

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

**CHAPTER 251**

**SENATE BILL 1649**

AN ACT

AMENDING SECTION 38-847, ARIZONA REVISED STATUTES, AS AMENDED BY HOUSE BILL 2381, SECTION 2, FIFTY-FIFTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; AMENDING SECTIONS 38-848 AND 38-863.01, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-863.02; AMENDING SECTION 38-893, ARIZONA REVISED STATUTES, AS AMENDED BY HOUSE BILL 2381, SECTION 5, FIFTY-FIFTH LEGISLATURE, FIRST REGULAR SESSION, AS TRANSMITTED TO THE GOVERNOR; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-847, Arizona Revised Statutes, as amended by  
3 House Bill 2381, section 2, fifty-fifth legislature, first regular  
4 session, as transmitted to the governor, is amended to read:

5 38-847. Local boards

6 A. To the extent outlined in this section, the administration of  
7 the system and responsibility for making the provisions of the system  
8 effective for each employer are vested in a local board. The department  
9 of public safety, the Arizona game and fish department, the department of  
10 emergency and military affairs, the university of Arizona, Arizona state  
11 university, northern Arizona university, each county sheriff's office,  
12 each county attorney's office, each county parks department, each  
13 municipal fire department, each eligible fire district, each community  
14 college district, each municipal police department, the department of law,  
15 the department of liquor licenses and control, the Arizona department of  
16 agriculture, the Arizona state parks board, each Indian reservation police  
17 agency and each Indian reservation firefighting agency shall have a local  
18 board. A nonprofit corporation operating pursuant to sections 28-8423 and  
19 28-8424 shall have one local board for all of its members. Each local  
20 board shall be constituted as follows:

21 1. For political subdivisions or Indian tribes, the mayor or chief  
22 elected official or a designee of the mayor or chief elected official  
23 approved by the respective governing body as chairperson, two members  
24 elected by secret ballot by members employed by the appropriate employer  
25 and two citizens, one of whom shall be the head of the merit system, or  
26 the head's designee from among the other members of the merit system, if  
27 it exists for the group of members, appointed by the mayor or chief  
28 elected official and with the approval of the governing body of the city  
29 or the governing body of the employer. The appointed two citizens shall  
30 serve on both local boards in a city or Indian tribes where both fire and  
31 police department employees are members.

32 2. For state agencies and nonprofit corporations operating pursuant  
33 to sections 28-8423 and 28-8424, two members elected by secret ballot by  
34 the members employed by the appropriate employer and three citizens  
35 appointed by the governor. Each state agency local board shall elect a  
36 chairperson.

37 3. For fire districts, the chairperson of the fire district  
38 governing board or the chairperson's designee, two members elected by  
39 secret ballot by members employed by the fire district and two citizens  
40 appointed by the chairperson of the fire district governing board, one of  
41 whom is a resident of the fire district and one of whom has experience in  
42 personnel administration but who is not required to be a resident of the  
43 fire district.

44 4. For joint powers authorities organized pursuant to section  
45 48-805.01, the joint powers authority board chairperson or a designee

1 approved by the governing body, two members elected by secret ballot by  
2 members employed by the joint powers authority and two citizens, one of  
3 whom is a resident of one of the partner entities and one of whom has  
4 experience in personnel administration but who is not required to be a  
5 resident of a partner entity.

6 B. On the taking effect of this system for an employer, the  
7 appointments and elections of local board members shall take place with  
8 one elective and appointive local board member serving a term ending two  
9 years after the effective date of participation for the employer and other  
10 local board members serving a term ending four years after the effective  
11 date. Thereafter, every second year, and as a vacancy occurs, an office  
12 shall be filled for a term of four years in the same manner as previously  
13 provided.

14 C. Each local board shall be fully constituted pursuant to  
15 subsection A of this section within sixty days after the employer's  
16 effective date of participation in the system. If the deadline is not  
17 met, on the written request of any member who is covered by the local  
18 board or the employer to the board of trustees, the board of trustees may  
19 appoint all vacancies of the local board pursuant to subsection A of this  
20 section and designate whether each appointive position is for a two-year  
21 or four-year term. If the board of trustees cannot find individuals to  
22 serve on the local board who meet the requirements of subsection A of this  
23 section, the board of trustees may appoint individuals to serve as interim  
24 local board members until qualified individuals are appointed or  
25 elected. Each local board shall meet at least twice a year. Each member  
26 of a local board, within ten days after the member's appointment or  
27 election, shall take an oath of office that, so far as it devolves on the  
28 member, the member shall diligently and honestly administer the affairs of  
29 the local board and that the member shall not knowingly violate or  
30 willingly allow to be violated any of the provisions of law applicable to  
31 the system. Within one hundred eighty days after appointment or election,  
32 each board member shall complete local board training as prescribed by the  
33 board of trustees, including open meeting laws, ethics, legal review and  
34 fiduciary responsibilities and duties.

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

38 1. To decide all questions of eligibility for membership and  
39 disability and in the line of duty death benefits under the system.

40 2. To prescribe procedures to be followed by claimants in filing  
41 applications for disability and in the line of duty death benefits.

42 3. To make a determination as to the right of any claimant to a  
43 disability and in the line of duty death benefit, to issue opinions on  
44 questions of whether benefits are consistent with and allowable under the  
45 system and to afford any claimant or the board of trustees, or both, a

1 right to a rehearing on the original determination. Except as otherwise  
2 required by law, unless all parties involved in a matter presented to the  
3 local board for determination otherwise agree, the local board shall  
4 commence a hearing on the matter within ninety days after the date the  
5 matter is presented to the local board for determination. If a local  
6 board fails to commence a hearing as provided in this paragraph, on a  
7 matter presented to the local board for determination, the relief demanded  
8 by the party petitioning the local board is deemed granted and approved by  
9 the local board.

10 4. To request and receive from the employers and from members such  
11 information as is necessary for the proper administration of the system  
12 and action on claims for eligibility for membership and disability and in  
13 the line of duty death benefits, and to forward such information to the  
14 board of trustees.

