

public retirement systems; administration

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 73

SENATE BILL 1084

AN ACT

AMENDING SECTIONS 38-643 AND 38-801, ARIZONA REVISED STATUTES; REPEALING SECTION 38-803, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 12; AMENDING SECTION 38-803, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 2; REPEALING SECTION 38-832, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 13; AMENDING SECTION 38-832, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 5; REPEALING SECTION 38-840.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 14; AMENDING SECTION 38-840.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 7; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; REPEALING SECTION 38-848, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 15; AMENDING SECTION 38-848, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 34, SECTION 4 AND CHAPTER 251, SECTION 2; REPEALING SECTION 38-848.02, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 16; AMENDING SECTION 38-848.02, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 10; REPEALING SECTION 38-866, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 17; AMENDING SECTION 38-866, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 13; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES; REPEALING SECTION 38-883, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 18; AMENDING SECTION 38-883, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 17; 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 38-643, Arizona Revised Statutes, is amended to
3 read:

4 38-643. Public safety cancer insurance policy program account

5 A. The public safety cancer insurance policy program account is
6 established and shall be under the exclusive control of the board. The
7 board shall deposit monies collected pursuant to section 38-642 in the
8 account to pay the cost of providing a group cancer insurance policy under
9 the program and the cost of administering the program.

10 B. The board may use up to ten percent of the monies deposited in
11 the account each year ending July 31 to pay the costs of administering the
12 program, except that board attorney fees and court costs relating to the
13 program shall be paid out of the account and are not subject to this
14 limitation. If no monies are deposited in the account in a given year,
15 the board may use up to five percent of the monies deposited in the
16 account in the most recent year in which there was a deposit to pay the
17 costs of administering the program.

18 C. The board shall cause an independent audit of the account to be
19 performed at the end of each fiscal year and shall report the results of
20 the audit to each employer within six months following the end of the
21 fiscal year.

22 D. The employer contributions and securities in the account and
23 investment earnings on monies in the account are exempt from state, county
24 and municipal taxes.

25 E. The program is a welfare benefit plan or trust intended to pay
26 expenses incurred in the treatment of cancer as provided in the policy of
27 insurance secured or established by the board pursuant to section
28 38-642. The legislature intends that the program's income be excluded as
29 gross income for the purposes of the assessment of federal income tax
30 under section 115 of the internal revenue code and that coverage under the
31 program be excluded as gross income to the employees or retirees under
32 section 106 of the internal revenue code. The board may adopt additional
33 program provisions as are necessary to fulfill ~~its~~ THE LEGISLATURE'S
34 intent that the program's income and ~~premiums~~ COVERAGE are not subject to
35 federal income tax.

36 F. TO THE EXTENT REQUIRED TO EXCLUDE COVERAGE UNDER THE PROGRAM AS
37 GROSS INCOME OF PARTICIPANTS, EMPLOYERS REQUIRED TO PARTICIPATE IN THE
38 PROGRAM SHALL PAY THE PREMIUMS FOR THE COST OF THE PROGRAM AND INCLUDE THE
39 PREMIUM AMOUNT AS WAGES OF THE FIREFIGHTERS AND PEACE OFFICERS
40 PARTICIPATING IN THE PROGRAM SUBJECT TO FEDERAL AND STATE INCOME AND
41 EMPLOYMENT TAXES.

42 ~~F.~~ G. Employers, the board of trustees and any member of a local
43 board do not guarantee the account in any manner against loss or
44 depreciation and are not liable for any act or failure to act made in good

1 faith pursuant to this article, including determinations on program
2 claims.

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

5 38-801. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Accumulated contributions" means the sum of all member
8 contributions deducted from the member's salary pursuant to section
9 38-810, subsection A plus the amount transferred to the fund on behalf of
10 the member plus the amount deposited in the fund pursuant to section
11 38-816.

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

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

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

19 5. "Average yearly salary" means the result obtained by dividing
20 the total salary paid to an employee during a considered period by the
21 number of years, including fractional years, in which the salary was
22 received. The considered period shall be:

23 (a) For an elected official who becomes a member of the plan before
24 January 1, 2012, the three consecutive years within the last ten completed
25 years of credited service as an elected official that yield the highest
26 average. If a member does not have three consecutive years of credited
27 service as an elected official, the considered period is the member's last
28 consecutive period of employment with a plan employer immediately before
29 retirement.

30 (b) For an elected official who becomes a member of the plan on or
31 after January 1, 2012, the five consecutive years within the last ten
32 completed years of credited service as an elected official that yield the
33 highest average. If a member does not have five consecutive years of
34 credited service as an elected official, the considered period is the
35 member's last consecutive period of employment with a plan employer
36 immediately before retirement.

37 6. "Board" means the board of trustees of the system.

38 7. "Credited service" means the number of whole and fractional
39 years of a member's service as an elected official after the elected
40 official's effective date of participation for which member and employer
41 contributions are on deposit with the fund, plus credited service
42 transferred to the plan from another retirement system or plan for public
43 employees of this state, plus service as an elected official before the
44 elected official's effective date of participation that is being funded
45 pursuant to a joinder agreement pursuant to section 38-815 or service that

1 was redeemed pursuant to section 38-816. Credited service does not
2 include periods of service for which an active member is uncompensated by
3 the employer and for which no contributions to the plan are made.

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

9 9. "Determination" means a written document that indicates to a
10 participant and alternate payee whether a domestic relations order
11 qualifies as a plan approved domestic relations order.

12 10. "Determination period" means the ninety-day period in which the
13 plan must review a domestic relations order that is submitted by a
14 participant or alternate payee to determine whether the domestic relations
15 order qualifies as a plan approved domestic relations order, calculated
16 from the time the plan mails a notice of receipt to the participant and
17 alternate payee.

18 11. "Direct rollover" means a payment by the plan to an eligible
19 retirement plan that is specified by the distributee.

20 12. "Distributee" means a member, a member's surviving spouse or a
21 member's spouse or former spouse who is the alternate payee under a plan
22 approved domestic relations order.

23 13. "Domestic relations order" means an order of a court of this
24 state that is made pursuant to the domestic relations laws of this state
25 and that creates or recognizes the existence of an alternate payee's right
26 to, or assigns to an alternate payee the right to, receive a portion of
27 the benefits payable to a participant.

28 14. "Effective date of participation" means August 7, 1985, except
29 with respect to employers and their elected officials whose contributions
30 to the plan commence after that date, in which case the effective date of
31 their participation in the plan is specified in the applicable joinder
32 agreement.

33 15. "Elected official" means:

34 (a) Every elected official of this state who was a member of the
35 plan on December 31, 2013.

36 (b) Every elected official of each county of this state who was a
37 member of the plan on December 31, 2013.

38 (c) Every justice of the supreme court, every judge of the court of
39 appeals, every judge of the superior court and every full-time superior
40 court commissioner, except full-time superior court commissioners who
41 failed to make a timely election of membership under the judges'
42 retirement plan, repealed on August 7, 1985, who was a member of the plan
43 on December 31, 2013.

1 (d) The administrator of the board if the administrator is a
2 natural person but only if the administrator is employed by the board
3 before January 1, 2012.

4 (e) Each elected official of an incorporated city or town whose
5 employer has executed a proper joinder agreement for coverage of its
6 elected officials and who was a member of the plan on December 31, 2013.

7 16. "Eligible child" means an unmarried child of a deceased active
8 or retired member who meets one of the following qualifications:

9 (a) Is under eighteen years of age.

