

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

**CHAPTER 38**  
**SENATE BILL 1146**

AN ACT

AMENDING SECTIONS 38-810, 38-816, 38-820, 38-823, 38-844.03, 38-844.05, 38-844.06, 38-844.08, 38-853.01, 38-858, 38-862, 38-907, 38-909 AND 38-913, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-810, Arizona Revised Statutes, is amended to  
3 read:

4 38-810. Contributions; appropriations

5 A. Each member shall contribute to the fund an amount equal to the  
6 amount prescribed in subsection G of this section. Contributions of  
7 members shall be made by payroll deductions. Every member is deemed to  
8 consent to these deductions. Payment of a member's compensation, less  
9 these payroll deductions, constitutes a full and complete discharge and  
10 satisfaction of all claims and demands by the member relating to  
11 remuneration for the member's services rendered during the period covered  
12 by the payment, except with respect to the benefits provided under the  
13 plan. A member may not, under any circumstance, borrow from, take a loan  
14 against or remove contributions from the member's account before the  
15 termination of membership in the plan or the receipt of a pension.

16 B. The board's office shall be credited monthly with monies  
17 collected pursuant to section 12-119.01, subsection B, paragraph 2,  
18 section 12-120.31, subsection D, paragraph 2, section 12-284.03,  
19 subsection A, paragraph 6, section 22-281, subsection C, paragraph 3 and  
20 section 41-178. The monies credited to the fund pursuant to this  
21 subsection shall be deposited in the fund on a monthly basis, and there  
22 shall be a complete accounting of the determination of these monies  
23 deposited in the fund.

24 C. Beginning on July 1, 2018, as determined by actuarial valuations  
25 performed by the plan's actuary each employer shall make contributions on  
26 a level percent of compensation basis for all employees of the employer  
27 who are either members under this article, article 3.1 of this chapter or  
28 article 2 of this chapter pursuant to section 38-727, subsection B  
29 sufficient under the actuarial valuation to meet both the normal cost plus  
30 the actuarially determined amount required to amortize the unfunded  
31 accrued liability over a closed period of at least twenty and not more  
32 than thirty years that is established by the board taking into account the  
33 recommendation of the plan's actuary and the employer's contribution under  
34 the elected officials' defined contribution retirement system established  
35 pursuant to article 3.1 of this chapter and the employer's contribution  
36 under article 2 of this chapter for members who are eligible pursuant to  
37 section 38-727, subsection B. The employer also shall pay the amount  
38 required by section 38-797.05 for members under article 2 of this chapter  
39 who are eligible pursuant to section 38-727, subsection B and the amount  
40 required by article 3.2 of this chapter for members under article 3.1 of  
41 this chapter. The monies deposited in the fund pursuant to subsection B  
42 of this section shall be used to supplement the contributions required of  
43 all employers under the plan. The employer level percent compensation  
44 contribution that is paid pursuant to this subsection, less the amount  
45 contributed by the employer pursuant to section 38-833 and section 38-737

1 for members eligible pursuant to section 38-727, subsection B, shall not  
2 be used to pay for an increase in benefits that is otherwise payable to  
3 members but shall be used to meet the normal cost plus an amount to  
4 amortize the unfunded accrued liability.

5 D. In any fiscal year, an employer's contribution to the plan in  
6 combination with member contributions may not be less than the actuarially  
7 determined normal cost for that fiscal year. After the close of any  
8 fiscal year, if the plan's actuary determines that the actuarial valuation  
9 of the fund contains excess valuation assets and is more than one hundred  
10 percent funded, the board shall account for fifty percent of the excess  
11 valuation assets in a stabilization reserve account. After the close of  
12 any fiscal year, if the plan's actuary determines that the actuarial  
13 valuation of the fund has a valuation asset deficiency and an unfunded  
14 actuarial accrued liability, the board shall use any valuation assets in  
15 the stabilization reserve account, to the extent available, to limit the  
16 decline in the fund's funding ratio to not more than two percent.

17 E. The department of administration and the treasurer of each  
18 county and participating city and town shall transfer to the board the  
19 contributions provided for in subsections A and C of this section within  
20 ten working days after each payroll date. The state, county treasurers  
21 and clerks of the superior court shall transfer the monies credited under  
22 subsection B of this section to the board on or before the fifteenth day  
23 of each calendar month that follows the month in which the court fees were  
24 collected. Contributions and monies credited under subsection B of this  
25 section and transferred after these dates shall include a penalty equal to  
26 ten percent a year, compounded annually, for each day that the  
27 contributions or monies credited under subsection B of this section are  
28 late. Delinquent payments due under this subsection, together with  
29 interest charges as provided in this subsection and court costs, may be  
30 recovered by action in a court of competent jurisdiction against the  
31 person or persons responsible for the payments or, at the request of the  
32 board, may be deducted from any other monies, including excise revenue  
33 taxes, payable to a political subdivision by any department or agency of  
34 this state. If requested by the board, the state, county treasurers or  
35 clerks of the superior court shall transfer the monies credited under  
36 subsection B of this section, in an amount determined by the board,  
37 directly to the qualified governmental excess benefit arrangement  
38 established pursuant to section 38-803.01.

