

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2110

AN ACT

AMENDING SECTIONS 38-801 AND 38-808, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-810.03; REPEALING SECTION 38-812, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-812; AMENDING SECTIONS 38-816 AND 38-819, ARIZONA REVISED STATUTES; REPEALING SECTION 38-820, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-820; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-843.04; AMENDING SECTIONS 38-844 AND 38-844.03, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-845.01; AMENDING SECTIONS 38-846.01, 38-849, 38-853.01 AND 38-856.01, ARIZONA REVISED STATUTES; REPEALING SECTION 38-858, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-858; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 1 AND CHAPTER 185, SECTION 1; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 144, SECTION 2 AND CHAPTER 185, SECTION 2; AMENDING SECTION 38-890, ARIZONA REVISED STATUTES; REPEALING SECTION 38-895, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-895; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-895.01; AMENDING SECTION 38-905.01, ARIZONA REVISED STATUTES; REPEALING SECTION 38-907, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 38-907; AMENDING SECTIONS 38-909 AND 38-922, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS AND PLANS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-801, Arizona Revised Statutes, is amended to
3 read:

4 38-801. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accumulated contributions" means the sum of all member
7 contributions deducted from the member's salary pursuant to section 38-810,
8 subsection A plus the amount transferred to the fund on behalf of the member
9 plus the amount deposited in the fund pursuant to section 38-816.

10 2. "ACTUARIAL EQUIVALENT" MEANS EQUALITY IN PRESENT VALUE OF THE
11 AGGREGATE AMOUNTS EXPECTED TO BE RECEIVED UNDER TWO DIFFERENT FORMS OF
12 PAYMENT, BASED ON MORTALITY AND INTEREST ASSUMPTIONS ADOPTED BY THE FUND
13 MANAGER.

14 ~~2-~~ 3. "Alternate payee" means the spouse or former spouse of a
15 participant as designated in a domestic relations order.

16 ~~3-~~ 4. "Alternate payee's portion" means benefits that are payable to
17 an alternate payee pursuant to a plan approved domestic relations order.

18 ~~4-~~ 5. "Average yearly salary" means the result obtained by dividing
19 the total salary paid to an employee during a considered period by the number
20 of years, including fractional years, in which the salary was received. The
21 considered period shall be the three consecutive years within the last ten
22 completed years of credited service ~~which~~ AS AN ELECTED OFFICIAL THAT yield
23 the highest average. IF AN EMPLOYEE DOES NOT HAVE THREE CONSECUTIVE YEARS OF
24 CREDITED SERVICE AS AN ELECTED OFFICIAL, THE CONSIDERED PERIOD IS THE
25 EMPLOYEE'S LAST CONSECUTIVE PERIOD OF EMPLOYMENT WITH A PLAN EMPLOYER
26 IMMEDIATELY BEFORE RETIREMENT.

27 ~~5-~~ 6. "Credited service" means the number of whole and fractional
28 years of a member's service as an elected official after the elected
29 official's effective date of participation for which member and employer
30 contributions are on deposit with the fund, plus credited service ~~as an~~
31 ~~elected official~~ transferred to the plan from another retirement system or
32 plan for public employees of this state, plus service as an elected official
33 before the elected official's effective date of participation ~~which~~ THAT is
34 being funded pursuant to a joinder agreement ~~in accordance with~~ PURSUANT TO
35 section 38-810, subsection C and section 38-815 or ~~which~~ SERVICE THAT was
36 redeemed pursuant to section 38-816.

37 ~~6-~~ 7. "Cure period" means the ninety-day period in which a
38 participant or alternate payee may submit an amended domestic relations order
39 and request a determination, calculated from the time the plan issues a
40 determination finding that a previously submitted domestic relations order
41 did not qualify as a plan approved domestic relations order.

42 ~~7-~~ 8. "Determination" means a written document that indicates to a
43 participant and alternate payee whether a domestic relations order qualifies
44 as a plan approved domestic relations order.

1 ~~8-~~ 9. "Determination period" means the ninety-day period in which the
2 plan must review a domestic relations order that is submitted by a
3 participant or alternate payee to determine whether the domestic relations
4 order qualifies as a plan approved domestic relations order, calculated from
5 the time the plan mails a notice of receipt to the participant and alternate
6 payee.

7 10. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE PLAN TO AN ELIGIBLE
8 RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTE.

9 11. "DISTRIBUTE" MEANS A MEMBER, A MEMBER'S SURVIVING SPOUSE OR A
10 MEMBER'S SPOUSE OR FORMER SPOUSE WHO IS THE ALTERNATE PAYEE UNDER A PLAN
11 APPROVED DOMESTIC RELATIONS ORDER.

12 ~~9-~~ 12. "Domestic relations order" means an order of a court of this
13 state that is made pursuant to the domestic relations laws of this state and
14 that creates or recognizes the existence of an alternate payee's right to, or
15 assigns to an alternate payee the right to, receive a portion of the benefits
16 payable to a participant.

17 ~~10-~~ 13. "Effective date of participation" means August 7, 1985, except
18 with respect to employers and their elected officials whose contributions to
19 the plan commence after that date, in which case the effective date of their
20 participation in the plan is specified in the applicable joinder agreement.

21 ~~11-~~ 14. "Elected official" means:

22 (a) Every elected official of this state.

23 (b) Every elected official of each county of this state.

24 (c) Every justice of the supreme court, every judge of the court of
25 appeals, every judge of the superior court and every full-time superior court
26 commissioner, except full-time superior court commissioners who failed to
27 make a timely election of membership under the judges' retirement plan,
28 repealed on August 7, 1985.

29 (d) The administrator of the fund manager if the administrator is a
30 natural person.

31 (e) Each elected official of an incorporated city or town whose
32 employer has executed a proper joinder agreement for coverage of its elected
33 officials.

34 15. "ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING THAT ACCEPTS
35 A DISTRIBUTE'S ELIGIBLE ROLLOVER DISTRIBUTION:

36 (a) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN SECTION 408(a) OF
37 THE INTERNAL REVENUE CODE.

38 (b) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF
39 THE INTERNAL REVENUE CODE.

40 (c) AN ANNUITY PLAN DESCRIBED IN SECTION 403(a) OF THE INTERNAL
41 REVENUE CODE.

42 (d) A QUALIFIED TRUST DESCRIBED IN SECTION 401(a) OF THE INTERNAL
43 REVENUE CODE.

44 (e) AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE INTERNAL
45 REVENUE CODE.

1 (f) AN ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b)
2 OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, A POLITICAL
3 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
4 POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR
5 AMOUNTS TRANSFERRED INTO THE ELIGIBLE DEFERRED COMPENSATION PLAN FROM THIS
6 PLAN.

7 16. "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A PAYMENT TO A DISTRIBUTE,
8 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

9 (a) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL
10 PERIODIC PAYMENTS MADE NOT LESS FREQUENTLY THAN ANNUALLY FOR THE LIFE OR LIFE
11 EXPECTANCY OF THE MEMBER OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE
12 MEMBER AND THE MEMBER'S BENEFICIARY OR FOR A SPECIFIED PERIOD OF TEN YEARS OR
13 MORE.

14 (b) ANY DISTRIBUTION TO THE EXTENT THE DISTRIBUTION IS REQUIRED UNDER
15 SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

16 (c) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN GROSS
17 INCOME.

18 ~~12.~~ 17. "Fund" means the elected officials' retirement plan fund.

19 ~~13.~~ 18. "Fund manager" means the fund manager of the system.

20 ~~14.~~ 19. "Notice of receipt" means a written document that is issued by
21 the plan to a participant and alternate payee and that states that the plan
22 has received a domestic relations order and a request for a determination
23 that the domestic relations order is a plan approved domestic relations
24 order.

25 ~~15.~~ 20. "Participant" means a member who is subject to a domestic
26 relations order.

27 ~~16.~~ 21. "Participant's portion" means benefits that are payable to a
28 participant pursuant to a plan approved domestic relations order.

29 ~~17.~~ 22. "Pension" means a series of monthly payments to a person who
30 is entitled to receive benefits under the plan.

31 ~~18.~~ 23. "Personal representative" means the personal representative of
32 a deceased alternate payee.

33 ~~19.~~ 24. "Plan" means the elected officials' retirement plan.

34 ~~20.~~ 25. "Plan approved domestic relations order" means a domestic
35 relations order that the plan approves as meeting all the requirements for a
36 plan approved domestic relations order as otherwise prescribed in this
37 article.

38 ~~21.~~ 26. "Retired member" means a person who is being paid a pension
39 based on the person's credited service as a member of the plan.

40 ~~22.~~ 27. "Segregated funds" means the amount of benefits that would
41 currently be payable to an alternate payee pursuant to a domestic relations
42 order under review by the plan, or a domestic relations order submitted to
43 the plan that failed to qualify as a plan approved ~~qualified~~ domestic
44 relations order, if the domestic relations order were determined to be a plan
45 approved ~~qualified~~ domestic relations order.

1 ~~23.~~ 28. "System" means the public safety personnel retirement system.
2 Sec. 2. Section 38-808, Arizona Revised Statutes, is amended to read:
3 ~~38-808.~~ Pension payments; computation of amounts; termination
4 A. Plan retirement commences on the first day of the month following
5 the date of the member's retirement or death. Pension payments shall be
6 received on or about the first day of the month next following the member's
7 plan retirement. The last pension payment shall be made as of the last day
8 of the month in which the death of the retired member or the surviving spouse
9 or minor children occurs. Pension payments shall not be made in advance.
10 B. The monthly pension shall be equal to one-twelfth of the following
11 amount:
12 1. Four per cent of the member's average yearly salary multiplied by
13 the member's credited service, not to exceed eighty per cent of the member's
14 average yearly salary. This amount shall be reduced if the member takes
15 early retirement pursuant to section 38-805, subsection B. The amount of
16 reduction is three-twelfths of one per cent for each month the retired
17 member's early retirement age precedes the member's normal retirement age
18 pursuant to section 38-805, subsection A, except that the reduction shall not
19 be more than thirty per cent.
20 2. A member who meets the requirements for a disability retirement
21 pension shall receive a disability pension equal to four per cent of the
22 member's average yearly salary multiplied by twenty years of credited service
23 if the member has ten or more years of credited service, four per cent of the
24 member's average yearly salary multiplied by ten years of credited service if
25 the member has five or more years of credited service but fewer than ten
26 years of credited service or four per cent of the member's average yearly
27 salary multiplied by five years of credited service if the member has fewer
28 than five years of credited service.
29 C. THE PLAN SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE
30 INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION.
31 NOTWITHSTANDING ANY OTHER PROVISION OF THIS PLAN, BEGINNING JANUARY 1, 1987
32 PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE
33 CALENDAR YEAR FOLLOWING THE LATER OF:
34 1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF
35 YEARS OF AGE.
36 2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.
37 ~~C.~~ D. If all pension payments terminate before an amount equal to the
38 member's accumulated contributions has been paid, the difference between the
39 member's accumulated contributions and the aggregate amount of pension
40 payments shall be paid to the person or persons and in such shares as
41 designated by the retired member in writing and filed with the fund manager.
42 If the designated person or persons do not survive the retired member, the
43 difference shall be paid to the estate of the retired member.

1 Sec. 3. Title 38, chapter 5, article 3, Arizona Revised Statutes, is
2 amended by adding section 38-810.03, to read:

3 38-810.03. Compensation limitation; adjustments

4 A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR
5 PURPOSES OF THE PLAN SHALL NOT EXCEED THE FOLLOWING:

6 1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED
7 FIFTY THOUSAND DOLLARS.

8 2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

9 B. IF COMPENSATION UNDER THE PLAN IS DETERMINED FOR A PERIOD OF TIME
10 THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR
11 THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING
12 WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE
13 NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE
14 DENOMINATOR IS TWELVE.

15 C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER
16 THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE
17 UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE
18 INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR
19 YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR
20 WITHIN THE CALENDAR YEAR.

21 Sec. 4. Repeal

22 Section 38-812, Arizona Revised Statutes, is repealed.

23 Sec. 5. Title 38, chapter 5, article 3, Arizona Revised Statutes, is
24 amended by adding a new section 38-812, to read:

25 38-812. Maximum annual pension; limitations; definition

26 A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED
27 THE FOLLOWING:

28 1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY
29 THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE
30 MEMBER'S AVERAGE YEARLY SALARY.

31 2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002,
32 NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

33 3. FOR LIMITATION YEARS ENDING IN AND AFTER 2002, ONE HUNDRED SIXTY
34 THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

35 B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED
36 UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE
37 THEN IN EFFECT UNDER THAT SECTION.

