

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2074

(Reference to printed bill)

1 Page 1, after line 45, insert:

2 "Sec. 2. Heading change

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

6 Renumber to conform

7 Page 2, lines 16 and 17, strike "firefighter, peace officer and corrections  
8 officer" insert "PUBLIC SAFETY"

9 Line 19, strike "Firefighter, peace officer and corrections officer" insert  
10 "Public safety"

11 Line 22, strike "firefighter, peace officer and corrections officer" insert  
12 "PUBLIC SAFETY"

13 Lines 34 and 35, strike "firefighter, peace officer and corrections officer"  
14 insert "PUBLIC SAFETY"

15 Lines 39 and 40, strike "firefighter, peace officer and corrections officer"  
16 insert "PUBLIC SAFETY"

17 Page 3, between lines 32 and 33, insert:

18 "Sec. 5. Section 38-643, Arizona Revised Statutes, is amended to read:  
19 38-643. Public safety cancer insurance policy program account

20 A. The ~~firefighter, peace officer and corrections officer~~ PUBLIC  
21 SAFETY cancer insurance policy program account is established and shall be  
22 under the exclusive control of the board. The board shall deposit monies  
23 collected pursuant to section 38-642 in the account to pay the cost of  
24 providing a group cancer insurance policy under the program and the cost of  
25 administering the program.

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

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

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

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

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

30 Renumber to conform

1 Page 4, between lines 27 and 28, insert:

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

3 38-645. Coverage

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

8 B. The board may provide for additional coverage or exclusions under  
9 the program based on available monies in the ~~firefighter, peace officer and~~  
10 ~~corrections officer~~ PUBLIC SAFETY cancer insurance policy program account.

11 C. Coverage under the ~~firefighter, peace officer and corrections~~  
12 ~~officer~~ PUBLIC SAFETY cancer insurance policy program may be canceled,  
13 changed or terminated by the board at any time without notice. If the  
14 program is terminated, the board shall refund monies in the ~~firefighter,~~  
15 ~~peace officer and corrections officer~~ PUBLIC SAFETY cancer insurance policy  
16 program account on a pro rata basis to employers, excluding monies held in  
17 reserve for benefits as determined by the board.

18 D. If the program is self-insured, benefits are limited to the assets  
19 in the ~~firefighter, peace officer and corrections officer~~ PUBLIC SAFETY  
20 cancer insurance policy program account and those benefits may be reduced or  
21 eliminated at any time.

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

23 38-848. Board of trustees; powers and duties; independent trust  
24 fund; administrator; agents and employees

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

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

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

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

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

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

11           B. All monies in the fund shall be deposited and held in a public  
12 safety personnel retirement system depository. Monies in the fund shall be  
13 disbursed from the depository separate and apart from all monies or funds of  
14 this state and the agencies, instrumentalities and subdivisions of this  
15 state, except that the board may commingle the assets of the fund and the  
16 assets of all other plans entrusted to its management in one or more group  
17 trusts, subject to the crediting of receipts and earnings and charging of  
18 payments to the appropriate employer, system or plan. The monies shall be  
19 secured by the depository in which they are deposited and held to the same  
20 extent and in the same manner as required by the general depository law of  
21 this state. For purposes of making the decision to invest in securities  
22 owned by the fund or any plan or trust administered by the board, the fund  
23 and assets of the plans and the plans' trusts are subject to the sole  
24 management of the board for the purpose of this article except that, on the  
25 board's election to invest in a particular security or make a particular  
26 investment, the assets comprising the security or investment may be chosen  
27 and managed by third parties approved by the board. The board may invest in  
28 portfolios of securities chosen and managed by a third party. The board's  
29 decision to invest in securities such as mutual funds, commingled investment  
30 funds, exchange traded funds, private equity or venture capital limited  
31 partnerships, real estate limited partnerships or limited liability companies  
32 and real estate investment trusts whose assets are chosen and managed by

1 third parties does not constitute an improper delegation of the board's  
2 investment authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           H. Except as provided in subsection D of this section, the board may:
- 2           1. Invest and reinvest the principal and income of all assets that the
- 3 board manages without distinction between principal and income.
- 4           2. Sell, exchange, convey, transfer or otherwise dispose of any
- 5 investments made on behalf of the system or other plans the board administers
- 6 in the name of the system or plans by private contract or at public auction.
- 7           3. Also:
- 8           (a) Vote on any stocks, bonds or other securities.
- 9           (b) Give general or special proxies or powers of attorney with or
- 10 without power of substitution.
- 11           (c) Exercise any conversion privileges, subscription rights or other
- 12 options and make any payments incidental to the exercise of the conversion
- 13 privileges, subscription rights or other options.
- 14           (d) Consent to or otherwise participate in corporate reorganizations
- 15 or other changes affecting corporate securities, delegate discretionary
- 16 powers and pay any assessments or charges in connection therewith.
- 17           (e) Generally exercise any of the powers of an owner with respect to
- 18 stocks, bonds, securities or other investments held in or owned by the system
- 19 or other plans whose assets the board administers.
- 20           4. Make, execute, acknowledge and deliver any other instruments that
- 21 may be necessary or appropriate to carry out the powers granted in this
- 22 section.
- 23           5. Register any investment held by the system or other plans whose
- 24 assets the board administers in the name of the system or plan or in the name
- 25 of a nominee or trust.
- 26           6. At the expense of the system or other plans that the board
- 27 administers, enter into an agreement with any bank or banks for the
- 28 safekeeping and handling of securities and other investments coming into the
- 29 possession of the board. The agreement shall be entered into under terms and
- 30 conditions that secure the proper safeguarding, inventory, withdrawal and
- 31 handling of the securities and other investments. No access to and no
- 32 deposit or withdrawal of the securities from any place of deposit selected by