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

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

15 17. "Eligible retirement plan" means any of the following that
16 accepts a distributee's eligible rollover distribution:

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

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

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

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

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

27 (f) An eligible deferred compensation plan described in section
28 457(b) of the internal revenue code that is maintained by a state, a
29 political subdivision of a state or any agency or instrumentality of a
30 state or a political subdivision of a state and that agrees to separately
31 account for amounts transferred into the eligible deferred compensation
32 plan from this plan.

33 (g) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT
34 THAT SATISFIES THE REQUIREMENTS OF SECTION 408A OF THE INTERNAL REVENUE
35 CODE.

36 (h) FOR DISTRIBUTIONS MADE AFTER DECEMBER 18, 2015, A SIMPLE
37 RETIREMENT ACCOUNT AS DEFINED IN SECTION 408(p) OF THE INTERNAL REVENUE
38 CODE.

39 18. "Eligible rollover distribution" means a payment to a
40 distributee, but does not include any of the following:

41 (a) Any distribution that is one of a series of substantially equal
42 periodic payments made not less frequently than annually for the life or
43 life expectancy of the member or the joint lives or joint life
44 expectancies of the member and the member's beneficiary or for a specified
45 period of ten years or more.

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

3 (c) The portion of any distribution that ~~is~~ MAY not ~~includable~~ BE
4 INCLUDED in gross income.

5 (d) Any distribution made to satisfy the requirements of section
6 415 of the internal revenue code.

7 (e) Hardship distributions.

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

11 19. "Employer" means a department, agency or political subdivision
12 of this state that makes employer contributions to the plan pursuant to
13 section 38-810 on behalf of an elected official who participates in the
14 plan.

15 20. "Fund" means the elected officials' retirement plan fund.

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

21 22. "Participant" means a member who is subject to a domestic
22 relations order.

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

25 24. "Pension" means a series of monthly payments to a person who is
26 entitled to receive benefits under the plan.

27 25. "Personal representative" means the personal representative of
28 a deceased alternate payee.

29 26. "Physician" means a physician who is licensed pursuant to title
30 32, chapter 13 or 17.

31 27. "Plan" means the elected officials' retirement plan.

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

36 29. "Plan year" or "fiscal year" means the period beginning on July
37 1 of any year and ending on June 30 of the next succeeding year.

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

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

1 32. "System" means the public safety personnel retirement system.

2 Sec. 3. Repeal

3 Section 38-803, Arizona Revised Statutes, as amended by Laws 2021,
4 chapter 405, section 12, is repealed.

5 Sec. 4. Section 38-803, Arizona Revised Statutes, as amended by
6 Laws 2019, chapter 36, section 2, is amended to read:

7 38-803. Powers and duties of the board; reporting
8 requirements

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

11 1. Account for the operation, administration and investment
12 expenses and allocate them against investment income.

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

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

20 4. Invest the monies in the fund as provided in article 4 of this
21 chapter.

22 5. Within a period of six months after the close of each fiscal
23 year, submit a detailed report of the operation and the investment
24 performance of the plan to the governor, the legislature and the members
25 of the plan.

26 6. By November 1 of each year provide a preliminary report and by
27 December ~~31~~ 1 of each year provide a final report to the governor, the
28 speaker of the house of representatives and the president of the senate on
29 the contribution rate for the ensuing fiscal year.

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

32 1. Employ services as it deems necessary.

33 2. Either keep invested monies separate or commingle invested
34 monies as it deems appropriate.

35 3. Delegate authority as it deems necessary and prudent to the
36 administrator employed pursuant to section 38-848, subsection M,
37 paragraph 6.

38 4. Do all acts, whether expressly authorized, that are deemed
39 necessary or proper for the protection of the fund.

40 Sec. 5. Repeal

41 Section 38-832, Arizona Revised Statutes, as amended by Laws 2021,
42 chapter 405, section 13, is repealed.

1 Sec. 6. Section 38-832, Arizona Revised Statutes, as amended by
2 Laws 2019, chapter 36, section 5, is amended to read:

3 38-832. Defined contribution system; annual report; quarterly
4 statements

5 A. The board shall establish, design and administer a defined
6 contribution system to provide for the retirement of elected officials.

7 B. The purpose of this article is to provide a defined contribution
8 system that is fully funded on a current basis from employer and member
9 contributions.

10 C. The legislature intends that the defined contribution system for
11 members under this article be designed to be a qualified government plan
12 under section 401(a) of the internal revenue code, as amended, or
13 successor provisions of law, and be exempt from taxation under section 501
14 of the internal revenue code. The board may adopt any additional
15 provisions to the defined contribution system that are necessary to
16 fulfill this intent. On or before December 31, 2013, the board shall
17 submit to the internal revenue service a request for a determination
18 letter that the defined contribution system is a plan qualified under
19 section 401(a) of the internal revenue code and a private letter ruling
20 that all member contributions that are picked up by the employer as
21 provided in section 38-833 shall be treated as employer contributions
22 pursuant to section 414(h) of the internal revenue code.

23 D. The board may:

24 1. Employ the services of the third-party administrator that is
25 contracted on September 13, 2013 to administer the supplemental defined
26 contribution plan pursuant to article 8 of this chapter to also administer
27 the defined contribution system.

28 2. Employ other services it deems necessary, including legal
29 services, for the operation and administration of the defined contribution
30 system.

31 3. Perform all acts, whether or not expressly authorized, that it
32 deems necessary and proper for the operation and protection of the system.

33 E. The board shall adopt policies regarding the defined
34 contribution system, including the administration of the member and
35 employer contributions, investment options, termination in the defined
36 contribution system, the administration of the payout options under the
37 defined contribution system and the administration of the member
38 distributions.

39 F. On receipt of the determination letter and private letter ruling
40 from the internal revenue service, the board shall participate in a
41 competitive bid process at least once every five years to contract with a
42 private person or any qualified company or companies to administer the
43 defined contribution system established under this section.

1 G. Any contract for a third-party administrator of the defined
2 contribution system shall include competitive fees, quarterly meetings
3 with the public safety personnel retirement system, annual updates to the
4 board on the status of the defined contribution system and quarterly
5 statements to each member. On or before December ~~31~~ 1 of each year, the
6 board shall report the status of the defined contribution system to the
7 governor, the president of the senate, the speaker of the house of
8 representatives and the joint legislative budget committee.

9 Sec. 7. Repeal

10 Section 38-840.01, Arizona Revised Statutes, as amended by Laws
11 2021, chapter 405, section 14, is repealed.

12 Sec. 8. Section 38-840.01, Arizona Revised Statutes, as amended by
13 Laws 2019, chapter 36, section 7, is amended to read:

14 38-840.01. EODC disability program; administration; power and
15 duties of the board; hearing; annual report

16 A. The elected officials' defined contribution retirement system
17 disability program is established for members of the elected officials'
18 defined contribution retirement system. The board shall administer the
19 EODC disability program.

20 B. The board may delegate authority to administer the program as it
21 deems necessary and prudent to the administrator employed pursuant to
22 section 38-848.

23 C. The board, in the administration, management and operation of
24 the program, shall:

25 1. Account for the operation, administration and investment
26 expenses and allocate them against investment income.

27 2. Contract on a fee basis with an actuary to make an actuarial
28 valuation of the program based on the valuation method and valuation
29 assumptions recommended by the actuary and approved by the board. The
30 actuary shall be a member of the American academy of actuaries.

31 3. Contract on a fee basis with an independent auditing firm to
32 make an annual audit of the accounting records of the EODC disability
33 program trust fund and file a copy of the audit with the auditor general.

34 4. Invest the monies in the EODC disability program trust fund as
35 provided in article 4 of this chapter.

