR THE PURPOSES OF THIS SECTION, "PUBLIC SAFETY OFFICERS" MEANS
2 THE CLASSIFICATION OF POLICE OFFICERS, SHERIFF'S DEPUTIES, FIREFIGHTERS OR
3 WILDLIFE MANAGERS OR THEIR EQUIVALENT ENFORCEMENT CLASSIFICATIONS.

4 Sec. 7. Section 38-844.05, Arizona Revised Statutes, is amended to
5 read:

6 38-844.05. Deferred retirement option benefits and
7 participation accounts

8 A. A deferred retirement option plan participation account is an
9 account established within the system on behalf of each deferred retirement
10 option plan participant. All benefits accrued pursuant to this article shall
11 be accounted for in the deferred retirement option plan participation
12 account. A deferred retirement option plan participant does not have a claim
13 on the assets of the system with respect to the member's deferred retirement
14 option plan participation account and assets shall not be set aside for any
15 deferred retirement option plan participant that are separate from all other
16 system assets.

17 B. All amounts credited to a member's deferred retirement option plan
18 participation account are fully vested.

19 C. A member's deferred retirement option plan participation account
20 shall be credited with the following:

21 1. An amount, credited monthly, that is computed in the same manner as
22 a normal retirement benefit using the factors of credited service and average
23 monthly benefit compensation in effect on the date of deferred retirement
24 option plan participation.

25 2. An amount, credited monthly, that represents interest on the amount
26 credited pursuant to paragraph 1 of this subsection at a rate equal to the
27 assumed rate of return determined by the board, except that for a member who
28 has less than twenty years of credited service on January 1, 2012 and who
29 elects to participate in the deferred retirement option plan on or after
30 January 1, 2012, the amount credited monthly is the amount that represents
31 interest at a rate equal to the average annual return of the system over the
32 period of years established by the board for use in the calculation of the
33 actuarial value of assets for the previous year, but not to exceed the
34 system's assumed investment rate of return but at least two ~~per-cent~~ PERCENT.

35 3. If applicable, employee contributions made pursuant to section
36 38-844.06, subsection B.

37 D. The participant is not entitled to receive any amount prescribed by
38 section ~~38-856, 38-856.02~~ 38-856.05 or 38-857 during the deferred retirement
39 option plan participation period.

40 Sec. 8. Section 38-845, Arizona Revised Statutes, is amended to read:
41 38-845. Amount of retirement benefit

42 A. A member who meets the requirements for a normal pension, who
43 becomes a member of the system before January 1, 2012 and who has twenty
44 years of credited service shall receive a monthly amount that equals fifty
45 percent of the member's average monthly benefit compensation. If the member

1 retires with other than twenty years of credited service, the foregoing
2 amount shall be:

3 1. Reduced by four percent for each year of credited service under
4 twenty years, with pro rata reduction for any fractional year.

5 2. Increased by a monthly amount equal to two percent of the member's
6 average monthly benefit compensation multiplied by the number of the member's
7 years of credited service in excess of twenty years, with pro rata increase
8 for any fractional year, except that if a member retires with twenty-five or
9 more years of credited service the amount shall be increased by a monthly
10 amount equal to two and one-half percent of the member's average monthly
11 benefit compensation multiplied by the number of the member's years of
12 credited service in excess of twenty years, with pro rata increase for any
13 fractional year. Notwithstanding this subsection, the maximum amount payable
14 as a normal pension shall be eighty percent of the average monthly benefit
15 compensation.

16 B. A member who meets the requirements for an accidental disability
17 pension shall receive a monthly amount, which shall be computed in the same
18 manner as a normal pension, using the member's average monthly benefit
19 compensation before termination of employment and the member's actual
20 credited service or twenty years of credited service, whichever is greater.

21 C. A member who meets the requirements for an ordinary disability
22 pension shall receive a monthly amount that is equal to a fraction times the
23 member's normal pension that is computed according to subsection A, ~~or~~ G OR H
24 of this section if the member had twenty years of credited service. The
25 fraction is the result obtained by dividing the member's actual years of
26 credited service, not to exceed twenty years of credited service, by twenty.

27 D. A member who meets the requirements for a temporary disability
28 pension shall receive a monthly amount that is equal to one-twelfth of fifty
29 percent of the member's annual compensation received immediately prior to the
30 date on which the member's disability was incurred.

31 E. A member who meets the requirements for a catastrophic disability
32 pension is entitled to receive a monthly amount computed as follows:

33 1. For the first sixty months, ninety percent of the member's average
34 monthly benefit compensation before termination of employment.

35 2. After sixty months, sixty-two and one-half percent of the member's
36 average monthly benefit compensation before termination of employment or
37 computed in the same manner as a normal pension using the member's average
38 monthly benefit compensation before termination of employment and the
39 member's actual credited service, whichever is greater.

40 F. A member who was employed before September 15, 1989 by an employer
41 participating in the system and who retires on or after November 1, 2001 is
42 entitled to receive a tax equity benefit allowance consisting of a permanent
43 increase of two percent of the member's base benefit retroactive to the day
44 of retirement.

45 G. A member who meets the requirements for a normal pension, who
46 becomes a member of the system on or after January 1, 2012 AND BEFORE JULY 1,

1 2017 and who has twenty-five years of credited service shall receive a
2 monthly amount that equals sixty-two and one-half percent of the member's
3 average monthly benefit compensation. If the member retires with other than
4 twenty-five years of credited service, the foregoing amount shall be:

5 1. Reduced by four percent for each year of credited service under
6 twenty-five years, with pro rata reduction for any fractional year.

7 2. Increased by a monthly amount equal to two and one-half percent of
8 the member's average monthly benefit compensation multiplied by the number of
9 the member's years of credited service in excess of twenty-five years, with
10 pro rata increase for any fractional year. Notwithstanding this subsection,
11 the maximum amount payable as a normal pension shall be eighty percent of the
12 average monthly benefit compensation.

13 H. A MEMBER WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JULY 1,
14 2017 AND WHO RETIRES ON OR AFTER THE MEMBER'S NORMAL RETIREMENT DATE SHALL
15 RECEIVE A MONTHLY AMOUNT EQUAL TO THE MEMBER'S AVERAGE MONTHLY BENEFIT
16 COMPENSATION MULTIPLIED BY THE NUMBER OF WHOLE AND FRACTIONAL YEARS OF
17 CREDITED SERVICE MULTIPLIED BY THE FOLLOWING:

18 1. 1.50 PERCENT IF THE MEMBER HAS AT LEAST FIFTEEN YEARS OF CREDITED
19 SERVICE BUT LESS THAN SEVENTEEN YEARS OF CREDITED SERVICE.

20 2. 1.75 PERCENT IF THE MEMBER HAS AT LEAST SEVENTEEN YEARS OF CREDITED
21 SERVICE BUT LESS THAN NINETEEN YEARS OF CREDITED SERVICE.

22 3. 2.00 PERCENT IF THE MEMBER HAS AT LEAST NINETEEN YEARS OF CREDITED
23 SERVICE BUT LESS THAN TWENTY-TWO YEARS OF CREDITED SERVICE.

24 4. 2.25 PERCENT IF THE MEMBER HAS AT LEAST TWENTY-TWO YEARS OF
25 CREDITED SERVICE BUT LESS THAN TWENTY-FIVE YEARS OF CREDITED SERVICE.

26 5. 2.50 PERCENT IF THE MEMBER HAS AT LEAST TWENTY-FIVE YEARS OF
27 CREDITED SERVICE.

28 I. NOTWITHSTANDING SUBSECTION H OF THIS SECTION, THE MAXIMUM AMOUNT
29 PAYABLE AS A NORMAL PENSION IS EIGHTY PERCENT OF THE AVERAGE MONTHLY BENEFIT
30 COMPENSATION.

31 Sec. 9. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
32 amended by adding section 38-845.03, to read:

33 38-845.03. Early retirement

34 MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 AND WHO HAVE EARNED AT
35 LEAST FIFTEEN YEARS OF CREDITED SERVICE MAY RETIRE AT FIFTY-TWO AND ONE-HALF
36 YEARS OF AGE AND WILL RECEIVE AN ACTUARIALLY EQUIVALENT RETIREMENT BENEFIT TO
37 THE BENEFIT AMOUNT PRESCRIBED IN SECTION 38-845, SUBSECTION H.

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

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

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

7 1. TWO MEMBERS REPRESENTING LAW ENFORCEMENT, ONE OF WHOM IS APPOINTED
8 BY THE PRESIDENT OF THE SENATE AND ONE OF WHOM IS APPOINTED BY THE GOVERNOR.
9 A STATEWIDE ASSOCIATION REPRESENTING LAW ENFORCEMENT IN THIS STATE SHALL
10 FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT LEAST
11 THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE MEMBERS APPOINTED
12 UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD MEMBER.

13 2. TWO MEMBERS REPRESENTING FIREFIGHTERS, ONE OF WHOM IS APPOINTED BY
14 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY
15 THE GOVERNOR. A STATEWIDE ASSOCIATION REPRESENTING FIREFIGHTERS IN THIS
16 STATE SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS,
17 PROVIDING AT LEAST THREE NOMINEES FOR EACH POSITION. AT LEAST ONE OF THE
18 MEMBERS APPOINTED UNDER THIS PARAGRAPH SHALL BE AN ELECTED LOCAL BOARD
19 MEMBER.

20 3. THREE MEMBERS REPRESENTING CITIES AND TOWNS IN THIS STATE, ONE OF
21 WHOM IS APPOINTED BY THE PRESIDENT OF THE SENATE, ONE OF WHOM IS APPOINTED BY
22 THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND ONE OF WHOM IS APPOINTED BY
23 THE GOVERNOR. AN ASSOCIATION REPRESENTING CITIES AND TOWNS IN THIS STATE
24 SHALL FORWARD NOMINATIONS TO THE APPOINTING ELECTED OFFICIALS, PROVIDING AT
25 LEAST THREE NOMINEES FOR EACH POSITION. THESE NOMINEES SHALL REPRESENT
26 TAXPAYERS OR EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

27 4. ONE MEMBER WHO REPRESENTS COUNTIES IN THIS STATE AND WHO IS
28 APPOINTED BY THE GOVERNOR. AN ASSOCIATION REPRESENTING COUNTY SUPERVISORS IN
29 THIS STATE SHALL FORWARD NOMINATIONS TO THE GOVERNOR, PROVIDING AT LEAST
30 THREE NOMINEES FOR THE POSITION. THESE NOMINEES SHALL REPRESENT TAXPAYERS OR
31 EMPLOYERS AND MAY NOT BE MEMBERS OF THE SYSTEM.

32 5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A LIST OF THREE
33 NOMINEES FORWARDED BY THE BOARD. THE BOARD SHALL SELECT THE NOMINEES TO
34 FORWARD TO THE GOVERNOR FROM A LIST OF AT LEAST FIVE NOMINEES RECEIVED FROM
35 THE ADVISORY COMMITTEE.