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

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

21 7. To receive and review the actuarial valuation of the system for  
22 its group of members.

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

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

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

28 E. A local board may not add to, subtract from, modify or waive any  
29 of the terms of the system, change or add to any benefits provided by the  
30 system or waive or fail to apply any requirement of eligibility for  
31 membership or disability and in the line of duty death benefits under the  
32 system. Notwithstanding any limitations periods imposed in this article,  
33 including subsection D, paragraph 3 and subsections G and H of this  
34 section, if the board of trustees determines a local board decision  
35 violates the internal revenue code or threatens to impair the system's  
36 status as a qualified plan under the internal revenue code, the local  
37 board's decision is not final and binding and the board of trustees may  
38 refrain from implementing or complying with the local board decision.

39 F. A local board shall establish and adopt such rules as it deems  
40 necessary for its administration and to adjudicate claims and disputes.  
41 At a minimum, the board's rules shall incorporate the model uniform rules  
42 for local board procedure that are issued by the board of trustees. All  
43 rules and decisions of a local board shall be uniformly and consistently  
44 applied to all members in similar circumstances. If a claim or dispute is  
45 presented to a local board for determination but the local board has not

1 yet adopted uniform rules of procedure for adjudication of the claim or  
2 dispute, the local board shall adopt and use the model uniform rules of  
3 local board procedure that are issued by the board of trustees' fiduciary  
4 counsel to adjudicate the claim or dispute.

5 G. Except as otherwise provided in this article, any action by a  
6 majority vote of the members of a local board that is not inconsistent  
7 with the provisions of the system and the internal revenue code shall be  
8 final, conclusive and binding on all persons affected by it unless a  
9 timely application for a rehearing or appeal is filed as provided in this  
10 article. Not later than twenty days after taking action, the local board  
11 shall submit to the board of trustees the minutes from the local board  
12 meeting that include the name of the member affected by its decision, a  
13 description of the action taken and an explanation of the reasons and all  
14 documents submitted to the local board for the action taken, including the  
15 reports of a medical board. The board of trustees may require additional  
16 records from the local board or the employer or may require that the local  
17 board conduct a rehearing on the matter. The board of trustees may not  
18 implement and comply with any local board action that does not comply with  
19 the internal revenue code or that threatens to jeopardize the system's  
20 status as a qualified plan under the internal revenue code.

21 H. A claimant may apply for or the board of trustees may require a  
22 rehearing before the local board within the time periods prescribed in  
23 this subsection, except that if a decision of a local board violates the  
24 internal revenue code or threatens to jeopardize the system's status as a  
25 qualified plan under the internal revenue code, any limitation period for  
26 the board of trustees to require a rehearing of a local board decision  
27 does not apply. An application for a rehearing shall be filed in writing  
28 with a member of the local board or its secretary within sixty days after:

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

33 2. The applicant-board of trustees receives notification of the  
34 local board's original action as prescribed by subsection G of this  
35 section by email or certified mail.

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

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

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

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

4 M. The local board shall adopt such bylaws as it deems desirable.  
5 The local board shall elect a secretary who may, but need not, be a member  
6 of the local board. The secretary of the local board shall keep a record  
7 and prepare minutes of all meetings in compliance with chapter 3, article  
8 3.1 of this title and forward the minutes and all necessary communications  
9 to the board of trustees as prescribed by subsection G of this section.  
10 Within one hundred eighty days after election, the local board's secretary  
11 shall complete local board training as prescribed by the board of  
12 trustees, including open meeting laws, ethics, legal review and fiduciary  
13 responsibilities and duties.

14 N. The fees of the medical board and of the local board's  
15 independent legal counsel and all other expenses of the local board  
16 necessary for the administration of the system shall be paid by the  
17 employer and not the board of trustees or system at such rates and in such  
18 amounts as the local board shall approve. Each local board shall hire an  
19 independent legal counsel who is not an employee of or contracted with the  
20 employer or any employee organization ~~or member~~ and owes its duty of  
21 loyalty only to the local board in connection with its representation of  
22 the local board. **THE INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER  
23 OF THE PLAN BEFORE ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD  
24 DECISION.** The local board's independent legal counsel shall review the  
25 model uniform rules for local board procedure that are issued by the board  
26 of trustees.

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

32 P. The local board and the individual members of the local board  
33 shall be indemnified from the assets of the employer for any judgment  
34 against the local board or its members, including attorney fees and costs,  
35 arising from any act, or failure to act, made in good faith pursuant to  
36 the provisions of the system, including expenses reasonably incurred in  
37 the defense of any claim relating to the act or failure to act.

38 Q. A local board shall submit to the board of trustees the names of  
39 the members of the local board and the local board's secretary and  
40 independent legal counsel and shall submit any changes to those positions  
41 within ten days after the change.

42 R. An employer and a local board shall submit any reports, data,  
43 paperwork or other materials that are requested by the board of trustees  
44 for any reason, including local board action or inaction or to investigate  
45 a complaint regarding a local board. If the board of trustees or its

1 designee through an audit or investigation finds that the local board is  
2 not in compliance with statute or the model uniform rules for local board  
3 procedure, the board of trustees shall notify the local board of the  
4 noncompliance and the local board shall have sixty days to take corrective  
5 action. If the local board fails to take adequate corrective action, the  
6 board of trustees may act on behalf of the local board until the matter is  
7 resolved. The board of trustees or its designee shall work with the local  
8 board members to take the appropriate corrective actions, including  
9 appointing any vacant or noncompliant local board member positions, if  
10 necessary, to bring the local board and its membership, policies and  
11 procedures into compliance.