36 5. On or before December ~~31~~ 1 of each year, submit to the governor,
37 the speaker of the house of representatives and the president of the
38 senate a detailed report of the operation and the investment performance
39 of the program that includes the contribution rate for the ensuing fiscal
40 year.

41 D. The board, in the administration, management and operation of
42 the program, may:

43 1. Employ services as it deems necessary.

44 2. Either keep invested monies separate or commingle invested
45 monies as it deems appropriate.

1 3. Do all acts, whether expressly authorized, that may be deemed
2 necessary or proper for the protection of the EODC disability program
3 trust fund.

4 4. Determine the rights, benefits or obligations of any person
5 under this article and afford any person dissatisfied with a determination
6 of the person's rights, benefits or obligations under this article with a
7 hearing on the determination.

8 Sec. 9. Section 38-842, Arizona Revised Statutes, is amended to
9 read:

10 38-842. Definitions

11 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

37 (a) Before January 1, 2012, the considered period shall be the
38 three consecutive years within the last twenty completed years of credited
39 service that yield the highest average. In the computation under this
40 subdivision, a period of nonpaid or partially paid industrial leave shall
41 be considered based on the compensation the employee would have received
42 in the employee's job classification if the employee was not on industrial
43 leave.

1 (b) On or after January 1, 2012 and before July 1, 2017, the
2 considered period is the five consecutive years within the last twenty
3 completed years of credited service that yield the highest average. In
4 the computation under this subdivision, a period of nonpaid or partially
5 paid industrial leave shall be considered based on the compensation the
6 employee would have received in the employee's job classification if the
7 employee was not on industrial leave.

8 (c) On or after July 1, 2017, the considered period is the five
9 consecutive years within the last fifteen completed years of credited
10 service that yield the highest average. In the computation under this
11 subdivision, a period of nonpaid or partially paid industrial leave shall
12 be considered based on the compensation the employee would have received
13 in the employee's job classification if the employee was not on industrial
14 leave.

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

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

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

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

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

1 employee's performance of law enforcement, criminal, traffic and crime
2 suppression activities training or fire, wildfire, emergency medical or
3 emergency management activities. For the purposes of this paragraph,
4 "base salary" means the amount of compensation each employee is regularly
5 paid for personal services rendered to an employer before the addition of
6 any extra monies, including overtime pay, shift differential pay, holiday
7 pay, longevity pay, fringe benefit pay and similar extra payments.

8 13. "Credited service" means the member's total period of service
9 before the member's effective date of participation, plus those
10 compensated periods of the member's service thereafter for which the
11 member made contributions to the fund.

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

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

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

24 17. "Determination period" means the ninety-day period in which the
25 system must review a domestic relations order that is submitted by a
26 participant or alternate payee to determine whether the domestic relations
27 order qualifies as a plan approved domestic relations order, calculated
28 from the time the system mails a notice of receipt to the participant and
29 alternate payee.

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

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

35 20. "Domestic relations order" means an order of a court of this
36 state that is made pursuant to the domestic relations laws of this state
37 and that creates or recognizes the existence of an alternate payee's right
38 to, or assigns to an alternate payee the right to, receive a portion of
39 the benefits payable to a participant.

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

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

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

- 3 (a) Is under eighteen years of age.
4 (b) Is at least eighteen years of age and under twenty-three years
5 of age only during any period that the child is a full-time student.
6 (c) Is under a disability that began before the child attained
7 twenty-three years of age and remains a dependent of the surviving spouse
8 or guardian.

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

- 11 (a) Municipal police officers who are certified peace officers.
12 (b) Municipal firefighters.
13 (c) Paid full-time firefighters employed directly by a fire
14 district organized pursuant to section 48-803 or 48-804 or a joint powers
15 authority pursuant to section 48-805.01 with three or more full-time
16 firefighters, but not including firefighters employed by a fire district
17 pursuant to a contract with a corporation.
18 (d) State highway patrol officers who are certified peace officers.
19 (e) State firefighters.
20 (f) County sheriffs and deputies who are certified peace officers.
21 (g) Game and fish wardens who are certified peace officers.
22 (h) Police officers who are certified peace officers and
23 firefighters of a nonprofit corporation operating a public airport
24 pursuant to sections 28-8423 and 28-8424. A police officer shall be
25 designated pursuant to section 28-8426 to aid and supplement state and
26 local law enforcement agencies and a firefighter's sole duty shall be to
27 perform firefighting services, including services required by federal
28 regulations.
29 (i) Police officers who are certified peace officers and who are
30 appointed by the Arizona board of regents.
31 (j) Police officers who are certified peace officers and who are
32 appointed by a community college district governing board.
33 (k) State attorney general investigators who are certified peace
34 officers.
35 (l) County attorney investigators who are certified peace officers.
36 (m) Police officers who are certified peace officers and who are
37 employed by an Indian reservation police agency.
38 (n) Firefighters who are employed by an Indian reservation
39 firefighting agency.
40 (o) Department of liquor licenses and control investigators who are
41 certified peace officers.
42 (p) Arizona department of agriculture officers who are certified
43 peace officers.
44 (q) Arizona state parks board rangers and managers who are
45 certified peace officers.

- 1 (r) County park rangers who are certified peace officers.
2 (s) GAME RANGERS WHO ARE CERTIFIED PEACE OFFICERS AND WHO ARE
3 EMPLOYED BY AN INDIAN RESERVATION.
- 4 25. "Eligible retirement plan" means any of the following that
5 accepts a distributee's eligible rollover distribution:
6 (a) An individual retirement account described in section 408(a) of
7 the internal revenue code.
8 (b) An individual retirement annuity described in section 408(b) of
9 the internal revenue code.
10 (c) An annuity plan described in section 403(a) of the internal
11 revenue code.
12 (d) A qualified trust described in section 401(a) of the internal
13 revenue code.
14 (e) An annuity contract described in section 403(b) of the internal
15 revenue code.
16 (f) An eligible deferred compensation plan described in section
17 457(b) of the internal revenue code that is maintained by a state, a
18 political subdivision of a state or any agency or instrumentality of a
19 state or a political subdivision of a state and that agrees to separately
20 account for amounts transferred into the eligible deferred compensation
21 plan from this plan.
22 (g) A Roth individual retirement account that satisfies the
23 requirements of section 408A of the internal revenue code.
24 (h) FOR DISTRIBUTIONS MADE AFTER DECEMBER 18, 2015, A SIMPLE
25 RETIREMENT ACCOUNT AS DEFINED IN SECTION 408(p) OF THE INTERNAL REVENUE
26 CODE.
- 27 26. "Eligible rollover distribution" means a payment to a
28 distributee, but does not include any of the following:
29 (a) Any distribution that is one of a series of substantially equal
30 periodic payments made not less frequently than annually for the life or
31 life expectancy of the member or the joint lives or joint life
32 expectancies of the member and the member's beneficiary or for a specified
33 period of ten years or more.
34 (b) Any distribution to the extent the distribution is required
35 under section 401(a)(9) of the internal revenue code.
36 (c) The portion of any distribution that ~~is~~ MAY not ~~includable~~ BE
37 INCLUDED in gross income.
38 (d) Any distribution made to satisfy the requirements of section
39 415 of the internal revenue code.
40 (e) Hardship distributions.
41 (f) Similar items designated by the commissioner of the United
42 States internal revenue service in revenue rulings, notices and other
43 guidance published in the internal revenue bulletin.
- 44 27. "Employee" means any person who is employed by a participating
45 employer and who is a member of an eligible group but does not include any

1 persons compensated on a contractual or fee basis. If an eligible group
2 requires certified peace officer status or firefighter certification and
3 at the option of the local board, employee may include a person who is
4 training to become a certified peace officer or firefighter.