38 C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS PLAN
39 MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE PLAN, TO PREVENT
40 DISQUALIFICATION OF THE PLAN UNDER SECTION 415 OF THE INTERNAL REVENUE CODE,
41 WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO MEMBERS WHO
42 ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN OR OTHER PLAN
43 OF THIS STATE. THE PLAN SHALL ADVISE AFFECTED MEMBERS OF ANY ADDITIONAL
44 LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

1 D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE
2 PLAN'S FISCAL YEAR.

3 Sec. 6. Section 38-816, Arizona Revised Statutes, is amended to read:
4 38-816. Redemption of prior service

5 A. Any present active elected official may elect to redeem any part of
6 the following prior service or employment by paying into the fund the amounts
7 required under subsection B of this section if the prior service or
8 employment is not on account with any other retirement system or plan:

9 1. Prior service in this state as an elected official with an employer
10 now covered by the plan before the effective date of participation if the
11 elected official has received a refund from a prior retirement system or plan
12 on termination of employment before the elected official's application for
13 redemption of prior service.

14 2. Prior service in this state as an elected official with an employer
15 now covered by the plan before the effective date of participation if the
16 elected official was not covered by a retirement system or plan during the
17 elected official's prior elected official service.

18 3. Prior service as an elected official of this state or a city, town
19 or county of this state if the elected official was not covered by a
20 retirement system or plan during that service whether or not the city, town
21 or county is an employer now covered by the plan.

22 4. Prior employment with the United States government, a state of the
23 United States or a political subdivision of a state of the United States.

24 B. Any present active elected official who elects to redeem any part
25 of the prior service or employment for which the elected official is deemed
26 eligible by the fund manager under this section shall pay into the plan the
27 amounts previously withdrawn by the elected official as a refund of the
28 elected official's accumulated contributions, if any, plus the additional
29 amount, if any, that is computed by the plan's actuary and that is necessary
30 to equal the increase in the actuarial present value of projected benefits
31 resulting from the redemption calculated using the actuarial methods and
32 assumptions that are prescribed by the plan's actuary.

33 C. ~~Upon~~ ON approval by the governing body of an incorporated city or
34 town ~~which~~ THAT executes a joinder agreement under section 38-815, the city
35 or town may pay into the fund all or any part of the amount sufficient to
36 provide retirement benefits for elected officials or former elected officials
37 for the time of service as an elected official of the city or town ~~prior to~~
38 BEFORE the joinder agreement if no retirement benefits were in effect for
39 elected officials during the time of service being redeemed under this
40 section.

41 D. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY
42 PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE PLAN,
43 A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE
44 DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v)
45 OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE

1 DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
2 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

3 Sec. 7. Section 38-819, Arizona Revised Statutes, is amended to read:

4 38-819. Lump sum payment of benefit increases

5 Notwithstanding any provision of this article, the fund manager, at the
6 request of a retired member, a survivor or the retired member's or survivor's
7 guardian or conservator, may pay any increase in retirement benefits pursuant
8 to this article in a lump sum payment based on the actuarial present value of
9 the increase in the retirement benefits if the payment of the increase in
10 retirement benefits would result in ineligibility for, reduction of or
11 elimination of social service programs provided to the retired member or
12 survivor by this state, a political subdivision of this state or the federal
13 government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR
14 A DIRECT ROLLOVER DISTRIBUTION.

15 Sec. 8. Repeal

16 Section 38-820, Arizona Revised Statutes, is repealed.

17 Sec. 9. Title 38, chapter 5, article 3, Arizona Revised Statutes, is
18 amended by adding a new section 38-820, to read:

19 38-820. Credit for military service

20 A. A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR PERIODS OF
21 ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT
22 EMPLOYER IF:

23 1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.

24 2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
25 CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.

26 3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
27 CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT
28 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

29 4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY
30 SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE
31 ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL
32 CREDITED SERVICE.

33 5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS
34 SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

35 B. AN ACTIVE MEMBER OF THE PLAN WHO VOLUNTEERS OR IS ORDERED TO
36 PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY
37 MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT
38 AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43).
39 THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL
40 MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE
41 MEMBER MEETS THE FOLLOWING REQUIREMENTS:

42 1. WAS AN ACTIVE MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN
43 MILITARY SERVICE.

44 2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR
45 IS A MEMBER OF THE NATIONAL GUARD.

1 3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED
2 STATES CODE SECTION 4312.

3 C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL
4 BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY
5 SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

6 1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

7 2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED
8 HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED
9 HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

10 3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

11 D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE
12 PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH
13 SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT
14 MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY
15 DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD
16 (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR
17 CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

18 E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO
19 SUBSECTION B OF THIS SECTION AS FOLLOWS:

20 1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER
21 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO
22 ACTIVE MILITARY SERVICE.

23 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF
24 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY
25 SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF
26 COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD
27 OF MILITARY SERVICE.

28 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING
29 ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S
30 COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY
31 SERVICE.

32 4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE,
33 NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE
34 MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH
35 CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP
36 SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

37 5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO
38 MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE PLAN
39 PURSUANT TO SECTION 38-810 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE
40 MEMBER WHILE PERFORMING MILITARY SERVICE.

41 F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR
42 THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF
43 MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

44 G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL
45 CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE

1 EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS
2 SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS
3 SECTION.

4 H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF
5 SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS,
6 BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE
7 PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS
8 SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL
9 REVENUE CODE SECTION.

10 Sec. 10. Section 38-842, Arizona Revised Statutes, is amended to read:

11 ~~38-842.~~ Definitions

12 In this article, unless the context otherwise requires:

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

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

24 3. "Actuarial equivalent" means equality in present value of the
25 aggregate amounts expected to be received under two different forms of
26 payment, based on mortality and interest assumptions adopted by the fund
27 manager. ~~The fund manager may from time to time change the mortality and~~
28 ~~interest assumptions.~~

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

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

33 6. "ANNUITANT" MEANS A PERSON WHO IS RECEIVING A BENEFIT PURSUANT TO
34 SECTION 38-846.01.

35 ~~6-~~ 7. "Average monthly benefit compensation" means the result
36 obtained by dividing the total compensation paid to an employee during a
37 considered period by the number of months, including fractional months, in
38 which such compensation was received. The considered period shall be the
39 three consecutive years within the last twenty completed years of credited
40 service that yield the highest average. In the computation under this
41 paragraph, a period of nonpaid or partially paid industrial leave shall be
42 considered based on the compensation the employee would have received in the
43 employee's job classification if the employee was not on industrial leave.

44 ~~7-~~ 8. "Catastrophic disability" means a physical and not a
45 psychological condition that the local board determines prevents the employee

1 from totally and permanently engaging in any gainful employment and that
2 results from a physical injury incurred in the performance of the employee's
3 duty.

4 ~~8-~~ 9. "Certified peace officer" means a peace officer certified by
5 the Arizona peace officers standards and training board.

6 ~~9-~~ 10. "Claimant" means any member or beneficiary who files an
7 application for benefits pursuant to this article.

8 ~~10-~~ 11. "Compensation" means, for the purpose of computing retirement
9 benefits, base salary, overtime pay, shift differential pay, **MILITARY**
10 **DIFFERENTIAL WAGE PAY** and holiday pay paid to an employee by the employer on
11 a regular monthly, semimonthly or biweekly payroll basis and longevity pay
12 paid to an employee at least every six months for which contributions are
13 made to the system pursuant to section 38-843, subsection D. Compensation
14 does not include, for the purpose of computing retirement benefits, payment
15 for unused sick leave, payment in lieu of vacation, payment for compensatory
16 time or payment for any fringe benefits. For the purposes of this paragraph,
17 "base salary" means the amount of compensation each employee is regularly
18 paid for personal services rendered to an employer before the addition of any
19 extra monies, including overtime pay, shift differential pay, holiday pay,
20 longevity pay, fringe benefit pay and similar extra payments.

21 ~~11-~~ 12. "Credited service" means the member's total period of service
22 ~~prior to~~ **BEFORE** the member's effective date of participation, plus those
23 compensated periods of the member's service thereafter for which the member
24 made contributions to the fund.

25 ~~12-~~ 13. "Cure period" means the ninety-day period in which a
26 participant or alternate payee may submit an amended domestic relations order
27 and request a determination, calculated from the time the system issues a
28 determination finding that a previously submitted domestic relations order
29 did not qualify as a plan approved domestic relations order.

30 ~~13-~~ 14. "Depository" means a bank in which all monies of the system
31 are deposited and held and from which all expenditures for benefits, expenses
32 and investments are disbursed.

33 ~~14-~~ 15. "Determination" means a written document that indicates to a
34 participant and alternate payee whether a domestic relations order qualifies
35 as a plan approved domestic relations order.

36 ~~15-~~ 16. "Determination period" means the ninety-day period in which
37 the system must review a domestic relations order that is submitted by a
38 participant or alternate payee to determine whether the domestic relations
39 order qualifies as a plan approved domestic relations order, calculated from
40 the time the system mails a notice of receipt to the participant and
41 alternate payee.

42 **17. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE SYSTEM TO AN ELIGIBLE**
43 **RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTE.**

1 18. "DISTRIBUTE" MEANS A MEMBER, A MEMBER'S SURVIVING SPOUSE OR A
2 MEMBER'S SPOUSE OR FORMER SPOUSE WHO IS THE ALTERNATE PAYEE UNDER A PLAN
3 APPROVED DOMESTIC RELATIONS ORDER.

4 ~~16-~~ 19. "Domestic relations order" means an order of a court of this
5 state that is made pursuant to the domestic relations laws of this state and
6 that creates or recognizes the existence of an alternate payee's right to, or
7 assigns to an alternate payee the right to, receive a portion of the benefits
8 payable to a participant.

9 ~~17-~~ 20. "Effective date of participation" means July 1, 1968, except
10 with respect to employers and their covered employees whose contributions to
11 the fund commence thereafter, the effective date of their participation in
12 the system is as specified in the applicable joinder agreement.

13 ~~18-~~ 21. "Effective date of vesting" means the date a member's rights
14 to benefits vest pursuant to section 38-844.01.

15 ~~19-~~ 22. "Eligible child" means the unmarried child of a deceased
16 member who is under the age of eighteen or a full-time student who is under
17 the age of twenty-three or under a disability that began before the child
18 attained the age of twenty-three and who remains a dependent of the surviving
19 spouse or guardian.

20 ~~20-~~ 23. "Eligible groups" means only the following who are regularly
21 assigned to hazardous duty:

- 22 (a) Municipal police officers who are certified peace officers.
- 23 (b) Municipal fire fighters.
- 24 (c) Paid full-time fire fighters employed directly by a fire district
25 organized pursuant to section 48-803 or 48-804 with three or more full-time
26 fire fighters, but not including fire fighters employed by a fire district
27 pursuant to a contract with a corporation.
- 28 (d) State highway patrol officers who are certified peace officers.
- 29 (e) State fire fighters.
- 30 (f) County sheriffs and deputies who are certified peace officers.
- 31 (g) Game and fish wardens who are certified peace officers.
- 32 (h) Police officers who are certified peace officers and fire fighters
33 of a nonprofit corporation operating a public airport pursuant to sections
34 28-8423 and 28-8424. A police officer shall be designated pursuant to
35 section 28-8426 to aid and supplement state and local law enforcement
36 agencies and a fire fighter's sole duty shall be to perform fire fighting
37 services, including services required by federal regulations.
- 38 (i) Police officers who are certified peace officers and who are
39 appointed by the Arizona board of regents.
- 40 (j) Police officers who are certified peace officers and who are
41 appointed by a community college district governing board.
- 42 (k) State attorney general investigators who are certified peace
43 officers.
- 44 (l) County attorney investigators who are certified peace officers.

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

3 (n) Fire fighters who are employed by an Indian reservation fire
4 fighting agency.

5 (o) Police officers who are certified peace officers and who are
6 appointed by the department of administration.

7 (p) Department of liquor licenses and control investigators who are
8 certified peace officers.

9 (q) Arizona department of agriculture officers who are certified peace
10 officers.

11 (r) Arizona state parks board rangers and managers who are certified
12 peace officers.

13 (s) County park rangers who are certified peace officers.

14 24. "ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING THAT ACCEPTS
15 A DISTRIBUTEE'S ELIGIBLE ROLLOVER DISTRIBUTION:

16 (a) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN SECTION 408(a) OF
17 THE INTERNAL REVENUE CODE.

18 (b) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF
19 THE INTERNAL REVENUE CODE.

20 (c) AN ANNUITY PLAN DESCRIBED IN SECTION 403(a) OF THE INTERNAL
21 REVENUE CODE.

22 (d) A QUALIFIED TRUST DESCRIBED IN SECTION 401(a) OF THE INTERNAL
23 REVENUE CODE.

24 (e) AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE INTERNAL
25 REVENUE CODE.

26 (f) AN ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b)
27 OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, A POLITICAL
28 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
29 POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR
30 AMOUNTS TRANSFERRED INTO THE ELIGIBLE DEFERRED COMPENSATION PLAN FROM THIS
31 PLAN.

32 25. "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A PAYMENT TO A DISTRIBUTEE,
33 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

34 (a) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL
35 PERIODIC PAYMENTS MADE NOT LESS FREQUENTLY THAN ANNUALLY FOR THE LIFE OR LIFE
36 EXPECTANCY OF THE MEMBER OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE
37 MEMBER AND THE MEMBER'S BENEFICIARY OR FOR A SPECIFIED PERIOD OF TEN YEARS OR
38 MORE.

