

House Engrossed
retirement systems; benefit computation; return-to-work

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 23
HOUSE BILL 2059

AN ACT

AMENDING SECTIONS 38-727, 38-808, 38-842, 38-844, 38-849 AND 38-890,
ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 38-727, Arizona Revised Statutes, is amended to
3 read:
4 38-727. Eligibility; options
5 A. The following provisions apply to all employees hired on or
6 after the effective date:
7 1. All employees and officers of this state and all officers and
8 employees of political subdivisions establishing a retirement plan
9 administered by the board pursuant to this article are subject to this
10 article, except that membership is not mandatory:
11 (a) On the part of any employee who is eligible and who elects to
12 participate in the optional retirement programs established by the Arizona
13 board of regents pursuant to the authority conferred by section 15-1628 or
14 by a community college district board pursuant to authority conferred by
15 section 15-1451.
16 (b) For a state elected official who is subject to term limits, who
17 is elected or appointed before January 1, 2014, who is eligible for
18 participation in ASRS because the state elected official elected not to
19 participate in the elected officials' retirement plan as provided in
20 section 38-804, subsection A and who elects not to participate in ASRS as
21 provided in paragraph 7 of this subsection.
22 (c) On the part of any employee or officer who is eligible to
23 participate and who participates in the elected officials' retirement plan
24 pursuant to article 3 of this chapter, the elected officials' defined
25 contribution retirement system pursuant to article 3.1 of this chapter,
26 the public safety personnel retirement system pursuant to article 4 of
27 this chapter or the corrections officer retirement plan pursuant to
28 article 6 of this chapter.
29 2. All employees and officers of political subdivisions whose
30 compensation is provided wholly or in part from state monies and who are
31 declared to be state employees and officers by the legislature for
32 retirement purposes are subject, on legislative enactment, to this article
33 and are members of ASRS.
34 3. Any member whose service terminates other than by death or
35 withdrawal from membership is deemed to be a member of ASRS until the
36 member's death benefit is paid.
37 4. Employees and officers shall not become members of ASRS and, if
38 they are members immediately before becoming employed as provided by this
39 section, shall have their membership status suspended while they are
40 employed by state departments paying the salaries of their officers and
41 employees wholly or in part from monies received from sources other than
42 appropriations from the state general fund for the period or periods
43 payment of the employer contributions is not made by or on behalf of the
44 departments.

1 5. Notwithstanding other provisions of this section, a temporary
2 employee of the legislature whose projected term of employment is for not
3 more than six months is ineligible for membership in ASRS. If the
4 employment continues beyond six successive months, the employee may elect
5 to either:

6 (a) Receive credit for service for the first six months of
7 employment and establish membership in ASRS as of the beginning of the
8 current term of employment if, within forty-five days after the first six
9 months of employment, both the employer and the employee contribute to
10 ASRS the amount that would have been required to be contributed to ASRS
11 during the first six months of employment as if the employee had been a
12 member of ASRS during those six months.

13 (b) Establish membership in ASRS as of the day following the
14 completion of six months of employment.

15 6. A person who is employed in postgraduate training in an approved
16 medical residency training program of an employer or a postdoctoral
17 scholar who is employed by a university under the jurisdiction of the
18 Arizona board of regents is ineligible for membership in ASRS.

19 7. A state elected official who is subject to term limits, who is
20 elected or appointed before January 1, 2014 and who is eligible for
21 participation in ASRS because the state elected official elected not to
22 participate in the elected officials' retirement plan as provided in
23 section 38-804, subsection A may elect not to participate in ASRS. The
24 election not to participate is specific for that term of office. The
25 state elected official who is subject to term limits shall make the
26 election in writing and file the election with ASRS within thirty days
27 after the elected official's retirement plan mails the notice to the state
28 elected official of the state elected official's eligibility to
29 participate in ASRS. The election is effective on the first day of the
30 state elected official's eligibility. If a state elected official who is
31 subject to term limits fails to make an election as provided in this
32 paragraph, the state elected official is deemed to have elected to
33 participate in ASRS. The election not to participate in ASRS is
34 irrevocable and constitutes a waiver of all benefits provided by ASRS for
35 the state elected official's entire term, except for any benefits accrued
36 by the state elected official in ASRS for periods of participation before
37 being elected to an office subject to term limits or any benefits
38 expressly provided by law.