5 28. "Employers" means:

6 (a) Cities contributing to the fire fighters' relief and pension
7 fund as provided in sections 9-951 through ~~9-971~~ 9-973 or statutes amended
8 thereby and antecedent thereto, as of June 30, 1968 on behalf of their
9 full-time paid firefighters.

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

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

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

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

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

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

31 31. "Member":

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

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

1 who is a certified peace officer, a person who is a certified peace
2 officer and who is employed by an Indian reservation police agency, **A GAME**
3 **RANGER WHO IS A CERTIFIED PEACE OFFICER AND WHO IS EMPLOYED BY AN INDIAN**
4 **RESERVATION**, a firefighter who is employed by an Indian reservation
5 firefighting agency or an employee included in a group designated as
6 eligible employees under a joinder agreement entered into by their
7 employer after July 1, 1968 and who is or was regularly assigned to
8 hazardous duty or, beginning retroactively to January 1, 2009, who is a
9 police chief or a fire chief.

10 (ii) Who, on or after the employee's effective date of
11 participation, is receiving compensation for personal services rendered to
12 an employer or would be receiving compensation except for an authorized
13 leave of absence.

14 (iii) Whose customary employment is at least forty hours per week
15 or, for those employees who customarily work fluctuating workweeks, whose
16 customary employment averages at least forty hours per week.

17 (iv) Who is engaged to work for more than six months in a calendar
18 year.

19 (v) Who, if economic conditions exist, is required to take furlough
20 days or reduce the hours of the employee's normal workweek below forty
21 hours but not less than thirty hours per pay cycle, and maintain the
22 employee's active member status within the system as long as the hour
23 change does not extend beyond twelve consecutive months.

24 (vi) Who has not attained age sixty-five before the employee's
25 effective date of participation or who was over age sixty-five with
26 twenty-five years or more of service prior to the employee's effective
27 date of participation.

28 (b) Does not include an employee who is hired on or after July 1,
29 2017, who makes the irrevocable election to participate solely in the
30 public safety personnel defined contribution retirement plan established
31 pursuant to article 4.1 of this chapter and who was not an active, an
32 inactive or a retired member of the system or a member of the system with
33 a disability on June 30, 2017.

34 32. "Normal retirement date" means:

35 (a) For an employee who becomes a member of the system before
36 January 1, 2012, the first day of the calendar month immediately following
37 the employee's completion of twenty years of service or the employee's
38 sixty-second birthday and the employee's completion of fifteen years of
39 service.

40 (b) For an employee who becomes a member of the system on or after
41 January 1, 2012 and before July 1, 2017, the first day of the calendar
42 month immediately following the employee's completion of either
43 twenty-five years of service or fifteen years of credited service if the
44 employee is at least fifty-two and one-half years of age.

1 (c) For an employee who becomes a member of the system on or after
2 July 1, 2017, the first day of the calendar month immediately following
3 the employee's completion of fifteen years of credited service if the
4 employee is at least fifty-five years of age.

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

10 34. "Ordinary disability" means a physical condition that the local
11 board determines will prevent an employee totally and permanently from
12 performing a reasonable range of duties within the employee's department
13 or a mental condition that the local board determines will prevent an
14 employee totally and permanently from engaging in any substantial gainful
15 activity.

16 35. "Participant" means a member who is subject to a domestic
17 relations order.

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

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

23 38. "Personal representative" means the personal representative of
24 a deceased alternate payee.

25 39. "Physician" means a physician who is licensed pursuant to title
26 32, chapter 13 or 17.

27 40. "Plan approved domestic relations order" means a domestic
28 relations order that the system approves as meeting all the requirements
29 for a plan approved domestic relations order as otherwise prescribed in
30 this article.

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

33 42. "Regularly assigned to hazardous duty" means regularly assigned
34 to duties of the type normally expected of municipal police officers,
35 municipal or state firefighters, eligible fire district firefighters,
36 state highway patrol officers, county sheriffs and deputies, fish and game
37 wardens, firefighters and police officers of a nonprofit corporation
38 operating a public airport pursuant to sections 28-8423 and 28-8424,
39 police officers who are appointed by the Arizona board of regents or a
40 community college district governing board, state attorney general
41 investigators who are certified peace officers, county attorney
42 investigators who are certified peace officers, department of liquor
43 licenses and control investigators who are certified peace officers,
44 Arizona department of agriculture officers who are certified peace
45 officers, Arizona state parks board rangers and managers who are certified

1 peace officers, county park rangers who are certified peace officers,
2 police officers who are certified peace officers and who are employed by
3 an Indian reservation police agency, ~~or~~ firefighters who are employed by
4 an Indian reservation firefighting agency OR GAME RANGERS WHO ARE
5 CERTIFIED PEACE OFFICERS AND WHO ARE EMPLOYED BY AN INDIAN
6 RESERVATION. Those individuals who are assigned solely to support duties
7 such as secretaries, stenographers, clerical personnel, clerks, cooks,
8 maintenance personnel, mechanics and dispatchers are not assigned to
9 hazardous duty regardless of their position classification title. Since
10 the normal duties of those jobs described in this paragraph are constantly
11 changing, questions as to whether a person is or was previously regularly
12 assigned to hazardous duty shall be resolved by the local board on a
13 case-by-case basis. Resolutions by local boards are subject to rehearing
14 and appeal.

15 43. "Retirement" or "retired" means termination of employment after
16 a member has fulfilled all requirements for a pension, for an employee who
17 becomes a member of the system on or after January 1, 2012 and before
18 July 1, 2017, attains the age and service requirements for a normal
19 retirement date or for an employee who becomes a member of the system on
20 or after July 1, 2017 attains the age and credited service requirements
21 for a normal retirement date. Retirement shall be considered as
22 commencing on the first day of the month immediately following a member's
23 last day of employment or authorized leave of absence, if later.

24 44. "Segregated funds" means the amount of benefits that would
25 currently be payable to an alternate payee pursuant to a domestic
26 relations order under review by the system, or a domestic relations order
27 submitted to the system that failed to qualify as a plan approved domestic
28 relations order, if the domestic relations order were determined to be a
29 plan approved domestic relations order.

30 45. "Service" means the last period of continuous employment of an
31 employee by the employers before the employee's retirement, except that if
32 such period includes employment during which the employee would not have
33 qualified as a member had the system then been effective, such as
34 employment as a volunteer firefighter, then only twenty-five percent of
35 such noncovered employment shall be considered as service. Any absence
36 that is authorized by an employer shall not be considered as interrupting
37 continuity of employment if the employee returns within the period of
38 authorized absence. Transfers between employers also shall not be
39 considered as interrupting continuity of employment. Any period during
40 which a member is receiving sick leave payments or a temporary disability
41 pension shall be considered as service. Notwithstanding any other
42 provision of this paragraph, any period during which a person was employed
43 as a full-time paid firefighter for a corporation that contracted with an
44 employer to provide firefighting services on behalf of the employer shall
45 be considered as service if the employer has elected at its option to

1 treat part or all of the period the firefighter worked for the company as
2 service in its applicable joinder agreement. Any reference in this system
3 to the number of years of service of an employee shall be deemed to
4 include fractional portions of a year.

5 46. "State" means the state of Arizona, including any department,
6 office, board, commission, agency or other instrumentality of ~~the~~ THIS
7 state.

8 47. "System" means the public safety personnel retirement system
9 established by this article.