12 Sec. 2. Section 38-848, Arizona Revised Statutes, is amended to  
13 read:

14 38-848. Board of trustees; powers and duties; independent  
15 trust fund; administrator; agents and employees;  
16 advisory committee

17 A. ~~Beginning January 1, 2017,~~ The board of trustees shall consist  
18 of nine members and shall have the rights, powers and duties that are set  
19 forth in this section. The term of office of members shall be five years  
20 to expire on the third Monday in January of the appropriate year. The  
21 board shall select a chairperson from among its members each calendar  
22 year. Members are eligible to receive compensation in an amount of \$50 a  
23 day, but not to exceed \$1,000 in any one fiscal year, and are eligible for  
24 reimbursement of expenses pursuant to chapter 4, article 2 of this  
25 title. ~~Beginning January 1, 2017,~~ The board consists of the following  
26 members appointed as follows:

27 1. Two members representing law enforcement, one of whom is  
28 appointed by the president of the senate and one of whom is appointed by  
29 the governor. A statewide association representing law enforcement in  
30 this state shall forward nominations to the appointing elected officials,  
31 providing at least three nominees for each position. At least one of the  
32 members appointed under this paragraph shall be an elected local board  
33 member.

34 2. Two members representing firefighters, one of whom is appointed  
35 by the speaker of the house of representatives and one of whom is  
36 appointed by the governor. A statewide association representing  
37 firefighters in this state shall forward nominations to the appointing  
38 elected officials, providing at least three nominees for each position.  
39 At least one of the members appointed under this paragraph shall be an  
40 elected local board member.

41 3. Three members representing cities and towns in this state, one  
42 of whom is appointed by the president of the senate, one of whom is  
43 appointed by the speaker of the house of representatives and one of whom  
44 is appointed by the governor. An association representing cities and  
45 towns in this state shall forward nominations to the appointing elected

1 officials, providing at least three nominees for each position. These  
2 nominees shall represent taxpayers or employers and may not be members of  
3 the system.

4 4. One member who represents counties in this state and who is  
5 appointed by the governor. An association representing county supervisors  
6 in this state shall forward nominations to the governor, providing at  
7 least three nominees for the position. These nominees shall represent  
8 taxpayers or employers and may not be members of the system.

9 5. One member who is appointed by the governor from a list of three  
10 nominees forwarded by the board. The board shall select the nominees to  
11 forward to the governor from a list of at least five nominees received  
12 from the advisory committee.

13 B. Each appointment made pursuant to subsection A of this section  
14 shall be chosen from the list of nominees provided to the appointing  
15 elected official. For any appointment made by the governor pursuant to  
16 subsection A of this section, before appointment by the governor, a  
17 prospective member of the board shall submit a full set of fingerprints to  
18 the governor ~~for the purpose of obtaining~~ TO OBTAIN a state and federal  
19 criminal records check pursuant to section 41-1750 and Public Law  
20 92-544. The department of public safety may exchange this fingerprint  
21 data with the federal bureau of investigation. A board member may be  
22 reappointed. Notwithstanding section 38-295, a board member may be  
23 removed from office only for cause by the appointing power or because the  
24 board member has vacated the member's seat on the board. A board member  
25 who is removed for cause shall be provided written notice and an  
26 opportunity for a response. The appointing power may remove a board  
27 member based on written findings that specify the reason for removal. Any  
28 vacancy that occurs other than by expiration of a term shall be filled for  
29 the balance of the term. All vacancies shall be filled in the same manner  
30 as the initial appointment. A board member vacates the office if the  
31 member either:

32 1. Is absent without excuse from three consecutive regular meetings  
33 of the board.

34 2. Resigns, dies or becomes unable to perform board member duties.

35 C. The members of the board who are appointed pursuant to  
36 subsection A of this section and who are not members of the system shall  
37 be independent, qualified professionals who are responsible for the  
38 performance of fiduciary duties and other responsibilities required to  
39 preserve and protect the fund and shall have at least ten years'  
40 substantial experience as any one or a combination of the following:

41 1. A portfolio manager acting in a fiduciary capacity.

42 2. A securities analyst.

43 3. A senior executive or principal of a trust institution,  
44 investment organization or endowment fund acting either in a management or  
45 an investment-related capacity.



1           4. A chartered financial analyst in good standing as determined by  
2 the chartered financial analyst institute.

3           5. A current or former professor or instructor at the college or  
4 university level in the field of economics, finance, actuarial science,  
5 accounting or pension-related subjects.

6           6. An economist.

7           7. Any other senior executive engaged in the field of public or  
8 private finances or with experience with public pension systems.

9           8. A senior executive in insurance, banking, underwriting,  
10 auditing, human resources or risk management.

11           D. All monies in the fund shall be deposited and held in a public  
12 safety personnel retirement system depository. Monies in the fund shall  
13 be disbursed from the depository separate and apart from all monies or  
14 funds of this state and the agencies, instrumentalities and subdivisions  
15 of this state, except that the board may commingle the assets of the fund  
16 and the assets of all other plans entrusted to its management in one or  
17 more group trusts, subject to the crediting of receipts and earnings and  
18 charging of payments to the appropriate employer, system or plan. The  
19 monies shall be secured by the depository in which they are deposited and  
20 held to the same extent and in the same manner as required by the general  
21 depository law of this state. For purposes of making the decision to  
22 invest in securities owned by the fund or any plan or trust administered  
23 by the board, the fund and assets of the plans and the plans' trusts are  
24 subject to the sole management of the board for the purpose of this  
25 article except that, on the board's election to invest in a particular  
26 security or make a particular investment, the assets comprising the  
27 security or investment may be chosen and managed by third parties approved  
28 by the board. The board may invest in portfolios of securities chosen and  
29 managed by a third party. The board's decision to invest in securities  
30 such as mutual funds, commingled investment funds, exchange traded funds,  
31 private equity or venture capital limited partnerships, real estate  
32 limited partnerships or limited liability companies and real estate  
33 investment trusts whose assets are chosen and managed by third parties is  
34 not an improper delegation of the board's investment authority.

35           E. All contributions under this system and other retirement plans  
36 that the board administers shall be forwarded to the board and shall be  
37 held, invested and reinvested by the board as provided in this article.  
38 All property and monies of the fund and other retirement plans that the  
39 board administers, including income from investments and from all other  
40 sources, shall be retained for the exclusive benefit of members, as  
41 provided in the system and other retirement plans that the board  
42 administers, and shall be used to pay benefits to members or their  
43 beneficiaries or to pay expenses of operation and administration of the  
44 system and fund and other retirement plans that the board administers.