36 B. EACH APPOINTMENT MADE PURSUANT TO SUBSECTION A OF THIS SECTION
37 SHALL BE CHOSEN FROM THE LIST OF NOMINEES PROVIDED TO THE APPOINTING ELECTED
38 OFFICIAL. A BOARD MEMBER MAY BE REAPPOINTED. NOTWITHSTANDING SECTION
39 38-295, A BOARD MEMBER MAY BE REMOVED FROM OFFICE ONLY FOR CAUSE BY THE
40 APPOINTING POWER OR BECAUSE THE BOARD MEMBER HAS VACATED THE MEMBER'S SEAT ON
41 THE BOARD. A BOARD MEMBER WHO IS REMOVED FOR CAUSE SHALL BE PROVIDED WRITTEN
42 NOTICE AND AN OPPORTUNITY FOR A RESPONSE. THE APPOINTING POWER MAY REMOVE A
43 BOARD MEMBER BASED ON WRITTEN FINDINGS THAT SPECIFY THE REASON FOR REMOVAL.
44 ANY VACANCY THAT OCCURS OTHER THAN BY EXPIRATION OF A TERM SHALL BE FILLED
45 FOR THE BALANCE OF THE TERM. ALL VACANCIES SHALL BE FILLED IN THE SAME

1 MANNER AS THE INITIAL APPOINTMENT. A BOARD MEMBER VACATES THE OFFICE IF THE
2 MEMBER EITHER:

3 1. IS ABSENT WITHOUT EXCUSE FROM THREE CONSECUTIVE REGULAR MEETINGS OF
4 THE BOARD.

5 2. RESIGNS, DIES OR BECOMES UNABLE TO PERFORM BOARD MEMBER DUTIES.

6 C. THE MEMBERS OF THE BOARD WHO ARE APPOINTED PURSUANT TO SUBSECTION A
7 OF THIS SECTION AND WHO ARE NOT MEMBERS OF THE SYSTEM SHALL BE INDEPENDENT,
8 QUALIFIED PROFESSIONALS WHO ARE RESPONSIBLE FOR THE PERFORMANCE OF FIDUCIARY
9 DUTIES AND OTHER RESPONSIBILITIES REQUIRED TO PRESERVE AND PROTECT THE FUND
10 AND SHALL HAVE AT LEAST TEN YEARS' SUBSTANTIAL EXPERIENCE AS ANY ONE OR A
11 COMBINATION OF THE FOLLOWING:

12 1. A PORTFOLIO MANAGER ACTING IN A FIDUCIARY CAPACITY.

13 2. A SECURITIES ANALYST.

14 3. A SENIOR EXECUTIVE OR PRINCIPAL OF A TRUST INSTITUTION, INVESTMENT
15 ORGANIZATION OR ENDOWMENT FUND ACTING EITHER IN A MANAGEMENT OR AN
16 INVESTMENT-RELATED CAPACITY.

17 4. A CHARTERED FINANCIAL ANALYST IN GOOD STANDING AS DETERMINED BY THE
18 CHARTERED FINANCIAL ANALYST INSTITUTE.

19 5. A CURRENT OR FORMER PROFESSOR OR INSTRUCTOR AT THE COLLEGE OR
20 UNIVERSITY LEVEL IN THE FIELD OF ECONOMICS, FINANCE, ACTUARIAL SCIENCE,
21 ACCOUNTING OR PENSION-RELATED SUBJECTS.

22 6. AN ECONOMIST.

23 7. ANY OTHER SENIOR EXECUTIVE ENGAGED IN THE FIELD OF PUBLIC OR
24 PRIVATE FINANCES OR WITH EXPERIENCE WITH PUBLIC PENSION SYSTEMS.

25 8. A SENIOR EXECUTIVE IN INSURANCE, BANKING, UNDERWRITING, AUDITING,
26 HUMAN RESOURCES OR RISK MANAGEMENT.

27 ~~B-~~ D. All monies in the fund shall be deposited and held in a public
28 safety personnel retirement system depository. Monies in the fund shall be
29 disbursed from the depository separate and apart from all monies or funds of
30 this state and the agencies, instrumentalities and subdivisions of this
31 state, except that the board may commingle the assets of the fund and the
32 assets of all other plans entrusted to its management in one or more group
33 trusts, subject to the crediting of receipts and earnings and charging of
34 payments to the appropriate employer, system or plan. The monies shall be
35 secured by the depository in which they are deposited and held to the same
36 extent and in the same manner as required by the general depository law of
37 this state. For purposes of making the decision to invest in securities
38 owned by the fund or any plan or trust administered by the board, the fund
39 and assets of the plans and the plans' trusts are subject to the sole
40 management of the board for the purpose of this article except that, on the
41 board's election to invest in a particular security or make a particular
42 investment, the assets comprising the security or investment may be chosen
43 and managed by third parties approved by the board. The board may invest in
44 portfolios of securities chosen and managed by a third party. The board's
45 decision to invest in securities such as mutual funds, commingled investment
46 funds, exchange traded funds, private equity or venture capital limited

1 partnerships, real estate limited partnerships or limited liability companies
2 and real estate investment trusts whose assets are chosen and managed by
3 third parties does not constitute an improper delegation of the board's
4 investment authority.

5 ~~E.~~ E. All contributions under this system and other retirement plans
6 that the board administers shall be forwarded to the board and shall be held,
7 invested and reinvested by the board as provided in this article. All
8 property and monies of the fund and other retirement plans that the board
9 administers, including income from investments and from all other sources,
10 shall be retained for the exclusive benefit of members, as provided in the
11 system and other retirement plans that the board administers, and shall be
12 used to pay benefits to members or their beneficiaries or to pay expenses of
13 operation and administration of the system and fund and other retirement
14 plans that the board administers.

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

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

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

45 3. That not more than five ~~per-cent~~ PERCENT of the voting stock of any
46 one corporation shall be owned by the system and other plans that the board

1 administers, except that this limitation does not apply to membership
2 interests in limited liability companies.

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

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

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

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

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

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

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

42 ~~F.~~ H. Conference call meetings of the board that are held for
43 investment purposes only are not subject to chapter 3, article 3.1 of this
44 title, except that the board shall maintain minutes of these conference call
45 meetings and make them available for public inspection within twenty-four
46 hours after the meeting. The board shall review the minutes of each

1 conference call meeting and shall ratify all legal actions taken during each
2 conference call meeting at the next scheduled meeting of the board.

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

9 ~~H~~ J. Except as provided in subsection ~~D~~ F of this section, the
10 board may:

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

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

16 3. Also:

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

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

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

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

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

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

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

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

44 7. Appear before local boards and the courts of this state and
45 political subdivisions of this state through counsel or appointed
46 representative to protect the fund or the assets of other plans that the

1 board administers. The board is not responsible for the actions or omissions
2 of the local boards under this system but may seek review or rehearing of
3 actions or omissions of local boards. The board does not have a duty to
4 review actions of the local boards but may do so in its discretion in order
5 to protect the fund. No limitations period precludes the board or
6 administrator from contesting, or requires the board or administrator to
7 implement or comply with, a local board decision that violates the internal
8 revenue code or that threatens to impair the tax qualified status of the
9 system or any plan administered by the board or administrator.

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

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

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

19 ~~I~~ K. Investment expenses and operation and administrative expenses
20 of the board shall be accounted for separately and allocated against
21 investment income.

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

- 27 1. A balance sheet.
- 28 2. A statement of income and expenditures for the year.
- 29 3. A report on an actuarial valuation of its assets and liabilities.
- 30 4. A list of investments owned.
- 31 5. The total rate of return, yield on cost, and ~~per-cent~~ PERCENT of
32 cost to market value of the fund and the assets of other plans that the board
33 administers.

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

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

44 8. An estimate of the aggregate employer contribution rate for the
45 public safety personnel retirement system for the next ten fiscal years and

1 an estimate of the aggregate employer contribution rate for the corrections
2 officer retirement plan for the next ten fiscal years.

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

- 6 (a) Department of liquor licenses and control.
- 7 (b) Department of public safety.
- 8 (c) Northern Arizona university.
- 9 (d) University of Arizona.
- 10 (e) Arizona state university.
- 11 (f) Arizona game and fish department.
- 12 (g) Department of law.
- 13 (h) Department of emergency and military affairs.
- 14 (i) Arizona state parks board.

15 10. An estimate of the employer contribution rates for the next ten
16 fiscal years for each of the following employers within the corrections
17 officer retirement plan:

- 18 (a) State department of corrections.
- 19 (b) Department of public safety.
- 20 (c) The judiciary.
- 21 (d) Department of juvenile corrections.

22 ~~K~~ M. The board shall:

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

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

28 3. Contract on a fee basis with an independent investment counsel to
29 advise the board in the investment management of the fund and assets of other
30 plans that the board administers and with an independent auditing firm to
31 audit the board's accounting.

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

34 5. Contract on a fee basis with an actuary who shall make actuarial
35 valuations of the system and other plans that the board administers, be the
36 technical adviser of the board on matters regarding the operation of the
37 funds created by the provisions of the system, the elected officials'
38 retirement plan, the corrections officer retirement plan and the firefighter,
39 peace officer and corrections officer cancer insurance policy program and
40 perform other duties required in connection therewith. The actuary must be a
41 member of a nationally recognized association or society of actuaries.

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

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

1 ~~L~~ N. The administrator, under the direction of the board, shall:
2 1. Administer this article.
3 2. Be responsible for the recruitment, hiring and day-to-day
4 management of employees.
5 3. Invest the funds of the system and other plans that the board
6 administers as the board deems necessary and prudent as provided in
7 subsections ~~D~~ F and ~~H~~ J of this section and subject to the investment
8 policies and fund objectives adopted by the board.
9 4. Establish and maintain an adequate system of accounts and records
10 for the system and other plans that the board administers, which shall be
11 integrated with the accounts, records and procedures of the employers so that
12 the system and other plans that the board administers operates most
13 effectively and at minimum expense and that duplication of records and
14 accounts is avoided.
15 5. In accordance with the board's governance policy and procedures and
16 the budget adopted by the board, hire such employees and services the
17 administrator deems necessary and prescribe their duties, including the
18 hiring of one or more assistant administrators to manage the system's
19 operations, investments and legal affairs.
20 6. Be responsible for income, the collection of the income and the
21 accuracy of all expenditures.
22 7. Recommend to the board annual contracts for the system's actuary,
23 auditor, investment counsel, legal counsel and safeguarding of securities.
24 8. Perform additional duties and powers prescribed by the board and
25 delegated to the administrator.
26 ~~M~~ O. The system is an independent trust fund and the board is not
27 subject to title 41, chapter 6. Contracts for goods and services approved by
28 the board are not subject to title 41, chapter 23. As an independent trust
29 fund whose assets are separate and apart from all other funds of this state,
30 the system and the board are not subject to the restrictions prescribed in
31 section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.
32 Loans, guarantees, investment management agreements and investment contracts
33 that are entered into by the board are contracts memorializing obligations or
34 interests in securities that the board has concluded, after thorough due
35 diligence, do not involve investments in Sudan or Iran or otherwise provide
36 support to terrorists or in any way facilitate illegal immigration into the
37 United States. These contracts do not involve the procurement, supply or
38 provision of goods, equipment, labor, materials or services that would
39 require the warranties required by section 41-4401.
40 ~~N~~ P. The board, the administrator, the assistant administrators and
41 all persons employed by them are subject to title 41, chapter 4, article 4.
42 The administrator, assistant administrators and other employees of the board
43 are entitled to receive compensation pursuant to section 38-611.
44 ~~O~~ Q. In consultation with the director of the department of
45 administration, the board may enter into employment agreements and establish

1 the terms of those agreements with persons holding any of the following
2 system positions:

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

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

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

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

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

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

- 39 ~~1. A portfolio manager acting in a fiduciary capacity.~~
- 40 ~~2. A securities analyst.~~

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

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

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

3 ~~6. An economist.~~

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

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

13 W. A PERSON WHO IS A DEALER AS DEFINED IN SECTION 44-1801 AND WHO IS
14 INVOLVED IN SECURITIES OR INVESTMENTS RELATED TO THE BOARD'S INVESTMENTS IS
15 NOT ELIGIBLE TO SERVE ON THE BOARD.