39 F. The employer shall pay the member contributions required of  
40 members on account of compensation earned after August 7, 1985. The paid  
41 contributions shall be treated as employer contributions for the purpose  
42 of determining tax treatment under the United States internal revenue  
43 code. The effective date of the employer payment shall not be before the  
44 date the retirement plan has received notification from the United States  
45 internal revenue service that pursuant to section 414(h) of the United

1 States internal revenue code the member contributions paid will not be  
2 included in gross income for income tax purposes until the paid  
3 contributions are distributed by refund or pension payments. The employer  
4 shall pay the member contributions from monies established and available  
5 in the retirement deduction account, which monies would otherwise have  
6 been designated as member contributions and paid to the retirement plan.  
7 Member contributions paid pursuant to this subsection shall be treated for  
8 all other purposes, in the same manner and to the same extent, as member  
9 contributions made before August 7, 1985.

10 G. AN ELECTED OFFICIAL WHO BECAME A MEMBER OF THE PLAN BEFORE JULY  
11 20, 2011 SHALL CONTRIBUTE SEVEN PERCENT OF THE MEMBER'S GROSS SALARY  
12 PURSUANT TO SUBSECTION A OF THIS SECTION. The amount contributed ~~by a~~  
13 ~~member~~ pursuant to subsection A of this section BY AN ELECTED OFFICIAL WHO  
14 BECAME A MEMBER OF THE PLAN ON OR AFTER JULY 20, 2011 is:

15 ~~1. Through June 30, 2011, seven percent of the member's gross~~  
16 ~~salary.~~

17 ~~2.~~ For fiscal year 2011-2012, ten percent of the member's gross  
18 salary.

19 ~~3.~~ 2. For fiscal year 2012-2013, eleven and one-half percent of  
20 the member's gross salary.

21 ~~4.~~ 3. For fiscal year 2013-2014 and each fiscal year thereafter,  
22 thirteen percent of the member's gross salary.

23 H. For fiscal year 2011-2012 and each fiscal year thereafter, the  
24 amount of the member's contribution that exceeds seven percent of the  
25 member's compensation shall not be used to reduce the employer's  
26 contributions that are calculated pursuant to subsection C of this  
27 section.

28 I. In fiscal years 2013-2014 through 2042-2043, the sum of  
29 \$5,000,000 is appropriated in each fiscal year from the state general fund  
30 to the elected officials' retirement plan fund to supplement the normal  
31 cost plus an amount to amortize the unfunded accrued liability pursuant to  
32 subsection C of this section. Monies appropriated pursuant to this  
33 subsection shall not be used to pay for an increase in benefits that is  
34 otherwise payable to members and shall only be used as specified in this  
35 subsection. Monies appropriated pursuant to this subsection are exempt  
36 from the provisions of section 35-190 relating to lapsing of  
37 appropriations.

38 Sec. 2. Section 38-816, Arizona Revised Statutes, is amended to  
39 read:

40 38-816. Redemption of prior service

41 A. ~~Any present~~ EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION,  
42 AN active elected official who has at least five years of credited service  
43 with the plan may elect to redeem up to sixty months of any part of the  
44 following prior service or employment by paying into the fund the amounts

1 required under subsection ~~B~~ C of this section if the prior service or  
2 employment is not on account with any other retirement system or plan:

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

8 2. Prior service in this state as an elected official with an  
9 employer now covered by the plan before the effective date of  
10 participation if the elected official was not covered by a retirement  
11 system or plan during the elected official's prior elected official  
12 service.

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

17 4. Prior employment with the United States government, a state of  
18 the United States or a political subdivision of a state of the United  
19 States.

20 B. AN ACTIVE ELECTED OFFICIAL WHO BECAME A MEMBER OF THE PLAN  
21 BEFORE JANUARY 1, 2012 MAY REDEEM ANY AMOUNT OF ELIGIBLE PRIOR SERVICE AS  
22 SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED  
23 ANY MINIMUM AMOUNT OF CREDITED SERVICE IN THE PLAN.

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

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

42 ~~D~~ E. A member electing to redeem service pursuant to this section  
43 may pay for service being redeemed in the form of a lump sum payment to  
44 the plan, a trustee-to-trustee transfer or a direct rollover of an  
45 eligible distribution from a plan described in section 402(c)(8)(B)(iii),

1 (iv), (v) or (vi) of the internal revenue code or a rollover of an  
2 eligible distribution from an individual retirement account or annuity  
3 described in section 408(a) or (b) of the internal revenue code.

4 Sec. 3. Section 38-820, Arizona Revised Statutes, is amended to  
5 read:

6 38-820. Credit for military service

7 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of  
8 the plan who has at least five years of credited service with the plan may  
9 receive credited service for periods of active military service performed  
10 before employment with the member's current employer if:

11 1. The member was honorably separated from the military service.

12 2. The period of military service for which the member receives  
13 credited service does not exceed sixty months.