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

15 Sec. 10. Repeal

16 Section 38-848, Arizona Revised Statutes, as amended by Laws 2021,
17 chapter 405, section 15, is repealed.

18 Sec. 11. Section 38-848, Arizona Revised Statutes, as amended by
19 Laws 2021, chapter 34, section 4 and chapter 251, section 2, is amended to
20 read:

21 38-848. Board of trustees; powers and duties; reporting
22 requirements; independent trust fund;
23 administrator; agents and employees; advisory
24 committee

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

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

41 2. Two members representing firefighters, one of whom is appointed
42 by the speaker of the house of representatives and one of whom is
43 appointed by the governor. A statewide association representing
44 firefighters in this state shall forward nominations to the appointing
45 elected officials, providing at least three nominees for each position.

1 At least one of the members appointed under this paragraph shall be an
2 elected local board member.

3 3. Three members representing cities and towns in this state, one
4 of whom is appointed by the president of the senate, one of whom is
5 appointed by the speaker of the house of representatives and one of whom
6 is appointed by the governor. An association representing cities and
7 towns in this state shall forward nominations to the appointing elected
8 officials, providing at least three nominees for each position. These
9 nominees shall represent taxpayers or employers and may not be members of
10 the system.

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

16 5. One member who is appointed by the governor from a list of three
17 nominees forwarded by the board. The board shall select the nominees to
18 forward to the governor from a list of at least five nominees received
19 from the advisory committee.

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

38 1. Is absent without excuse from three consecutive regular meetings
39 of the board.

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

41 C. The members of the board who are appointed pursuant to
42 subsection A of this section and who are not members of the system shall
43 be independent, qualified professionals who are responsible for the
44 performance of fiduciary duties and other responsibilities required to
45 preserve and protect the fund and shall have at least ten years'

1 substantial experience as any one or a combination of the following:

- 2 1. A portfolio manager acting in a fiduciary capacity.
- 3 2. A securities analyst.
- 4 3. A senior executive or principal of a trust institution,
5 investment organization or endowment fund acting either in a management or
6 an investment-related capacity.
- 7 4. A chartered financial analyst in good standing as determined by
8 the chartered financial analyst institute.
- 9 5. A current or former professor or instructor at the college or
10 university level in the field of economics, finance, actuarial science,
11 accounting or pension-related subjects.
- 12 6. An economist.
- 13 7. Any other senior executive engaged in the field of public or
14 private finances or with experience with public pension systems.
- 15 8. A senior executive in insurance, banking, underwriting,
16 auditing, human resources or risk management.

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

41 E. All contributions under this system and other retirement plans
42 that the board administers shall be forwarded to the board and shall be
43 held, invested and reinvested by the board as provided in this
44 article. All property and monies of the fund and other retirement plans
45 that the board administers, including income from investments and from all

1 other sources, shall be retained for the exclusive benefit of members, as
2 provided in the system and other retirement plans that the board
3 administers, and shall be used to pay benefits to members or their
4 beneficiaries or to pay expenses of operation and administration of the
5 system and fund and other retirement plans that the board administers.

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

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

33 2. Not more than five percent of the combined assets of the system
34 or other plans that the board manages is invested in corporate stock
35 issued by any one corporation, other than corporate stock issued by
36 corporations chartered by the United States government or corporate stock
37 issued by a bank or insurance company.

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

42 4. Corporate stocks and exchange traded funds eligible for direct
43 purchase are restricted to stocks and exchange traded funds that, except
44 for bank stocks, insurance stocks, stocks acquired for coinvestment in
45 connection with the system's or the plans' or trusts' commingled

1 investments and interests in limited liability companies and mutual funds,
2 are any of the following:

3 (a) Listed or approved on issuance for listing on an exchange
4 registered under the securities exchange act of 1934, as amended
5 (15 United States Code sections 78a through 78pp).

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

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

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

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

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

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

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

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

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

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

15 3. Also:

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

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

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

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

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

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

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

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

1 7. Appear before local boards and the courts of this state and
2 political subdivisions of this state through counsel or an appointed
3 representative to protect the fund or the assets of other plans that the
4 board administers. The board is not responsible for the actions or
5 omissions of the local boards under this system but may require a review
6 or rehearing of actions or omissions of local boards. A limitation period
7 does not prohibit the board or administrator from contesting or require
8 the board or administrator to implement or comply with a local board
9 decision that violates the internal revenue code or that threatens to
10 impair the tax-qualified status of the system or any plan administered by
11 the board or administrator.

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

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

19 10. Settle threatened or actual litigation against any system or
20 plan that the board administers.

21 K. Investment expenses and operation and administrative expenses of
22 the board shall be accounted for separately and allocated against
23 investment income.

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

29 1. A balance sheet.

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

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

33 4. A list of investments owned.

34 5. The total rate of return, yield on cost, and ~~percent~~ PERCENTAGE
35 of cost to market value of the fund and the assets of other plans that the
36 board administers.

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

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

5 8. An estimate of the aggregate employer contribution rate for the
6 public safety personnel retirement system for the next ten fiscal years
7 and an estimate of the aggregate employer contribution rate for the
8 corrections officer retirement plan for the next ten fiscal years.

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

12 (a) Department of liquor licenses and control.

13 (b) Department of public safety.

14 (c) Northern Arizona university.

15 (d) University of Arizona.

16 (e) Arizona state university.

17 (f) Arizona game and fish department.

18 (g) Department of law.

19 (h) Department of emergency and military affairs.

20 (i) Arizona state parks board.

21 10. An estimate of the employer contribution rates for the next ten
22 fiscal years for each of the following employers within the corrections
23 officer retirement plan:

24 (a) State department of corrections.

25 (b) Department of public safety.

26 (c) The judiciary.

27 (d) Department of juvenile corrections.

28 11. An estimate of the aggregate fees paid for private equity
29 investments and other alternative investments, including management fees
30 and performance fees and carried interest.

31 M. The board shall:

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

35 2. Report the results of the actuarial valuations to the local
36 boards and employers.

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

41 4. Allow the auditor general to make an annual audit and transmit
42 the results to the governor and the legislature.

43 5. Contract on a fee basis with an actuary who shall make actuarial
44 valuations of the system and other plans that the board administers, be
45 the technical adviser of the board on matters regarding the operation of

1 the funds created by the provisions of the system, the elected officials'
2 retirement plan, the corrections officer retirement plan and the public
3 safety cancer insurance policy program and perform other duties required
4 in connection therewith. The actuary must be a member of a nationally
5 recognized association or society of actuaries.

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

8 7. Establish procedures and guidelines for contracts with
9 actuaries, auditors, investment counsel and legal counsel and for
10 safeguarding of securities.

11 8. Issue a request for proposals every five years for an external
12 auditor. The board is not required to change its auditor after issuing
13 the request for proposals.

14 9. Develop a policy regarding routine stress testing of the
15 retirement systems and plans administered by the board at the employer
16 level and system level. The stress test shall use industry standards,
17 such as the inclusion of assumptions regarding investment returns,
18 inflation, population growth, payroll growth and employer contributions.
19 For the purposes of this paragraph, "stress test" means an assessment of
20 the risk exposure of the retirement system or plan, including scenario
21 analysis, simulation analysis and sensitivity analysis.

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

23 1. Administer this article.

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

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

30 4. Establish and maintain an adequate system of accounts and
31 records for the system and other plans that the board administers, which
32 shall be integrated with the accounts, records and procedures of the
33 employers so that the system and other plans that the board administers
34 operate most effectively and at minimum expense and that duplication of
35 records and accounts is avoided.

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

41 6. Be responsible for income, the collection of the income and the
42 accuracy of all expenditures.