39 8. A person may elect not to participate in ASRS if the person
40 becomes employed by an employer after the person has attained at least
41 sixty-five years of age, is not an active member, inactive member, retired
42 member or receiving benefits pursuant to article 2.1 of this chapter and
43 does not have any credited service or prior service in ASRS. The employee
44 shall make the election not to participate in writing and file the
45 election with ASRS within thirty days after employment. The election not

1 to participate is irrevocable for the remainder of the person's employment
2 for which the person made the election and constitutes a waiver of all
3 benefits provided by the Arizona state retirement system. The period the
4 person works is not eligible for purchase under section 38-743 or 38-744.

5 9. The following are ineligible for membership in ASRS:

6 (a) A person who performs services in a hospital, home or other
7 institution as an inmate or patient at the hospital, home or other
8 institution.

9 (b) A person who performs agricultural labor services, as defined
10 in section 210 of the social security act.

11 (c) A person who is a nonresident alien temporarily residing in the
12 United States and who holds an F-1, J-1, M-1 or Q-1 visa when services are
13 performed.

14 (d) A person who performs services for a school, college or
15 university in this state at which the person is enrolled as a student, as
16 defined by the employing institution. The employing institution shall
17 maintain an appeal process for a person who disagrees with the employing
18 institution's determination that the person is a student and not eligible
19 for membership in ASRS.

20 (e) A person who performs services under a program designed to
21 relieve the person from unemployment.

22 B. The following elected officials are subject to this article if
23 the member's employer is an employer under article 3 of this chapter:

24 1. A state elected official who is subject to term limits, who is
25 elected or appointed on or before December 31, 2013 and who is an active,
26 an inactive or a retired member of ASRS or a member of ASRS with a
27 disability because the state elected official had previously elected not
28 to participate in the elected officials' retirement plan as provided in
29 section 38-804, subsection A.

30 2. An elected official, as defined in section 38-831, who is an
31 active, an inactive or a retired member of ASRS or a member of ASRS with a
32 disability, if the elected official's employer is a participating employer
33 under this article **AND THE ELECTED OFFICIAL IS ELIGIBLE FOR ASRS SERVICE**
34 **CREDIT FOR THE ELECTED OFFICIAL'S SERVICE.**

35 Sec. 2. Section 38-808, Arizona Revised Statutes, is amended to
36 read:

37 **38-808. Pension payments; computation of amounts; termination**

38 A. Plan retirement commences on the first day of the month
39 following the date of the member's retirement or death. Pension payments
40 shall be received on or about the first day of the month next following
41 the member's plan retirement. The last pension payment shall be made as
42 of the last day of the month in which the death of the retired member or
43 the surviving spouse or minor children occurs. Pension payments shall not
44 be made in advance.

1 B. For a member who becomes a member of the plan before January 1,
2 2012, the monthly pension shall be equal to one-twelfth of the following
3 amount:

4 1. Four ~~per cent~~ PERCENT of the member's average yearly salary
5 multiplied by the member's credited service, not to exceed eighty ~~per cent~~
6 PERCENT of the member's average yearly salary. This amount shall be
7 reduced if the member takes early retirement pursuant to section 38-805,
8 subsection C. The amount of reduction is three-twelfths of one ~~per cent~~
9 PERCENT for each month the retired member's early retirement age precedes
10 the member's normal retirement age pursuant to section 38-805, subsection
11 A, except that the reduction shall not be more than thirty ~~per cent~~
12 PERCENT.

13 2. A member who meets the requirements for a disability retirement
14 pension shall receive a disability pension equal to four ~~per cent~~ PERCENT
15 of the member's average yearly salary multiplied by twenty years of
16 credited service if the member has ten or more years of credited service,
17 four ~~per cent~~ PERCENT of the member's average yearly salary multiplied by
18 ten years of credited service if the member has five or more years of
19 credited service but fewer than ten years of credited service or four ~~per~~
20 ~~cent~~ PERCENT of the member's average yearly salary multiplied by five
21 years of credited service if the member has fewer than five years of
22 credited service.