14 3. The period of military service for which the member receives  
15 credited service is not on account with any other retirement system,  
16 except as provided by 10 United States Code section 12736 or except if the  
17 member is not yet eligible for a military retirement benefit.

18 4. The member pays the cost to purchase the prior active military  
19 service. The cost is the amount necessary to equal the increase in the  
20 actuarial present value of projected benefits resulting from the  
21 additional credited service.

22 5. The amount of benefits purchased pursuant to this subsection is  
23 subject to limits established by section 415 of the internal revenue code.

24 B. AN ELECTED OFFICIAL WHO BECAME A MEMBER OF THE PLAN BEFORE  
25 JANUARY 1, 2012 MAY RECEIVE CREDITED SERVICE FOR ELIGIBLE PRIOR ACTIVE  
26 MILITARY SERVICE AS SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT  
27 HAVING TO HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED SERVICE WITH THE  
28 PLAN.

29 ~~B.~~ C. An active member of the plan who volunteers or is ordered to  
30 perform military service may receive credited service for not more than  
31 sixty months of military service as provided by the uniformed services  
32 employment and reemployment rights act of 1994 (38 United States Code part  
33 III, chapter 43). The member's employer shall make employer contributions  
34 and the member shall make the member contributions pursuant to subsection  
35 ~~C.~~ D of this section if the member meets the following requirements:

36 1. Was an active member of the plan on the day before the member  
37 began military service.

38 2. Entered into and served in the armed forces of the United States  
39 or is a member of the national guard.

40 3. Complies with the notice and return to work provisions of 38  
41 United States Code section 4312.

42 ~~C.~~ D. Contributions made pursuant to subsection ~~B.~~ C of this  
43 section shall be for the period of time beginning on the date the member  
44 began military service and ending on the later of one of the following  
45 dates:

- 1           1. The date the member is separated from military service.
- 2           2. The date the member is released from ~~service-related~~  
3 ~~SERVICE-RELATED~~ hospitalization or two years after initiation of ~~service~~  
4 ~~related~~ ~~SERVICE-RELATED~~ hospitalization, whichever date is earlier.
- 5           3. The date the member dies as a result of or during military  
6 service.
- 7           ~~D.~~ E. Notwithstanding any other law, on payment of the  
8 contributions made pursuant to subsection ~~B- C~~ of this section, the member  
9 shall be credited with service for retirement purposes for the period of  
10 military service of not more than sixty months. The member shall submit a  
11 copy of the military discharge certificate (DD-256A) and a copy of the  
12 military service record (DD-214) or its equivalent with the member's  
13 application when applying for credited service corresponding to the period  
14 of military service.
- 15           ~~E.~~ F. The employer and the member shall make contributions  
16 pursuant to subsection ~~B- C~~ of this section as follows:
  - 17           1. Contributions shall be based on the compensation that the member  
18 would have received but for the period that the member was ordered into  
19 active military service.
  - 20           2. If the employer cannot reasonably determine the member's rate of  
21 compensation for the period that the member was ordered into military  
22 service, contributions shall be based on the member's average rate of  
23 compensation during the twelve-month period immediately preceding the  
24 period of military service.
  - 25           3. If a member has been employed less than twelve months before  
26 being ordered into military service, contributions shall be based on the  
27 member's compensation being earned immediately preceding the period of  
28 military service.
  - 29           4. The member has up to three times the length of military service,  
30 not to exceed sixty months, to make the member contributions. Once the  
31 member has made the member contributions or on receipt of the member's  
32 death certificate, the employer shall make the employer contributions in a  
33 lump sum. Death benefits shall be calculated as prescribed by law.
  - 34           5. If the member's employer pays military differential wage pay to  
35 members serving in the military, contributions shall be paid to the plan  
36 pursuant to section 38-810 for any military differential wage pay paid to  
37 the member while performing military service.
- 38           ~~F.~~ G. In computing the length of total credited service of a  
39 member for the purpose of determining retirement benefits or eligibility,  
40 the period of military service, as prescribed by this section, shall be  
41 included.
- 42           ~~G.~~ H. If a member performs military service due to a presidential  
43 call-up, not to exceed forty-eight months, the employer shall make the  
44 employer and member contributions computed pursuant to subsection ~~E- F~~ of

1 this section on the member's return and in compliance with subsection ~~B~~ C  
2 of this section.

3 ~~H~~ I. In addition to, but not in duplication of, subsection ~~B~~ C  
4 of this section, beginning December 12, 1994 contributions, benefits and  
5 credited service provided pursuant to this section shall be provided  
6 pursuant to section 414(u) of the internal revenue code, and this section  
7 shall be interpreted in a manner consistent with that internal revenue  
8 code section.

9 ~~I~~ J. For plan years beginning after December 31, 2008, a member  
10 who does not currently perform services for an employer by reason of  
11 qualified military service as defined in section 414(u)(5) of the internal  
12 revenue code is not considered having a severance from employment during  
13 that qualified military service. Any payments by the employer to the  
14 member during the qualified military service shall be considered  
15 compensation to the extent those payments do not exceed the amounts the  
16 member would have received if the member had continued to perform services  
17 for the employer rather than entering qualified military service.