1 F. The board shall have the full power in its sole discretion to  
2 invest and reinvest, alter and change the monies accumulated under the  
3 system and other retirement plans and trusts that the board administers as  
4 provided in this article. In addition to its power to make investments  
5 managed by others, the board may delegate the authority the board deems  
6 necessary and prudent to investment management pursuant to section  
7 38-848.03, as well as to the administrator, employed by the board pursuant  
8 to subsection M, paragraph 6 of this section, and any deputy or assistant  
9 administrators to invest the monies of the system and other retirement  
10 plans and trusts that the board administers if the administrator,  
11 investment management and any deputy or assistant administrators follow  
12 the investment policies that are adopted by the board. The board may  
13 commingle securities and monies of the fund, the elected officials'  
14 retirement plan, the corrections officer retirement plan and other plans  
15 or monies entrusted to its care, subject to the crediting of receipts and  
16 earnings and charging of payments to the account of the appropriate  
17 employer, system or plan. In making every investment, the board shall  
18 exercise the judgment and care under the circumstances then prevailing  
19 that persons of ordinary prudence, discretion and intelligence exercise in  
20 the management of their own affairs, not in regard to speculation but in  
21 regard to the permanent disposition of their funds, considering the  
22 probable income from their funds as well as the probable safety of their  
23 capital, if:

24 1. Not more than eighty percent of the combined assets of the  
25 system or other plans that the board manages is invested at any given time  
26 in corporate stocks, based on the cost value of the stocks irrespective of  
27 capital appreciation.

28 2. Not more than five percent of the combined assets of the system  
29 or other plans that the board manages is invested in corporate stock  
30 issued by any one corporation, other than corporate stock issued by  
31 corporations chartered by the United States government or corporate stock  
32 issued by a bank or insurance company.

33 3. Not more than five percent of the voting stock of any one  
34 corporation is owned by the system and other plans that the board  
35 administers, except that this limitation does not apply to membership  
36 interests in limited liability companies.

37 4. Corporate stocks and exchange traded funds eligible for direct  
38 purchase are restricted to stocks and exchange traded funds that, except  
39 for bank stocks, insurance stocks, stocks acquired for coinvestment in  
40 connection with the system's or the plans' or trusts' commingled  
41 investments and interests in limited liability companies and mutual funds,  
42 are any of the following:

43 (a) Listed or approved on issuance for listing on an exchange  
44 registered under the securities exchange act of 1934, as amended  
45 (15 United States Code sections 78a through 78pp).

1 (b) Designated or approved on notice of issuance for designation on  
2 the national market system of a national securities association registered  
3 under the securities exchange act of 1934, as amended (15 United States  
4 Code sections 78a through 78pp).

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

7 (d) Listed or approved on issuance for listing on an exchange of a  
8 foreign country with which the United States is maintaining diplomatic  
9 relations at the time of purchase, except that not more than twenty  
10 percent of the combined assets of the system and other plans that the  
11 board manages is invested in foreign securities, based on the cost value  
12 of the stocks irrespective of capital appreciation.

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

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

33 H. Conference call meetings of the board that are held for  
34 investment purposes only are not subject to chapter 3, article 3.1 of this  
35 title, except that the board shall maintain minutes of these conference  
36 call meetings and make them available for public inspection within  
37 twenty-four hours after the meeting. The board shall review the minutes  
38 of each conference call meeting and shall ratify all legal actions taken  
39 during each conference call meeting at the next scheduled meeting of the  
40 board.

41 I. The board is not liable for the exercise of more than ordinary  
42 care and prudence in the selection of investments and performance of its  
43 duties under the system and is not limited to so-called "legal investments  
44 for trustees", but all monies of the system and other plans that the board

1 administers shall be invested subject to all of the conditions,  
2 limitations and restrictions imposed by law.

3 J. Except as provided in subsection F of this section, the board  
4 may:

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

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

11 3. Also:

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

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

15 (c) Exercise any conversion privileges, subscription rights or  
16 other options and make any payments incidental to the exercise of the  
17 conversion privileges, subscription rights or other options.

18 (d) Consent to or otherwise participate in corporate  
19 reorganizations or other changes affecting corporate securities, delegate  
20 discretionary powers and pay any assessments or charges in connection  
21 therewith.

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

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

28 5. Register any investment held by the system or other plans whose  
29 assets the board administers in the name of the system or plan or in the  
30 name of a nominee or trust.

31 6. At the expense of the system or other plans that the board  
32 administers, enter into an agreement with any bank or banks for the  
33 safekeeping and handling of securities and other investments coming into  
34 the possession of the board. The agreement shall be entered into under  
35 terms and conditions that secure the proper safeguarding, inventory,  
36 withdrawal and handling of the securities and other investments. Access  
37 to and deposit or withdrawal of the securities from any place of deposit  
38 selected by the board is not allowed and may not be made except as the  
39 terms of the agreement provide.

40 7. Appear before local boards and the courts of this state and  
41 political subdivisions of this state through counsel or an appointed  
42 representative to protect the fund or the assets of other plans that the  
43 board administers. The board is not responsible for the actions or  
44 omissions of the local boards under this system but may seek a review or  
45 rehearing of actions or omissions of local boards. The board does not

1 have a duty to review actions of the local boards but may do so in its  
2 discretion in order to protect the fund. A limitation period does not  
3 prohibit the board or administrator from contesting or require the board  
4 or administrator to implement or comply with a local board decision that  
5 violates the internal revenue code or that threatens to impair the  
6 tax-qualified status of the system or any plan administered by the board  
7 or administrator.

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

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

15 10. Settle threatened or actual litigation against any system or  
16 plan that the board administers.

17 K. Investment expenses and operation and administrative expenses of  
18 the board shall be accounted for separately and allocated against  
19 investment income.

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

25 1. A balance sheet.

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

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

29 4. A list of investments owned.

30 5. The total rate of return, yield on cost, and percent of cost to  
31 market value of the fund and the assets of other plans that the board  
32 administers.