16 X. BEGINNING JANUARY 1, 2017, THE PUBLIC SAFETY PERSONNEL RETIREMENT
17 SYSTEM ADVISORY COMMITTEE IS ESTABLISHED AND SHALL SERVE AS A LIAISON BETWEEN
18 THE BOARD AND THE MEMBERS AND EMPLOYERS OF THE SYSTEM. THE COMMITTEE SHALL
19 BE APPOINTED BY THE CHAIRPERSON OF THE BOARD FROM NAMES SUBMITTED TO THE
20 CHAIRPERSON BY ASSOCIATIONS REPRESENTING LAW ENFORCEMENT, FIREFIGHTERS, STATE
21 GOVERNMENT, COUNTIES, CITIES AND TOWNS AND TRIBAL GOVERNMENTS. THE COMMITTEE
22 SHALL SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS EACH CALENDAR YEAR. THE
23 COMMITTEE SHALL CONSIST OF THE FOLLOWING TEN MEMBERS:

- 24 1. A MEMBER WHO IS A LAW ENFORCEMENT OFFICER.
- 25 2. A MEMBER WHO IS A FIREFIGHTER.
- 26 3. A MEMBER OF THE ELECTED OFFICIALS' RETIREMENT PLAN.
- 27 4. A MEMBER OF THE CORRECTIONS OFFICER RETIREMENT PLAN.
- 28 5. A RETIREE FROM THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.
- 29 6. A REPRESENTATIVE FROM A CITY OR TOWN IN THIS STATE.
- 30 7. A REPRESENTATIVE FROM A COUNTY IN THIS STATE.
- 31 8. A REPRESENTATIVE FROM A FIRE DISTRICT IN THIS STATE.
- 32 9. A REPRESENTATIVE FROM A STATE EMPLOYER.
- 33 10. A REPRESENTATIVE FROM A TRIBAL GOVERNMENT LOCATED IN THIS STATE.

34 Sec. 12. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
35 amended by adding section 38-848.04, to read:

36 38-848.04. Board fiduciary obligations and duties; enforcement;
37 definitions

38 A. THE BOARD AND ANY OTHER FIDUCIARY OF THE SYSTEM SHALL DISCHARGE
39 THEIR DUTIES:

- 40 1. SOLELY IN THE INTEREST OF THE MEMBERS AND BENEFICIARIES.
- 41 2. FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO MEMBERS AND
42 BENEFICIARIES AND PAYING REASONABLE EXPENSES IN ADMINISTERING THE PLANS AND
43 SYSTEMS ADMINISTERED BY THE BOARD.
- 44 3. WITH THE CARE, SKILL AND CAUTION UNDER THE CIRCUMSTANCES THEN
45 PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH

1 THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ACTIVITY OF LIKE CHARACTER AND
2 PURPOSE.

3 4. IMPARTIALLY, TAKING INTO ACCOUNT ANY DIFFERING INTERESTS OF MEMBERS
4 AND BENEFICIARIES.

5 5. INCURRING ONLY COSTS THAT ARE APPROPRIATE AND REASONABLE.

6 6. PURSUANT TO A GOOD-FAITH INTERPRETATION OF THE LAW GOVERNING THE
7 RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE BOARD.

8 B. IN INVESTING AND MANAGING ASSETS OF THE RETIREMENT PLANS AND
9 SYSTEMS ADMINISTERED BY THE BOARD, A TRUSTEE WITH AUTHORITY TO INVEST AND
10 MANAGE ASSETS:

11 1. SHALL CONSIDER AT LEAST THE FOLLOWING:

12 (a) THE GENERAL ECONOMIC CONDITIONS.

13 (b) THE POSSIBLE EFFECT OF INFLATION OR DEFLATION.

14 (c) THE ROLE THAT EACH INVESTMENT OR COURSE OF ACTION PLAYS WITHIN THE
15 OVERALL PORTFOLIO OF THE RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE
16 BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS.

17 (d) THE EXPECTED TOTAL RETURN FROM INCOME AND THE APPRECIATION OF
18 CAPITAL.

19 (e) THE NEEDS FOR LIQUIDITY, REGULARITY OF INCOME AND PRESERVATION OR
20 APPRECIATION OF CAPITAL.

21 (f) FOR DEFINED BENEFIT PLANS, THE ADEQUACY OF FUNDING FOR THE PLAN
22 BASED ON REASONABLE ACTUARIAL FACTORS.

23 2. SHALL DIVERSIFY THE INVESTMENTS OF THE RETIREMENT PLANS AND SYSTEMS
24 ADMINISTERED BY THE BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS UNLESS
25 THE TRUSTEE REASONABLY DETERMINES THAT, BECAUSE OF SPECIAL CIRCUMSTANCES, IT
26 IS CLEARLY PRUDENT NOT TO DO SO.

27 3. SHALL MAKE A REASONABLE EFFORT TO VERIFY FACTS RELEVANT TO THE
28 INVESTMENT AND MANAGEMENT OF ASSETS OF A RETIREMENT PLAN OR SYSTEM.

29 4. MAY INVEST IN ANY KIND OF PROPERTY OR TYPE OF INVESTMENT CONSISTENT
30 WITH THIS ARTICLE.

31 5. MAY CONSIDER BENEFITS CREATED BY AN INVESTMENT IN ADDITION TO
32 INVESTMENT RETURN ONLY IF THE TRUSTEE DETERMINES THAT THE INVESTMENT
33 PROVIDING THESE COLLATERAL BENEFITS WOULD BE PRUDENT EVEN WITHOUT THE
34 COLLATERAL BENEFITS.

35 C. A TRUSTEE WITH AUTHORITY TO INVEST AND MANAGE ASSETS OF A
36 RETIREMENT PLAN OR SYSTEM SHALL ADOPT A STATEMENT OF INVESTMENT OBJECTIVES
37 AND POLICIES FOR EACH RETIREMENT PLAN AND SYSTEM ADMINISTERED BY THE BOARD OR
38 APPROPRIATE GROUPING OF PLANS OR SYSTEMS. THE STATEMENT MUST INCLUDE THE
39 DESIRED RATE OF RETURN ON ASSETS OVERALL, THE DESIRED RATES OF RETURN AND
40 ACCEPTABLE LEVELS OF RISK FOR EACH ASSET CLASS, ASSET-ALLOCATION GOALS,
41 GUIDELINES FOR THE DELEGATION OF AUTHORITY AND INFORMATION ON THE TYPES OF
42 REPORTS TO BE USED TO EVALUATE INVESTMENT PERFORMANCE. AT LEAST ANNUALLY,
43 THE TRUSTEE SHALL REVIEW THE STATEMENT AND CHANGE OR REAFFIRM IT.

44 D. IN EVALUATING THE PERFORMANCE OF A TRUSTEE OR ANY OTHER FIDUCIARY
45 OF THE PLAN OR SYSTEM:

1 1. COMPLIANCE WITH THIS SECTION MUST BE DETERMINED IN LIGHT OF THE
2 FACTS AND CIRCUMSTANCES EXISTING AT THE TIME OF THE TRUSTEE'S OR FIDUCIARY'S
3 DECISION OR ACTION AND NOT BY HINDSIGHT.

4 2. THE TRUSTEE'S INVESTMENT AND MANAGEMENT DECISIONS MUST BE EVALUATED
5 NOT IN ISOLATION BUT IN THE CONTEXT OF THE TRUST PORTFOLIO AS A WHOLE AND AS
6 A PART OF AN OVERALL INVESTMENT STRATEGY HAVING RISK AND RETURN OBJECTIVES
7 REASONABLY SUITED TO THE RETIREMENT PLANS AND SYSTEMS ADMINISTERED BY THE
8 BOARD OR APPROPRIATE GROUPING OF PLANS OR SYSTEMS.

9 E. AN EMPLOYER, MEMBER, BENEFICIARY OR FIDUCIARY MAY MAINTAIN AN
10 ACTION IN WHICH THE COURT MAY AWARD REASONABLE ATTORNEY FEES AND COSTS TO
11 EITHER PARTY:

12 1. TO ENJOIN AN ACT, PRACTICE OR OMISSION THAT VIOLATES THIS SECTION.

13 2. FOR APPROPRIATE EQUITABLE RELIEF TO REDRESS THE VIOLATION OF OR TO
14 ENFORCE THIS SECTION.

15 F. FOR THE PURPOSES OF THIS SECTION:

16 1. "FIDUCIARY" MEANS A PERSON WHO DOES ANY OF THE FOLLOWING:

17 (a) EXERCISES ANY DISCRETIONARY AUTHORITY TO MANAGE A RETIREMENT PLAN
18 OR SYSTEM ADMINISTERED BY THE BOARD.

19 (b) EXERCISES ANY AUTHORITY TO INVEST OR MANAGE ASSETS OF A RETIREMENT
20 PLAN OR SYSTEM ADMINISTERED BY THE BOARD.

21 (c) PROVIDES INVESTMENT ADVICE FOR A FEE OR OTHER DIRECT OR INDIRECT
22 COMPENSATION WITH RESPECT TO ASSETS OF THE SYSTEM OR HAS ANY AUTHORITY OR
23 RESPONSIBILITY TO DO SO.

24 (d) SERVES AS A TRUSTEE OR MEMBER OF THE BOARD.

25 2. "TRUSTEE" MEANS A PERSON WHO HAS ULTIMATE AUTHORITY TO MANAGE A
26 RETIREMENT SYSTEM OR PLAN OR TO INVEST OR MANAGE ITS ASSETS.

27 Sec. 13. Repeal

28 Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04, Arizona
29 Revised Statutes, are repealed.