18 ~~J~~ K. For deaths occurring from and after December 31, 2006, in  
19 the case of a member who dies while performing qualified military service  
20 as defined in section 414(u)(5) of the internal revenue code, the  
21 survivors of the member are entitled to any benefits, other than benefit  
22 accruals relating to the period of qualified military service, provided  
23 under the plan as though the member resumed and then terminated employment  
24 on account of death.

25 Sec. 4. Section 38-823, Arizona Revised Statutes, is amended to  
26 read:

27 38-823. Discount rate; service purchase; transfer of service  
28 credits

29 A. Beginning July 1, 2017, the discount rate specified in  
30 subsection B of this section applies to service purchases or transfers of  
31 service credits to the plan pursuant to the following sections:

- 32 1. Section 38-816, subsection ~~B~~ C.
- 33 2. Section 38-820, subsection A OR B.
- 34 3. Section 38-821.
- 35 4. Sections 38-921, 38-922, 38-923 and 38-924.

36 B. The discount rate is an amount equal to the ~~tesser of the~~  
37 assumed rate of return that is prescribed by the board ~~or an amount equal~~  
38 ~~to the yield on a ten-year treasury note as of March 1 that is published~~  
39 ~~by the federal reserve board plus two percent. The discount rate is~~  
40 ~~effective beginning in the next fiscal year, and the board shall~~  
41 ~~recalculate the rate each year.~~

1           Sec. 5. Section 38-844.03, Arizona Revised Statutes, is amended to  
2 read:

3           38-844.03. Eligibility; participation

4           A. Any member who is eligible for a normal pension pursuant to  
5 section 38-844, subsection A, who becomes a member of the system before  
6 January 1, 2012 and who has at least twenty years of credited service is  
7 eligible to participate in the deferred retirement option plan. In  
8 addition, any member who is subject to section 38-858, subsection ~~B~~ C is  
9 eligible to participate in the deferred retirement option plan retroactive  
10 to the member's twentieth year of credited service or on the day before  
11 the member began military service, whichever is later, if the member makes  
12 the election pursuant to this section on or before resuming employment  
13 with the member's employer.

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

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

18           2. Beginning on the date the member elects to participate in the  
19 deferred retirement option plan, cease to accrue benefits under any other  
20 provision of this article. The member's effective date of participation  
21 is the first day of the month following the date the member elects to  
22 participate.

23           3. Have deferred retirement option plan benefits credited to a  
24 deferred retirement option plan participation account pursuant to section  
25 38-844.05.

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

29           5. Agree to terminate employment on completion of the deferred  
30 retirement option plan participation period designated by the member on  
31 the appropriate deferred retirement option plan participation form.

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

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

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

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

43           4. The member does not acquire any further credited service in the  
44 system.

1           Sec. 6. Section 38-844.05, Arizona Revised Statutes, is amended to  
2 read:

3           38-844.05. Deferred retirement option benefits and  
4           participation accounts

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

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

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

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

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

33           ~~3. If applicable, employee contributions made pursuant to section~~  
34 ~~38-844.06, subsection B.~~

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

38           Sec. 7. Section 38-844.06, Arizona Revised Statutes, is amended to  
39 read:

40           38-844.06. Additional deferred retirement option plan  
41           provisions

42           A. ~~Except as provided by subsection B of this section,~~ Beginning on  
43 the day after the date the member elects to participate in the deferred  
44 retirement option plan, employee and employer contributions pursuant to  
45 section 38-843 cease with respect to that member.

1 ~~B. A member who has less than twenty years of credited service on~~  
2 ~~January 1, 2012 and who elects to participate in the deferred retirement~~  
3 ~~option plan on or after January 1, 2012, shall make employee contributions~~  
4 ~~to the system in the amount equal to the employee contributions calculated~~  
5 ~~pursuant to section 38-843.~~

6 ~~C.~~ B. A member who elects to participate in the deferred  
7 retirement option plan and who develops a disability during the period of  
8 deferred retirement option plan participation is eligible to apply for  
9 disability retirement benefits. If the application for disability  
10 retirement benefits is approved by the local board:

11 1. The disability retirement benefits shall be computed using the  
12 factors of credited service and average monthly benefit compensation in  
13 effect the day before the effective date of the member's deferred  
14 retirement option plan participation.

15 2. All amounts in the member's deferred retirement option plan  
16 participation account shall be distributed pursuant to section 38-844.08.

17 ~~D.~~ C. If a member dies during the period of the member's deferred  
18 retirement option plan participation, the designated beneficiary of the  
19 member is entitled to receive all amounts in the member's deferred  
20 retirement option plan participation account.

21 Sec. 8. Section 38-844.08, Arizona Revised Statutes, is amended to  
22 read:

23 38-844.08. Payment of deferred retirement option plan  
24 benefits

25 A. On the simultaneous termination of deferred retirement option  
26 plan participation and employment, a member is entitled to receive all of  
27 the following:

28 1. The monthly retirement allowance in the amount determined  
29 pursuant to section 38-845 that was credited monthly to the member's  
30 deferred retirement option plan participation account at the date of  
31 termination of deferred retirement option plan participation.