43 7. Recommend to the board annual contracts for the system's
44 actuary, auditor, investment counsel, legal counsel and safeguarding of
45 securities.

1 8. Perform additional duties and powers prescribed by the board and
2 delegated to the administrator.

3 0. The system is an independent trust fund and the board is not
4 subject to title 41, chapter 6. Contracts for goods and services approved
5 by the board are not subject to title 41, chapter 23. As an independent
6 trust fund whose assets are separate and apart from all other funds of
7 this state, the system and the board are not subject to the restrictions
8 prescribed in section 35-154 or article IX, sections 5 and 8, Constitution
9 of Arizona. Loans, guarantees, investment management agreements and
10 investment contracts that are entered into by the board are contracts
11 memorializing obligations or interests in securities that the board has
12 concluded, after thorough due diligence, do not involve investments in
13 Sudan or Iran or otherwise provide support to terrorists or in any way
14 facilitate illegal immigration into the United States. These contracts do
15 not involve the procurement, supply or provision of goods, equipment,
16 labor, materials or services that would require the warranties required by
17 section 41-4401.

18 P. The board, the administrator, the deputy or assistant
19 administrators and all persons employed by them are subject to title 41,
20 chapter 4, article 4. The administrator, deputy or assistant
21 administrators and other employees of the board are entitled to receive
22 compensation pursuant to section 38-611.

23 Q. In consultation with the director of the department of
24 administration, the board may enter into employment agreements and
25 establish the terms of those agreements with persons holding any of the
26 following system positions:

- 27 1. Administrator.
- 28 2. Deputy or assistant administrator.
- 29 3. Chief investment officer.
- 30 4. Deputy chief investment officer.
- 31 5. Fiduciary or investment counsel.

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

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

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

3 T. On the basis of the tables the board adopts, the actuary shall
4 make a valuation of the assets and liabilities of the funds of the system
5 and other plans that the board administers at least every year. By
6 November 1 of each year the board shall provide a preliminary report and
7 by December ~~31~~ 1 of each year provide a final report to the governor, the
8 speaker of the house of representatives and the president of the senate on
9 the contribution rate for the ensuing fiscal year.

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

17 V. Financial or commercial information that is provided to the
18 board, employees of the board and attorneys of the board in connection
19 with investments in which the board has invested or investments the board
20 has considered for investment is confidential, proprietary and not a
21 public record if the information is information that would customarily not
22 be released to the public by the person or entity from whom the
23 information was obtained.

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

27 X. The public safety personnel retirement system advisory committee
28 is established and shall serve as a liaison between the board and the
29 members and employers of the system. The president of the senate and the
30 speaker of the house of representatives shall each appoint to the
31 committee one member who is either a legislator or a legislative staff
32 member. The remaining members of the committee shall be appointed by the
33 chairperson of the board from names submitted to the chairperson by
34 associations representing law enforcement, firefighters, state government,
35 counties, cities and towns and tribal governments. The committee shall
36 select a chairperson from among its members each calendar year. The
37 committee members appointed by the chairperson of the board shall consist
38 of the following ten members:

- 39 1. A member who is a law enforcement officer.
- 40 2. A member who is a firefighter.
- 41 3. A member of the elected officials' retirement plan.
- 42 4. A member of the corrections officer retirement plan.
- 43 5. A retiree from the public safety personnel retirement system.
- 44 6. A representative from a city or town in this state.

1 7. A representative from a county in this state.
2 8. A representative from a fire district in this state.
3 9. A representative from a state employer.
4 10. A representative from a tribal government located in this
5 state.
6 Sec. 12. Repeal
7 Section 38-848.02, Arizona Revised Statutes, as amended by Laws
8 2021, chapter 405, section 16, is repealed.
9 Sec. 13. Section 38-848.02, Arizona Revised Statutes, as amended by
10 Laws 2019, chapter 36, section 10, is amended to read:
11 38-848.02. Board of trustees; report on employer and employee
12 costs; posting funding ratio
13 A. On or before December ~~31~~ 1 of each year, the board of trustees
14 shall provide to the legislature and the joint legislative budget
15 committee and shall post on its website the shared cost structure of
16 employees and employers, the funding status and the rate of return. The
17 report to the legislature shall include when the trigger to the reduction
18 in the employee rates is being met.
19 B. The board of trustees shall post on its website for each plan
20 the board administers each employer's funding ratio.
21 Sec. 14. Repeal
22 Section 38-866, Arizona Revised Statutes, as amended by Laws 2021,
23 chapter 405, section 17, is repealed.
24 Sec. 15. Section 38-866, Arizona Revised Statutes, as amended by
25 Laws 2019, chapter 36, section 13, is amended to read:
26 38-866. Defined contribution plan design; purpose; powers and
27 duties of the board; administration; annual report
28 A. The board shall establish, design and administer a defined
29 contribution plan to provide for the retirement of specified participants
30 beginning July 1, 2017.
31 B. The purpose of this article is to provide a defined contribution
32 plan that is fully funded on a current basis from employer and participant
33 contributions.
34 C. The legislature intends that the defined contribution plan for
35 participants under this article be designed to be a qualified governmental
36 plan under section 401(a) of the internal revenue code, as amended, or
37 successor provisions of law, and be exempt from taxation under section 501
38 of the internal revenue code. The board may adopt any additional
39 provision to the defined contribution plan that is necessary to fulfill
40 this intent. Consistent with this intent, the board may submit to the
41 internal revenue service a request for a determination letter that the
42 defined contribution plan is a plan qualified under section 401(a) of the
43 internal revenue code and a private letter ruling that all participant
44 contributions that are picked up by the employer as provided in section

1 38-867 shall be treated as employer contributions pursuant to section
2 414(h) of the internal revenue code.

3 D. The board shall:

4 1. Enter into a contract with a provider or providers to provide
5 retirement plan investments, plan administration and services to
6 participants in the defined contribution plan. The plan shall provide for
7 appropriate long-term retirement-oriented investments and shall include
8 both fixed and variable deferred annuity options. The board shall
9 consider all of the following when determining a company with which to
10 contract:

11 (a) The financial stability of the company and the ability of the
12 company to provide the contracted rights and benefits to the participants.

13 (b) The cost of the investments, plan administration and services
14 to the participants.

15 (c) The experience of the company in providing defined contribution
16 retirement plans in lieu of defined benefit plan participation to public
17 employees.

18 (d) The experience of the company in paying retirement income to
19 public employees.

20 (e) The experience of the company in providing plan education,
21 counseling and advice to participants in public employee retirement plans
22 that are offered in lieu of state defined benefit plan participation.

23 2. Require under a contract that a provider provide education,
24 counseling and objective participant-specific plan advice to
25 participants. Any participant-specific advice and counseling shall be
26 administered by a federally registered investment advisor. The federally
27 registered investment advisor shall act as a fiduciary to participants and
28 is required to act in the participant's best interest.

29 3. Require under the contract that the defined contribution plan
30 include not less than five and not more than twenty-five predetermined
31 investment portfolio options to participants. The predetermined
32 investment portfolio options shall include options that reflect different
33 risk profiles and options that automatically reallocate and rebalance
34 contributions as a participant ages. In addition, the defined
35 contribution plan may ~~permit~~ ALLOW participants to construct investment
36 portfolios using some or all of the investment options comprising the
37 predetermined investment portfolio options.

38 4. Require under a contract that the defined contribution
39 retirement plan offer participants a menu of lifetime annuity options,
40 either fixed or variable or a combination of both.

41 E. The board may:

42 1. Employ other services it deems necessary, including legal
43 services, for the operation and administration of the defined contribution
44 plan.