30 Sec. 14. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
31 amended by adding sections 38-856.05, 38-856.06 and 38-861, to read:

32 38-856.05. Cost-of-living adjustment; members hired on or
33 before June 30, 2017

34 A. FOR MEMBERS HIRED ON OR BEFORE JUNE 30, 2017, EACH RETIRED MEMBER
35 OR SURVIVOR OF A RETIRED MEMBER IS ELIGIBLE TO RECEIVE A COMPOUNDING
36 COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT AS PROVIDED IN THIS SECTION.
37 THE FIRST PAYMENT UNDER THIS SECTION SHALL BE MADE IMMEDIATELY FOLLOWING THE
38 FIRST YEAR THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION C OF THIS
39 SECTION IS PAID. THE COST-OF-LIVING ADJUSTMENT SHALL BE MADE ON JULY 1 EACH
40 YEAR THEREAFTER.

41 B. A RETIRED MEMBER OR A SURVIVOR OF A RETIRED MEMBER SHALL RECEIVE
42 ANNUALLY A COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT BASED ON THE AVERAGE
43 ANNUAL PERCENTAGE CHANGE IN THE METROPOLITAN PHOENIX-MESA CONSUMER PRICE
44 INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
45 STATISTICS, WITH THE IMMEDIATELY PRECEDING YEAR AS THE BASE YEAR FOR MAKING

1 THE DETERMINATION, NOT TO EXCEED ANNUALLY TWO PERCENT OF THE RETIRED MEMBER'S
2 OR SURVIVOR'S BASE BENEFIT.

3 C. IN THE FIRST YEAR OF A MEMBER'S RETIREMENT, THE COST-OF-LIVING
4 ADJUSTMENT SPECIFIED IN SUBSECTION B OF THIS SECTION SHALL BE PRORATED BASED
5 ON THE DATE OF RETIREMENT.

6 D. THE SYSTEM ACTUARY SHALL INCLUDE THE PROJECTED COST OF PROVIDING
7 THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION B OF THIS SECTION IN
8 THE CALCULATION OF NORMAL COST AND ACCRUED LIABILITY.

9 38-856.06. Cost-of-living adjustment; members hired on or after
10 July 1, 2017; definition

11 A. FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017, EACH ELIGIBLE
12 RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER MAY RECEIVE A COMPOUNDING
13 COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT AS PROVIDED IN THIS SECTION.

14 B. A RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER IS ELIGIBLE TO
15 RECEIVE A COST-OF-LIVING ADJUSTMENT UNDER THIS SECTION BEGINNING THE EARLIER
16 OF THE FIRST CALENDAR YEAR AFTER THE SEVENTH ANNIVERSARY OF THE RETIRED
17 MEMBER'S RETIREMENT OR WHEN THE RETIRED MEMBER IS OR WOULD HAVE BEEN SIXTY
18 YEARS OF AGE.

19 C. A COST-OF-LIVING ADJUSTMENT SHALL BE PAID ON JULY 1 EACH YEAR THAT
20 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS
21 SEVENTY PERCENT OR MORE, AS REPORTED IN THE MOST RECENT ACTUARIAL VALUATION.

22 D. AN ELIGIBLE RETIRED MEMBER OR SURVIVOR OF A RETIRED MEMBER SHALL
23 RECEIVE ANNUALLY A COST-OF-LIVING ADJUSTMENT IN THE BASE BENEFIT BASED ON THE
24 AVERAGE ANNUAL PERCENTAGE CHANGE IN THE METROPOLITAN PHOENIX-MESA CONSUMER
25 PRICE INDEX PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF
26 LABOR STATISTICS, WITH THE IMMEDIATELY PRECEDING YEAR AS THE BASE YEAR FOR
27 MAKING THE DETERMINATION, NOT TO EXCEED ANNUALLY THE FOLLOWING:

28 1. TWO PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE BENEFIT IF
29 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS NINETY
30 PERCENT OR MORE, AS REPORTED IN THE MOST RECENT ACTUARIAL VALUATION.

31 2. ONE AND ONE-HALF PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE
32 BENEFIT IF THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1,
33 2017 IS EIGHTY PERCENT OR MORE BUT LESS THAN NINETY PERCENT, AS REPORTED IN
34 THE MOST RECENT ACTUARIAL VALUATION.

35 3. ONE PERCENT OF THE RETIRED MEMBER'S OR SURVIVOR'S BASE BENEFIT IF
36 THE FUNDED RATIO FOR MEMBERS WHO ARE HIRED ON OR AFTER JULY 1, 2017 IS
37 SEVENTY PERCENT OR MORE BUT LESS THAN EIGHTY PERCENT, AS REPORTED IN THE MOST
38 RECENT ACTUARIAL VALUATION.

39 E. THE SYSTEM ACTUARY SHALL INCLUDE THE PROJECTED COST OF PROVIDING
40 THE COST-OF-LIVING ADJUSTMENT SPECIFIED IN SUBSECTION D OF THIS SECTION IN
41 THE CALCULATION OF NORMAL COST AND ACCRUED LIABILITY.

42 F. FOR THE PURPOSES OF THIS SECTION, "FUNDED RATIO" MEANS THE RATIO OF
43 THE MARKET VALUE OF ASSETS TO THE ACTUAL ACCRUED LIABILITIES.

44 38-861. Future benefit increases; payment; cost calculation;
45 definition

1 A. ANY FUTURE BENEFIT INCREASE ADOPTED BY THE LEGISLATURE FOR ANY
2 MEMBER OF THE SYSTEM SHALL BE FULLY PAID IN THE YEAR OF ENACTMENT OF THE
3 BENEFIT AND MAY NOT BE AMORTIZED OVER ANY PERIOD OF YEARS. A BENEFIT FOR
4 MEMBERS HIRED BEFORE JULY 1, 2017 SHALL BE PAID BY THE EMPLOYER AND THE COST
5 OF THE BENEFIT FOR MEMBERS HIRED ON OR AFTER JULY 1, 2017 SHALL BE SPLIT
6 EQUALLY BETWEEN THE EMPLOYER AND THE MEMBER PURSUANT TO SECTION 38-843,
7 SUBSECTION G.

8 B. THE PLAN ACTUARY SHALL CALCULATE THE COST OF THE BENEFIT INCREASE
9 USING ALL OF THE FOLLOWING:

10 1. A DISCOUNT RATE EQUAL TO THE TEN-YEAR TREASURY CONSTANT MATURITY
11 RATE FOR THE FISCAL YEAR IN WHICH THE BENEFIT IS ENACTED.

12 2. AN EXPECTED RATE OF RETURN ON ASSETS EQUAL TO THE TEN-YEAR TREASURY
13 CONSTANT MATURITY RATE FOR THE FISCAL YEAR IN WHICH THE BENEFIT IS ENACTED.

14 3. A MORTALITY TABLE BASED ON THE MOST RECENT PROPOSAL FROM THE
15 RETIREMENT PLANS EXPERIENCE COMMITTEE OF THE SOCIETY OF ACTUARIES THAT IS NOT
16 OLDER THAN THE RP-2014 MORTALITY TABLE.

17 4. ALL OTHER ACTUARIAL ASSUMPTIONS APPROVED BY THE BOARD FOR THE MOST
18 RECENT FISCAL YEAR VALUATION.

19 C. FOR THE PURPOSES OF THIS SECTION, "FUTURE BENEFIT INCREASE"
20 INCLUDES ANY BENEFIT INCREASE THAT LEADS TO A CHANGE IN THE PRESENT VALUE OF
21 FUTURE BENEFITS OR A CHANGE TO ACCRUED LIABILITIES.

22 Sec. 15. Title 38, chapter 5, Arizona Revised Statutes, is amended by
23 adding articles 4.1 and 4.2, to read:

24 ARTICLE 4.1. PUBLIC SAFETY PERSONNEL DEFINED
25 CONTRIBUTION RETIREMENT PLAN

26 38-865. Definitions

27 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

28 1. "ANNUITY ACCOUNT" MEANS AN ACCOUNT THAT IS ESTABLISHED FOR EACH
29 PARTICIPANT TO RECORD THE DEPOSIT OF PARTICIPANT CONTRIBUTIONS, EMPLOYER
30 CONTRIBUTIONS AND INTEREST, DIVIDENDS OR OTHER ACCUMULATIONS CREDITED ON
31 BEHALF OF THE PARTICIPANT.

32 2. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE PUBLIC SAFETY PERSONNEL
33 RETIREMENT SYSTEM ESTABLISHED BY SECTION 38-848.

34 3. "COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

35 4. "DEFINED CONTRIBUTION PLAN" MEANS THE PUBLIC SAFETY PERSONNEL
36 DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO THIS ARTICLE.

37 5. "EMPLOYER" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

38 6. "EMPLOYER CONTRIBUTION" MEANS AN AMOUNT DEPOSITED BY AN EMPLOYER,
39 FROM THE EMPLOYER'S OWN MONIES, IN THE PARTICIPANT'S ANNUITY ACCOUNT ON A
40 PERIODIC BASIS COINCIDING WITH THE PARTICIPANT'S REGULAR PAY PERIOD.

41 7. "PARTICIPANT" MEANS A MEMBER AS DEFINED IN SECTION 38-842,
42 PARAGRAPH 31, EXCLUDING SUBDIVISION (a), ITEM (vi), WHO IS ONE OF THE
43 FOLLOWING:

44 (a) AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017, WHO MAKES THE
45 IRREVOCABLE ELECTION TO PARTICIPATE SOLELY IN THE DEFINED CONTRIBUTION PLAN
46 ESTABLISHED PURSUANT TO THIS ARTICLE AND WHO WAS NOT AN ACTIVE, AN INACTIVE

1 OR A RETIRED MEMBER OF THE SYSTEM OR A MEMBER OF THE SYSTEM WITH A DISABILITY
2 ON JUNE 30, 2017.

3 (b) AN EMPLOYEE WHO IS HIRED ON OR AFTER JULY 1, 2017, WHO IS NOT
4 COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM AND WHO MAKES
5 THE IRREVOCABLE ELECTION TO PARTICIPATE IN THE SYSTEM OR IS ENROLLED IN THE
6 SYSTEM PURSUANT TO SECTION 38-842.01, SUBSECTION A.

7 8. "PENSIONABLE COMPENSATION" MEANS THE AMOUNT OF THE PARTICIPANT'S
8 ANNUAL COMPENSATION THAT DOES NOT EXCEED THE LIMITATION SPECIFIED IN SECTION
9 38-843.04.

10 9. "SYSTEM" MEANS THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
11 ESTABLISHED BY ARTICLE 4 OF THIS CHAPTER.

12 38-865.01. Definition of participant

13 FOR THE PURPOSES OF THIS ARTICLE, "PARTICIPANT" INCLUDES A MEMBER AS
14 DEFINED IN SECTION 38-842, PARAGRAPH 31, EXCLUDING SUBDIVISION (a), ITEM
15 (vi), WHO IS HIRED ON OR AFTER JANUARY 1, 2012 AND BEFORE JULY 1, 2017, WHO
16 IS NOT COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM AND WHO
17 IS A MEMBER OF THE SYSTEM.