32 2. All amounts credited to the member's deferred retirement option  
33 plan participation account on the effective date of termination of  
34 deferred retirement option plan participation.

35 ~~3. Interest on the amount credited pursuant to section 38-844.05,~~  
36 ~~subsection C, paragraph 3 at a rate equal to two percent but only if the~~  
37 ~~average annual return of the system over the period of years established~~  
38 ~~by the board for use in the calculation of the actuarial value of assets~~  
39 ~~is at least two percent for the previous fiscal year.~~

40 B. The form of payment shall be a lump sum distribution that is  
41 directly deposited in an account created for the member in the public  
42 safety personnel defined contribution retirement plan established by  
43 article 4.1 of this chapter. On deposit of the lump sum payment, the  
44 member shall immediately be able to either withdraw all or any portion of  
45 the lump sum deposit or directly transfer all or any portion of the lump

1 sum deposit to an eligible retirement plan as required by section  
2 401(a)(31) of the internal revenue code.

3 Sec. 9. Section 38-853.01, Arizona Revised Statutes, is amended to  
4 read:

5 38-853.01. Redemption of prior service; calculation

6 A. ~~Each present~~ EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION,  
7 AN active member of the system who has at least five years of service with  
8 the system may elect to redeem up to sixty months of any part of the  
9 following prior service or employment by paying into the system any  
10 amounts required under subsection ~~B~~ C of this section if the prior  
11 service or employment is not on account with any other retirement system:

12 1. Prior service in this state as an employee with an employer now  
13 covered by the system or prior service with an agency of the United States  
14 government, a state of the United States or a political subdivision of  
15 this state or of a state of the United States as a full-time paid  
16 firefighter, full-time paid certified peace officer or full-time paid  
17 corrections officer engaged in law enforcement duties.

18 2. Subject to any limitations prescribed by federal law, prior  
19 employment as an employee of a corporation that contracted with an  
20 employer now covered by the system to provide firefighting services on  
21 behalf of that employer as a full-time paid firefighter or that provided  
22 firefighting services for a political subdivision of this state.

23 B. AN ACTIVE MEMBER WHO BECAME A MEMBER OF THE SYSTEM BEFORE  
24 JANUARY 1, 2012 MAY REDEEM ANY AMOUNT OF ELIGIBLE PRIOR SERVICE AS  
25 SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED  
26 ANY MINIMUM AMOUNT OF CREDITED SERVICE.

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

36 ~~C~~ D. A member electing to redeem service pursuant to this section  
37 may pay for service being redeemed in the form of a lump sum payment to  
38 the system, a trustee-to-trustee transfer or a direct rollover of an  
39 eligible distribution from a plan described in section 402(c)(8)(B)(iii),  
40 (iv), (v) or (vi) of the internal revenue code or a rollover of an  
41 eligible distribution from an individual retirement account or annuity  
42 described in section 408(a) or (b) of the internal revenue code.

1           Sec. 10. Section 38-858, Arizona Revised Statutes, is amended to  
2 read:

3           38-858. Credit for military service

4           A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of  
5 the system who has at least five years of service with the system may  
6 receive credited service for periods of active military service performed  
7 before employment with the member's current employer if:

8           1. The member was honorably separated from the military service.

9           2. The period of military service for which the member receives  
10 credited service does not exceed sixty months.

11           3. The period of military service for which the member receives  
12 credited service is not on account with any other retirement system,  
13 except as provided by 10 United States Code section 12736 or except if the  
14 member is not yet eligible for a military retirement benefit.

15           4. The member pays the cost to purchase the prior active military  
16 service. The cost is the amount necessary to equal the increase in the  
17 actuarial present value of projected benefits resulting from the  
18 additional credited service.

19           5. The amount of benefits purchased pursuant to this subsection is  
20 subject to limits established by section 415 of the internal revenue code.

21           B. A MEMBER WHO BECAME A MEMBER OF THE SYSTEM BEFORE JANUARY 1,  
22 2012 MAY RECEIVE CREDITED SERVICE FOR ELIGIBLE PRIOR ACTIVE MILITARY  
23 SERVICE AS SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO  
24 HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED SERVICE IN THE SYSTEM.

25           ~~B.~~ C. An active member of the system who volunteers or is ordered  
26 to perform military service may receive credited service for not more than  
27 sixty months of military service as provided by the uniformed services  
28 employment and reemployment rights act of 1994 (38 United States Code part  
29 III, chapter 43). The member's employer shall make employer contributions  
30 and the member shall make the member contributions pursuant to subsection  
31 ~~C.~~ D of this section if the member meets the following requirements:

32           1. Was an active member of the system on the day before the member  
33 began military service.

34           2. Entered into and served in the armed forces of the United States  
35 or is a member of the national guard.

36           3. Complies with the notice and return to work provisions of 38  
37 United States Code section 4312.