39 (b) ANY DISTRIBUTION TO THE EXTENT THE DISTRIBUTION IS REQUIRED UNDER
40 SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

41 (c) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN GROSS
42 INCOME.

43 ~~21.~~ 26. "Employee" means any person who is employed by a participating
44 employer and who is a member of an eligible group but does not include any
45 persons compensated on a contractual or fee basis. If an eligible group

1 requires certified peace officer status and at the option of the local board,
2 employee may include a person who is training to become a certified peace
3 officer.

4 ~~22-~~ 27. "Employers" means:

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

9 (b) Cities contributing under the state police pension laws as
10 provided in sections 9-911 through 9-934 or statutes amended thereby and
11 antecedent thereto, as of June 30, 1968 on behalf of their municipal
12 policemen.

13 (c) The state highway patrol covered under the state highway patrol
14 retirement system.

15 (d) The state, or any political subdivision of this state, including
16 towns, cities, fire districts, counties and nonprofit corporations operating
17 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
18 participate in the system on behalf of an eligible group of public safety
19 personnel pursuant to a joinder agreement entered into after July 1, 1968.

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

23 ~~23-~~ 28. "Fund" means the public safety personnel retirement fund,
24 which is the fund established to receive and invest contributions accumulated
25 under the system and from which benefits are paid.

26 ~~24-~~ 29. "Fund manager" means the fund manager of the system, who are
27 the persons appointed to invest and operate the fund.

28 ~~25-~~ 30. "Local board" means the retirement board of the employer, who
29 are the persons appointed to administer the system as it applies to their
30 members in the system.

31 ~~26-~~ 31. "Member" means any employee who meets all of the following
32 qualifications:

33 (a) Who is either a full-time paid municipal police officer, a
34 full-time paid fire fighter, a law enforcement officer who is employed by
35 this state including the director thereof, a state fire fighter who is
36 primarily assigned to fire fighting duties, a fire fighter or police officer
37 of a nonprofit corporation operating a public airport pursuant to sections
38 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
39 merit system council, a state attorney general investigator who is a
40 certified peace officer, a county attorney investigator who is a certified
41 peace officer, a police officer who is appointed by the department of
42 administration and who is a certified peace officer, a department of liquor
43 licenses and control investigator who is a certified peace officer, an
44 Arizona department of agriculture officer who is a certified peace officer,
45 an Arizona state parks board ranger or manager who is a certified peace

1 officer, a county park ranger who is a certified peace officer, a person who
2 is a certified peace officer and who is employed by an Indian reservation
3 police agency, a fire fighter who is employed by an Indian reservation fire
4 fighting agency or an employee included in a group designated as eligible
5 employees under a joinder agreement entered into by their employer after July
6 1, 1968 and who is or was regularly assigned to hazardous duty.

7 (b) Who, on or after the employee's effective date of participation,
8 is receiving compensation for personal services rendered to an employer or
9 would be receiving compensation except for an authorized leave of absence.

10 ~~(c) Whose employment with an employer commenced prior to attainment of~~
11 ~~age fifty.~~

12 ~~(d)~~ (c) Whose customary employment is at least forty hours per week
13 and for more than six months in a calendar year.

14 ~~(e)~~ (d) Who has not attained age sixty-five ~~prior to~~ BEFORE the
15 employee's effective date of participation or who was over age sixty-five
16 with twenty-five years or more of service prior to the employee's effective
17 date of participation.

18 ~~27.~~ 32. "Normal retirement date" means the first day of the calendar
19 month immediately following an employee's completion of twenty years of
20 service or the employee's sixty-second birthday and the employee's completion
21 of fifteen years of service.

22 ~~28.~~ 33. "Notice of receipt" means a written document that is issued by
23 the system to a participant and alternate payee and that states that the
24 system has received a domestic relations order and a request for a
25 determination that the domestic relations order is a plan approved domestic
26 relations order.

27 ~~29.~~ 34. "Ordinary disability" means a physical condition that the
28 local board determines will prevent an employee totally and permanently from
29 performing a reasonable range of duties within the employee's department or a
30 mental condition that the local board determines will prevent an employee
31 totally and permanently from engaging in any substantial gainful activity.

32 ~~30.~~ 35. "Participant" means a member who is subject to a domestic
33 relations order.

34 ~~31.~~ 36. "Participant's portion" means benefits that are payable to a
35 participant pursuant to a plan approved domestic relations order.

36 ~~32.~~ 37. "Pension" means a series of monthly amounts that are payable
37 to a person who is entitled to receive benefits under the plan **BUT DOES NOT**
38 **INCLUDE AN ANNUITY THAT IS PAYABLE PURSUANT TO SECTION 38-846.01.**

39 ~~33.~~ 38. "Personal representative" means the personal representative of
40 a deceased alternate payee.

41 ~~34.~~ 39. "Plan approved domestic relations order" means a domestic
42 relations order that the system approves as meeting all the requirements for
43 a plan approved domestic relations order as otherwise prescribed in this
44 article.

1 ~~35-~~ 40. "Regularly assigned to hazardous duty" means regularly
2 assigned to duties of the type normally expected of municipal police
3 officers, municipal or state fire fighters, eligible fire district fire
4 fighters, state highway patrol officers, county sheriffs and deputies, fish
5 and game wardens, fire fighters and police officers of a nonprofit
6 corporation operating a public airport pursuant to sections 28-8423 and
7 28-8424, police officers who are appointed by the Arizona board of regents or
8 a community college district governing board, state attorney general
9 investigators who are certified peace officers, county attorney investigators
10 who are certified peace officers, police officers who are appointed by the
11 department of administration and who are certified peace officers, department
12 of liquor licenses and control investigators who are certified peace
13 officers, Arizona department of agriculture officers who are certified peace
14 officers, Arizona state parks board rangers and managers who are certified
15 peace officers, county park rangers who are certified peace officers, police
16 officers who are certified peace officers and who are employed by an Indian
17 reservation police agency or fire fighters who are employed by an Indian
18 reservation fire fighting agency. Those individuals who are assigned solely
19 to support duties such as secretaries, stenographers, clerical personnel,
20 clerks, cooks, maintenance personnel, mechanics and dispatchers are not
21 assigned to hazardous duty regardless of their position classification
22 title. Since the normal duties of those jobs described in this paragraph are
23 constantly changing, questions as to whether a person is or was previously
24 regularly assigned to hazardous duty shall be resolved by the local board on
25 a case-by-case basis. Resolutions by local boards are subject to rehearing
26 and appeal.

27 ~~36-~~ 41. "Retirement" means termination of employment after a member
28 has fulfilled all requirements for a pension. Retirement shall be considered
29 as commencing on the first day of the month immediately following a member's
30 last day of employment or authorized leave of absence, if later.

31 ~~37-~~ 42. "Segregated funds" means the amount of benefits that would
32 currently be payable to an alternate payee pursuant to a domestic relations
33 order under review by the system, or a domestic relations order submitted to
34 the system that failed to qualify as a plan approved domestic relations
35 order, if the domestic relations order were determined to be a plan approved
36 domestic relations order.

37 ~~38-~~ 43. "Service" means the last period of continuous employment of an
38 employee by the employers ~~prior to~~ BEFORE the employee's retirement ~~or the~~
39 ~~employee's sixty-fifth birthday, whichever first occurs~~, except that if such
40 period includes employment during which the employee would not have qualified
41 as a member had the system then been effective, such as employment as a
42 volunteer fire fighter, then only twenty-five per cent of such noncovered
43 employment shall be considered as service. Any absence that is authorized by
44 an employer shall not be considered as interrupting continuity of employment
45 if the employee returns within the period of authorized absence. Transfers

1 between employers also shall not be considered as interrupting continuity of
2 employment. Any period during which a member is receiving sick leave
3 payments or a temporary disability pension shall be considered as service.
4 Notwithstanding any other provision of this paragraph, any period during
5 which a person was employed as a full-time paid fire fighter for a
6 corporation that contracted with an employer to provide firefighting services
7 on behalf of the employer shall be considered as service if the employer has
8 elected at its option to treat part or all of the period the firefighter
9 worked for the company as service in its applicable joinder agreement. Any
10 reference in this system to the number of years of service of an employee
11 shall be deemed to include fractional portions of a year.

12 ~~39.~~ 44. "State" means the state of Arizona, including any department,
13 office, board, commission, agency or other instrumentality of the state.

14 ~~40.~~ 45. "System" means the public safety personnel retirement system
15 established by this article.

16 ~~41.~~ 46. "Temporary disability" means a physical or mental condition
17 that the local board finds totally and temporarily prevents an employee from
18 performing a reasonable range of duties within the employee's department and
19 that was incurred in the performance of the employee's duty.

20 Sec. 11. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
21 amended by adding section 38-843.04, to read:

22 ~~38-843.04.~~ 38-843.04. Compensation limitation; adjustments

23 A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR
24 PURPOSES OF THE SYSTEM SHALL NOT EXCEED THE FOLLOWING:

25 1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED
26 FIFTY THOUSAND DOLLARS.

27 2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

28 B. IF COMPENSATION UNDER THE SYSTEM IS DETERMINED ON A PERIOD OF TIME
29 THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR
30 THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING
31 WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE
32 NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE
33 DENOMINATOR IS TWELVE.

34 C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER
35 THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE
36 UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE
37 INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR
38 YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR
39 WITHIN THE CALENDAR YEAR.

40 Sec. 12. Section 38-844, Arizona Revised Statutes, is amended to read:

41 ~~38-844.~~ 38-844. Requirements for retirement benefits and disability
42 pensions

43 A. A member shall be eligible for a normal pension ~~upon~~ ON retirement
44 on or after the member's normal retirement date. Payment of a normal pension
45 shall commence as of the first day of the month following the date of

1 retirement, and the last payment shall be made as of the last day of the
2 month in which the death of the retired member occurs.

3 B. A member is eligible for an accidental disability pension if the
4 member's employment is terminated by reason of accidental disability. A
5 member is eligible for an ordinary disability pension if the member's
6 employment is terminated before the member's normal retirement date by reason
7 of ordinary disability. A member shall file an application for a disability
8 pension after the disabling incident or within one year after the date the
9 member ceases to be an employee. Timely application for an accidental,
10 catastrophic or ordinary disability pension is a prerequisite to receipt of
11 the pension. Payment of an accidental, catastrophic or ordinary disability
12 pension shall commence as of the first day of the month following the date of
13 retirement or the expiration of a period during which the member is receiving
14 sick leave payments or a temporary disability pension, whichever is later.
15 The last payment shall be made as of the last day of the month in which the
16 death of the retired member occurs, or if disability ceases ~~prior to~~ BEFORE
17 the member's normal retirement date, the first day of the month in which
18 disability ceases.

19 C. A member is eligible for a catastrophic disability pension if the
20 member's employment is terminated by reason of catastrophic disability. If
21 more than the allowable catastrophic disability pensions are approved by the
22 local boards in a calendar year, from and after December 31 of the following
23 calendar year a member of the system is not eligible to apply for a
24 catastrophic disability pension. On or before January 31, the fund manager
25 shall report to the president of the senate and the speaker of the house of
26 representatives the number of catastrophic disability pensions that were
27 approved by the local boards in the preceding calendar year. For the
28 purposes of this subsection, "allowable catastrophic disability pensions"
29 means for calendar year 2004, ten, and for subsequent calendar years the
30 number of allowable catastrophic disability pensions allowed in the prior
31 calendar year minus the number of catastrophic disability pensions approved
32 by the local boards in the prior calendar year plus four.

33 D. Notwithstanding any other provision of this section, no member
34 shall qualify for an accidental, catastrophic or ordinary disability pension
35 if the local board determines that the member's disability results from the
36 following:

37 1. An injury suffered while engaged in a felonious criminal act or
38 enterprise.

39 2. Service in the armed forces of the United States ~~which~~ THAT
40 entitles the member to a veteran's disability pension.

41 3. A physical or mental condition or injury that existed or occurred
42 ~~prior to~~ BEFORE the member's date of membership in the system.

43 E. Accidental or ordinary disability shall be considered to have
44 ceased and an accidental or ordinary disability pension terminates if the
45 member:

1 1. Has sufficiently recovered, in the opinion of the local board,
2 based on a medical examination by a physician or clinic appointed by the
3 local board, to be able to engage in a reasonable range of duties within the
4 member's department and the member refuses an offer of employment by an
5 employer in the system.

6 2. Refuses to undergo any medical examination requested by the board,
7 provided that a medical examination shall not be required more frequently
8 than once in any calendar year.