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

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

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

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

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

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

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

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

22 11. An estimate of the aggregate fees paid for private equity  
23 investments **AND OTHER ALTERNATIVE INVESTMENTS**, including management fees  
24 and performance fees **AND CARRIED INTEREST**.

25 M. The board shall:

26 1. Maintain the accounts of the system and other plans that the  
27 board administers and issue statements to each employer annually and to  
28 each member who requests a statement.

29 2. Report the results of the actuarial valuations to the local  
30 boards and employers.

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

35 4. ~~Permit~~ **ALLOW** the auditor general to make an annual audit and  
36 transmit the results to the governor and the legislature.

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

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

3           7. Establish procedures and guidelines for contracts with  
4 actuaries, auditors, investment counsel and legal counsel and for  
5 safeguarding of securities.

6           8. ISSUE A REQUEST FOR PROPOSALS EVERY FIVE YEARS FOR AN EXTERNAL  
7 AUDITOR. THE BOARD IS NOT REQUIRED TO CHANGE ITS AUDITOR AFTER ISSUING  
8 THE REQUEST FOR PROPOSALS.

9           9. DEVELOP A POLICY REGARDING ROUTINE STRESS TESTING OF THE  
10 RETIREMENT SYSTEMS AND PLANS ADMINISTERED BY THE BOARD AT THE EMPLOYER  
11 LEVEL AND SYSTEM LEVEL. THE STRESS TEST SHALL USE INDUSTRY STANDARDS,  
12 SUCH AS THE INCLUSION OF ASSUMPTIONS REGARDING INVESTMENT RETURNS,  
13 INFLATION, POPULATION GROWTH, PAYROLL GROWTH AND EMPLOYER CONTRIBUTIONS.  
14 FOR THE PURPOSES OF THIS PARAGRAPH, "STRESS TEST" MEANS AN ASSESSMENT OF  
15 THE RISK EXPOSURE OF THE RETIREMENT SYSTEM OR PLAN, INCLUDING SCENARIO  
16 ANALYSIS, SIMULATION ANALYSIS AND SENSITIVITY ANALYSIS.

17           N. The administrator, under the direction of the board, shall:

18           1. Administer this article.

19           2. Be responsible for the recruitment, hiring and day-to-day  
20 management of employees.

21           3. Invest the monies of the system and other plans that the board  
22 administers as the board deems necessary and prudent as provided in  
23 subsections F and J of this section and subject to the investment policies  
24 and fund objectives adopted by the board.

25           4. Establish and maintain an adequate system of accounts and  
26 records for the system and other plans that the board administers, which  
27 shall be integrated with the accounts, records and procedures of the  
28 employers so that the system and other plans that the board administers  
29 operate most effectively and at minimum expense and that duplication of  
30 records and accounts is avoided.

31           5. In accordance with the board's governance policy and procedures  
32 and the budget adopted by the board, hire employees and services the  
33 administrator deems necessary and prescribe their duties, including the  
34 hiring of one or more deputy or assistant administrators to manage the  
35 system's operations, investments and legal affairs.

36           6. Be responsible for income, the collection of the income and the  
37 accuracy of all expenditures.

38           7. Recommend to the board annual contracts for the system's  
39 actuary, auditor, investment counsel, legal counsel and safeguarding of  
40 securities.

41           8. Perform additional duties and powers prescribed by the board and  
42 delegated to the administrator.

43           0. The system is an independent trust fund and the board is not  
44 subject to title 41, chapter 6. Contracts for goods and services approved  
45 by the board are not subject to title 41, chapter 23. As an independent

1 trust fund whose assets are separate and apart from all other funds of  
2 this state, the system and the board are not subject to the restrictions  
3 prescribed in section 35-154 or article IX, sections 5 and 8, Constitution  
4 of Arizona. Loans, guarantees, investment management agreements and  
5 investment contracts that are entered into by the board are contracts  
6 memorializing obligations or interests in securities that the board has  
7 concluded, after thorough due diligence, do not involve investments in  
8 Sudan or Iran or otherwise provide support to terrorists or in any way  
9 facilitate illegal immigration into the United States. These contracts do  
10 not involve the procurement, supply or provision of goods, equipment,  
11 labor, materials or services that would require the warranties required by  
12 section 41-4401.

13 P. The board, the administrator, the deputy or assistant  
14 administrators and all persons employed by them are subject to title 41,  
15 chapter 4, article 4. The administrator, deputy or assistant  
16 administrators and other employees of the board are entitled to receive  
17 compensation pursuant to section 38-611.

18 Q. In consultation with the director of the department of  
19 administration, the board may enter into employment agreements and  
20 establish the terms of those agreements with persons holding any of the  
21 following system positions:

- 22 1. Administrator.
- 23 2. Deputy or assistant administrator.
- 24 3. Chief investment officer.
- 25 4. Deputy chief investment officer.
- 26 5. Fiduciary or investment counsel.

27 R. The attorney general or an attorney approved by the attorney  
28 general and paid by the fund is the attorney for the board and shall  
29 represent the board in any legal proceeding or forum that the board deems  
30 appropriate. The board, administrator, deputy or assistant administrators  
31 and employees of the board are not personally liable for any acts done in  
32 their official capacity in good faith reliance on the written opinions of  
33 the board's attorney.

34 S. At least once in each five-year period after the effective date,  
35 the actuary shall make an actuarial investigation into the mortality,  
36 service and compensation experience of the members and beneficiaries of  
37 the system and other plans that the board administers and shall make a  
38 special valuation of the assets and liabilities of the monies of the  
39 system and plans. Taking into account the results of the investigation  
40 and special valuation, the board shall adopt for the system and other  
41 plans that the board administers those mortality, service and other tables  
42 deemed necessary.

43 T. On the basis of the tables the board adopts, the actuary shall  
44 make a valuation of the assets and liabilities of the funds of the system  
45 and other plans that the board administers at least every year. By



1 November 1 of each year the board shall provide a preliminary report and  
2 by December 31 of each year provide a final report to the governor, the  
3 speaker of the house of representatives and the president of the senate on  
4 the contribution rate for the ensuing fiscal year.