23 C. The monthly pension of a member who becomes a member of the plan
24 on or after January 1, 2012 shall be equal to one-twelfth of the following
25 amount:

26 1. Three ~~per cent~~ PERCENT of the member's average yearly salary
27 multiplied by the member's credited service, not to exceed seventy-five
28 ~~per cent~~ PERCENT of the member's average yearly salary.

29 2. A member who meets the requirements for a disability retirement
30 pension shall receive a disability pension equal to three ~~per cent~~ PERCENT
31 of the member's average yearly salary multiplied by twenty-five years of
32 credited service if the member has ten or more years of credited service,
33 three ~~per cent~~ PERCENT of the member's average yearly salary multiplied by
34 twelve and one-half years of credited service if the member has five or
35 more years of credited service but fewer than ten years of credited
36 service or three ~~per cent~~ PERCENT of the member's average yearly salary
37 multiplied by 6.25 years of credited service if the member has fewer than
38 five years of credited service.

39 D. The plan shall make payments pursuant to section 401(a)(9) of
40 the internal revenue code and the regulations that are issued under that
41 section. Notwithstanding any other provision of this plan, beginning
42 January 1, 1987, payment of benefits to a member shall commence ~~no~~ NOT
43 later than April 1 of the calendar year following the later of:

44 1. The calendar year in which the member attains ~~seventy and~~
45 ~~one-half~~ SEVENTY-TWO years of age.

1 2. The date the member terminates employment.

2 E. If all pension payments terminate before an amount equal to the
3 member's accumulated contributions has been paid, the difference between
4 the member's accumulated contributions and the aggregate amount of pension
5 payments shall be paid to the person or persons and in such shares as
6 designated by the retired member in writing and filed with the board. If
7 the designated person or persons do not survive the retired member, the
8 difference shall be paid to the estate of the retired member.

9 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to
10 read:

11 38-842. Definitions

12 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

38 (a) Before January 1, 2012, the considered period shall be the
39 three consecutive years within the last twenty completed years of credited
40 service that yield the highest average. **IN THE COMPUTATION UNDER THIS**
41 **SUBDIVISION, A PERIOD OF NONPAID OR PARTIALLY PAID INDUSTRIAL LEAVE SHALL**
42 **BE CONSIDERED BASED ON THE COMPENSATION THE EMPLOYEE WOULD HAVE RECEIVED**
43 **IN THE EMPLOYEE'S JOB CLASSIFICATION IF THE EMPLOYEE WAS NOT ON INDUSTRIAL**
44 **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 ~~paragraph~~ SUBDIVISION, a period of nonpaid or
5 partially paid industrial leave shall be considered based on the
6 compensation the employee would have received in the employee's job
7 classification if the 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 ~~paragraph~~ SUBDIVISION, a period of nonpaid or partially paid industrial
12 leave shall be considered based on the compensation the employee would
13 have received in the employee's job classification if the employee was not
14 on industrial 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~~ THIRD-PARTY
43 contracts between public agencies for law enforcement, criminal, traffic
44 and crime suppression activities training or fire, wildfire, emergency
45 medical or emergency management activities or where the employer

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

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

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

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

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

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

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

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

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

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

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

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

5 (a) Is under eighteen years of age.

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

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

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

13 (a) Municipal police officers who are certified peace officers.

14 (b) Municipal firefighters.

15 (c) Paid full-time firefighters employed directly by a fire
16 district organized pursuant to section 48-803 or 48-804 or a joint powers
17 authority pursuant to section 48-805.01 with three or more full-time
18 firefighters, but not including firefighters employed by a fire district
19 pursuant to a contract with a corporation.

20 (d) State highway patrol officers who are certified peace officers.

21 (e) State firefighters.

22 (f) County sheriffs and deputies who are certified peace officers.

23 (g) Game and fish wardens who are certified peace officers.

24 (h) Police officers who are certified peace officers and
25 firefighters of a nonprofit corporation operating a public airport
26 pursuant to sections 28-8423 and 28-8424. A police officer shall be
27 designated pursuant to section 28-8426 to aid and supplement state and
28 local law enforcement agencies and a firefighter's sole duty shall be to
29 perform firefighting services, including services required by federal
30 regulations.