38           ~~C.~~ D. Contributions made pursuant to subsection ~~B.~~ C of this  
39 section shall be for the period of time beginning on the date the member  
40 began military service and ending on the later of one of the following  
41 dates:

42           1. The date the member is separated from military service.

43           2. The date the member is released from ~~service-related~~  
44 SERVICE-RELATED hospitalization or two years after initiation of ~~service~~  
45 ~~related~~ SERVICE-RELATED hospitalization, whichever date is earlier.

1           3. The date the member dies as a result of or during military  
2 service.

3           ~~D.~~ E. Notwithstanding any other law, on payment of the  
4 contributions made pursuant to subsection ~~B-C~~ of this section, the member  
5 shall be credited with service for retirement purposes for the period of  
6 military service of not more than sixty months. The member shall submit a  
7 copy of the military discharge certificate (DD-256A) and a copy of the  
8 military service record (DD-214) or its equivalent with the member's  
9 application when applying for credited service corresponding to the period  
10 of military service.

11           ~~E.~~ F. The employer and the member shall make contributions  
12 pursuant to subsection ~~B-C~~ of this section as follows:

13           1. Contributions shall be based on the compensation that the member  
14 would have received but for the period that the member was ordered into  
15 active military service.

16           2. If the employer cannot reasonably determine the member's rate of  
17 compensation for the period that the member was ordered into military  
18 service, contributions shall be based on the member's average rate of  
19 compensation during the twelve-month period immediately preceding the  
20 period of military service.

21           3. If a member has been employed less than twelve months before  
22 being ordered into military service, contributions shall be based on the  
23 member's compensation being earned immediately preceding the period of  
24 military service.

25           4. The member has up to three times the length of military service,  
26 not to exceed sixty months, to make the member contributions. Once the  
27 member has made the member contributions or on receipt of the member's  
28 death certificate, the employer shall make the employer contributions in a  
29 lump sum. Death benefits shall be calculated as prescribed by law.

30           5. If the member's employer pays military differential wage pay to  
31 members serving in the military, contributions shall be paid to the system  
32 pursuant to section 38-843 for any military differential wage pay paid to  
33 the member while performing military service.

34           ~~F.~~ G. In computing the length of total credited service of a  
35 member for the purpose of determining retirement benefits or eligibility,  
36 the period of military service, as prescribed by this section, shall be  
37 included.

38           ~~G.~~ H. If a member performs military service due to a presidential  
39 call-up, not to exceed forty-eight months, the employer shall make the  
40 employer and member contributions computed pursuant to subsection ~~E-F~~ of  
41 this section on the member's return and in compliance with subsection ~~B-C~~  
42 of this section.

43           ~~H.~~ I. In addition to, but not in duplication of, the provisions of  
44 subsection ~~B-C~~ of this section, beginning December 12, 1994  
45 contributions, benefits and credited service provided pursuant to this

1 section shall be provided pursuant to section 414(u) of the internal  
2 revenue code, and this section shall be interpreted in a manner consistent  
3 with that internal revenue code section.

4 ~~J.~~ J. For plan years beginning after December 31, 2008, a member  
5 who does not currently perform services for an employer by reason of  
6 qualified military service as defined in section 414(u)(5) of the internal  
7 revenue code is not considered having a severance from employment during  
8 that qualified military service. Any payments by the employer to the  
9 member during the qualified military service shall be considered  
10 compensation to the extent those payments do not exceed the amounts the  
11 member would have received if the member had continued to perform services  
12 for the employer rather than entering qualified military service.

13 ~~K.~~ K. For deaths occurring from and after December 31, 2006, in  
14 the case of a member who dies while performing qualified military service  
15 as defined in section 414(u)(5) of the internal revenue code, the  
16 survivors of the member are entitled to any benefits, other than benefit  
17 accruals relating to the period of qualified military service, provided  
18 under the system as though the member resumed and then terminated  
19 employment on account of death.

20 Sec. 11. Section 38-862, Arizona Revised Statutes, is amended to  
21 read:

22 38-862. Discount rate; service purchase; transfer of service  
23 credits

24 A. Beginning July 1, 2017, the discount rate specified in  
25 subsection B of this section applies to service purchases or transfers of  
26 service credits to the system pursuant to the following sections:

- 27 1. Section 38-849, subsection D.
- 28 2. Section 38-853.01, subsection ~~B~~ C.
- 29 3. Section 38-858, subsection A OR B.
- 30 4. Sections 38-921, 38-922, 38-923 and 38-924.

31 B. FOR MEMBERS ENROLLED IN THE SYSTEM:

32 1. BEFORE JULY 1, 2017, THE DISCOUNT RATE IS THE ASSUMED RATE OF  
33 RETURN THAT IS PRESCRIBED BY THE BOARD.

34 2. ON OR AFTER JULY 1, 2017, the discount rate is an amount equal  
35 to the lesser of the assumed rate of return that is prescribed by the  
36 board or an amount equal to the yield on a ten-year treasury note as of  
37 March 1 that is published by the federal reserve board plus two percent.  
38 The discount rate is effective beginning in the next fiscal year, and the  
39 board shall recalculate the rate each year.