18 38-866. Defined contribution plan design; purpose; powers and
19 duties of the board; administration

20 A. THE BOARD SHALL ESTABLISH, DESIGN AND ADMINISTER A DEFINED
21 CONTRIBUTION PLAN TO PROVIDE FOR THE RETIREMENT OF SPECIFIED PARTICIPANTS
22 BEGINNING JULY 1, 2017.

23 B. THE PURPOSE OF THIS ARTICLE IS TO PROVIDE A DEFINED CONTRIBUTION
24 PLAN THAT IS FULLY FUNDED ON A CURRENT BASIS FROM EMPLOYER AND PARTICIPANT
25 CONTRIBUTIONS.

26 C. THE LEGISLATURE INTENDS THAT THE DEFINED CONTRIBUTION PLAN FOR
27 PARTICIPANTS UNDER THIS ARTICLE BE DESIGNED TO BE A QUALIFIED GOVERNMENTAL
28 PLAN UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE, AS AMENDED, OR
29 SUCCESSOR PROVISIONS OF LAW, AND BE EXEMPT FROM TAXATION UNDER SECTION 501 OF
30 THE INTERNAL REVENUE CODE. THE BOARD MAY ADOPT ANY ADDITIONAL PROVISION TO
31 THE DEFINED CONTRIBUTION PLAN THAT IS NECESSARY TO FULFILL THIS INTENT.
32 CONSISTENT WITH THIS INTENT, THE BOARD MAY SUBMIT TO THE INTERNAL REVENUE
33 SERVICE A REQUEST FOR A DETERMINATION LETTER THAT THE DEFINED CONTRIBUTION
34 PLAN IS A PLAN QUALIFIED UNDER SECTION 401(a) OF THE INTERNAL REVENUE CODE
35 AND A PRIVATE LETTER RULING THAT ALL PARTICIPANT CONTRIBUTIONS THAT ARE
36 PICKED UP BY THE EMPLOYER AS PROVIDED IN SECTION 38-867 SHALL BE TREATED AS
37 EMPLOYER CONTRIBUTIONS PURSUANT TO SECTION 414(h) OF THE INTERNAL REVENUE
38 CODE.

39 D. THE BOARD SHALL:

40 1. ENTER INTO A CONTRACT WITH A PROVIDER TO PROVIDE FULLY BUNDLED
41 RETIREMENT PLAN INVESTMENTS, PLAN ADMINISTRATION AND SERVICES TO PARTICIPANTS
42 IN THE DEFINED CONTRIBUTION PLAN. THE CONTRACT SHALL PROVIDE FOR APPROPRIATE
43 LONG-TERM RETIREMENT-ORIENTED INVESTMENTS AND SHALL INCLUDE BOTH FIXED AND
44 VARIABLE DEFERRED ANNUITIES. THE BOARD SHALL CONSIDER ALL OF THE FOLLOWING
45 WHEN DETERMINING A COMPANY WITH WHICH TO CONTRACT:

1 (a) THE FINANCIAL STABILITY OF THE COMPANY AND THE ABILITY OF THE
2 COMPANY TO PROVIDE THE CONTRACTED RIGHTS AND BENEFITS TO THE PARTICIPANTS.

3 (b) THE COST OF THE INVESTMENTS, PLAN ADMINISTRATION AND SERVICES TO
4 THE PARTICIPANTS.

5 (c) THE EXPERIENCE OF THE COMPANY IN PROVIDING DEFINED CONTRIBUTION
6 RETIREMENT PLANS IN LIEU OF DEFINED BENEFIT PLAN PARTICIPATION TO PUBLIC
7 EMPLOYEES.

8 (d) THE EXPERIENCE OF THE COMPANY IN PAYING RETIREMENT INCOME TO
9 PUBLIC EMPLOYEES.

10 (e) THE EXPERIENCE OF THE COMPANY IN PROVIDING PLAN EDUCATION,
11 COUNSELING AND ADVICE TO PARTICIPANTS IN PUBLIC EMPLOYEE RETIREMENT PLANS
12 THAT ARE OFFERED IN LIEU OF STATE DEFINED BENEFIT PLAN PARTICIPATION.

13 2. REQUIRE UNDER THE CONTRACT THAT THE PROVIDER PROVIDE EDUCATION,
14 COUNSELING AND OBJECTIVE PARTICIPANT-SPECIFIC PLAN ADVICE TO PARTICIPANTS.

15 3. REQUIRE UNDER THE CONTRACT THAT THE DEFINED CONTRIBUTION PLAN
16 INCLUDE NOT LESS THAN FIVE AND NOT MORE THAN FIFTEEN PREDETERMINED INVESTMENT
17 PORTFOLIO OPTIONS TO PARTICIPANTS. THE PREDETERMINED INVESTMENT PORTFOLIO
18 OPTIONS SHALL INCLUDE OPTIONS THAT REFLECT DIFFERENT RISK PROFILES AND
19 OPTIONS THAT AUTOMATICALLY REALLOCATE AND REBALANCE CONTRIBUTIONS AS A
20 PARTICIPANT AGES. IN ADDITION, THE DEFINED CONTRIBUTION PLAN MAY PERMIT
21 PARTICIPANTS TO CONSTRUCT INVESTMENT PORTFOLIOS USING SOME OR ALL OF THE
22 INVESTMENT OPTIONS COMPRISING THE PREDETERMINED INVESTMENT PORTFOLIO OPTIONS.

23 4. REQUIRE UNDER THE CONTRACT THAT THE DEFINED CONTRIBUTION RETIREMENT
24 PLAN OFFER PARTICIPANTS A MENU OF LIFETIME ANNUITY OPTIONS, EITHER FIXED OR
25 VARIABLE OR A COMBINATION OF BOTH.

26 E. THE BOARD MAY:

27 1. EMPLOY OTHER SERVICES IT DEEMS NECESSARY, INCLUDING LEGAL SERVICES,
28 FOR THE OPERATION AND ADMINISTRATION OF THE DEFINED CONTRIBUTION PLAN.

29 2. PERFORM ALL ACTS, WHETHER OR NOT EXPRESSLY AUTHORIZED, THAT IT
30 DEEMS NECESSARY AND PROPER FOR THE OPERATION AND PROTECTION OF THE PLAN.

31 F. THE BOARD SHALL ADOPT POLICIES REGARDING THE DEFINED CONTRIBUTION
32 PLAN, INCLUDING THE ADMINISTRATION OF THE PARTICIPANT AND EMPLOYER
33 CONTRIBUTIONS, INVESTMENT OPTIONS, TERMINATION OF PARTICIPATION IN THE
34 DEFINED CONTRIBUTION PLAN, ADMINISTRATION OF THE PAYOUT OPTIONS UNDER THE
35 DEFINED CONTRIBUTION PLAN AND ADMINISTRATION OF THE PARTICIPANT
36 DISTRIBUTIONS.

37 G. THE BOARD SHALL PARTICIPATE IN A COMPETITIVE BID PROCESS AT LEAST
38 ONCE EVERY FIVE YEARS TO CONTRACT WITH A PRIVATE PERSON OR ANY QUALIFIED
39 COMPANY OR COMPANIES TO ADMINISTER THE DEFINED CONTRIBUTION PLAN ESTABLISHED
40 PURSUANT TO THIS ARTICLE.

41 H. ANY CONTRACT FOR A THIRD-PARTY ADMINISTRATOR OF THE DEFINED
42 CONTRIBUTION PLAN SHALL INCLUDE COMPETITIVE FEES AND PROVISIONS REQUIRING
43 QUARTERLY MEETINGS WITH THE SYSTEM, ANNUAL UPDATES TO THE BOARD ON THE STATUS
44 OF THE DEFINED CONTRIBUTION PLAN AND QUARTERLY STATEMENTS TO EACH
45 PARTICIPANT. ON OR BEFORE DECEMBER 31 OF EACH YEAR, THE BOARD SHALL REPORT
46 THE STATUS OF THE DEFINED CONTRIBUTION PLAN TO THE GOVERNOR, THE PRESIDENT OF

1 THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE JOINT
2 LEGISLATIVE BUDGET COMMITTEE.

3 38-867. Contributions; member; employer; pick-up

4 A. EACH PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE
5 THE FOLLOWING PERCENTAGE OF THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION
6 BY SALARY REDUCTION THAT SHALL BE DEPOSITED IN THE PARTICIPANT'S ANNUITY
7 ACCOUNT:

8 1. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,
9 SUBDIVISION (b), THREE PERCENT.

10 2. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,
11 SUBDIVISION (a), NINE PERCENT.

12 B. A PARTICIPANT AS DEFINED IN SECTION 38-865 MAY MAKE A ONE-TIME
13 IRREVOCABLE ELECTION, BEFORE THE PARTICIPANT IS ELIGIBLE TO PARTICIPATE IN
14 ANY QUALIFIED PLAN OF THE EMPLOYER, TO CONTRIBUTE MORE THAN THE PERCENTAGE OF
15 THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION SPECIFIED IN THIS SECTION,
16 UP TO THE AMOUNT ALLOWABLE UNDER SECTION 415(c) OF THE INTERNAL REVENUE CODE,
17 WHICH SHALL BE THE PARTICIPANT'S CONTRIBUTION RATE FOR THE REMAINDER OF THE
18 PARTICIPANT'S EMPLOYMENT WITH ANY EMPLOYER UNDER THE SYSTEM.

19 C. ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, ALL PARTICIPANT
20 CONTRIBUTIONS MADE TO THE DEFINED CONTRIBUTION PLAN SHALL BE PICKED UP AND
21 PAID BY THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY THE EMPLOYEE. THE
22 CONTRIBUTIONS PICKED UP BY AN EMPLOYER MAY BE MADE THROUGH A REDUCTION IN THE
23 PARTICIPANT'S COMPENSATION. A PARTICIPANT IN THE DEFINED CONTRIBUTION PLAN
24 MAY NOT CHOOSE TO RECEIVE THE CONTRIBUTED AMOUNTS DIRECTLY INSTEAD OF THE
25 EMPLOYER PAYING THE AMOUNTS TO THE DEFINED CONTRIBUTION PLAN. ALL
26 PARTICIPANT CONTRIBUTIONS THAT ARE PICKED UP BY THE EMPLOYER AS PROVIDED IN
27 THIS SUBSECTION SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS UNDER SECTION
28 414(h) OF THE INTERNAL REVENUE CODE, SHALL BE EXCLUDED FROM PARTICIPANT'S
29 GROSS INCOME FOR FEDERAL AND STATE INCOME TAX PURPOSES AND ARE INCLUDABLE IN
30 THE GROSS INCOME OF THE PARTICIPANT OR THE PARTICIPANT'S BENEFICIARIES ONLY
31 IN THE TAXABLE YEAR IN WHICH THEY ARE DISTRIBUTED.