9 F. Sixty months after the award of a catastrophic disability pension,
10 the local board shall reevaluate the member. If the member still qualifies
11 for the catastrophic disability pension, the member is entitled to continue
12 to receive the pension at the reduced amount prescribed in section 38-845,
13 subsection E. A catastrophic disability shall be considered to have ceased
14 and a catastrophic disability pension terminates if the local board
15 determines that the member has sufficiently recovered and is able to engage
16 in gainful employment based on a medical examination by a physician or a
17 clinic appointed by the local board. After the sixty month review, the
18 catastrophic disability shall be considered to have ceased and a catastrophic
19 disability pension terminates if the local board determines that the member
20 has sufficiently recovered and is able to engage in gainful employment based
21 on a medical examination by a physician or a clinic appointed by the local
22 board, except that the medical examination shall not be required more
23 frequently than once in a calendar year. The medical review after the sixty
24 month period does not apply after the date the catastrophic disability
25 pensioner would have attained twenty-five years of service assuming the
26 pensioner remained a member of the system. The local board shall also
27 terminate a catastrophic disability pension if the member refuses to undergo
28 any medical examination requested by the board. A member whose catastrophic
29 disability pension is terminated may apply for and if eligible is entitled to
30 receive an accidental disability pension as provided in this section.

31 G. Subsection E of this section does not apply after a disability
32 pensioner's normal retirement date. The amount of a disability pension shall
33 not be recomputed at a disability pensioner's normal retirement date.

34 H. An ordinary disability pension shall be reduced in the period ~~prior~~
35 ~~to~~ BEFORE the member's normal retirement date if the member engages in any
36 employment and if the member's income from this employment is greater than
37 the member's pension unreduced by this subsection. The amount of the
38 reduction shall be equal to the difference between the member's income from
39 employment and the member's unreduced pension. The local board shall have
40 the right to suspend payments of an ordinary disability pension if the
41 disabled member fails to report earned income. Such suspension shall be for
42 the period there is no satisfactory report with restoration of benefits ~~upon~~
43 ON acceptance of such report or until the member's normal retirement date,
44 whichever occurs earlier. If, in the opinion of the local board, the
45 reduction provided in this subsection is insufficient to recover monies

1 previously paid to a member, each local board, in its sole discretion, may
2 bring an action to recover any outstanding balance due, notwithstanding any
3 other rights the local board possesses.

4 I. If accidental or ordinary disability ceases before a retired member
5 attains the member's normal retirement date and the member is reemployed by
6 an employer, the pension payable ~~upon~~ ON the member's subsequent retirement
7 shall be determined as provided in section 38-849, subsection D.

8 J. A member shall be eligible for a temporary disability pension if
9 the member's employment is terminated ~~prior to~~ BEFORE the member's normal
10 retirement date by reason of temporary disability. Payment of a temporary
11 disability pension shall commence as of the first day of the month following
12 the date of disability or the expiration of a period during which the member
13 is receiving compensation and sick leave payments, whichever is later. The
14 last payment shall be made as of the first day of the month in which either
15 the death of the member occurs or the local board deems the member is no
16 longer under temporary disability, whichever first occurs, provided that no
17 more than twelve monthly temporary disability payments shall be made in total
18 to the member.

19 K. If ~~upon~~ ON the expiration of a temporary disability pension the
20 local board finds ~~upon~~ ON application that the member has an accidental or
21 ordinary disability, the member shall be eligible for an accidental or
22 ordinary disability pension, as provided in this section.

23 L. THE SYSTEM SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE
24 INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION.
25 NOTWITHSTANDING ANY OTHER PROVISION OF THE SYSTEM, BEGINNING JANUARY 1, 1987
26 PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE
27 CALENDAR YEAR FOLLOWING THE LATER OF:

28 1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF
29 YEARS OF AGE.

30 2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

31 Sec. 13. Section 38-844.03, Arizona Revised Statutes, is amended to
32 read:

33 38-844.03. Eligibility; participation

34 A. Any member who is eligible for a normal pension pursuant to section
35 38-844, subsection A and who has at least twenty years of credited service is
36 eligible to participate in the deferred retirement option plan. In addition,
37 any member who is subject to section 38-858, subsection ~~C~~ B is eligible to
38 participate in the deferred retirement option plan retroactive to the
39 member's twentieth year of credited service or on the day before the member
40 began ~~active~~ military service, whichever is later, if the member makes the
41 election pursuant to this section on or before resuming employment with the
42 member's employer.

43 B. A member who elects to participate in the deferred retirement
44 option plan shall voluntarily and irrevocably:

1 1. Designate a period of participation that is not more than sixty
2 consecutive months.

3 2. Beginning on the date the member elects to participate in the
4 deferred retirement option plan, cease to accrue benefits under any other
5 provision of this article. The member's effective date of participation is
6 the first day of the month following the date the member elects to
7 participate.

8 3. Have deferred retirement option plan benefits credited to a
9 deferred retirement option plan participation account pursuant to section
10 38-844.05.

11 4. Receive benefits from the system on termination of employment at
12 the same time and in the same manner as otherwise prescribed in this article.

13 5. Agree to terminate employment on completion of the deferred
14 retirement option plan participation period designated by the member on the
15 appropriate deferred retirement option plan participation form.

16 C. If a member fails to terminate employment on completion of the
17 designated deferred retirement option plan participation period:

18 1. The member is not entitled to the interest accumulation on the
19 deferred retirement option plan participation account.

20 2. The deferred retirement option plan participation account shall not
21 be credited with the monthly amount prescribed in section 38-844.05,
22 subsection C, paragraph 1 and that amount shall not be paid directly to the
23 member.

24 3. The payment prescribed in section 38-844.08, subsection A,
25 paragraph 1 shall not be paid until the member terminates employment and is
26 payable at the same time as the pension amount is paid on retirement.

27 4. The member does not acquire any further credited service in the
28 system.

29 Sec. 14. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
30 amended by adding section 38-845.01, to read:

31 38-845.01. Maximum annual pension; limitations; definition

32 A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED
33 THE FOLLOWING:

34 1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY
35 THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE
36 MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION.

37 2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002,
38 NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

39 3. FOR LIMITATION YEARS ENDING IN AND AFTER 2002, ONE HUNDRED SIXTY
40 THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

41 B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED
42 UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE
43 THEN IN EFFECT UNDER THAT SECTION.

44 C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS SYSTEM
45 MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE SYSTEM, TO

1 PREVENT DISQUALIFICATION OF THE SYSTEM UNDER SECTION 415 OF THE INTERNAL
2 REVENUE CODE, WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO
3 MEMBERS WHO ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN
4 OR OTHER PLAN OF THIS STATE. THE SYSTEM SHALL ADVISE AFFECTED MEMBERS OF ANY
5 ADDITIONAL LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

6 D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE
7 SYSTEM'S FISCAL YEAR.

8 Sec. 15. Section 38-846.01, Arizona Revised Statutes, is amended to
9 read:

10 38-846.01. Deferred annuity

11 If any member who has at least ten years of credited service terminates
12 ~~his~~ employment for reasons other than retirement or disability, ~~he~~ THE MEMBER
13 may elect to receive a deferred ~~retirement allowance~~ ANNUITY, except that if
14 the ~~member~~ ANNUITANT withdraws all or part of ~~his~~ THE ANNUITANT'S accumulated
15 contributions IN THE SYSTEM all ~~his~~ rights in and to a deferred ~~retirement~~
16 ~~allowance~~ ANNUITY shall be forfeited by ~~him and he ceases to be a member~~ THE
17 ANNUITANT. A deferred ~~retirement allowance shall be a life-time~~ ANNUITY IS A
18 LIFETIME monthly ~~pension~~ PAYMENT actuarially equivalent to the ~~member's~~
19 ANNUITANT'S accumulated contributions IN THE SYSTEM plus an equal amount paid
20 by the employer and shall commence on application on or after the
21 sixty-second birthday of the ~~member~~ ANNUITANT. THE ANNUITY IS NOT A
22 RETIREMENT BENEFIT AND ANNUITANTS ARE NOT ENTITLED TO RECEIVE ANY AMOUNT
23 PRESCRIBED BY SECTION 38-845, SUBSECTION F, OR SECTION 38-846, 38-856 OR
24 38-857.

25 Sec. 16. Section 38-849, Arizona Revised Statutes, is amended to read:

26 38-849. Limitations on receiving pension: violation:
27 classification: reemployment after severance:
28 reinstatement of service credits: reemployment of
29 retired or disabled member

30 A. If a member is convicted of, or discharged because of, theft,
31 embezzlement, fraud or misappropriation of an employer's property or property
32 under the control of the employer, the member shall be subject to restitution
33 and fines imposed by a court of competent jurisdiction. The court may order
34 the restitution or fines to be paid from any payments otherwise payable to
35 the member from the retirement system.

36 B. A person who knowingly makes any false statement or who falsifies
37 or permits to be falsified any record of the system with an intent to defraud
38 the system is guilty of a class 6 felony. If any change or error in the
39 records results in any member or beneficiary receiving from the system more
40 or less than the member or beneficiary would have been entitled to receive
41 had the records been correct, the local board shall correct such error, and
42 as far as practicable shall adjust the payments in such manner that the
43 actuarial equivalent of the benefit to which such member or beneficiary was
44 correctly entitled shall be paid. If a member is convicted of a crime
45 specified in this subsection the member shall be entitled to receive a lump

1 sum payment of the member's accumulated contributions but forfeits any future
2 compensation and benefits ~~which~~ THAT would otherwise accrue to the member or
3 the member's estate under this article.

4 C. If a member who received a severance refund ~~upon~~ ON termination of
5 employment, as provided in section 38-846.02, is subsequently reemployed by
6 an employer, the member's prior service credits shall be cancelled and
7 service shall be credited only from the date the member's most recent
8 reemployment period commenced. However, if the former member's reemployment
9 with the same employer occurred within two years after the former member's
10 termination date, and, within ninety days after reemployment the former
11 member signs a written election consenting to reimburse the fund within one
12 year, the former member shall be required to redeposit the amount withdrawn
13 at the time of the former member's separation from service, with interest
14 thereon at the rate of nine per cent for each year compounded each year from
15 the date of withdrawal to the date of repayment. ~~Upon~~ ON satisfaction of
16 this obligation the member's prior service credits shall be reinstated.

17 D. IF A RETIRED MEMBER BECOMES EMPLOYED IN ANY CAPACITY BY THE
18 EMPLOYER FROM WHICH THE MEMBER RETIRED BEFORE SIXTY CONSECUTIVE DAYS AFTER
19 THE MEMBER'S DATE OF RETIREMENT, THE SYSTEM SHALL NOT MAKE PENSION PAYMENTS
20 TO THE RETIRED MEMBER DURING THE PERIOD OF REEMPLOYMENT. If a retired member
21 is reemployed by an employer, no contributions shall be made on the retired
22 member's account, nor any service credited, during the period of ~~such~~ THE
23 reemployment. THE FUND MANAGER SHALL REVIEW ALL REEMPLOYMENT DETERMINATIONS.
24 Notwithstanding this subsection, if a retired member subsequently becomes
25 employed in the same position by the employer from which the member retired,
26 the system shall not make pension payments to the retired member during the
27 period of reemployment. On subsequent termination of employment by the
28 retired member, the retired member is entitled to receive a pension based on
29 the member's service and compensation before the date of the member's
30 reemployment. If a member who retired under disability is reemployed by an
31 employer as an employee, that member shall be treated as if the member had
32 been on an uncompensated leave of absence during the period of the member's
33 disability retirement and shall be a contributing member of the system. For
34 the purposes of this subsection, "same position" means the member is in a
35 position where the member performs ~~duties and exercises authority that are~~
36 ~~the same duties that were performed and the same authority that was exercised~~
37 ~~by the member before the member's retirement.~~ SUBSTANTIALLY SIMILAR DUTIES
38 THAT WERE PERFORMED AND EXERCISES SUBSTANTIALLY SIMILAR AUTHORITY THAT WAS
39 EXERCISED BY THE RETIRED MEMBER BEFORE RETIREMENT.

40 E. A person who defrauds the system or who takes, converts, steals or
41 embezzles monies owned by or from the system and who fails or refuses to
42 return the monies to the system on the fund manager's written request is
43 subject to civil suit by the system in the superior court ~~of~~ IN Maricopa
44 county. On entry of an order finding the person has defrauded the system or
45 taken, converted, stolen or embezzled monies owned by or from the system, the

1 court shall enter an order against that person and for the system awarding
2 the system all of its costs and expenses of any kind, including attorney
3 fees, that were necessary to successfully prosecute the action. The court
4 shall also grant the system a judicial lien on all of the nonexempt property
5 of the person against whom judgment is entered pursuant to this subsection in
6 an amount equal to all amounts awarded to the system, plus interest at the
7 rate prescribed by section 44-1201, subsection A, until all amounts owed are
8 paid to the system.

9 F. Notwithstanding any other provision of this article, the fund
10 manager may offset against any benefits otherwise payable by the system to an
11 active or retired member or survivor any court ordered amounts awarded to the
12 fund manager and system and assessed against the member or survivor.

13 Sec. 17. Section 38-853.01, Arizona Revised Statutes, is amended to
14 read:

15 38-853.01. Redemption of prior service

16 A. Each present active member of the system may elect to redeem any
17 part of the following prior service or employment by paying into the system
18 any amounts required under subsection B if the prior service or employment is
19 not on account with any other retirement system:

20 1. Prior service in this state as an employee with an employer now
21 covered by the system or prior service with an agency of the United States
22 government, a state of the United States or a political subdivision of a
23 state of the United States as a full-time paid firefighter or full-time paid
24 certified peace officer.