31 (i) Police officers who are certified peace officers and who are
32 appointed by the Arizona board of regents.

33 (j) Police officers who are certified peace officers and who are
34 appointed by a community college district governing board.

35 (k) State attorney general investigators who are certified peace
36 officers.

37 (l) County attorney investigators who are certified peace officers.

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

40 (n) Firefighters who are employed by an Indian reservation
41 firefighting agency.

42 (o) Department of liquor licenses and control investigators who are
43 certified peace officers.

- 1 (p) Arizona department of agriculture officers who are certified
2 peace officers.
- 3 (q) Arizona state parks board rangers and managers who are
4 certified peace officers.
- 5 (r) County park rangers who are certified peace officers.
- 6 25. "Eligible retirement plan" means any of the following that
7 accepts a distributee's eligible rollover distribution:
- 8 (a) An individual retirement account described in section 408(a) of
9 the internal revenue code.
- 10 (b) An individual retirement annuity described in section 408(b) of
11 the internal revenue code.
- 12 (c) An annuity plan described in section 403(a) of the internal
13 revenue code.
- 14 (d) A qualified trust described in section 401(a) of the internal
15 revenue code.
- 16 (e) An annuity contract described in section 403(b) of the internal
17 revenue code.
- 18 (f) An eligible deferred compensation plan described in section
19 457(b) of the internal revenue code that is maintained by a state, a
20 political subdivision of a state or any agency or instrumentality of a
21 state or a political subdivision of a state and that agrees to separately
22 account for amounts transferred into the eligible deferred compensation
23 plan from this plan.
- 24 26. "Eligible rollover distribution" means a payment to a
25 distributee, but does not include any of the following:
- 26 (a) Any distribution that is one of a series of substantially equal
27 periodic payments made not less frequently than annually for the life or
28 life expectancy of the member or the joint lives or joint life
29 expectancies of the member and the member's beneficiary or for a specified
30 period of ten years or more.
- 31 (b) Any distribution to the extent the distribution is required
32 under section 401(a)(9) of the internal revenue code.
- 33 (c) The portion of any distribution that is not includable in gross
34 income.
- 35 (d) Any distribution made to satisfy the requirements of section
36 415 of the internal revenue code.
- 37 (e) Hardship distributions.
- 38 (f) Similar items designated by the commissioner of the United
39 States internal revenue service in revenue rulings, notices and other
40 guidance published in the internal revenue bulletin.
- 41 27. "Employee" means any person who is employed by a participating
42 employer and who is a member of an eligible group but does not include any
43 persons compensated on a contractual or fee basis. If an eligible group
44 requires certified peace officer status or firefighter certification and

1 at the option of the local board, employee may include a person who is
2 training to become a certified peace officer or firefighter.

3 28. "Employers" means:

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

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

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

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

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

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

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

29 31. "Member":

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

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

1 firefighter who is employed by an Indian reservation firefighting agency
2 or an employee included in a group designated as eligible employees under
3 a joinder agreement entered into by their employer after July 1, 1968 and
4 who is or was regularly assigned to hazardous duty or, beginning
5 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

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

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

24 (b) Does not include an employee who is hired on or after July 1,
25 2017, who makes the irrevocable election to participate solely in the
26 public safety personnel defined contribution retirement plan established
27 pursuant to article 4.1 of this chapter and who was not an active, an
28 inactive or a retired member of the system or a member of the system with
29 a disability on June 30, 2017.

30 32. "Normal retirement date" means:

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

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

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

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

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

12 35. "Participant" means a member who is subject to a domestic
13 relations order.

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

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

19 38. "Personal representative" means the personal representative of
20 a deceased alternate payee.

21 39. "Physician" means a physician who is licensed pursuant to title
22 32, chapter 13 or 17.

23 40. "Plan approved domestic relations order" means a domestic
24 relations order that the system approves as meeting all the requirements
25 for a plan approved domestic relations order as otherwise prescribed in
26 this article.

27 41. "Plan year" or "fiscal year" means the period beginning on July
28 1 of any year and ending on June 30 of the next succeeding year.