1 2. Perform all acts, whether or not expressly authorized, that it
2 deems necessary and proper for the operation and protection of the plan.

3 F. The board shall adopt policies regarding the defined
4 contribution plan, including the administration of the participant and
5 employer contributions, investment options, termination of participation
6 in the defined contribution plan, administration of the payout options
7 under the defined contribution plan and administration of the participant
8 distributions.

9 G. The board shall participate in a competitive bid process at
10 least once every five years to contract with a private person or any
11 qualified company or companies to administer the defined contribution plan
12 established pursuant to this article.

13 H. Any contract for a third-party administrator of the defined
14 contribution plan shall include competitive fees and provisions requiring
15 quarterly meetings with the system, annual updates to the board on the
16 status of the defined contribution plan and quarterly statements to each
17 participant. On or before December ~~31~~ 1 of each year, the board shall
18 report the status of the defined contribution plan to the governor, the
19 president of the senate, the speaker of the house of representatives and
20 the joint legislative budget committee.

21 Sec. 16. Section 38-881, Arizona Revised Statutes, is amended to
22 read:

23 38-881. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Accidental disability" means a physical or mental condition
26 that the local board finds totally and permanently prevents an employee
27 from performing a reasonable range of duties within the employee's
28 department and was incurred in the performance of the employee's duties.

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

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

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

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

43 6. "Annuitant" means a person who is receiving a benefit pursuant
44 to section 38-911.

1 7. "Average monthly salary" means:

2 (a) For an employee who becomes a member of the plan:

3 (i) Before January 1, 2012, one-thirty-sixth of the aggregate
4 amount of salary that is paid a member by a participating employer during
5 a period of thirty-six consecutive months of service in which the member
6 received the highest salary within the last one hundred twenty months of
7 service.

8 (ii) On or after January 1, 2012 and before July 1, 2018,
9 one-sixtieth of the aggregate amount of salary that is paid a member by a
10 participating employer during a period of sixty consecutive months of
11 service in which the member received the highest salary within the last
12 one hundred twenty months of service.

13 (iii) On or after July 1, 2018, one-sixtieth of the aggregate
14 amount of salary that is paid a member by a participating employer during
15 a period of sixty consecutive months of service in which the member
16 received the highest salary within the last one hundred twenty months of
17 service.

18 (b) The aggregate amount of salary that is paid a member divided by
19 the member's months of service if the member has less than thirty-six or
20 sixty months of service. In the computation under this paragraph, a
21 period of nonpaid or partially paid industrial leave shall be considered
22 based on the salary the employee would have received in the employee's job
23 classification if the employee was not on industrial leave.

24 8. "Beneficiary" means an individual who is being paid or who has
25 entitlement to the future payment of a pension on account of a reason
26 other than the individual's membership in the retirement plan.

27 9. "Board" means the board of trustees of the public safety
28 personnel retirement system.

29 10. "Claimant" means a member, beneficiary or estate that files an
30 application for benefits with the retirement plan.

31 11. "Credited service" means credited service transferred to the
32 retirement plan from another retirement system or plan for public
33 employees of this state, plus those compensated periods of service as a
34 member of the retirement plan for which member contributions are on
35 deposit in the fund.

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

42 13. "Designated position" means:

43 (a) For a county:

44 (i) A county detention officer.

- 1 (ii) A nonuniformed employee of a sheriff's department whose
2 primary duties require direct contact with inmates.
- 3 (b) For the state department of corrections and the department of
4 juvenile corrections, only the following specifically designated
5 positions:
- 6 (i) Food service.
 - 7 (ii) Nursing personnel.
 - 8 (iii) Corrections physician assistant.
 - 9 (iv) Therapist.
 - 10 (v) Corrections dental assistant.
 - 11 (vi) Hygienist.
 - 12 (vii) Corrections medical assistant.
 - 13 (viii) Correctional service officer, including assistant deputy
14 warden, deputy warden, warden and superintendent.
 - 15 (ix) State correctional program officer.
 - 16 (x) Parole or community supervision officers.
 - 17 (xi) Investigators.
 - 18 (xii) Teachers.
 - 19 (xiii) Institutional maintenance workers.
 - 20 (xiv) Youth corrections officer.
 - 21 (xv) Youth program officer.
 - 22 (xvi) Behavioral health treatment unit managers.
 - 23 (xvii) The director and assistant directors of the department of
24 juvenile corrections and the superintendent of the state educational
25 system for committed youth.
 - 26 (xviii) The director, deputy directors and assistant directors of
27 the state department of corrections.
 - 28 (xix) Other positions designated by the local board of the state
29 department of corrections or the local board of the department of juvenile
30 corrections pursuant to section 38-891.
- 31 (c) For a city or town, a city or town detention officer.
- 32 (d) For an employer of an eligible group as defined in section
33 38-842, full-time dispatchers.
- 34 (e) For the judiciary, juvenile detention officers and those
35 positions designated by the local board of the judiciary pursuant to
36 section 38-891.
- 37 (f) For the department of public safety, state detention officers.
- 38 (g) For the judiciary, probation and surveillance officers.
- 39 14. "Determination" means a written document that indicates to a
40 participant and alternate payee whether a domestic relations order
41 qualifies as a plan approved domestic relations order.
- 42 15. "Determination period" means the ninety-day period in which the
43 plan must review a domestic relations order that is submitted by a
44 participant or alternate payee to determine whether the domestic relations
45 order qualifies as a plan approved domestic relations order, calculated

1 from the time the plan mails a notice of receipt to the participant and
2 alternate payee.

3 16. "Direct rollover" means a payment by the plan to an eligible
4 retirement plan that is specified by the distributee.

5 17. "Distributee" means a member, a member's surviving spouse or a
6 member's spouse or former spouse who is the alternate payee under a plan
7 approved domestic relations order.

8 18. "Domestic relations order" means an order of a court of this
9 state that is made pursuant to the domestic relations laws of this state
10 and that creates or recognizes the existence of an alternate payee's right
11 to, or assigns to an alternate payee the right to, receive a portion of
12 the benefits payable to a participant.

13 19. "Eligible child" means an unmarried child of a deceased active
14 or retired member who meets one of the following qualifications:

15 (a) Is under eighteen years of age.

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

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

21 20. "Eligible retirement plan" means any of the following that
22 accepts a distributee's eligible rollover distribution:

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

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

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

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

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

33 (f) An eligible deferred compensation plan described in section
34 457(b) of the internal revenue code that is maintained by a state, a
35 political subdivision of a state or any agency or instrumentality of a
36 state or a political subdivision of a state and that agrees to separately
37 account for amounts transferred into the eligible deferred compensation
38 plan from this plan.

39 (g) EFFECTIVE JANUARY 1, 2008, A ROTH INDIVIDUAL RETIREMENT ACCOUNT
40 THAT SATISFIES THE REQUIREMENTS OF SECTION 408A OF THE INTERNAL REVENUE
41 CODE.

42 (h) FOR DISTRIBUTIONS MADE AFTER DECEMBER 18, 2015, A SIMPLE
43 RETIREMENT ACCOUNT AS DEFINED IN SECTION 408(p) OF THE INTERNAL REVENUE
44 CODE.

1 21. "Eligible rollover distribution" means a payment to a
2 distributee, but does not include any of the following:

3 (a) Any distribution that is one of a series of substantially equal
4 periodic payments made not less frequently than annually for the life or
5 life expectancy of the member or the joint lives or joint life
6 expectancies of the member and the member's beneficiary or for a specified
7 period of ten years or more.

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

10 (c) The portion of any distribution that ~~is~~ MAY not ~~includable~~ BE
11 INCLUDED in gross income.