32 D. EACH EMPLOYER SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO THE
33 FOLLOWING PERCENTAGES OF EACH PARTICIPANT'S GROSS PENSIONABLE COMPENSATION:

34 1. FOR A PARTICIPANT DEFINED IN SECTION 38-865, PARAGRAPH 7,
35 SUBDIVISION (b), THREE PERCENT.

36 2. FOR A PARTICIPANT DEFINED IN SECTION 38-865, PARAGRAPH 7,
37 SUBDIVISION (a), NINE PERCENT.

38 E. THE PRO RATA SHARE OF THE AMOUNT PAID IN SUBSECTION D OF THIS
39 SECTION SHALL BE PAID ON EACH DATE THAT A PARTICIPANT CONTRIBUTION IS MADE
40 AND SHALL BE CREDITED TO THE PARTICIPANT'S ANNUITY ACCOUNT.

41 F. A PARTICIPANT OF THE DEFINED CONTRIBUTION PLAN MAY NOT TAKE LOANS
42 ON ANY PORTION OF THE ACCUMULATED ASSETS IN THE PARTICIPANT'S ANNUITY
43 ACCOUNT.

44 G. EACH PARTICIPANT AS DEFINED IN SECTION 38-865, PARAGRAPH 7,
45 SUBDIVISION (a) AND EACH EMPLOYER SHALL CONTRIBUTE TO THE PUBLIC SAFETY

1 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN DISABILITY PROGRAM ESTABLISHED
2 BY ARTICLE 4.2 OF THIS CHAPTER.

3 H. A PARTICIPANT'S CONTRIBUTIONS AND EARNINGS ON THOSE CONTRIBUTIONS
4 ARE IMMEDIATELY VESTED. A PARTICIPANT IS FULLY VESTED IN THE DEFINED
5 CONTRIBUTION PLAN AFTER TEN YEARS OF SERVICE, WITH EMPLOYER CONTRIBUTIONS
6 VESTING AT A RATE OF TEN PERCENT PER YEAR.

7 38-868. Contributions: member: employer: applicability of
8 article

9 A. ON OR BEFORE JUNE 30, 2017, A PARTICIPANT AS DEFINED IN SECTION
10 38-865.01 MAY MAKE AN IRREVOCABLE ELECTION TO OPT OUT OF THE DEFINED
11 CONTRIBUTION PLAN ESTABLISHED BY THIS ARTICLE, WHICH SHALL BE THE
12 PARTICIPANT'S ELECTION FOR THE REMAINDER OF THE PARTICIPANT'S EMPLOYMENT WITH
13 ANY EMPLOYER UNDER THE SYSTEM.

14 B. BEGINNING JULY 1, 2017, A PARTICIPANT AS DEFINED IN SECTION
15 38-865.01 IN THE DEFINED CONTRIBUTION PLAN SHALL CONTRIBUTE THREE PERCENT OF
16 THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION BY SALARY REDUCTION THAT
17 SHALL BE DEPOSITED IN THE PARTICIPANT'S ANNUITY ACCOUNT.

18 C. EACH EMPLOYER OF A PARTICIPANT AS DEFINED IN SECTION 38-865.01
19 SHALL ANNUALLY MAKE A CONTRIBUTION EQUAL TO THE FOLLOWING PERCENTAGES OF THE
20 PARTICIPANT'S GROSS PENSIONABLE COMPENSATION:

21 1. FOR A PARTICIPANT THAT IS HIRED IN 2012, FOR FISCAL YEARS 2017-2018
22 THROUGH 2023-2024, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR
23 THEREAFTER.

24 2. FOR A PARTICIPANT THAT IS HIRED IN 2013, FOR FISCAL YEARS 2017-2018
25 THROUGH 2022-2023, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR
26 THEREAFTER.

27 3. FOR A PARTICIPANT THAT IS HIRED IN 2014, FOR FISCAL YEARS 2017-2018
28 THROUGH 2021-2022, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR
29 THEREAFTER.

30 4. FOR A PARTICIPANT THAT IS HIRED IN 2015, FOR FISCAL YEARS 2017-2018
31 THROUGH 2020-2021, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR
32 THEREAFTER.

33 5. FOR A PARTICIPANT THAT IS HIRED IN 2016, FOR FISCAL YEARS 2017-2018
34 THROUGH 2019-2020, FOUR PERCENT AND THREE PERCENT FOR EACH FISCAL YEAR
35 THEREAFTER.

36 6. FOR A PARTICIPANT THAT IS HIRED ON OR AFTER JANUARY 1, 2017 AND
37 BEFORE JULY 1, 2017, FOR FISCAL YEAR 2017-2018, FOUR PERCENT AND THREE
38 PERCENT FOR EACH FISCAL YEAR THEREAFTER.

39 D. ALL OF THE PROVISIONS OF THIS ARTICLE APPLY TO A PARTICIPANT AS
40 DEFINED IN SECTION 38-865.01.

41 E. FOR A PARTICIPANT AS DEFINED IN SECTION 38-865.01, AN EMPLOYER MAY
42 CHOOSE TO PAY A PORTION OF THE PARTICIPANT'S CONTRIBUTIONS UNDER THIS SECTION
43 IN AN AMOUNT OF NOT MORE THAN THE DIFFERENCE BETWEEN THE CONTRIBUTION RATE
44 SPECIFIED UNDER SECTION 38-843 FOR EMPLOYEES HIRED ON OR AFTER JANUARY 1,
45 2012 AND BEFORE JULY 1, 2017 AND FOR ANY EMPLOYEE HIRED BEFORE JANUARY 1,
46 2012.

ARTICLE 4.2. PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION
RETIREMENT PLAN DISABILITY PROGRAM

38-870. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ASSETS" MEANS THE ACCUMULATED RESOURCES OF THE DISABILITY PROGRAM.

2. "BOARD" MEANS THE BOARD OF TRUSTEES ESTABLISHED BY SECTION 38-848.

3. "COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 38-842.

4. "DISABILITY PROGRAM" OR "PROGRAM" MEANS THE PUBLIC SAFETY PERSONNEL
DEFINED CONTRIBUTION RETIREMENT PLAN DISABILITY PROGRAM ESTABLISHED BY THIS
ARTICLE.

5. "PARTICIPANT" MEANS A PARTICIPANT WHO IS IN THE PUBLIC SAFETY
PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN AND WHO IS A PARTICIPANT AS
DEFINED IN SECTION 38-865, PARAGRAPH 7, SUBDIVISION (a).

6. "PENSIONABLE COMPENSATION" HAS THE SAME MEANING PRESCRIBED IN
SECTION 38-865.

38-870.01. Disability program; administration; power and duties
of the board; hearing

A. THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN
DISABILITY PROGRAM IS ESTABLISHED FOR PARTICIPANTS IN THE PUBLIC SAFETY
PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN WHO HAVE ELECTED TO
PARTICIPATE SOLELY IN THE DEFINED CONTRIBUTION PLAN ESTABLISHED PURSUANT TO
ARTICLE 4.1 OF THIS CHAPTER. THE BOARD SHALL ADMINISTER THE DISABILITY
PROGRAM.

B. THE BOARD MAY DELEGATE AUTHORITY TO ADMINISTER THE PROGRAM AS IT
DEEMS NECESSARY AND PRUDENT TO THE ADMINISTRATOR EMPLOYED PURSUANT TO SECTION
38-848.

C. THE BOARD, IN THE ADMINISTRATION, MANAGEMENT AND OPERATION OF THE
PROGRAM, SHALL:

1. ACCOUNT FOR THE OPERATION, ADMINISTRATION AND INVESTMENT EXPENSES
AND ALLOCATE THEM AGAINST INVESTMENT INCOME.

2. CONTRACT ON A FEE BASIS WITH AN ACTUARY TO MAKE AN ACTUARIAL
VALUATION OF THE PROGRAM BASED ON THE VALUATION METHOD AND VALUATION
ASSUMPTIONS RECOMMENDED BY THE ACTUARY AND APPROVED BY THE BOARD. THE
ACTUARY SHALL BE A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES.

3. CONTRACT ON A FEE BASIS WITH AN INDEPENDENT AUDITING FIRM TO MAKE
AN ANNUAL AUDIT OF THE ACCOUNTING RECORDS OF THE FUND AND FILE A COPY OF THE
AUDIT WITH THE AUDITOR GENERAL.

4. INVEST THE MONIES IN THE FUND AS PROVIDED IN ARTICLE 4 OF THIS
CHAPTER.

D. THE BOARD, IN THE ADMINISTRATION, MANAGEMENT AND OPERATION OF THE
PROGRAM, MAY:

1. EMPLOY SERVICES AS IT DEEMS NECESSARY.

2. EITHER KEEP INVESTED MONIES SEPARATE OR COMMINGLE INVESTED MONIES
AS IT DEEMS APPROPRIATE.

3. DO ALL ACTS, WHETHER EXPRESSLY AUTHORIZED, THAT MAY BE DEEMED
NECESSARY OR PROPER FOR THE PROTECTION OF THE FUND.

1 4. DETERMINE THE RIGHTS, BENEFITS OR OBLIGATIONS OF ANY PERSON UNDER
2 THIS ARTICLE AND AFFORD ANY PERSON DISSATISFIED WITH A DETERMINATION OF THE
3 PERSON'S RIGHTS, BENEFITS OR OBLIGATIONS UNDER THIS ARTICLE WITH A HEARING ON
4 THE DETERMINATION.

5 38-870.02. Disability program trust fund

6 A. THE DISABILITY PROGRAM TRUST FUND IS ESTABLISHED FOR THE PURPOSE OF
7 PAYING BENEFITS UNDER AND COSTS OF ADMINISTERING THE DISABILITY PROGRAM. THE
8 TRUST FUND SHALL BE ADMINISTERED BY THE BOARD.

9 B. THE DISABILITY PROGRAM TRUST FUND CONSISTS OF ALL MONIES PAID INTO
10 THE TRUST FUND PURSUANT TO THIS ARTICLE, WHETHER IN THE FORM OF CASH,
11 SECURITIES OR OTHER ASSETS, AND ALL MONIES RECEIVED FROM ANY OTHER SOURCE.
12 EXCEPT AS PROVIDED IN SUBSECTION C, PARAGRAPH 1 OF THIS SECTION, THE
13 DISABILITY PROGRAM TRUST FUND IS EXEMPT FROM TITLE 44, CHAPTER 3.

14 C. ABANDONED MONIES SHALL REVERT TO THE DISABILITY PROGRAM TRUST FUND
15 UNDER THE FOLLOWING CONDITIONS:

16 1. MONIES IN THE TRUST FUND ARE PRESUMED ABANDONED IF THE SYSTEM HAS
17 TAKEN THE REQUIRED ACTION DESCRIBED IN THIS SUBSECTION TO IDENTIFY AND LOCATE
18 THE APPARENT OWNER AND THE APPARENT OWNER AS DEFINED IN SECTION 44-301 HAS
19 NOT COMMUNICATED IN WRITING WITH THE SYSTEM AND HAS NOT OTHERWISE INDICATED
20 AN INTEREST IN THE MONIES FOR THE THREE-YEAR PERIOD FOLLOWING THE REQUIRED
21 BEGINNING DATE OF DISTRIBUTIONS.