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

1 assigned solely to support duties such as secretaries, stenographers,
2 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
3 dispatchers are not assigned to hazardous duty regardless of their
4 position classification title. Since the normal duties of those jobs
5 described in this paragraph are constantly changing, questions as to
6 whether a person is or was previously regularly assigned to hazardous duty
7 shall be resolved by the local board on a case-by-case basis. Resolutions
8 by local boards are subject to rehearing and appeal.

9 43. "Retirement" or "retired" means termination of employment after
10 a member has fulfilled all requirements for a pension, for an employee who
11 becomes a member of the system on or after January 1, 2012 and before July
12 1, 2017, attains the age and service requirements for a normal retirement
13 date or for an employee who becomes a member of the system on or after
14 July 1, 2017 attains the age and credited service requirements for a
15 normal retirement date. Retirement shall be considered as commencing on
16 the first day of the month immediately following a member's last day of
17 employment or authorized leave of absence, if later.

18 44. "Segregated funds" means the amount of benefits that would
19 currently be payable to an alternate payee pursuant to a domestic
20 relations order under review by the system, or a domestic relations order
21 submitted to the system that failed to qualify as a plan approved domestic
22 relations order, if the domestic relations order were determined to be a
23 plan approved domestic relations order.

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

1 46. "State" means the state of Arizona, including any department,
2 office, board, commission, agency or other instrumentality of the state.

3 47. "System" means the public safety personnel retirement system
4 established by this article.

5 48. "Temporary disability" means a physical or mental condition
6 that the local board finds totally and temporarily prevents an employee
7 from performing a reasonable range of duties within the employee's
8 department and that was incurred in the performance of the employee's
9 duty.

10 Sec. 4. Section 38-844, Arizona Revised Statutes, is amended to
11 read:

12 38-844. Requirements for retirement benefits and disability
13 pensions

14 A. A member shall be eligible for a normal pension on retirement on
15 or after the member's normal retirement date. Payment of a normal pension
16 shall commence as of the first day of the month following the date of
17 retirement, and the last payment shall be made as of the last day of the
18 month in which the death of the retired member occurs.

19 B. A member is eligible for an accidental disability pension if the
20 member's employment is terminated by reason of accidental disability. A
21 member is eligible for an ordinary disability pension if the member's
22 employment is terminated before the member's normal retirement date by
23 reason of ordinary disability. A member shall file an application for a
24 disability pension after the disabling incident or within one year after
25 the date the member ceases to be an employee. Timely application for an
26 accidental, catastrophic or ordinary disability pension is a prerequisite
27 to receipt of the pension. Payment of an accidental, catastrophic or
28 ordinary disability pension shall commence as of the first day of the
29 month following the date of retirement or the expiration of a period
30 during which the member is receiving sick leave payments or a temporary
31 disability pension, whichever is later, but not earlier than section
32 38-845.02 allows for retroactive payments. The last payment shall be made
33 as of the last day of the month in which the death of the retired member
34 occurs, or if disability ceases before the member's normal retirement
35 date, the first day of the month in which disability ceases.

36 C. A member is eligible for a catastrophic disability pension if
37 the member's employment is terminated by reason of catastrophic
38 disability. If more than the allowable catastrophic disability pensions
39 are approved by the local boards in a calendar year, from and after
40 December 31 of the following calendar year a member of the system is not
41 eligible to apply for a catastrophic disability pension. On or before
42 January 31, the board of trustees shall report to the president of the
43 senate and the speaker of the house of representatives the number of
44 catastrophic disability pensions that were approved by the local boards in
45 the preceding calendar year. For the purposes of this subsection,

1 "allowable catastrophic disability pensions" means for calendar year 2004,
2 ten, and for subsequent calendar years the number of allowable
3 catastrophic disability pensions allowed in the prior calendar year minus
4 the number of catastrophic disability pensions approved by the local
5 boards in the prior calendar year plus four.

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

10 1. An injury suffered while engaged in a felonious criminal act or
11 enterprise.

12 2. Service in the armed forces of the United States that entitles
13 the member to a veteran's disability pension.

14 3. A physical or mental condition or injury that existed or
15 occurred before the member's date of membership in the system.