1 the board shall be permitted or made except as the terms of the agreement may  
2 provide.

3 7. Appear before local boards and the courts of this state and  
4 political subdivisions of this state through counsel or appointed  
5 representative to protect the fund or the assets of other plans that the  
6 board administers. The board is not responsible for the actions or omissions  
7 of the local boards under this system but may seek review or rehearing of  
8 actions or omissions of local boards. The board does not have a duty to  
9 review actions of the local boards but may do so in its discretion in order  
10 to protect the fund. No limitations period precludes the board or  
11 administrator from contesting, or requires the board or administrator to  
12 implement or comply with, a local board decision that violates the internal  
13 revenue code or that threatens to impair the tax qualified status of the  
14 system or any plan administered by the board or administrator.

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

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

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

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

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

32 1. A balance sheet.

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

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

2           4. A list of investments owned.

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

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

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

16           8. An estimate of the aggregate employer contribution rate for the  
17 public safety personnel retirement system for the next ten fiscal years and  
18 an estimate of the aggregate employer contribution rate for the corrections  
19 officer retirement plan for the next ten fiscal years.

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

23           (a) Department of liquor licenses and control.

24           (b) Department of public safety.

25           (c) Northern Arizona university.

26           (d) University of Arizona.

27           (e) Arizona state university.

28           (f) Arizona game and fish department.

29           (g) Department of law.

30           (h) Department of emergency and military affairs.

31           (i) Arizona state parks board.

1           10. An estimate of the employer contribution rates for the next ten  
2 fiscal years for each of the following employers within the corrections  
3 officer retirement plan:

4           (a) State department of corrections.

5           (b) Department of public safety.

6           (c) The judiciary.

7           (d) Department of juvenile corrections.

8           K. The board shall:

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

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

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

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

20           5. Contract on a fee basis with an actuary who shall make actuarial  
21 valuations of the system and other plans that the board administers, be the  
22 technical adviser of the board on matters regarding the operation of the  
23 funds created by the provisions of the system, the elected officials'  
24 retirement plan, the corrections officer retirement plan and the ~~firefighter,~~  
25 ~~peace officer and corrections officer~~ PUBLIC SAFETY cancer insurance policy  
26 program and perform other duties required in connection therewith. The  
27 actuary must be a member of a nationally recognized association or society of  
28 actuaries.

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

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

1 L. 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 and H of this section and subject to the investment policies  
8 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. 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

1 interests in securities that the board has concluded, after thorough due  
2 diligence, do not involve investments in Sudan or Iran or otherwise provide  
3 support to terrorists or in any way facilitate illegal immigration into the  
4 United States. These contracts do not involve the procurement, supply or  
5 provision of goods, equipment, labor, materials or services that would  
6 require the warranties required by section 41-4401.

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

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

- 15 1. Administrator.
- 16 2. Deputy or assistant administrator.
- 17 3. Chief investment officer.
- 18 4. Deputy chief investment officer.
- 19 5. Fiduciary or investment counsel.

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

27 Q. At least once in each five-year period after the effective date,  
28 the actuary shall make an actuarial investigation into the mortality, service  
29 and compensation experience of the members and beneficiaries of the system  
30 and other plans that the board administers and shall make a special valuation  
31 of the assets and liabilities of the monies of the system and plans. Taking  
32 into account the results of the investigation and special valuation, the

1 board shall adopt for the system and other plans that the board administers  
2 those mortality, service and other tables deemed necessary.

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

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

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

- 19 1. A portfolio manager acting in a fiduciary capacity.
- 20 2. A securities analyst.
- 21 3. An employee or principal of a trust institution, investment  
22 organization or endowment fund acting either in a management or an investment  
23 related capacity.
- 24 4. A chartered financial analyst in good standing as determined by the  
25 association for investment management and research.
- 26 5. A professor at the university level teaching economics or  
27 investment related subjects.
- 28 6. An economist.
- 29 7. Any other professional engaged in the field of public or private  
30 finances.

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

House Amendments to H.B. 2074

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

5 Renumber to conform

6 Page 5, line 11, strike "JANUARY 1, 2018" insert "JULY 1, 2017"

7 Amend title to conform

SONNY BORRELLI

2074BORRELLI

02/01/2016

1:22 PM

C: MJH