5 U. Neither the board nor any member or employee of the board shall  
6 directly or indirectly, for himself or as an agent, in any manner use the  
7 monies or deposits of the fund except to make current and necessary  
8 payments, nor shall the board or any member or employee become an endorser  
9 or surety or in any manner an obligor for monies loaned by or borrowed  
10 from the fund or the assets of any other plans that the board administers.

11 V. Financial or commercial information that is provided to the  
12 board, employees of the board and attorneys of the board in connection  
13 with investments in which the board has invested or investments the board  
14 has considered for investment is confidential, proprietary and not a  
15 public record if the information is information that would customarily not  
16 be released to the public by the person or entity from whom the  
17 information was obtained.

18 W. A person who is a dealer as defined in section 44-1801 and who  
19 is involved in securities or investments related to the board's  
20 investments is not eligible to serve on the board.

21 X. The public safety personnel retirement system advisory committee  
22 is established and shall serve as a liaison between the board and the  
23 members and employers of the system. **THE PRESIDENT OF THE SENATE AND THE**  
24 **SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT TO THE**  
25 **COMMITTEE ONE MEMBER WHO IS EITHER A LEGISLATOR OR A LEGISLATIVE STAFF**  
26 **MEMBER.** The **REMAINING MEMBERS OF THE** committee shall be appointed by the  
27 chairperson of the board from names submitted to the chairperson by  
28 associations representing law enforcement, firefighters, state government,  
29 counties, cities and towns and tribal governments. The committee shall  
30 select a chairperson from among its members each calendar year. The  
31 committee **MEMBERS APPOINTED BY THE CHAIRPERSON OF THE BOARD** shall consist  
32 of the following ten members:

- 33 1. A member who is a law enforcement officer.
- 34 2. A member who is a firefighter.
- 35 3. A member of the elected officials' retirement plan.
- 36 4. A member of the corrections officer retirement plan.
- 37 5. A retiree from the public safety personnel retirement system.
- 38 6. A representative from a city or town in this state.
- 39 7. A representative from a county in this state.
- 40 8. A representative from a fire district in this state.
- 41 9. A representative from a state employer.
- 42 10. A representative from a tribal government located in this  
43 state.

1           Sec. 3. Section 38-863.01, Arizona Revised Statutes, is amended to  
2 read:

3           38-863.01. Pension funding policies; employers

4           A. ~~Beginning on or before July 1, 2019,~~ Each governing body of an  
5 employer shall annually:

6           1. Adopt a pension funding policy for the system for employees who  
7 were hired before July 1, 2017. The pension funding policy shall include  
8 funding objectives that address at least the following:

9           (a) How to maintain stability of the governing body's contributions  
10 to the system.

11           (b) How and when the governing body's funding requirements of the  
12 system will be met.

13           (c) Defining the governing body's funded ratio target under the  
14 system and the timeline for reaching the targeted funded ratio.

15           2. Formally accept the employer's share of the assets and  
16 liabilities under the system based on the system's actuarial valuation  
17 report.

18           B. The governing body shall post the pension funding policy on the  
19 governing body's public website **AND TRANSMIT THE PENSION FUNDING POLICY TO**  
20 **THE BOARD.**

21           Sec. 4. Title 38, chapter 5, article 4, Arizona Revised Statutes,  
22 is amended by adding section 38-863.02, to read:

23           38-863.02. Pension funding policies; board; employers'  
24           pension funding policies; posting; popular  
25           annual financial report

26           A. **THE BOARD SHALL ANNUALLY REVIEW AND ADOPT A PENSION FUNDING**  
27 **POLICY FOR EACH DEFINED BENEFIT RETIREMENT PLAN AND SYSTEM ADMINISTERED BY**  
28 **THE BOARD THAT ANALYZES AND REVIEWS THE METHODS TO ENSURE SYSTEMATIC**  
29 **FUNDING OF ALL RETIREMENT BENEFIT PAYMENTS FOR THE MEMBERS OF EACH DEFINED**  
30 **BENEFIT RETIREMENT PLAN AND SYSTEM AND THAT OUTLINES THE STRATEGY TO**  
31 **ACHIEVE FINANCIAL SOLVENCY OF EACH PLAN AND SYSTEM.**

32           B. **THE BOARD SHALL ANNUALLY CONSOLIDATE THE PENSION FUNDING**  
33 **POLICIES OF EMPLOYERS ADOPTED PURSUANT TO SECTION 38-863.01 AND POST THE**  
34 **DOCUMENT ON THE SYSTEM'S PUBLIC WEBSITE.**

35           C. **ON OR BEFORE JUNE 30 OF EACH YEAR, THE BOARD SHALL SUBMIT A**  
36 **POPULAR ANNUAL FINANCIAL REPORT TO THE GOVERNOR, THE PRESIDENT OF THE**  
37 **SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND POST TO THE**  
38 **SYSTEM'S PUBLIC WEBSITE THAT INCLUDES THE FOLLOWING:**

39           1. **FOR EACH RETIREMENT SYSTEM AND PLAN THAT IS ADMINISTERED BY THE**  
40 **BOARD:**

41           (a) **FUNDING STATUS.**

42           (b) **AGGREGATE CONTRIBUTION RATES.**

43           (c) **DEMOGRAPHIC UPDATES.**

44           2. **FOR THE AGGREGATE OF THE SYSTEMS AND PLANS ADMINISTERED BY THE**  
45 **BOARD:**

- 1 (a) INVESTMENT RETURNS.
- 2 (b) AN ANALYSIS OF THE SYSTEM'S AGGREGATE EXPERIENCE OVER THE
- 3 PREVIOUS YEAR.
- 4 (c) MAJOR POLICY AND GOVERNANCE CHANGES.
- 5 (d) FUTURE TRENDS AND OBJECTIVES.