22 2. BEFORE MONIES ARE PRESUMED ABANDONED, THE SYSTEM SHALL ATTEMPT TO
23 CONTACT THE APPARENT OWNER IN WRITING. IF THIS NOTICE IS RETURNED BY THE
24 POSTAL AUTHORITY AS UNDELIVERABLE, EACH YEAR FOR THREE YEARS FROM THE DATE
25 THAT DISTRIBUTIONS SHOULD HAVE BEGUN, THE SYSTEM SHALL MAKE A GOOD FAITH
26 ATTEMPT TO LOCATE THE APPARENT OWNER, INCLUDING CONTACTING ANY KNOWN
27 BENEFICIARY ON RECORD WITH THE SYSTEM, SEARCHING PUBLIC DATABASES TO IDENTIFY
28 THE ADDRESS OF THE APPARENT OWNER OR USING THE SERVICES OF A THIRD-PARTY
29 ADDRESS VERIFICATION SERVICE. IF THE GOOD FAITH ATTEMPT TO LOCATE THE
30 APPARENT OWNER FAILS, MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS
31 SUBSECTION.

32 3. AT THE TIME MONIES ARE PRESUMED ABANDONED PURSUANT TO THIS
33 SUBSECTION, ANY OTHER PROPERTY RIGHT ACCRUED OR ACCRUING TO THE APPARENT
34 OWNER AS A RESULT OF THE INTEREST IN THOSE MONIES, AND NOT PREVIOUSLY
35 PRESUMED ABANDONED, IS ALSO PRESUMED ABANDONED.

36 4. INTEREST CEASES TO ACCRUE ON THE MONIES ON THE DATE THE MONIES ARE
37 PRESUMED ABANDONED.

38 D. THE CUSTODY, MANAGEMENT AND INVESTMENT OF THE DISABILITY PROGRAM
39 TRUST FUND ARE AS PRESCRIBED BY THIS ARTICLE AND ARTICLE 4 OF THIS CHAPTER.

40 38-870.03. Eligibility

41 ALL PARTICIPANTS ARE SUBJECT TO THIS ARTICLE AND SHALL PARTICIPATE IN
42 THE DISABILITY PROGRAM.

43 38-870.04. Employer and participant contributions

44 A. BEGINNING JULY 1, 2017, EMPLOYERS SHALL CONTRIBUTE THE PERCENTAGE
45 OF THE GROSS PENSIONABLE COMPENSATION OF ALL OF THE PARTICIPANTS UNDER THEIR
46 EMPLOYMENT SO THAT THE TOTAL EMPLOYER CONTRIBUTIONS EQUALS THE AMOUNT THAT

1 THE BOARD DETERMINES IS NECESSARY TO PAY ONE-HALF OF ALL BENEFITS UNDER AND
2 COSTS OF ADMINISTERING THE DISABILITY PROGRAM.

3 B. BEGINNING JULY 1, 2017, A PARTICIPANT SHALL CONTRIBUTE A PERCENTAGE
4 OF THE PARTICIPANT'S GROSS PENSIONABLE COMPENSATION EQUAL TO THE EMPLOYER
5 CONTRIBUTION FOR THE PARTICIPANT REQUIRED PURSUANT TO SUBSECTION A OF THIS
6 SECTION.

7 C. THE EMPLOYER SHALL PAY THE PARTICIPANT CONTRIBUTIONS REQUIRED OF
8 PARTICIPANTS ON ACCOUNT OF GROSS PENSIONABLE COMPENSATION EARNED. ALL
9 EMPLOYER AND PARTICIPANT CONTRIBUTIONS SHALL BE PAID TO THE BOARD. THE BOARD
10 SHALL ALLOCATE THE CONTRIBUTIONS TO THE DISABILITY PROGRAM TRUST FUND AND
11 SHALL PLACE THE CONTRIBUTIONS IN THE DISABILITY PROGRAM'S DEPOSITORY.

12 D. EACH EMPLOYER SHALL CERTIFY ON EACH PAYROLL THE AMOUNT TO BE
13 CONTRIBUTED TO THE DISABILITY PROGRAM AND SHALL REMIT THAT AMOUNT TO THE
14 BOARD.

15 E. THE DEPARTMENT OF ADMINISTRATION AND THE TREASURER OF EACH COUNTY
16 AND PARTICIPATING CITY AND TOWN SHALL TRANSFER TO THE BOARD THE CONTRIBUTIONS
17 PROVIDED FOR IN SUBSECTIONS A AND B OF THIS SECTION WITHIN TEN WORKING DAYS
18 AFTER EACH PAYROLL DATE. CONTRIBUTIONS TRANSFERRED AFTER THESE DATES SHALL
19 INCLUDE A PENALTY EQUAL TO TEN PERCENT PER ANNUM, COMPOUNDED DAILY, FOR EACH
20 DAY THAT THE CONTRIBUTIONS ARE LATE. DELINQUENT PAYMENTS DUE UNDER THIS
21 SUBSECTION, TOGETHER WITH INTEREST CHARGES AS PROVIDED IN THIS SUBSECTION AND
22 COURT COSTS, MAY BE RECOVERED BY ACTION IN A COURT OF COMPETENT JURISDICTION
23 AGAINST THE PERSON OR PERSONS RESPONSIBLE FOR THE PAYMENTS OR, AT THE REQUEST
24 OF THE BOARD, MAY BE DEDUCTED FROM ANY OTHER MONIES, INCLUDING EXCISE REVENUE
25 TAXES, PAYABLE TO A POLITICAL SUBDIVISION BY ANY DEPARTMENT OR AGENCY OF THIS
26 STATE.

27 F. IF MORE THAN THE CORRECT AMOUNT OF CONTRIBUTIONS REQUIRED IS PAID
28 BY AN EMPLOYER, PROPER ADJUSTMENT SHALL BE MADE IN CONNECTION WITH SUBSEQUENT
29 PAYMENTS. THE BOARD SHALL RETURN EXCESS CONTRIBUTIONS TO THE EMPLOYER IF THE
30 EMPLOYER REQUESTS RETURN OF THE CONTRIBUTIONS WITHIN ONE YEAR AFTER THE DATE
31 OF OVERPAYMENT.

32 G. PARTICIPANT CONTRIBUTIONS ARE NOT REFUNDABLE.

33 38-870.05. Contribution rate

34 A. EMPLOYER CONTRIBUTIONS SHALL BE A PERCENTAGE OF GROSS PENSIONABLE
35 COMPENSATION FOR EACH PARTICIPANT, AS THE SYSTEM ACTUARY DETERMINES PURSUANT
36 TO THIS SECTION. THE ACTUARY SHALL MAKE THIS DETERMINATION IN AN ANNUAL
37 VALUATION PERFORMED AS OF JUNE 30. THE VALUATION AS OF JUNE 30 OF A CALENDAR
38 YEAR SHALL DETERMINE THE PERCENTAGE TO BE APPLIED TO COMPENSATION FOR THE
39 FISCAL YEAR BEGINNING JULY 1 OF THE FOLLOWING CALENDAR YEAR. THE ACTUARY
40 SHALL DETERMINE THE TOTAL EMPLOYER CONTRIBUTION USING AN ACTUARIAL COST
41 METHOD CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS. THE TOTAL
42 EMPLOYER CONTRIBUTIONS SHALL BE EQUAL TO THE EMPLOYER NORMAL COST PLUS THE
43 AMOUNT REQUIRED TO AMORTIZE THE PAST SERVICE FUNDING REQUIREMENT OVER A
44 PERIOD CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS.

45 B. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE
46 DISABILITY PROGRAM TRUST FUND ESTABLISHED BY SECTION 38-870.02 ARE

1 IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS ARTICLE OR TO PAY
2 EXPENSES OF THE DISABILITY PROGRAM.

3 38-870.06. Disability program benefit

4 A. THE BOARD SHALL FOLLOW THE SAME PROCEDURES AND METHOD AS PRESCRIBED
5 IN SECTION 38-844 TO DETERMINE ELIGIBILITY FOR AND CONTINUATION OF A
6 DISABILITY BENEFIT AND IN COMPUTING THE AMOUNT AVAILABLE TO THE PARTICIPANT.

7 B. A PARTICIPANT WHO MEETS THE REQUIREMENTS FOR A DISABILITY PENSION
8 AS PRESCRIBED IN SECTION 38-844 SHALL RECEIVE A MONTHLY DISABILITY BENEFIT
9 EQUAL TO A MONTHLY DISABILITY PENSION THAT WOULD BE PROVIDED TO A PUBLIC
10 SAFETY PERSONNEL RETIREMENT SYSTEM MEMBER WHO IS HIRED ON OR AFTER JULY 1,
11 2017, REDUCED BY AN AMOUNT EQUAL TO THE MONTHLY ANNUITIZED VALUE OF THE
12 PARTICIPANT'S ANNUITY ACCOUNT UNDER ARTICLE 4.1 OF THIS CHAPTER THAT DOES NOT
13 INCLUDE A COST-OF-LIVING ADJUSTMENT, AS DETERMINED BY THE BOARD. IN
14 DETERMINING THE MONTHLY ANNUITIZED OFFSET VALUE OF THE PARTICIPANT'S ANNUITY
15 ACCOUNT UNDER ARTICLE 4.1 OF THIS CHAPTER TO BE USED IN REDUCING THE
16 DISABILITY BENEFIT PAID PURSUANT TO THIS SECTION, THE BOARD SHALL INSTRUCT
17 THE ACTUARY FOR THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM TO CALCULATE
18 THE MONTHLY PAYMENT THAT WOULD BE PAID TO THE PARTICIPANT ASSUMING THE
19 PARTICIPANT HAD ELECTED A STRAIGHT LIFE ANNUITY COMMENCING ON THE
20 PARTICIPANT'S DATE OF DISABILITY, USING THE MORTALITY AND INTEREST FACTORS
21 THEN USED BY THE ACTUARY IN DETERMINING THE VALUATION OF THE PUBLIC SAFETY
22 PERSONNEL RETIREMENT SYSTEM.

23 Sec. 16. Section 38-883, Arizona Revised Statutes, is amended to read:

24 38-883. Board of trustees; powers and duties

25 A. The board shall:

26 1. Maintain records of the operation and administration of the plan
27 and fund.

28 2. Contract on a fee basis for an independent annual audit of the
29 accounting records of the plan and fund and file a copy of the audit report
30 with the auditor general.

31 3. Employ on a fee basis an independent firm of actuaries to perform
32 annual actuarial valuations for each participating employer of the plan and
33 fund based on an actuarial cost method and actuarial assumptions recommended
34 by the actuary and adopted by the board. The actuarial valuations shall be
35 performed by or under the direct supervision of an actuary who is a member of
36 the American academy of actuaries. By November 1 of each year, the board
37 shall provide a preliminary report and by December 15 of each year provide a
38 final report to the governor, the speaker of the house of representatives and
39 the president of the senate on the contribution rate for the ensuing fiscal
40 year.