25 2. Subject to any limitations prescribed by federal law, prior
26 employment as an employee with a corporation that contracted with an employer
27 now covered by the system to provide firefighting services on behalf of that
28 employer as a full-time paid firefighter.

29 B. Any present active member who elects to redeem any part of the
30 prior service or employment for which the employee is deemed eligible by the
31 fund manager under this section shall pay into the system the amounts
32 previously withdrawn by the member, if any, as a refund of the member's
33 accumulated contributions plus accumulated interest as determined by the fund
34 manager and the additional amount, if any, computed by the system's actuary
35 ~~which~~ THAT is necessary to equal the increase in the actuarial present value
36 of projected benefits resulting from the redemption calculated using the
37 actuarial methods and assumptions prescribed by the system's actuary.

38 C. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY
39 PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE
40 SYSTEM, A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE
41 DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v)
42 OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE
43 DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
44 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

1 Sec. 18. Section 38-856.01, Arizona Revised Statutes, is amended to
2 read:

3 38-856.01. Lump sum payment of benefit increases

4 Notwithstanding any provision of this article, the fund manager, at the
5 request of a retired member, a survivor or the retired member's or survivor's
6 guardian or conservator, may pay any increase in retirement benefits pursuant
7 to this article in a lump sum payment based on the actuarial present value of
8 the increase in the retirement benefits if the payment of the increase in
9 retirement benefits would result in ineligibility for, reduction of or
10 elimination of social service programs provided to the retired member or
11 survivor by this state, a political subdivision of this state or the federal
12 government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR
13 A DIRECT ROLLOVER DISTRIBUTION.

14 Sec. 19. Repeal

15 Section 38-858, Arizona Revised Statutes, is repealed.

16 Sec. 20. Title 38, chapter 5, article 4, Arizona Revised Statutes, is
17 amended by adding a new section 38-858, to read:

18 38-858. Credit for military service

19 A. A MEMBER OF THE SYSTEM MAY RECEIVE CREDITED SERVICE FOR PERIODS OF
20 ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT
21 EMPLOYER IF:

22 1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.

23 2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
24 CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.

25 3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
26 CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT
27 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.

28 4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY
29 SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE
30 ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL
31 CREDITED SERVICE.

32 5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS
33 SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

34 B. AN ACTIVE MEMBER OF THE SYSTEM WHO VOLUNTEERS OR IS ORDERED TO
35 PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY
36 MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT
37 AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43).
38 THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL
39 MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE
40 MEMBER MEETS THE FOLLOWING REQUIREMENTS:

41 1. WAS AN ACTIVE MEMBER OF THE SYSTEM ON THE DAY BEFORE THE MEMBER
42 BEGAN MILITARY SERVICE.

43 2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR
44 IS A MEMBER OF THE NATIONAL GUARD.

1 3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED
2 STATES CODE SECTION 4312.

3 C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL
4 BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY
5 SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

6 1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

7 2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED
8 HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED
9 HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

10 3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

11 D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE
12 PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH
13 SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT
14 MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY
15 DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD
16 (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR
17 CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

18 E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO
19 SUBSECTION B OF THIS SECTION AS FOLLOWS:

20 1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER
21 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO
22 ACTIVE MILITARY SERVICE.

23 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF
24 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY
25 SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF
26 COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD
27 OF MILITARY SERVICE.

28 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING
29 ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S
30 COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY
31 SERVICE.

32 4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE,
33 NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE
34 MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH
35 CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP
36 SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

37 5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO
38 MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE SYSTEM
39 PURSUANT TO SECTION 38-843 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE
40 MEMBER WHILE PERFORMING MILITARY SERVICE.

41 F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR
42 THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF
43 MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

44 G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL
45 CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE

1 EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS
2 SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS
3 SECTION.

4 H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF
5 SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS,
6 BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE
7 PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS
8 SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL
9 REVENUE CODE SECTION.

10 Sec. 21. Section 38-881, Arizona Revised Statutes, as amended by Laws
11 2008, chapter 144, section 1 and chapter 185, section 1, is amended to read:
12 ~~38-881.~~ Definitions

13 In this article, unless the context otherwise requires:

14 1. "Accidental disability" means a physical or mental condition that
15 the local board finds totally and permanently prevents an employee from
16 performing a reasonable range of duties within the employee's department, was
17 incurred in the performance of the employee's duties and was the result of
18 any of the following:

19 (a) Physical contact with inmates, prisoners, parolees or persons on
20 probation.

21 (b) Responding to a confrontational situation with inmates, prisoners,
22 parolees or persons on probation.

23 (c) A job related motor vehicle accident while on official business
24 for the employee's employer. A job related motor vehicle accident does not
25 include an accident that occurs on the way to or from work. Persons found
26 guilty of violating a personnel rule, a rule established by the employee's
27 employer or a state or federal law in connection with a job related motor
28 vehicle accident do not meet the conditions for accidental disability.

29 2. "Accumulated member contributions" means the sum of all member
30 contributions deducted from a member's salary and paid to the fund, plus
31 member contributions transferred to the fund by another retirement plan
32 covering public employees of this state, plus previously withdrawn
33 accumulated member contributions that are repaid to the fund in accordance
34 with this article, minus any benefits paid to or on behalf of a member.

35 3. "ACTUARIAL EQUIVALENT" MEANS EQUALITY IN PRESENT VALUE OF THE
36 AGGREGATE AMOUNTS EXPECTED TO BE RECEIVED UNDER TWO DIFFERENT FORMS OF
37 PAYMENT, BASED ON MORTALITY AND INTEREST ASSUMPTIONS ADOPTED BY THE FUND
38 MANAGER.

39 ~~3-~~ 4. "Alternate payee" means the spouse or former spouse of a
40 participant as designated in a domestic relations order.

41 ~~4-~~ 5. "Alternate payee's portion" means benefits that are payable to
42 an alternate payee pursuant to a plan approved domestic relations order.

43 ~~5-~~ 6. "Average monthly salary" means one-thirty-sixth of the
44 aggregate amount of salary that is paid a member by a participating employer
45 during a period of thirty-six consecutive months of service in which the

1 member received the highest salary within the last one hundred twenty months
2 of service. Average monthly salary means the aggregate amount of salary that
3 is paid a member divided by the member's months of service if the member has
4 less than thirty-six months of service. In the computation under this
5 paragraph, a period of nonpaid or partially paid industrial leave shall be
6 considered based on the salary the employee would have received in the
7 employee's job classification if the employee was not on industrial leave.

8 ~~6-~~ 7. "Beneficiary" means an individual who is being paid or who has
9 entitlement to the future payment of a pension on account of a reason other
10 than the individual's membership in the retirement plan.

11 ~~7-~~ 8. "Claimant" means a member, beneficiary or estate that files an
12 application for benefits with the retirement plan.

13 ~~8-~~ 9. "Credited service" means credited service transferred to the
14 retirement plan from another retirement system or plan for public employees
15 of this state, plus those compensated periods of service as a member of the
16 retirement plan for which member contributions are on deposit in the fund.

17 ~~9-~~ 10. "Cure period" means the ninety-day period in which a
18 participant or alternate payee may submit an amended domestic relations order
19 and request a determination, calculated from the time the plan issues a
20 determination finding that a previously submitted domestic relations order
21 did not qualify as a plan approved domestic relations order.

22 ~~10-~~ 11. "Designated position" means:

23 (a) For a county:

24 (i) A county detention officer.

25 (ii) A nonuniformed employee of a sheriff's department whose primary
26 duties require direct contact with inmates.

27 (b) For the state department of corrections and the department of
28 juvenile corrections, only the following specifically designated positions:

29 (i) Food service.

30 (ii) Nursing personnel.

31 (iii) Corrections physician assistant.

32 (iv) Therapist.

33 (v) Corrections dental assistant.

34 (vi) Hygienist.

35 (vii) Corrections medical assistant.

36 (viii) Correctional service officer, including assistant deputy
37 warden, deputy warden, warden and superintendent.

38 (ix) State correctional program officer.

39 (x) Parole or community supervision officers.

40 (xi) Investigators.

41 (xii) Teachers.

42 (xiii) Institutional maintenance workers.

43 (xiv) Youth corrections officer.

44 (xv) Youth program officer.

45 (xvi) Behavioral health treatment unit managers.

1 (xvii) The director and assistant directors of the department of
2 juvenile corrections and the superintendent of the state educational system
3 for committed youth.

4 (xviii) The director, deputy directors and assistant directors of the
5 state department of corrections.

6 (xix) Other positions designated by the local board of the state
7 department of corrections or the local board of the department of juvenile
8 corrections pursuant to section 38-891.

9 (c) For a city or town, a city or town detention officer.

10 (d) For an employer of an eligible group as defined in section 38-842,
11 full-time dispatchers.

12 (e) For the judiciary, probation, surveillance and juvenile detention
13 officers and those positions designated by the local board of the judiciary
14 pursuant to section 38-891.

15 (f) For the department of public safety, state detention officers.

16 ~~11-~~ 12. "Determination" means a written document that indicates to a
17 participant and alternate payee whether a domestic relations order qualifies
18 as a plan approved domestic relations order.

19 ~~12-~~ 13. "Determination period" means the ninety-day period in which
20 the plan must review a domestic relations order that is submitted by a
21 participant or alternate payee to determine whether the domestic relations
22 order qualifies as a plan approved domestic relations order, calculated from
23 the time the plan mails a notice of receipt to the participant and alternate
24 payee.

25 14. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE PLAN TO AN ELIGIBLE
26 RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTE.

27 15. "DISTRIBUTE" MEANS A MEMBER, A MEMBER'S SURVIVING SPOUSE OR A
28 MEMBER'S SPOUSE OR FORMER SPOUSE WHO IS THE ALTERNATE PAYEE UNDER A PLAN
29 APPROVED DOMESTIC RELATIONS ORDER.

30 ~~13-~~ 16. "Domestic relations order" means an order of a court of this
31 state that is made pursuant to the domestic relations laws of this state and
32 that creates or recognizes the existence of an alternate payee's right to, or
33 assigns to an alternate payee the right to, receive a portion of the benefits
34 payable to a participant.

35 17. "ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING THAT ACCEPTS
36 A DISTRIBUTE'S ELIGIBLE ROLLOVER DISTRIBUTION:

37 (a) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN SECTION 408(a) OF
38 THE INTERNAL REVENUE CODE.

39 (b) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF
40 THE INTERNAL REVENUE CODE.

41 (c) AN ANNUITY PLAN DESCRIBED IN SECTION 403(a) OF THE INTERNAL
42 REVENUE CODE.

43 (d) A QUALIFIED TRUST DESCRIBED IN SECTION 401(a) OF THE INTERNAL
44 REVENUE CODE.

1 (e) AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE INTERNAL
2 REVENUE CODE.

3 (f) AN ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b)
4 OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, A POLITICAL
5 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
6 POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR
7 AMOUNTS TRANSFERRED INTO THE ELIGIBLE DEFERRED COMPENSATION PLAN FROM THIS
8 PLAN.

9 18. "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A PAYMENT TO A DISTRIBUTE, BUT NOT INCLUDE ANY OF THE FOLLOWING:

10 (a) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL
11 PERIODIC PAYMENTS MADE NOT LESS FREQUENTLY THAN ANNUALLY FOR THE LIFE OR LIFE
12 EXPECTANCY OF THE MEMBER OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE
13 MEMBER AND THE MEMBER'S BENEFICIARY OR FOR A SPECIFIED PERIOD OF TEN YEARS OR
14 MORE.

15 (b) ANY DISTRIBUTION TO THE EXTENT THE DISTRIBUTION IS REQUIRED UNDER
16 SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

17 (c) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN GROSS
18 INCOME.

19 ~~14-~~ 19. "Employee" means a person determined by the local board to be
20 employed by a participating employer in a designated position.

21 ~~15-~~ 20. "Employer" means an agency or department of this state or a
22 political subdivision of this state that has one or more employees in a
23 designated position.

24 ~~16-~~ 21. "Fund" means the corrections officer retirement plan fund.

25 ~~17-~~ 22. "Fund manager" means the fund manager of the public safety
26 personnel retirement system.

27 ~~18-~~ 23. "Juvenile detention officer" means a juvenile detention
28 officer responsible for the direct custodial supervision of juveniles who are
29 detained in a county juvenile detention center.

30 ~~19-~~ 24. "Local board" means the retirement board of the employer that
31 consists of persons appointed or elected to administer the plan as it applies
32 to the employer's members in the plan.

33 ~~20-~~ 25. "Member" means any employee who meets all of the following
34 qualifications:

35 (a) Who is a full-time paid person employed by a participating
36 employer in a designated position.

37 (b) Who is receiving salary for personal services rendered to a
38 participating employer or would be receiving salary except for an authorized
39 leave of absence.

40 (c) Whose customary employment is at least forty hours each week and
41 for more than six months in a calendar year.