16 E. Accidental or ordinary disability shall be considered to have
17 ceased and an accidental or ordinary disability pension terminates if the
18 member:

19 1. Has sufficiently recovered, in the opinion of the local board,
20 based on a medical examination by a designated physician or a physician
21 working in a clinic that is appointed by the local board, to be able to
22 engage in a reasonable range of duties within the member's department and
23 the member refuses an offer of employment by an employer in the system.

24 2. Refuses to undergo any medical examination requested by the
25 local board, provided that a medical examination shall not be required
26 more frequently than once in any calendar year.

27 F. Sixty months after the award of a catastrophic disability
28 pension, the local board shall reevaluate the member. If the member still
29 qualifies for the catastrophic disability pension, the member is entitled
30 to continue to receive the pension at the reduced amount prescribed in
31 section 38-845, subsection E. A catastrophic disability shall be
32 considered to have ceased and a catastrophic disability pension terminates
33 if the local board determines that the member has sufficiently recovered
34 and is able to engage in gainful employment based on a medical examination
35 by a designated physician or a physician working in a clinic that is
36 appointed by the local board. After the sixty-month review, the
37 catastrophic disability shall be considered to have ceased and a
38 catastrophic disability pension terminates if the local board determines
39 that the member has sufficiently recovered and is able to engage in
40 gainful employment based on a medical examination by a designated
41 physician or a physician working in a clinic that is appointed by the
42 local board, except that the medical examination shall not be required
43 more frequently than once in a calendar year. The medical review after
44 the sixty-month period does not apply after the date the catastrophic
45 disability pensioner would have attained twenty-five years of service

1 assuming the pensioner remained a member of the system. The local board
2 shall also terminate a catastrophic disability pension if the member
3 refuses to undergo any medical examination requested by the local
4 board. A member whose catastrophic disability pension is terminated may
5 apply for and if eligible is entitled to receive an accidental disability
6 pension as provided in this section.

7 G. Subsection E of this section does not apply after a disability
8 pensioner's normal retirement date. The amount of a disability pension
9 shall not be recomputed at a disability pensioner's normal retirement
10 date.

11 H. If accidental or ordinary disability ceases before a retired
12 member attains the member's normal retirement date and the member is
13 reemployed by an employer, the member shall be treated as if the member
14 has been on an uncompensated leave of absence during the period of the
15 member's disability retirement and shall be a contributing member of the
16 system. The pension payable on the member's subsequent retirement shall
17 be determined as provided in section 38-845.

18 I. A member shall be eligible for a temporary disability pension if
19 the member's employment is terminated before the member's normal
20 retirement date by reason of temporary disability. Payment of a temporary
21 disability pension shall commence as of the first day of the month
22 following the date of disability or the expiration of a period during
23 which the member is receiving compensation and sick leave payments,
24 whichever is later. The last payment shall be made as of the first day of
25 the month in which either the death of the member occurs or the local
26 board deems the member is no longer under temporary disability, whichever
27 first occurs, provided that ~~no~~ NOT more than twelve monthly temporary
28 disability payments shall be made in total to the member.

29 J. If on the expiration of a temporary disability pension the local
30 board finds on application that the member has an accidental or ordinary
31 disability, the member shall be eligible for an accidental or ordinary
32 disability pension, as provided in this section.

33 K. The system shall make payments pursuant to section 401(a)(9) of
34 the internal revenue code and the regulations that are issued under that
35 section. Notwithstanding any other provision of the system, beginning
36 January 1, 1987 payment of benefits to a member shall commence ~~no~~ NOT
37 later than April 1 of the calendar year following the later of:

38 1. The calendar year in which the member attains ~~seventy and~~
39 ~~one-half~~ SEVENTY-TWO years of age.

40 2. The date the member terminates employment.

1 Sec. 5. Section 38-849, Arizona Revised Statutes, is amended to
2 read:

3 38-849. Limitations on receiving pension; violation;
4 classification; reemployment after severance;
5 reinstatement of service credits; reemployment of
6 retired member or member with a disability;
7 definition

8 A. If a member is convicted of, or discharged because of, theft,
9 embezzlement, fraud or misappropriation of an employer's property or
10 property under the control of the employer, the member shall be subject to
11 restitution and fines imposed by a court of competent jurisdiction. The
12 court may order the restitution or fines to be paid from any payments
13 otherwise payable to the member from the retirement system.