41 4. Invest and reinvest the monies and assets of the fund in accordance
42 with the investment provisions of the public safety personnel retirement
43 system. The board may commingle securities and monies of the fund subject to
44 the crediting of receipts and earnings and charging of payments to the
45 account of the appropriate employer.

1 code. The legislature intends that a supplemental defined contribution plan
2 is a qualified plan under section 401 of the internal revenue code, as
3 amended, or successor provisions of law, and that a plan is exempt from
4 taxation under section 501 of the internal revenue code. The board or
5 employer may adopt any additional provisions to a plan that are necessary to
6 fulfill this intent.

7 D. Although designated as employee contributions, all employee
8 contributions made to a plan shall be picked up and paid by the employer in
9 lieu of contributions by the employee. The contributions picked up by an
10 employer may be made through a reduction in the employee's compensation or an
11 offset against future compensation increases, or a combination of both. An
12 employee participating in a plan does not have the option of choosing to
13 receive the contributed amounts directly instead of the employer paying the
14 amounts to the plan. It is intended that all employee contributions that are
15 picked up by the employer as provided in this subsection shall be treated as
16 employer contributions under section 414(h) of the internal revenue code,
17 shall be excluded from employees' gross income for federal and state income
18 tax purposes and are includable in the gross income of the employees or their
19 beneficiaries only in the taxable year in which they are distributed. The
20 specified effective date of the pickup pursuant to this subsection shall not
21 be before the date the plan receives notification from the internal revenue
22 service that all employee contributions that are picked up by the employer as
23 provided in this subsection shall be treated as employer contributions
24 pursuant to section 414(h) of the internal revenue code. Until notification
25 is received, any employee contributions made under section 38-953 are made
26 with after-tax contributions.

27 Sec. 18. Study: risk pooling; local board consolidation and
28 structure; recommendations

29 A. Within fifteen days after the effective date of this act, the
30 public safety personnel retirement system shall commence a study to determine
31 various methods in which risk pooling may be structured and local board
32 consolidation and structure may be accomplished and to determine which
33 methods, if any, are in the best interests of the public safety personnel
34 retirement system's fund, members, beneficiaries and employers.

35 B. The study shall be presented to the board of trustees of the public
36 safety personnel retirement system on or before January 15, 2017. The board
37 shall consider the study and report its recommendations for legislation to
38 the president of the senate, the speaker of the house of representatives and
39 the governor on or before February 15, 2017.

1 Sec. 19. Initial appointments of the board of trustees of the
2 public safety personnel retirement system: initial
3 terms

4 A. For the initial appointments to the board of trustees of the public
5 safety personnel retirement system, on or before August 1, 2016, associations
6 representing public safety personnel, cities and towns in this state and
7 counties in this state shall establish a list of nominees who are qualified
8 pursuant to section 38-848, Arizona Revised Statutes, and willing to serve on
9 the board. The list shall include at least three nominees for each position
10 on the board, which will be forwarded to the appointing elected officials.

11 B. Each member of the board of trustees of the public safety personnel
12 retirement system shall be selected from the list of nominees presented to
13 the appointing elected officials for each position on the board. The
14 following elected officials shall make the following appointments:

15 1. The governor shall appoint:

16 (a) One member representing law enforcement in this state.

17 (b) One member representing firefighters in this state.

18 (c) One member representing cities and towns in this state.

19 (d) One member representing counties in this state.

20 (e) One member as specified in section 38-848, subsection A, paragraph
21 5, Arizona Revised Statutes.

22 2. The president of the senate shall appoint:

23 (a) One member representing law enforcement in this state.

24 (b) One member representing cities and towns in this state.

25 3. The speaker of the house of representatives shall appoint:

26 (a) One member representing firefighters in this state.

27 (b) One member representing cities and towns in this state.

28 C. The appointments shall be made in the following order:

29 1. On or before November 1, 2016, the governor shall make one
30 appointment to the board from the list of nominees followed by one
31 appointment made in turn from the president of the senate and the speaker of
32 the house of representatives until eight members are appointed to the board.

33 2. The eight members initially appointed to the board pursuant to
34 paragraph 1 of this subsection shall elect a chairperson who shall appoint
35 the advisory committee pursuant to section 38-848, subsection X, Arizona
36 Revised Statutes. The advisory committee shall forward to the newly
37 appointed board of trustees of the public safety personnel retirement system
38 at least five nominees who are qualified pursuant to section 38-848, Arizona
39 Revised Statutes, and willing to serve on the board for the appointment of
40 the ninth member of the board. From that list of nominees, the newly
41 appointed board of trustees of the public safety personnel retirement system
42 shall forward to the governor at least three nominees for the appointment of
43 the ninth member of the board, which shall be made on or before December 1,
44 2016.

45 D. If the board members specified in subsection B of this section,
46 except the board member specified in section 38-848, subsection A, paragraph

1 5, Arizona Revised Statutes, are not appointed by November 1, 2016, the
2 elected official who fails to make an appointment forfeits the appointment
3 and the appointment will be made within fifteen days by the next elected
4 official in the rotation specified in subsection C, paragraph 1 of this
5 section. This rotation shall continue until the eight board members are
6 appointed.

7 E. Notwithstanding section 38-848, Arizona Revised Statutes, the
8 initial terms of the public safety personnel retirement system board members
9 are:

10 1. Four terms ending on January 1, 2019 that include:

11 (a) One member representing law enforcement who is appointed by the
12 governor.

13 (b) One member representing firefighters who is appointed by the
14 governor.

15 (c) Two members representing cities and towns in this state, one of
16 whom is appointed by the speaker of the house of representatives and one of
17 whom is appointed by the president of the senate.

18 2. Five terms ending on January 1, 2021 that include:

19 (a) One member representing law enforcement who is appointed by the
20 president of the senate.

21 (b) One member representing firefighters who is appointed by the
22 speaker of the house of representatives.

23 (c) One member representing cities and towns in this state who is
24 appointed by the governor.

25 (d) One member representing counties in this state who is appointed by
26 the governor.

27 (e) The member specified in section 38-848, subsection A, paragraph 5,
28 Arizona Revised Statutes.

29 F. The subsequent appointments shall be made as prescribed in section
30 38-848, Arizona Revised Statutes.

31 Sec. 20. Annual compensation adjustment: employers: public
32 safety wage index

33 Notwithstanding section 38-843.04, subsection D, Arizona Revised
34 Statutes, as added by this act, beginning July 1, 2017, the employers for the
35 purposes of the public safety wage index are the central Yavapai fire
36 district, department of public safety, Drexel heights fire district,
37 Flagstaff fire department, Flagstaff police department, Arizona game and fish
38 department, Gilbert police department, Glendale police department, Golder
39 ranch fire district, Kingman fire department, Kingman police department,
40 Maricopa county sheriff's department, Mesa police department, Nogales fire
41 department, Nogales police department, Northwest fire district, Phoenix fire
42 department, Phoenix police department, Pima county sheriff's department,
43 Pinal county sheriff's department, Prescott fire department, Prescott police
44 department, Scottsdale police department, Tempe fire department, Tucson fire
45 department and Tucson police department.

46 Sec. 21. Legislative findings and intent

1 A. The legislature recognizes that in order to have a sound public
2 retirement system that benefits this state, taxpayers and members of the
3 retirement system, pursuant to article XXIX, Constitution of Arizona, the
4 public retirement system must be funded with contributions and investment
5 earnings based on actuarial methods and assumptions that are consistent with
6 generally accepted actuarial standards. The legislature finds that the
7 current structure of the public safety personnel retirement system does not
8 achieve this goal and that the current system imperils the retirement
9 security that the members of that system have come to expect. For these
10 reasons, the legislature intends to modify and amend the provisions of the
11 current system for both current and new members to make the system viable and
12 sustainable now and into the future.

13 B. The legislature further finds:

14 1. That the current structure of the public safety personnel
15 retirement system does not lead to the goal of attaining one hundred percent
16 funded status and jeopardizes the future payment of benefits to current and
17 future retirees of the retirement program.

18 2. That the current structure of the public safety personnel
19 retirement system, which requires a fixed employee contribution rate,
20 requires a contribution rate from employees that is insufficient in relation
21 to the cost associated with the benefits required by the plan design and
22 therefore places a greater financial burden on employers. By moving to a
23 shared cost structure, public safety employees will bear increased
24 responsibility for the fiscal health of the fund and, as the fund improves
25 its funded status and approaches fully funded or overfunded status, the
26 employees will realize decreased contribution costs that will be lower than
27 currently required.

28 3. That the current method of funding benefit increases to retirees of
29 the public safety personnel retirement system is flawed and makes it highly
30 unlikely that this fund will achieve its actuarially assumed earning rates
31 during positive and negative investment environments and creates an
32 undesirable possibility of greater investment risk on the part of the fund's
33 trustees. It is fundamentally unsound to provide a benefit increase during
34 periods when the funded status of the retirement program is less than seventy
35 percent. Changing the manner of funding these benefit increases is intended
36 to improve the funded status of the public safety personnel retirement system
37 and is in the best interests of the members and beneficiaries of this
38 retirement program in that it will preserve future benefits for plan
39 participants.

40 4. It is necessary to change the future plan and system structures for
41 nonvested members to take into consideration the increased life expectancy of
42 members and future employees and make the reforms necessary to preserve the
43 funded status of the retirement program in future years.

44 5. To protect the future benefits of retired, active and future
45 employees, it is necessary to make the changes outlined in this act to

1 preserve the funded status of this retirement program and return the program
2 to fiscal solvency.

3 C. It is the legislature's intent that this act does not impair or
4 amend any agreement between an employee and employer that addresses
5 participation in or contributions to alternative retirement plans or
6 compensation arrangements not administered through the public safety
7 personnel retirement system.

8 Sec. 22. Conditional enactment

9 A. Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04,
10 Arizona Revised Statutes, as repealed by this act, section 38-844.05, Arizona
11 Revised Statutes, as amended by this act, and sections 38-856.05, 38-865.01
12 and 38-868, Arizona Revised Statutes, as added by this act, do not become
13 effective unless the Constitution of Arizona is amended as prescribed in
14 Senate concurrent resolution 1019, fifty-second legislature, second regular
15 session, by vote of the people at the special election conducted on May 17,
16 2016.

17 B. The enactment of any provision of this act conditioned on the
18 results of the election does not constitute a submission of any provision of
19 this act to the voters under the power of referendum.

20 Sec. 23. Severability

21 If a provision of this act or its application to any person or
22 circumstance is held invalid, the invalidity does not affect other provisions
23 or applications of the act that can be given effect without the invalid
24 provision or application, and to this end the provisions of this act are
25 severable.

APPROVED BY THE GOVERNOR FEBRUARY 16, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 16, 2016.