42 ~~21-~~ 26. "Normal retirement date" means the first day of the calendar
43 month immediately following an employee's completion of twenty years of
44 service or, in the case of a dispatcher, twenty-five years of service, the
45

1 employee's sixty-second birthday and completion of ten years of service or
2 the month in which the sum of the employee's age and years of credited
3 service equals eighty.

4 ~~22-~~ 27. "Notice of receipt" means a written document that is issued by
5 the plan to a participant and alternate payee and that states that the plan
6 has received a domestic relations order and a request for a determination
7 that the domestic relations order is a plan approved domestic relations
8 order.

9 ~~23-~~ 28. "Participant" means a member who is subject to a domestic
10 relations order.

11 ~~24-~~ 29. "Participant's portion" means benefits that are payable to a
12 participant pursuant to a plan approved domestic relations order.

13 ~~25-~~ 30. "Participating employer" means an employer that the fund
14 manager has determined to have one or more employees in a designated position
15 or a county, city, town or department of this state that has entered into a
16 joinder agreement pursuant to section 38-902.

17 ~~26-~~ 31. "Pension" means a series of monthly payments by the retirement
18 plan.

19 ~~27-~~ 32. "Personal representative" means the personal representative of
20 a deceased alternate payee.

21 ~~28-~~ 33. "Plan approved domestic relations order" means a domestic
22 relations order that the plan approves as meeting all the requirements for a
23 plan approved domestic relations order as otherwise prescribed in this
24 article.

25 ~~29-~~ 34. "Probation or surveillance officer" means an officer appointed
26 pursuant to section 8-203, 12-251 or 12-259 but does not include other
27 personnel, office assistants or support staff.

28 ~~30-~~ 35. "Retired member" means an individual who is being paid a
29 pension on account of the individual's membership in the retirement plan.

30 ~~31-~~ 36. "Retirement" means termination of employment after a member
31 has fulfilled all requirements for a pension.

32 ~~32-~~ 37. "Retirement plan" or "plan" means the corrections officer
33 retirement plan established by this article.

34 ~~33-~~ 38. "Salary" means the base salary, shift differential pay,
35 **MILITARY DIFFERENTIAL WAGE PAY** and holiday pay paid a member in a designated
36 position for personal services rendered to a participating employer on a
37 regular monthly, semimonthly or biweekly payroll basis. Salary includes
38 amounts that are subject to deferred compensation or tax shelter agreements.
39 Salary does not include payment for any remuneration or reimbursement other
40 than as prescribed by this paragraph. For the purposes of this paragraph,
41 "base salary" means the amount of compensation each member is regularly paid
42 for personal services rendered to an employer before the addition of any
43 extra monies, including overtime pay, shift differential pay, holiday pay,
44 fringe benefit pay and similar extra payments.

1 ~~34.~~ 39. "Segregated funds" means the amount of benefits that would
2 currently be payable to an alternate payee pursuant to a domestic relations
3 order under review by the plan, or a domestic relations order submitted to
4 the plan that failed to qualify as a plan approved domestic relations order,
5 if the domestic relations order were determined to be a plan approved
6 domestic relations order.

7 ~~35.~~ 40. "Service" means employment rendered to a participating
8 employer as an employee in a designated position. Any absence that is
9 authorized by an employer, including any periods during which the employee is
10 on an employer sponsored long-term disability program, is considered as
11 service if the employee returns or is deemed by the employer to have returned
12 to a designated position within the period of the authorized absence.

13 ~~36.~~ 41. "Total and permanent disability" means a physical or mental
14 condition that is not an accidental disability, that the local board finds
15 totally and permanently prevents a member from engaging in any gainful
16 employment and that is the direct and proximate result of the member's
17 performance of the member's duty as an employee of a participating employer.

18 Sec. 22. Section 38-881, Arizona Revised Statutes, as amended by Laws
19 2008, chapter 144, section 2 and chapter 185, section 2, is amended to read:

20 38-881. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Accidental disability" means a physical or mental condition that
23 the local board finds totally and permanently prevents an employee from
24 performing a reasonable range of duties within the employee's department, was
25 incurred in the performance of the employee's duties and was the result of
26 any of the following:

27 (a) Physical contact with inmates, prisoners, parolees or persons on
28 probation.

29 (b) Responding to a confrontational situation with inmates, prisoners,
30 parolees or persons on probation.

31 (c) A job related motor vehicle accident while on official business
32 for the employee's employer. A job related motor vehicle accident does not
33 include an accident that occurs on the way to or from work. Persons found
34 guilty of violating a personnel rule, a rule established by the employee's
35 employer or a state or federal law in connection with a job related motor
36 vehicle accident do not meet the conditions for accidental disability.

37 2. "Accumulated member contributions" means the sum of all member
38 contributions deducted from a member's salary and paid to the fund, plus
39 member contributions transferred to the fund by another retirement plan
40 covering public employees of this state, plus previously withdrawn
41 accumulated member contributions that are repaid to the fund in accordance
42 with this article, minus any benefits paid to or on behalf of a member.

43 3. "ACTUARIAL EQUIVALENT" MEANS EQUALITY IN PRESENT VALUE OF THE
44 AGGREGATE AMOUNTS EXPECTED TO BE RECEIVED UNDER TWO DIFFERENT FORMS OF

1 PAYMENT, BASED ON MORTALITY AND INTEREST ASSUMPTIONS ADOPTED BY THE FUND
2 MANAGER.

3 ~~3-~~ 4. "Alternate payee" means the spouse or former spouse of a
4 participant as designated in a domestic relations order.

5 ~~4-~~ 5. "Alternate payee's portion" means benefits that are payable to
6 an alternate payee pursuant to a plan approved domestic relations order.

7 ~~5-~~ 6. "Average monthly salary" means one-thirty-sixth of the
8 aggregate amount of salary that is paid a member by a participating employer
9 during a period of thirty-six consecutive months of service in which the
10 member received the highest salary within the last one hundred twenty months
11 of service. Average monthly salary means the aggregate amount of salary that
12 is paid a member divided by the member's months of service if the member has
13 less than thirty-six months of service. In the computation under this
14 paragraph, a period of nonpaid or partially paid industrial leave shall be
15 considered based on the salary the employee would have received in the
16 employee's job classification if the employee was not on industrial leave.

17 ~~6-~~ 7. "Beneficiary" means an individual who is being paid or who has
18 entitlement to the future payment of a pension on account of a reason other
19 than the individual's membership in the retirement plan.

20 ~~7-~~ 8. "Claimant" means a member, beneficiary or estate that files an
21 application for benefits with the retirement plan.

22 ~~8-~~ 9. "Credited service" means credited service transferred to the
23 retirement plan from another retirement system or plan for public employees
24 of this state, plus those compensated periods of service as a member of the
25 retirement plan for which member contributions are on deposit in the fund.

26 ~~9-~~ 10. "Cure period" means the ninety-day period in which a
27 participant or alternate payee may submit an amended domestic relations order
28 and request a determination, calculated from the time the plan issues a
29 determination finding that a previously submitted domestic relations order
30 did not qualify as a plan approved domestic relations order.

31 ~~10-~~ 11. "Designated position" means:

32 (a) For a county:

33 (i) A county detention officer.

34 (ii) A nonuniformed employee of a sheriff's department whose primary
35 duties require direct contact with inmates.

36 (b) For the state department of corrections and the department of
37 juvenile corrections, only the following specifically designated positions:

38 (i) Food service.

39 (ii) Nursing personnel.

40 (iii) Corrections physician assistant.

41 (iv) Therapist.

42 (v) Corrections dental assistant.

43 (vi) Hygienist.

44 (vii) Corrections medical assistant.

- 1 (viii) Correctional service officer, including assistant deputy
2 warden, deputy warden, warden and superintendent.
- 3 (ix) State correctional program officer.
- 4 (x) Parole or community supervision officers.
- 5 (xi) Investigators.
- 6 (xii) Teachers.
- 7 (xiii) Institutional maintenance workers.
- 8 (xiv) Youth corrections officer.
- 9 (xv) Youth program officer.
- 10 (xvi) Behavioral health treatment unit managers.
- 11 (xvii) The director and assistant directors of the department of
12 juvenile corrections and the superintendent of the state educational system
13 for committed youth.
- 14 (xviii) The director, deputy directors and assistant directors of the
15 state department of corrections.
- 16 (xix) Other positions designated by the local board of the state
17 department of corrections or the local board of the department of juvenile
18 corrections pursuant to section 38-891.
- 19 (c) For a city or town, a city or town detention officer.
- 20 (d) For an employer of an eligible group as defined in section 38-842,
21 full-time dispatchers.
- 22 (e) For the judiciary, probation, surveillance and juvenile detention
23 officers and those positions designated by the local board of the judiciary
24 pursuant to section 38-891.
- 25 (f) For the department of public safety, state detention officers.
- 26 ~~11-~~ 12. "Determination" means a written document that indicates to a
27 participant and alternate payee whether a domestic relations order qualifies
28 as a plan approved domestic relations order.
- 29 ~~12-~~ 13. "Determination period" means the ninety-day period in which
30 the plan must review a domestic relations order that is submitted by a
31 participant or alternate payee to determine whether the domestic relations
32 order qualifies as a plan approved domestic relations order, calculated from
33 the time the plan mails a notice of receipt to the participant and alternate
34 payee.
- 35 14. "DIRECT ROLLOVER" MEANS A PAYMENT BY THE PLAN TO AN ELIGIBLE
36 RETIREMENT PLAN THAT IS SPECIFIED BY THE DISTRIBUTE.
- 37 15. "DISTRIBUTE" MEANS A MEMBER, A MEMBER'S SURVIVING SPOUSE OR A
38 MEMBER'S SPOUSE OR FORMER SPOUSE WHO IS THE ALTERNATE PAYEE UNDER A PLAN
39 APPROVED DOMESTIC RELATIONS ORDER.
- 40 ~~13-~~ 16. "Domestic relations order" means an order of a court of this
41 state that is made pursuant to the domestic relations laws of this state and
42 that creates or recognizes the existence of an alternate payee's right to, or
43 assigns to an alternate payee the right to, receive a portion of the benefits
44 payable to a participant.

1 17. "ELIGIBLE RETIREMENT PLAN" MEANS ANY OF THE FOLLOWING THAT ACCEPTS
2 A DISTRIBUTEES ELIGIBLE ROLLOVER DISTRIBUTION:

3 (a) AN INDIVIDUAL RETIREMENT ACCOUNT DESCRIBED IN SECTION 408(a) OF
4 THE INTERNAL REVENUE CODE.

5 (b) AN INDIVIDUAL RETIREMENT ANNUITY DESCRIBED IN SECTION 408(b) OF
6 THE INTERNAL REVENUE CODE.

7 (c) AN ANNUITY PLAN DESCRIBED IN SECTION 403(a) OF THE INTERNAL
8 REVENUE CODE.

9 (d) A QUALIFIED TRUST DESCRIBED IN SECTION 401(a) OF THE INTERNAL
10 REVENUE CODE.

11 (e) AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE INTERNAL
12 REVENUE CODE.

13 (f) AN ELIGIBLE DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457(b)
14 OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A STATE, A POLITICAL
15 SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY OF A STATE OR A
16 POLITICAL SUBDIVISION OF A STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR
17 AMOUNTS TRANSFERRED INTO THE ELIGIBLE DEFERRED COMPENSATION PLAN FROM THIS
18 PLAN.

19 18. "ELIGIBLE ROLLOVER DISTRIBUTION" MEANS A PAYMENT TO A DISTRIBUTEES,
20 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

21 (a) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL
22 PERIODIC PAYMENTS MADE NOT LESS FREQUENTLY THAN ANNUALLY FOR THE LIFE OR LIFE
23 EXPECTANCY OF THE MEMBER OR THE JOINT LIVES OR JOINT LIFE EXPECTANCIES OF THE
24 MEMBER AND THE MEMBERS BENEFICIARY OR FOR A SPECIFIED PERIOD OF TEN YEARS OR
25 MORE.

26 (b) ANY DISTRIBUTION TO THE EXTENT THE DISTRIBUTION IS REQUIRED UNDER
27 SECTION 401(a)(9) OF THE INTERNAL REVENUE CODE.

28 (c) THE PORTION OF ANY DISTRIBUTION THAT IS NOT INCLUDABLE IN GROSS
29 INCOME.

30 ~~14-~~ 19. "Employee" means a person determined by the local board to be
31 employed by a participating employer in a designated position.

32 ~~15-~~ 20. "Employer" means an agency or department of this state or a
33 political subdivision of this state that has one or more employees in a
34 designated position.

35 ~~16-~~ 21. "Fund" means the corrections officer retirement plan fund.

36 ~~17-~~ 22. "Fund manager" means the fund manager of the public safety
37 personnel retirement system.

38 ~~18-~~ 23. "Juvenile detention officer" means a detention officer
39 responsible for the direct custodial supervision of juveniles who are
40 detained in a county juvenile detention center.