6 Sec. 5. Section 38-893, Arizona Revised Statutes, as amended by  
7 House Bill 2381, section 5, fifty-fifth legislature, first regular  
8 session, as transmitted to the governor, is amended to read:

9 38-893. Local boards; powers and duties; rules; hearings;  
10 administrative review

11 A. To the extent outlined in this section, the administration of  
12 the plan and the responsibility for making the provisions of the plan  
13 effective for each employer are vested in a local board. The state  
14 department of corrections, the department of juvenile corrections, the  
15 department of public safety, each participating county sheriff's  
16 department, each participating city or town, each participating employer  
17 of full-time dispatchers for eligible groups as defined in section 38-842  
18 and the judiciary shall have a local board. Each local board is  
19 constituted as follows:

20 1. For the state departments, two members who are elected by secret  
21 ballot by members employed by that department in a designated position and  
22 two citizens who are appointed by the governor. The director of each  
23 state department shall appoint one member to the local board who is  
24 knowledgeable in personnel actions. Each state department local board  
25 shall elect a chairperson.

26 2. For each participating county, the chairperson of the board of  
27 supervisors, or the chairperson's designee who is approved by the board of  
28 supervisors, as chairperson, two members who are elected by secret ballot  
29 by members employed by the participating county in a designated position  
30 and two citizens, one of whom shall be the head of the merit system if it  
31 exists for the group of members, who are appointed by the chairperson of  
32 the board of supervisors with the approval of the board of supervisors.

33 3. For political subdivisions, the mayor or chief elected official  
34 or a designee of the mayor or chief elected official approved by the  
35 respective governing body as chairperson, two members elected by secret  
36 ballot by members employed by the appropriate employer and two citizens,  
37 one of whom shall be the head of the merit system if it exists for the  
38 group of members, appointed by the mayor or chief elected official and  
39 with the approval of the city council or governing body of the employer.

40 4. For the judiciary, two members who are elected by secret ballot  
41 by members who are employed as a probation, surveillance or juvenile  
42 detention officer, a designee of the chief justice of the Arizona supreme  
43 court and two citizens, one of whom shall be the head of a human resource  
44 department for the group of members, appointed by the chief justice.

1           B. The appointments and elections of local board members shall take  
2 place with one elective and one appointive board member, as designated by  
3 the appointing authority, serving a term ending two years after the date  
4 of appointment or election and the other local board members serving a  
5 term ending four years after the date of appointment or election.  
6 Thereafter, every second year, and as a vacancy occurs, an office shall be  
7 filled for a term of four years in the same manner as provided in this  
8 section. Each local board shall meet at least twice each year.

9           C. Each local board shall be fully constituted pursuant to  
10 subsection A of this section within sixty days after the employer's  
11 effective date of participation in the plan. If the deadline is not met,  
12 on the written request of any member who is covered by the local board or  
13 the employer to the board of trustees, the board of trustees shall appoint  
14 all vacancies of the local board pursuant to subsection A of this section  
15 and designate whether each appointive position is for a two-year or  
16 four-year term. If the board of trustees cannot find individuals to serve  
17 on the local board who meet the requirements of subsection A of this  
18 section, the board of trustees may appoint individuals to serve as interim  
19 local board members until qualified individuals are appointed or  
20 elected. Within ten days after the member's appointment or election, each  
21 member of a local board shall take an oath of office that, so far as it  
22 devolves on the member, the member shall diligently and honestly  
23 administer the affairs of the local board and shall not knowingly violate  
24 or willingly allow to be violated any of the provisions of law applicable  
25 to the plan. Within one hundred eighty days after appointment or  
26 election, each board member shall complete local board training as  
27 prescribed by the board of trustees, including open meeting laws, ethics,  
28 legal review and fiduciary responsibilities and duties.

29           D. Except as limited by subsection E of this section, a local board  
30 shall:

31           1. Decide all questions of eligibility for membership and  
32 disability and in the line of duty death benefits under the plan.

33           2. Make a determination as to the right of a claimant to a  
34 disability or in the line of duty death benefit, issue opinions on  
35 questions of whether benefits are consistent with and allowable under the  
36 plan and afford a claimant or the board of trustees, or both, a right to a  
37 rehearing on the original determination. Except as otherwise required by  
38 law, unless all parties involved in a matter presented to the local board  
39 for determination otherwise agree, the local board shall commence a  
40 hearing on the matter within ninety days after the date the matter is  
41 presented to the local board for determination. If a local board fails to  
42 commence a hearing as provided in this paragraph, on a matter presented to  
43 the local board for determination, the relief demanded by the party  
44 petitioning the local board is deemed granted and approved by the local  
45 board.

1           3. Request and receive from the employers and from members  
2 information as is necessary for the proper administration of the plan and  
3 action on claims for disability and in the line of duty death benefits and  
4 forward the information to the board of trustees.

5           4. Distribute, in the manner the local board determines to be  
6 appropriate, information explaining the plan that is received from the  
7 board of trustees.

8           5. Furnish the employer, the board of trustees and the legislature,  
9 on request, with annual reports with respect to the administration of the  
10 plan that are reasonable and appropriate.

11           6. Appoint a medical board that is composed of a designated  
12 physician or physicians working in a clinic other than the employer's  
13 regular employee or contractor. If required, the local board may employ  
14 other physicians to report on special cases. The examining physician or  
15 clinic shall report the results of examinations made to the local board,  
16 and the secretary of the local board shall preserve the report as a  
17 permanent record.

18           7. Sue and be sued to effectuate the duties and responsibilities  
19 set forth in this article.

20           8. Prescribe procedures to be followed by claimants in filing  
21 applications for benefits.

22           9. Receive and review the actuarial valuation of the plan for its  
23 group of members.

24           10. Receive and review reports of the financial condition and of  
25 the receipts and disbursements of the fund from the board of trustees.

26           E. A local board may not add to, subtract from, modify or waive any  
27 of the terms of the plan, change or add to any benefits provided by the  
28 plan or waive or fail to apply any requirement of eligibility for  
29 membership or disability and in the line of duty death benefits under the  
30 plan. Notwithstanding any limitations periods imposed in this article,  
31 including subsections G and H of this section, if the board of trustees  
32 determines a local board decision violates the internal revenue code or  
33 threatens to impair the plan's status as a qualified plan under the  
34 internal revenue code, the local board's decision is not final and binding  
35 and the board of trustees may refrain from implementing or complying with  
36 the local board decision.