40 Sec. 12. Section 38-907, Arizona Revised Statutes, is amended to  
41 read:

42 38-907. Credit for military service

43 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, a member of  
44 the plan who has at least five years of credited service with the plan may

1 receive credited service for periods of active military service performed  
2 before employment with the member's current employer if:

3 1. The member was honorably separated from the military service.

4 2. The period of military service for which the member receives  
5 credited service does not exceed sixty months.

6 3. The period of military service for which the member receives  
7 credited service is not on account with any other retirement system,  
8 except as provided by 10 United States Code section 12736 or except if the  
9 member is not yet eligible for a military retirement benefit.

10 4. The member pays the cost to purchase the prior active military  
11 service. The cost is the amount necessary to equal the increase in the  
12 actuarial present value of projected benefits resulting from the  
13 additional credited service.

14 5. The amount of benefits purchased pursuant to this subsection is  
15 subject to limits established by section 415 of the internal revenue code.

16 B. A MEMBER WHO BECAME A MEMBER BEFORE JANUARY 1, 2012 MAY REDEEM  
17 ELIGIBLE PRIOR MILITARY SERVICE AS SPECIFIED IN SUBSECTION A OF THIS  
18 SECTION WITHOUT HAVING TO HAVE ACCRUED ANY MINIMUM AMOUNT OF CREDITED  
19 SERVICE.

20 ~~B.~~ C. An active member of the plan who volunteers or is ordered to  
21 perform military service may receive credited service for not more than  
22 sixty months of military service as provided by the uniformed services  
23 employment and reemployment rights act of 1994 (38 United States Code part  
24 III, chapter 43). The member's employer shall make employer contributions  
25 and the member shall make the member contributions pursuant to subsection  
26 ~~C.~~ D of this section if the member meets the following requirements:

27 1. Was an active member of the plan on the day before the member  
28 began military service.

29 2. Entered into and served in the armed forces of the United States  
30 or is a member of the national guard.

31 3. Complies with the notice and return to work provisions of 38  
32 United States Code section 4312.

33 ~~C.~~ D. Contributions made pursuant to subsection ~~B.~~ C of this  
34 section shall be for the period of time beginning on the date the member  
35 began military service and ending on the later of one of the following  
36 dates:

37 1. The date the member is separated from military service.

38 2. The date the member is released from ~~service-related~~  
39 SERVICE-RELATED hospitalization or two years after initiation of ~~service~~  
40 related SERVICE-RELATED hospitalization, whichever date is earlier.

41 3. The date the member dies as a result of or during military  
42 service.

43 ~~D.~~ E. Notwithstanding any other law, on payment of the  
44 contributions made pursuant to subsection ~~B.~~ C of this section, the member  
45 shall be credited with service for retirement purposes for the period of

1 military service of not more than sixty months. The member shall submit a  
2 copy of the military discharge certificate (DD-256A) and a copy of the  
3 military service record (DD-214) or its equivalent with the member's  
4 application when applying for credited service corresponding to the period  
5 of military service.

6 ~~F.~~ F. The employer and the member shall make contributions  
7 pursuant to subsection ~~B- C~~ of this section as follows:

8 1. Contributions shall be based on the compensation that the member  
9 would have received but for the period that the member was ordered into  
10 active military service.

11 2. If the employer cannot reasonably determine the member's rate of  
12 compensation for the period that the member was ordered into military  
13 service, contributions shall be based on the member's average rate of  
14 compensation during the twelve-month period immediately preceding the  
15 period of military service.

16 3. If a member has been employed less than twelve months before  
17 being ordered into military service, contributions shall be based on the  
18 member's compensation being earned immediately preceding the period of  
19 military service.

20 4. The member has up to three times the length of military service,  
21 not to exceed sixty months, to make the member contributions. Once the  
22 member has made the member contributions or on receipt of the member's  
23 death certificate, the employer shall make the employer contributions in a  
24 lump sum. Death benefits shall be calculated as prescribed by law.

25 5. If the member's employer pays military differential wage pay to  
26 members serving in the military, contributions shall be paid to the plan  
27 pursuant to section 38-891 for any military differential wage pay paid to  
28 the member while performing military service.

29 ~~F.~~ G. In computing the length of total credited service of a  
30 member for the purpose of determining retirement benefits or eligibility,  
31 the period of military service, as prescribed by this section, shall be  
32 included.

33 ~~G.~~ H. If a member performs military service due to a presidential  
34 call-up, not to exceed forty-eight months, the employer shall make the  
35 employer and member contributions computed pursuant to subsection ~~E- F~~ of  
36 this section on the member's return and in compliance with subsection ~~B- C~~  
37 of this section.

38 ~~H.~~ I. In addition to, but not in duplication of, subsection ~~B- C~~  
39 of this section, beginning December 12, 1994 contributions, benefits and  
40 credited service provided pursuant to this section shall be provided  
41 pursuant to section 414(u) of the internal revenue code, and this section  
42 shall be interpreted in a manner consistent with that internal revenue  
43 code section.