41 ~~19-~~ 24. "Local board" means the retirement board of the employer that
42 consists of persons appointed or elected to administer the plan as it applies
43 to the employers members in the plan.

44 ~~20-~~ 25. "Member" means any employee who meets all of the following
45 qualifications:

1 (a) Who is a full-time paid person employed by a participating
2 employer in a designated position.

3 (b) Who is receiving salary for personal services rendered to a
4 participating employer or would be receiving salary except for an authorized
5 leave of absence.

6 (c) Whose customary employment is at least forty hours each week and
7 for more than six months in a calendar year.

8 ~~21.~~ 26. "Normal retirement date" means the first day of the calendar
9 month immediately following an employee's completion of twenty years of
10 service or, in the case of a dispatcher, twenty-five years of service, the
11 employee's sixty-second birthday and completion of ten years of service or
12 the month in which the sum of the employee's age and years of credited
13 service equals eighty.

14 ~~22.~~ 27. "Notice of receipt" means a written document that is issued by
15 the plan to a participant and alternate payee and that states that the plan
16 has received a domestic relations order and a request for a determination
17 that the domestic relations order is a plan approved domestic relations
18 order.

19 ~~23.~~ 28. "Participant" means a member who is subject to a domestic
20 relations order.

21 ~~24.~~ 29. "Participant's portion" means benefits that are payable to a
22 participant pursuant to a plan approved domestic relations order.

23 ~~25.~~ 30. "Participating employer" means an employer that the fund
24 manager has determined to have one or more employees in a designated position
25 or a county, city, town or department of this state that has entered into a
26 joinder agreement pursuant to section 38-902.

27 ~~26.~~ 31. "Pension" means a series of monthly payments by the retirement
28 plan.

29 ~~27.~~ 32. "Personal representative" means the personal representative of
30 a deceased alternate payee.

31 ~~28.~~ 33. "Plan approved domestic relations order" means a domestic
32 relations order that the plan approves as meeting all the requirements for a
33 plan approved domestic relations order as otherwise prescribed in this
34 article.

35 ~~29.~~ 34. "Probation or surveillance officer" means an officer appointed
36 pursuant to section 8-203, 12-251 or 12-259 but does not include other
37 personnel, office assistants or support staff.

38 ~~30.~~ 35. "Retired member" means an individual who is being paid a
39 pension on account of the individual's membership in the retirement plan.

40 ~~31.~~ 36. "Retirement" means termination of employment after a member
41 has fulfilled all requirements for a pension.

42 ~~32.~~ 37. "Retirement plan" or "plan" means the corrections officer
43 retirement plan established by this article.

44 ~~33.~~ 38. "Salary" means the base salary, overtime pay, shift
45 differential pay, **MILITARY DIFFERENTIAL WAGE PAY** and holiday pay paid a

1 member in a designated position for personal services rendered to a
2 participating employer on a regular monthly, semimonthly or biweekly payroll
3 basis, except that for the purposes of this paragraph the amount of overtime
4 included shall not include payments to the member for the sale of
5 compensatory time. Salary includes amounts that are subject to deferred
6 compensation or tax shelter agreements. Salary does not include payment for
7 any remuneration or reimbursement other than as prescribed by this paragraph.
8 For the purposes of this paragraph, "base salary" means the amount of
9 compensation each member is regularly paid for personal services rendered to
10 an employer before the addition of any extra monies, including overtime pay,
11 shift differential pay, holiday pay, payments for the sale of compensatory
12 time, fringe benefit pay and similar extra payments.

13 ~~34.~~ 39. "Segregated funds" means the amount of benefits that would
14 currently be payable to an alternate payee pursuant to a domestic relations
15 order under review by the plan, or a domestic relations order submitted to
16 the plan that failed to qualify as a plan approved domestic relations order,
17 if the domestic relations order were determined to be a plan approved
18 domestic relations order.

19 ~~35.~~ 40. "Service" means employment rendered to a participating
20 employer as an employee in a designated position. Any absence that is
21 authorized by an employer, including any periods during which the employee is
22 on an employer sponsored long-term disability program, is considered as
23 service if the employee returns or is deemed by the employer to have returned
24 to a designated position within the period of the authorized absence.

25 ~~36.~~ 41. "Total and permanent disability" means a physical or mental
26 condition that is not an accidental disability, that the local board finds
27 totally and permanently prevents a member from engaging in any gainful
28 employment and that is the direct and proximate result of the member's
29 performance of the member's duty as an employee of a participating employer.

30 Sec. 23. Section 38-890, Arizona Revised Statutes, is amended to read:

31 ~~38-890.~~ Pensions; commencement and duration

32 A. A normal retirement pension, an accidental disability pension, a
33 total and permanent disability pension or an ordinary disability pension
34 commences on the first day of the calendar month next following the member's
35 date of retirement. A survivor pension commences on the first day of the
36 calendar month next following the month in which the death causing payment of
37 the pension occurs.

38 B. Termination of payment of a pension occurs at the end of the
39 calendar month in which the event causing the termination occurred. The
40 payment shall be made for the full month of termination.

41 C. A change in the amount of a pension occurs on the first day of the
42 calendar month next following the date of the event causing the change.

43 D. THE PLAN SHALL MAKE PAYMENTS PURSUANT TO SECTION 401(a)(9) OF THE
44 INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE ISSUED UNDER THAT SECTION.
45 NOTWITHSTANDING ANY OTHER PROVISION OF THE PLAN, BEGINNING JANUARY 1, 1987

1 PAYMENT OF BENEFITS TO A MEMBER SHALL COMMENCE NO LATER THAN APRIL 1 OF THE
2 CALENDAR YEAR FOLLOWING THE LATER OF:

3 1. THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS SEVENTY AND ONE-HALF
4 YEARS OF AGE.

5 2. THE DATE THE MEMBER TERMINATES EMPLOYMENT.

6 Sec. 24. Repeal

7 Section 38-895, Arizona Revised Statutes, is repealed.

8 Sec. 25. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
9 amended by adding a new section 38-895, to read:

10 38-895. Maximum annual pension; limitations; definition

11 A. THE MAXIMUM ANNUAL PENSION FOR A LIMITATION YEAR SHALL NOT EXCEED
12 THE FOLLOWING:

13 1. FOR LIMITATION YEARS BEGINNING BEFORE 1995, THE LESSER OF NINETY
14 THOUSAND DOLLARS, AS INDEXED FOR INFLATION, OR ONE HUNDRED PER CENT OF THE
15 MEMBER'S AVERAGE MONTHLY SALARY.

16 2. FOR LIMITATION YEARS BEGINNING IN 1995 AND ENDING BEFORE 2002,
17 NINETY THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

18 3. FOR LIMITATION YEARS BEGINNING IN AND AFTER 2002, ONE HUNDRED SIXTY
19 THOUSAND DOLLARS, AS INDEXED FOR INFLATION.

20 B. THE LIMITATIONS PRESCRIBED IN SUBSECTION A SHALL BE DETERMINED
21 UNDER SECTION 415 OF THE INTERNAL REVENUE CODE AND THE REGULATIONS THAT ARE
22 THEN IN EFFECT UNDER THAT SECTION.

23 C. NOTWITHSTANDING THIS SECTION, THE PENSION PAYABLE UNDER THIS PLAN
24 MAY BE REDUCED TO THE EXTENT NECESSARY, AS DETERMINED BY THE PLAN, TO PREVENT
25 DISQUALIFICATION OF THE PLAN UNDER SECTION 415 OF THE INTERNAL REVENUE CODE,
26 WHICH IMPOSES ADDITIONAL LIMITATIONS ON THE PENSION PAYABLE TO MEMBERS WHO
27 ALSO MAY BE PARTICIPATING IN ANOTHER TAX QUALIFIED PENSION PLAN OR OTHER PLAN
28 OF THIS STATE. THE PLAN SHALL ADVISE AFFECTED MEMBERS OF ANY ADDITIONAL
29 LIMITATION OF THEIR PENSION REQUIRED BY THIS SECTION.

30 D. FOR THE PURPOSES OF THIS SECTION, "LIMITATION YEAR" MEANS THE
31 PLAN'S FISCAL YEAR.

32 Sec. 26. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
33 amended by adding section 38-895.01, to read:

34 38-895.01. Compensation limitation; adjustments

35 A. THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT FOR
36 PURPOSES OF THE PLAN SHALL NOT EXCEED THE FOLLOWING:

37 1. BEGINNING JANUARY 1, 1996 THROUGH DECEMBER 31, 2001, ONE HUNDRED
38 FIFTY THOUSAND DOLLARS.

39 2. BEGINNING JANUARY 1, 2002, TWO HUNDRED THOUSAND DOLLARS.

40 B. IF COMPENSATION UNDER THE PLAN IS DETERMINED ON A PERIOD OF TIME
41 THAT CONTAINS FEWER THAN TWELVE CALENDAR MONTHS, THE COMPENSATION LIMIT FOR
42 THAT PERIOD OF TIME IS EQUAL TO THE DOLLAR LIMIT FOR THE CALENDAR YEAR DURING
43 WHICH THE PERIOD OF TIME BEGINS, MULTIPLIED BY THE FRACTION IN WHICH THE
44 NUMERATOR IS THE NUMBER OF FULL MONTHS IN THAT PERIOD OF TIME AND THE
45 DENOMINATOR IS TWELVE.

1 C. THE FUND MANAGER SHALL ADJUST THE ANNUAL COMPENSATION LIMITS UNDER
2 THIS SECTION AT THE SAME TIME AND IN THE SAME MANNER AS ADJUSTED BY THE
3 UNITED STATES SECRETARY OF THE TREASURY UNDER SECTION 401(a)(17)(B) OF THE
4 INTERNAL REVENUE CODE. THE ADJUSTMENT UNDER THIS SUBSECTION FOR A CALENDAR
5 YEAR APPLIES TO ANNUAL COMPENSATION FOR THE PLAN YEAR THAT BEGINS WITH OR
6 WITHIN THE CALENDAR YEAR.

7 Sec. 27. Section 38-905.01, Arizona Revised Statutes, is amended to
8 read:

9 38-905.01. Lump sum payment of benefit increases

10 Notwithstanding any provision of this article, the fund manager, at the
11 request of a retired member, a survivor or the retired member's or survivor's
12 guardian or conservator, may pay any increase in retirement benefits pursuant
13 to this article in a lump sum payment based on the actuarial present value of
14 the increase in the retirement benefits if the payment of the increase in
15 retirement benefits would result in ineligibility for, reduction of or
16 elimination of social service programs provided to the retired member or
17 survivor by this state, a political subdivision of this state or the federal
18 government. LUMP SUM PAYMENTS MADE PURSUANT TO THIS SECTION ARE ELIGIBLE FOR
19 A DIRECT ROLLOVER DISTRIBUTION.

20 Sec. 28. Repeal

21 Section 38-907, Arizona Revised Statutes, is repealed.

22 Sec. 29. Title 38, chapter 5, article 6, Arizona Revised Statutes, is
23 amended by adding a new section 38-907, to read:

24 38-907. Credit for military service

25 A. A MEMBER OF THE PLAN MAY RECEIVE CREDITED SERVICE FOR PERIODS OF
26 ACTIVE MILITARY SERVICE PERFORMED BEFORE EMPLOYMENT WITH THE MEMBER'S CURRENT
27 EMPLOYER IF:

- 28 1. THE MEMBER WAS HONORABLY SEPARATED FROM THE MILITARY SERVICE.
- 29 2. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
30 CREDITED SERVICE DOES NOT EXCEED FORTY-EIGHT MONTHS.
- 31 3. THE PERIOD OF MILITARY SERVICE FOR WHICH THE MEMBER RECEIVES
32 CREDITED SERVICE IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM, EXCEPT
33 AS PROVIDED BY 10 UNITED STATES CODE SECTION 12736.
- 34 4. THE MEMBER PAYS THE COST TO PURCHASE THE PRIOR ACTIVE MILITARY
35 SERVICE. THE COST IS THE AMOUNT NECESSARY TO EQUAL THE INCREASE IN THE
36 ACTUARIAL PRESENT VALUE OF PROJECTED BENEFITS RESULTING FROM THE ADDITIONAL
37 CREDITED SERVICE.

38 5. THE AMOUNT OF BENEFITS PURCHASED PURSUANT TO THIS SUBSECTION IS
39 SUBJECT TO LIMITS ESTABLISHED BY SECTION 415 OF THE INTERNAL REVENUE CODE.

40 B. AN ACTIVE MEMBER OF THE PLAN WHO VOLUNTEERS OR IS ORDERED TO
41 PERFORM MILITARY SERVICE MAY RECEIVE CREDITED SERVICE FOR NOT MORE THAN SIXTY
42 MONTHS OF MILITARY SERVICE AS PROVIDED BY THE UNIFORMED SERVICES EMPLOYMENT
43 AND REEMPLOYMENT RIGHTS ACT (38 UNITED STATES CODE PART III, CHAPTER 43).
44 THE MEMBER'S EMPLOYER SHALL MAKE EMPLOYER CONTRIBUTIONS AND THE MEMBER SHALL

1 MAKE THE MEMBER CONTRIBUTIONS PURSUANT TO SUBSECTION C OF THIS SECTION IF THE
2 MEMBER MEETS THE FOLLOWING REQUIREMENTS:

3 1. WAS AN ACTIVE MEMBER OF THE PLAN ON THE DAY BEFORE THE MEMBER BEGAN
4 MILITARY SERVICE.