12 (d) Any distribution made to satisfy the requirements of section
13 415 of the internal revenue code.

14 (e) Hardship distributions.

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

18 22. "Employee" means a person employed by a participating employer
19 in a designated position.

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

23 24. "Fund" means the corrections officer retirement plan fund.

24 25. "Juvenile detention officer" means a juvenile detention officer
25 responsible for the direct custodial supervision of juveniles who are
26 detained in a county juvenile detention center.

27 26. "Local board" means the retirement board of the employer that
28 consists of persons appointed or elected to administer the plan as it
29 applies to the employer's members in the plan.

30 27. "Member":

31 (a) Means any employee who meets all of the following
32 qualifications:

33 (i) Who is a full-time paid person employed by a participating
34 employer in a designated position.

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

38 (iii) Whose customary employment is at least forty hours each week.

39 (b) Includes an employee who meets the requirements of subdivision
40 (a) of this paragraph, who is hired on or after July 1, 2018, who is in a
41 designated position as defined in paragraph 13, subdivision (g) of this
42 section and who makes the irrevocable election to participate in the plan
43 pursuant to section 38-881.01.

1 (c) Except as provided in subdivision (b) of this paragraph, does
2 not include an employee who is hired on or after July 1, 2018, unless the
3 employee was an active, an inactive or a retired member of the plan or a
4 member of the plan with a disability on June 30, 2018.

5 28. "Normal retirement date" means:

6 (a) For an employee who becomes a member of the plan before January
7 1, 2012, the first day of the calendar month immediately following the
8 employee's completion of twenty years of service or, in the case of a
9 dispatcher, twenty-five years of service, the employee's sixty-second
10 birthday and completion of ten years of service or the month in which the
11 sum of the employee's age and years of credited service equals eighty.

12 (b) For an employee who becomes a member of the plan on or after
13 January 1, 2012 and before July 1, 2018, the first day of the calendar
14 month immediately following the employee's completion of twenty-five years
15 of service if the employee is at least fifty-two and one-half years of age
16 or the employee's sixty-second birthday and completion of ten years of
17 service.

18 (c) For an employee who becomes a member of the plan on or after
19 July 1, 2018, the first day of the calendar month immediately following
20 the employee's completion of ten years of credited service if the employee
21 is at least fifty-five years of age.

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

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

33 31. "Participant" means a member who is subject to a domestic
34 relations order.

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

37 33. "Participating employer" means an employer that the board has
38 determined to have one or more employees in a designated position or a
39 county, city, town or department of this state that has entered into a
40 joinder agreement pursuant to section 38-902.

41 34. "Pension" means a series of monthly payments by the retirement
42 plan but does not include an annuity that is payable pursuant to section
43 38-911.

44 35. "Personal representative" means the personal representative of
45 a deceased alternate payee.

1 36. "Physician" means a physician who is licensed pursuant to title
2 32, chapter 13 or 17.

3 37. "Plan approved domestic relations order" means a domestic
4 relations order that the plan approves as meeting all the requirements for
5 a plan approved domestic relations order as otherwise prescribed in this
6 article.

7 38. "Plan year" or "fiscal year" means the period beginning on July
8 1 of any year and ending on June 30 of the next succeeding year.

9 39. "Probation or surveillance officer" means an officer appointed
10 pursuant to section 8-203, 12-251 or 12-259 but does not include other
11 personnel, office assistants or support staff.

12 40. "Retired member" means an individual who terminates employment
13 and who is receiving a pension pursuant to either section 38-885 or
14 38-886.

15 41. "Retirement" or "retired" means termination of employment after
16 a member has fulfilled all requirements for a pension or, for an employee
17 who becomes a member of the plan on or after January 1, 2012, attains the
18 age and service requirements for a normal retirement date.

19 42. "Retirement plan" or "plan" means the corrections officer
20 retirement plan established by this article.

21 43. "Salary" means the base salary, shift differential pay,
22 military differential wage pay and holiday pay paid a member for personal
23 services rendered in a designated position to a participating employer on
24 a regular monthly, semimonthly or biweekly payroll basis. Salary includes
25 amounts that are subject to deferred compensation or tax shelter
26 agreements. Salary does not include payment for any remuneration or
27 reimbursement other than as prescribed by this paragraph. For the
28 purposes of this paragraph, "base salary" means the amount of compensation
29 each member is regularly paid for personal services rendered to an
30 employer before the addition of any extra monies, including overtime pay,
31 shift differential pay, holiday pay, fringe benefit pay and similar extra
32 payments.

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

39 45. "Service" means employment rendered to a participating employer
40 as an employee in a designated position. Any absence that is authorized
41 by an employer, including any periods during which the employee is on an
42 employer-sponsored long-term disability program, is considered as service
43 if the employee returns or is deemed by the employer to have returned to a
44 designated position within the period of the authorized absence.

1 46. "Total and permanent disability" means a physical or mental
2 condition that is not an accidental disability, that the local board finds
3 totally and permanently prevents a member from engaging in any gainful
4 employment and that is the direct and proximate result of the member's
5 performance of the member's duty as an employee of a participating
6 employer.

7 Sec. 17. Repeal

8 Section 38-883, Arizona Revised Statutes, as amended by Laws 2021,
9 chapter 405, section 18, is repealed.

10 Sec. 18. Section 38-883, Arizona Revised Statutes, as amended by
11 Laws 2019, chapter 36, section 17, is amended to read:

12 38-883. Board of trustees; powers and duties; reporting
13 requirements

14 A. The board shall:

15 1. Maintain records of the operation and administration of the plan
16 and fund.

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

20 3. Employ on a fee basis an independent firm of actuaries to
21 perform annual actuarial valuations for each participating employer of the
22 plan and fund based on an actuarial cost method and actuarial assumptions
23 recommended by the actuary and adopted by the board. The actuarial
24 valuations shall be performed by or under the direct supervision of an
25 actuary who is a member of the American academy of actuaries. By
26 November 1 of each year, the board shall provide a preliminary report and
27 by December ~~31~~ 1 of each year provide a final report to the governor, the
28 speaker of the house of representatives and the president of the senate on
29 the contribution rate for the ensuing fiscal year.

30 4. Invest and reinvest the monies and assets of the fund in
31 accordance with the investment provisions of the public safety personnel
32 retirement system. The board may commingle securities and monies of the
33 fund subject to the crediting of receipts and earnings and charging of
34 payments to the account of the appropriate employer.

35 5. Submit a detailed annual report of the operation and investment
36 performance of the plan and fund to the governor, the legislature and the
37 members of the plan. The board shall submit the annual report ~~to~~ NOT
38 later than six months after the end of the fiscal year to which it
39 pertains.

40 B. The board of trustees may:

41 1. Employ services it deems necessary, including legal services,
42 for the operation and administration of the plan and fund.

43 2. Utilize separate or commingled investment vehicles.

44 3. Delegate authority to the administrator employed pursuant to
45 section 38-848, subsection M, paragraph 6.

1 4. Appear before local boards and the courts and political
2 subdivisions of this state through counsel or appointed representatives to
3 protect the fund. The board of trustees is not responsible for the
4 actions or omissions of the local boards under this plan but may seek
5 review or a rehearing of actions or omissions of local boards. The board
6 of trustees does not have a duty to review actions of the local boards but
7 may do so, in its discretion, in order to protect the fund.

8 5. Perform all acts, whether or not expressly authorized, that it
9 deems necessary and proper for the protection of the plan and fund.

APPROVED BY THE GOVERNOR MARCH 25, 2022.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 25, 2022.