14 B. A person who knowingly makes any false statement or who
15 falsifies or allows to be falsified any record of the system with an
16 intent to defraud the system is guilty of a class 5 felony. If any change
17 or error in the records results in any member or beneficiary receiving
18 from the system more or less than the member or beneficiary would have
19 been entitled to receive had the records been correct, the local board
20 shall correct such error, and as far as practicable shall adjust the
21 payments in such manner that the actuarial equivalent of the benefit to
22 which such member or beneficiary was correctly entitled shall be paid. If
23 a member is convicted of a crime specified in this subsection, section
24 13-713 applies.

25 C. If a member who received a severance refund on termination of
26 employment pursuant to section 38-846.02 becomes reemployed with the same
27 employer within two years after the former member's termination date, the
28 member may have forfeited credited service attributable to service
29 rendered during a prior period of service as an employee restored on
30 satisfaction of each of the following conditions:

31 1. The member files with the system a written application for
32 reinstatement of forfeited credited service within ninety days after again
33 becoming an employee.

34 2. The retirement fund is paid the total amount previously
35 withdrawn pursuant to section 38-846.02 plus compound interest from the
36 date of withdrawal to the date of repayment. Interest shall be computed
37 at the rate of nine percent for each year compounded each year from the
38 date of withdrawal to the date of repayment. Forfeited credited service
39 shall not be restored until complete payment is received by the fund.

40 3. The required payment is completed within one year after
41 returning to employee status.

42 D. If a member who received a severance refund on termination of
43 employment, as provided in section 38-846.02, is subsequently reemployed
44 by an employer, the member's prior service credits shall be cancelled and
45 service shall be credited only from the date the member's most recent

1 reemployment period commenced. However, a present active member of the
2 system who forfeited credited service, received a severance refund
3 pursuant to section 38-846.02 and becomes reemployed with the same
4 employer two years or more after the member's termination date or becomes
5 reemployed with another employer may elect to redeem any part of that
6 forfeited credited service by paying into the system any amounts required
7 pursuant to this subsection. A present active member who elects to redeem
8 any part of forfeited credited service for which the member is deemed
9 eligible by the board shall pay into the system the amounts previously
10 paid or transferred to the member as a severance refund plus an amount,
11 computed by the system's actuary that is necessary to equal the increase
12 in the actuarial present value of projected benefits resulting from the
13 redemption calculated using the actuarial methods and assumptions
14 prescribed by the system's actuary. On satisfaction of this obligation
15 the member's prior service credits shall be reinstated.

16 E. If a retired member becomes reemployed in any capacity by the
17 employer from which the member retired before twelve months after the date
18 of retirement or in the same position at any time following retirement:

19 1. The following apply:

20 (a) Within ten days after the retired member is reemployed, the
21 local board shall advise the system in writing of the retired member's
22 reemployment.

23 (b) The system shall not make pension payments to the retired
24 member during the period of reemployment.

25 (c) Employee contributions shall not be made on the retired
26 member's account, nor shall any service be credited during the period of
27 reemployment. On subsequent termination of employment by the retired
28 member, the retired member is entitled to receive a pension based on the
29 member's service and compensation before the date of the member's
30 reemployment. The employer shall pay the alternate contribution rate
31 pursuant to section 38-843.05.

32 (d) Any pension payments received by the retired member, who
33 retired on or after July 1, 2009, during the period of reemployment are
34 considered overpayments pursuant to section 38-850, unless subsection B of
35 this section applies. If the board determines in the board's sole
36 discretion, for a member who retired on or after July 1, 2009, that the
37 retired member's reemployment during the twelve-month period and the
38 failure of the employer or the local board to suspend the member's pension
39 were not intentional to circumvent the requirements of this subsection,
40 the pension payments received by the retired member after the retired
41 member's reemployment are subject to repayment up to only the amount
42 received between the date of the member's reemployment and the expiration
43 of the twelve-month period.

1 ~~(e)~~ 2. ~~If a~~ THE retired member, who retired on or after July 1,
2 2009 and who is reemployed terminates employment, ~~the retired member~~ may
3 be subsequently reemployed with the employer from which the member retired
4 and resume receiving pension payments after a period of twelve months,
5 less the period of time the retired member was not reemployed after
6 retirement with the employer from which the member retired, if at least
7 sixty days of the twelve months are consecutive.