44 ~~I.~~ J. For plan years beginning after December 31, 2008, a member  
45 who does not currently perform services for an employer by reason of

1 qualified military service as defined in section 414(u)(5) of the internal  
2 revenue code is not considered having a severance from employment during  
3 that qualified military service. Any payments by the employer to the  
4 member during the qualified military service shall be considered  
5 compensation to the extent those payments do not exceed the amounts the  
6 member would have received if the member had continued to perform services  
7 for the employer rather than entering qualified military service.

8 ~~J.~~ K. For deaths occurring from and after December 31, 2006 in the  
9 case of a member who dies while performing qualified military service as  
10 defined in section 414(u)(5) of the internal revenue code, the survivors  
11 of the member are entitled to any benefits, other than benefit accruals  
12 relating to the period of qualified military service, provided under the  
13 plan as though the member resumed and then terminated employment on  
14 account of death.

15 Sec. 13. Section 38-909, Arizona Revised Statutes, is amended to  
16 read:

17 38-909. Redemption of prior service; calculation

18 A. ~~Each present~~ EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION,  
19 AN active member of the plan who has at least five years of credited  
20 service with the plan who had previous service in this state as an  
21 employee with an employer now covered by the plan or who had previous  
22 service with an agency of the United States government, a state of the  
23 United States or a political subdivision of this state or a state of the  
24 United States as a full-time paid corrections officer or full-time paid  
25 certified peace officer may elect to redeem up to sixty months of any part  
26 of the prior service by paying into the plan any amounts required under  
27 subsection ~~B~~ C of this section if the prior service is not on account  
28 with any other retirement system.

29 B. AN ACTIVE MEMBER WHO BECAME A MEMBER OF THE PLAN BEFORE  
30 JANUARY 1, 2012 MAY REDEEM ANY AMOUNT OF ELIGIBLE PRIOR SERVICE AS  
31 SPECIFIED IN SUBSECTION A OF THIS SECTION WITHOUT HAVING TO HAVE ACCRUED  
32 ANY MINIMUM AMOUNT OF CREDITED SERVICE.

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

42 ~~C.~~ D. A member electing to redeem service pursuant to this section  
43 may pay for service being redeemed in the form of a lump sum payment to  
44 the plan, a trustee-to-trustee transfer or a direct rollover of an  
45 eligible distribution from a plan described in section 402(c)(8)(B)(iii),

1 (iv), (v) or (vi) of the internal revenue code or a rollover of an  
2 eligible distribution from an individual retirement account or annuity  
3 described in section 408(a) or (b) of the internal revenue code.

4 Sec. 14. Section 38-913, Arizona Revised Statutes, is amended to  
5 read:

6 38-913. Discount rate; service purchase; transfer of service  
7 credits

8 A. Beginning July 1, 2017, the discount rate specified in  
9 subsection B of this section applies to service purchases or transfers of  
10 service credits to the plan pursuant to the following sections:

- 11 1. Section 38-907, subsection A OR B.
- 12 2. Section 38-909, subsection ~~B~~ C.
- 13 3. Sections 38-921, 38-922, 38-923 and 38-924.

14 B. FOR MEMBERS ENROLLED IN THE SYSTEM:

15 1. BEFORE JULY 1, 2017, THE DISCOUNT RATE IS THE ASSUMED RATE OF  
16 RETURN THAT IS PRESCRIBED BY THE BOARD.

17 2. ON OR AFTER JULY 1, 2017, the discount rate is an amount equal  
18 to the lesser of the assumed rate of return that is prescribed by the  
19 board or an amount equal to the yield on a ten-year treasury note as of  
20 March 1 that is published by the federal reserve board plus two  
21 percent. The discount rate is effective beginning in the next fiscal  
22 year, and the board shall recalculate the rate each year.

23 Sec. 15. Board of trustees for the public safety personnel  
24 retirement system; interest payments

25 On or before June 30, 2019, the board of trustees for the public  
26 safety personnel retirement system may choose to require interest to be  
27 paid on monies returned to members of a retirement plan or system under  
28 the jurisdiction of the board consistent with sections 38-823, 38-844.05,  
29 38-844.06, 38-844.08, 38-862 and 38-913, Arizona Revised Statutes, as  
30 amended by this act, for the period of time between the transaction under  
31 the applicable section until a date to be determined by the board, but not  
32 later than the effective date of this act.

33 Sec. 16. Retroactivity

34 A. Sections 38-810, 38-816, 38-820, 38-844.03, 38-844.05,  
35 38-844.06, 38-844.08, 38-853.01, 38-858, 38-907 and 38-909, Arizona  
36 Revised Statutes, as amended by this act, apply retroactively to from and  
37 after July 19, 2011.

38 B. Sections 38-823, 38-862 and 38-913, Arizona Revised Statutes, as  
39 amended by this act, apply retroactively to from and after June 30, 2017.

40 Sec. 17. Emergency

41 This act is an emergency measure that is necessary to preserve the  
42 public peace, health or safety and is operative immediately as provided by  
43 law.

S.B. 1146

APPROVED BY THE GOVERNOR APRIL 1, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 2019.