37           F. A local board shall establish and adopt rules as it deems  
38 necessary for its administration and to adjudicate claims or disputes. At  
39 a minimum the board's rules shall incorporate the model uniform rules for  
40 local board procedure that are issued by the board of trustees. All rules  
41 and decisions of a local board shall be uniformly and consistently applied  
42 to all members in similar circumstances. If a claim or dispute is  
43 presented to a local board for determination but the local board has not  
44 yet adopted uniform rules of procedure for adjudication of the claim or  
45 dispute, the local board shall adopt and use the model uniform rules of

1 local board procedure that are issued by the board of trustees' fiduciary  
2 counsel to adjudicate the claim or dispute.

3 G. Except as otherwise provided in this article, an action by a  
4 majority vote of the members of a local board that is not inconsistent  
5 with the provisions of the plan and the internal revenue code is final,  
6 conclusive and binding on all persons affected by it, unless a timely  
7 application for a rehearing or appeal is filed as provided in this  
8 article. Not later than twenty days after taking action, the local board  
9 shall submit to the board of trustees the minutes from the local board  
10 meeting that include the name of the member affected by its decision, a  
11 description of the action taken and an explanation of the reasons and all  
12 documents submitted to the local board for the action taken, including the  
13 reports of a medical board. The board of trustees may require additional  
14 records from the local board or the employer or may require that the local  
15 board conduct a rehearing on the matter. The board of trustees may not  
16 implement and comply with any local board action that does not comply with  
17 the internal revenue code or that threatens to jeopardize the plan's  
18 status as a qualified plan under the internal revenue code.

19 H. A claimant may apply for or the board of trustees may require a  
20 rehearing before the local board within the time periods prescribed in  
21 this subsection, except that if a decision of a local board violates the  
22 internal revenue code or threatens to jeopardize the plan's status as a  
23 qualified plan under the internal revenue code, any limitation period for  
24 the board of trustees to require a rehearing of a local board decision  
25 does not apply. A claimant or the board of trustees shall file an  
26 application for rehearing in writing with a member of the local board or  
27 its secretary within sixty days after:

28 1. The claimant receives notification of the local board's original  
29 action by certified mail, by attending the meeting at which the action is  
30 taken or by receiving benefits from the plan pursuant to the local board's  
31 original action, whichever occurs first.

32 2. The board of trustees receives notification of the local board's  
33 original action as prescribed by subsection G of this section by email or  
34 certified mail.

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

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

39 K. When making a ruling, determination or calculation, the local  
40 board is entitled to rely on information furnished by the employer, the  
41 board of trustees, independent legal counsel or the actuary for the plan.

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

1 M. The local board shall adopt bylaws as it deems necessary. The  
2 local board shall elect a secretary who may, but need not, be a member of  
3 the local board. The secretary of the local board shall keep a record and  
4 prepare minutes of all meetings in compliance with chapter 3, article 3.1  
5 of this title and forward the minutes and all necessary communications to  
6 the board of trustees as prescribed by subsection G of this section.  
7 Within one hundred eighty days after election, the local board secretary  
8 shall complete local board training as prescribed by the board of  
9 trustees, including open meeting laws, ethics, legal review and fiduciary  
10 responsibilities and duties.

11 N. Each local board shall hire an independent legal counsel. The  
12 local board's independent legal counsel may not be employed by or  
13 contracted with the employer or any employee organizations ~~or member of~~  
14 ~~the plan~~. **THE INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER OF THE**  
15 **PLAN BEFORE ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD**  
16 **DECISION**. The local board's independent legal counsel shall review the  
17 model uniform rules for local board procedure that are issued by the board  
18 of trustees.

19 O. The employer and not the board of trustees or plan shall pay the  
20 fees of the medical board and of the local board's legal counsel and all  
21 other expenses of the local board necessary for the administration of the  
22 plan at rates and in amounts as the local board approves.

23 P. The local board shall issue directions to the board of trustees  
24 concerning all benefits that are to be paid from the employer's account  
25 pursuant to the provisions of the fund. The local board shall keep on  
26 file, in the manner it deems convenient and proper, all reports from the  
27 board of trustees and the actuary.

28 Q. The local board and the individual members of the local board  
29 are indemnified from the assets of the fund for any judgment against the  
30 local board or its members, including attorney fees and costs, arising  
31 from any act, or failure to act, made in good faith pursuant to the  
32 provisions of the plan.

33 R. A local board shall submit to the board of trustees the names of  
34 the members of the local board and the local board's secretary and  
35 independent legal counsel and shall submit any changes to those positions  
36 within ten days after the change.

37 S. An employer and a local board shall submit any reports, data,  
38 paperwork or other materials that are requested by the board of trustees  
39 for any reason, including local board action or inaction or to investigate  
40 a complaint regarding a local board. If the board of trustees or its  
41 designee through an audit or investigation finds that the local board is  
42 not in compliance with statute or the model uniform rules for local board  
43 procedure, the board of trustees shall notify the local board of the  
44 noncompliance and the local board shall have sixty days to take corrective  
45 action. If the local board fails to take adequate corrective action, the

1 board of trustees may act on behalf of the local board until the matter is  
2 resolved. The board of trustees or its designee shall work with the local  
3 board members to take the appropriate corrective actions, including  
4 appointing any vacant or noncompliant local board member positions, if  
5 necessary, to bring the local board and its membership, policies and  
6 procedures into compliance.

7       Sec. 6. Conditional enactment

8       Sections 38-847 and 38-893, Arizona Revised Statutes, as amended by  
9 this act, do not become effective unless House Bill 2381, fifty-fifth  
10 legislature, first regular session, relating to public retirement systems,  
11 becomes law.

APPROVED BY THE GOVERNOR APRIL 16, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2021.