5 2. ENTERED INTO AND SERVED IN THE ARMED FORCES OF THE UNITED STATES OR
6 IS A MEMBER OF THE NATIONAL GUARD.

7 3. COMPLIES WITH THE NOTICE AND RETURN TO WORK PROVISIONS OF 38 UNITED
8 STATES CODE SECTION 4312.

9 C. CONTRIBUTIONS MADE PURSUANT TO SUBSECTION B OF THIS SECTION SHALL
10 BE FOR THE PERIOD OF TIME BEGINNING ON THE DATE THE MEMBER BEGAN MILITARY
11 SERVICE AND ENDING ON THE LATER OF ONE OF THE FOLLOWING DATES:

12 1. THE DATE THE MEMBER IS SEPARATED FROM MILITARY SERVICE.

13 2. THE DATE THE MEMBER IS RELEASED FROM SERVICE RELATED
14 HOSPITALIZATION OR TWO YEARS AFTER INITIATION OF SERVICE RELATED
15 HOSPITALIZATION, WHICHEVER DATE IS EARLIER.

16 3. THE DATE THE MEMBER DIES AS A RESULT OF OR DURING MILITARY SERVICE.

17 D. NOTWITHSTANDING ANY OTHER LAW, ON PAYMENT OF THE CONTRIBUTIONS MADE
18 PURSUANT TO SUBSECTION B OF THIS SECTION, THE MEMBER SHALL BE CREDITED WITH
19 SERVICE FOR RETIREMENT PURPOSES FOR THE PERIOD OF MILITARY SERVICE OF NOT
20 MORE THAN SIXTY MONTHS. THE MEMBER SHALL SUBMIT A COPY OF THE MILITARY
21 DISCHARGE CERTIFICATE (DD-256A) AND A COPY OF THE MILITARY SERVICE RECORD
22 (DD-214) OR ITS EQUIVALENT WITH THE MEMBER'S APPLICATION WHEN APPLYING FOR
23 CREDITED SERVICE CORRESPONDING TO THE PERIOD OF MILITARY SERVICE.

24 E. THE EMPLOYER AND THE MEMBER SHALL MAKE CONTRIBUTIONS PURSUANT TO
25 SUBSECTION B OF THIS SECTION AS FOLLOWS:

26 1. CONTRIBUTIONS SHALL BE BASED ON THE COMPENSATION THAT THE MEMBER
27 WOULD HAVE RECEIVED BUT FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO
28 ACTIVE MILITARY SERVICE.

29 2. IF THE EMPLOYER CANNOT REASONABLY DETERMINE THE MEMBER'S RATE OF
30 COMPENSATION FOR THE PERIOD THAT THE MEMBER WAS ORDERED INTO MILITARY
31 SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S AVERAGE RATE OF
32 COMPENSATION DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE PERIOD
33 OF MILITARY SERVICE.

34 3. IF A MEMBER HAS BEEN EMPLOYED LESS THAN TWELVE MONTHS BEFORE BEING
35 ORDERED INTO MILITARY SERVICE, CONTRIBUTIONS SHALL BE BASED ON THE MEMBER'S
36 COMPENSATION BEING EARNED IMMEDIATELY PRECEDING THE PERIOD OF MILITARY
37 SERVICE.

38 4. THE MEMBER HAS UP TO THREE TIMES THE LENGTH OF MILITARY SERVICE,
39 NOT TO EXCEED SIXTY MONTHS, TO MAKE THE MEMBER CONTRIBUTIONS. ONCE THE
40 MEMBER HAS MADE THE MEMBER CONTRIBUTIONS OR ON RECEIPT OF THE MEMBER'S DEATH
41 CERTIFICATE, THE EMPLOYER SHALL MAKE THE EMPLOYER CONTRIBUTIONS IN A LUMP
42 SUM. DEATH BENEFITS SHALL BE CALCULATED AS PRESCRIBED BY LAW.

43 5. IF THE MEMBER'S EMPLOYER PAYS MILITARY DIFFERENTIAL WAGE PAY TO
44 MEMBERS SERVING IN THE MILITARY, CONTRIBUTIONS SHALL BE PAID TO THE PLAN

1 PURSUANT TO SECTION 38-891 FOR ANY MILITARY DIFFERENTIAL WAGE PAY PAID TO THE
2 MEMBER WHILE PERFORMING MILITARY SERVICE.

3 F. IN COMPUTING THE LENGTH OF TOTAL CREDITED SERVICE OF A MEMBER FOR
4 THE PURPOSE OF DETERMINING RETIREMENT BENEFITS OR ELIGIBILITY, THE PERIOD OF
5 MILITARY SERVICE, AS PRESCRIBED BY THIS SECTION, SHALL BE INCLUDED.

6 G. IF A MEMBER PERFORMS MILITARY SERVICE DUE TO A PRESIDENTIAL
7 CALL-UP, NOT TO EXCEED FORTY-EIGHT MONTHS, THE EMPLOYER SHALL MAKE THE
8 EMPLOYER AND MEMBER CONTRIBUTIONS COMPUTED PURSUANT TO SUBSECTION E OF THIS
9 SECTION ON THE MEMBER'S RETURN AND IN COMPLIANCE WITH SUBSECTION B OF THIS
10 SECTION.

11 H. IN ADDITION TO, BUT NOT IN DUPLICATION OF, THE PROVISIONS OF
12 SUBSECTION B OF THIS SECTION, BEGINNING DECEMBER 12, 1994 CONTRIBUTIONS,
13 BENEFITS AND CREDITED SERVICE PROVIDED PURSUANT TO THIS SECTION SHALL BE
14 PROVIDED PURSUANT TO SECTION 414(u) OF THE INTERNAL REVENUE CODE, AND THIS
15 SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THAT INTERNAL
16 REVENUE CODE SECTION.

17 Sec. 30. Section 38-909, Arizona Revised Statutes, is amended to read:
18 38-909. Redemption of prior service; calculation

19 A. Each present active member of the plan who had previous service in
20 this state as an employee with an employer now covered by the plan or who had
21 previous service with an agency of the United States government, a state of
22 the United States or a political subdivision of a state of the United States
23 as a full-time paid corrections officer or full-time paid certified peace
24 officer may elect to redeem any part of the prior service by paying into the
25 plan any amounts required under subsection B if the prior service is not on
26 account with any other retirement system.

27 B. Any present active member who elects to redeem any part of the
28 prior service for which the employee is deemed eligible by the fund manager
29 under this section shall pay into the plan the amounts previously withdrawn
30 by the member, if any, as a refund of the member's accumulated contributions
31 plus accumulated interest as determined by the fund manager and the
32 additional amount, if any, computed by the plan's actuary that is necessary
33 to equal the increase in the actuarial present value of projected benefits
34 resulting from the redemption calculated using the actuarial methods and
35 assumptions prescribed by the plan's actuary.

36 C. The discount rate used by the actuary for the redemption
37 calculation pursuant to subsection B is an amount equal to the lesser of the
38 assumed rate of return that is prescribed by the fund manager or an amount
39 equal to the yield on a ten year treasury note as of March 1 that is
40 published by the federal reserve board plus two per cent. This discount rate
41 is effective beginning in the next fiscal year and shall be recalculated each
42 year.

43 D. A MEMBER ELECTING TO REDEEM SERVICE PURSUANT TO THIS SECTION MAY
44 PAY FOR SERVICE BEING REDEEMED IN THE FORM OF A LUMP SUM PAYMENT TO THE PLAN,
45 A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF AN ELIGIBLE

1 DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii), (iv), (v)
2 OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE
3 DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
4 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

5 Sec. 31. Section 38-922, Arizona Revised Statutes, is amended to read:
6 38-922. Transfer or redemption of service credits

7 A. Service credits qualified in accordance with section 38-921 may be
8 transferred or redeemed in accordance with this section.

9 B. In the case of a member whose contributions remain on deposit with
10 the prior retirement system or plan, the following shall be calculated:

11 1. The prior system or plan shall calculate the amount equal to the
12 actuarial present value of a member's projected benefits to the extent funded
13 on a market value basis as of the most recent actuarial valuation under the
14 prior system or plan as calculated by that system's or plan's actuary using
15 the same actuarial method and assumptions used in calculating that system's
16 or plan's funding requirements based on the transferring member's service
17 credits at the time of transfer.

18 2. The system or plan to which the member is transferring shall
19 calculate the increase in the actuarial present value of the projected
20 benefits provided as a result of the transfer of the member's service
21 credits. This calculation shall be performed by that system's or plan's
22 actuary using the same actuarial method and assumptions used in calculating
23 that system's or plan's funding requirements based ~~upon~~ ON the transferring
24 member's service credits at the time of transfer.

25 C. In the event a member decides to transfer:

26 1. If the amount calculated in subsection B, paragraph 2 is greater
27 than the amount calculated in subsection B, paragraph 1:

28 (a) The prior system or plan shall transfer to the present system or
29 plan the greater of the amount calculated in subsection B, paragraph 1 or the
30 member's accumulated contribution account balance.

31 (b) If the amount transferred is less than the amount calculated under
32 subsection B, paragraph 2, the transferring member shall elect either to pay
33 the difference or to accept a reduced transfer of service credits. If the
34 member elects to pay the difference, the amount paid shall be added to the
35 member's accumulated contribution account balance. If the member elects to
36 accept a reduced transfer of service credits, the amount of service credits
37 transferred shall be equal to the amount of service credits used in making
38 the calculation under subsection B, paragraph 1 multiplied by the ratio of
39 the amount calculated under subsection B, paragraph 1 to the amount
40 calculated under subsection B, paragraph 2.

41 2. If the amount calculated in subsection B, paragraph 2 is less than
42 or equal to the amount calculated in subsection B, paragraph 1, the prior
43 system or plan shall transfer to the present system or plan the greater of
44 the amount calculated in subsection B, paragraph 2 or the member's
45 accumulated contribution account balance.

1 D. In the case of an applicant who has withdrawn his member
2 contributions from another prior system or plan of this state, the applicant
3 shall pay into the new system or plan to which he is transferring an amount
4 equal to the increase in the actuarial present value of the projected
5 benefits provided by the service credits being redeemed and this amount shall
6 be included in the member's current accumulated contribution account balance.
7 This calculation shall be performed by the actuary of the system or plan to
8 which the service credits are being transferred using the same actuarial
9 method and assumptions used in calculating that system's or plan's funding
10 requirements.

11 E. Service credits shall not be applied to the applicant's account
12 until such time as complete payment is made to the retirement system or plan
13 to which the applicant is transferring. On completion of the transfer
14 provided for in this article, the member's rights in the retirement system or
15 plan from which the member is transferring are extinguished.

16 F. A MEMBER ELECTING TO TRANSFER TO OR REDEEM SERVICE WITH THE PUBLIC
17 SAFETY PERSONNEL RETIREMENT SYSTEM, THE ELECTED OFFICIALS' RETIREMENT PLAN OR
18 THE CORRECTIONS OFFICER RETIREMENT PLAN PURSUANT TO THIS SECTION MAY PAY FOR
19 THE SERVICE BEING TRANSFERRED OR REDEEMED IN THE FORM OF A LUMP SUM PAYMENT
20 TO THE SYSTEM OR PLAN, A TRUSTEE-TO-TRUSTEE TRANSFER OR A DIRECT ROLLOVER OF
21 AN ELIGIBLE DISTRIBUTION FROM A PLAN DESCRIBED IN SECTION 402(c)(8)(B) (iii),
22 (iv), (v) OR (vi) OF THE INTERNAL REVENUE CODE OR A ROLLOVER OF AN ELIGIBLE
23 DISTRIBUTION FROM AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
24 SECTION 408(a) OR (b) OF THE INTERNAL REVENUE CODE.

25 Sec. 32. Applicability

26 Section 38-846.01, Arizona Revised Statutes, as amended by this act,
27 applies to prospective members of the public safety personnel retirement
28 system as well as members of the public safety personnel retirement system on
29 the effective date of this act who have not already applied for and begun
30 receiving benefits pursuant to section 38-846.01, Arizona Revised Statutes,
31 in effect before the effective date of this act and section 38-856, Arizona
32 Revised Statutes.

33 Sec. 33. Retroactivity

34 Section 38-842, paragraph 31, Arizona Revised Statutes, as amended by
35 this act, applies retroactively to from and after December 31, 1993.

36 Sec. 34. Conditional enactment

37 Section 38-881, Arizona Revised Statutes, as amended by Laws 2008,
38 chapter 144, section 2 and chapter 185, section 2 and section 22 of this act,
39 becomes effective on the date prescribed in Laws 2005, chapter 324, section 2
40 but only on the occurrence of the condition prescribed by Laws 2005, chapter
41 324, section 2.