8 ~~2.~~ 3. Paragraph 1, subdivisions (a), ~~and~~ (b) AND (d) of this
9 subsection do not apply if any of the following occurs:

10 (a) The retired member becomes reemployed after sixty consecutive
11 days from the member's retirement date as a result of participating in an
12 open competitive new hire process for an entry level, nonsupervisory
13 position, except if the retired member is hired for the same position.

14 (b) The retired member is hired as a fire inspector or arson
15 investigator.

16 (c) ~~Notwithstanding section 38-844,~~ The retired member who is
17 receiving an accidental disability, ordinary disability, catastrophic
18 disability or temporary disability ~~and who~~ PENSION accepts a job
19 reassignment as an accommodation in accordance with the Americans with
20 disabilities act of 1990 due to a disability that is directly related to
21 the retired member being awarded an accidental disability, ordinary
22 disability, catastrophic disability or temporary disability benefit.

23 F. If a retired member is assigned voluntary duties acting as a
24 limited authority peace officer, pursuant to the Arizona peace officer
25 standards and training board rules, employee contributions shall not be
26 made on the retired member's account, and any service shall not be
27 credited during the period of reemployment. The employer shall not pay
28 the alternate contribution rate pursuant to section 38-843.05.

29 G. If after twelve months after the date of retirement a retired
30 member becomes reemployed by the employer from which the member retired in
31 a position other than the same position from which the member retired,
32 employee contributions shall not be made on the retired member's account,
33 and any service shall not be credited during the period of reemployment.
34 The employer shall pay the alternate contribution rate pursuant to section
35 38-843.05.

36 H. At any time following retirement, if the retired member becomes
37 employed by an employer, other than the employer from which the member
38 retired, in a position ordinarily filled by an employee of an eligible
39 group, employee contributions shall not be made on the retired member's
40 account, and any service shall not be credited during the period of
41 reemployment. The employer shall pay the alternate contribution rate
42 pursuant to section 38-843.05.

1 I. If a member who retired under an accidental or ordinary
2 disability becomes reemployed as an employee of an eligible group, section
3 38-844 applies and a determination shall be made by the local board as to
4 whether subsection E, F, G or H of this section applies.

5 J. The local board shall review all reemployment determinations and
6 voluntary assignments as described in subsection F of this section. If
7 the local board or the system is not provided the necessary information
8 required by the system to make a reemployment determination, the local
9 board and the system shall suspend pension payments until information is
10 received and a determination is made regarding whether the reemployment
11 meets the requirements of subsection E, F, G, H or I of this section.

12 K. A person who defrauds the system or who takes, converts, steals
13 or embezzles monies owned by or from the system and who fails or refuses
14 to return the monies to the system on the board's written request is
15 subject to civil suit by the system in the superior court in Maricopa
16 county. On entry of an order finding the person has defrauded the system
17 or taken, converted, stolen or embezzled monies owned by or from the
18 system, the court shall enter an order against that person and for the
19 system awarding the system all of its costs and expenses of any kind,
20 including attorney fees, that were necessary to successfully prosecute the
21 action. The court shall also grant the system a judicial lien on all of
22 the nonexempt property of the person against whom judgment is entered
23 pursuant to this subsection in an amount equal to all amounts awarded to
24 the system, plus interest at the rate prescribed by section 44-1201, until
25 all amounts owed are paid to the system.

26 L. Notwithstanding any other provision of this article, the board
27 may offset against any benefits otherwise payable by the system to an
28 active or retired member or survivor any court ordered amounts awarded to
29 the board and system and assessed against the member or survivor.

30 M. Notwithstanding any other provision of this article, a member
31 who retires having met all of the qualifications for retirement and who
32 subsequently becomes an elected official, by election or appointment, is
33 not considered reemployed by the same employer.

34 N. For the purposes of this section, "same position" means a
35 position in which the member performs substantially similar duties that
36 were performed and exercises substantially similar authority that was
37 exercised by the retired member before retirement.

38 Sec. 6. Section 38-890, Arizona Revised Statutes, is amended to
39 read:

40 38-890. Pensions; commencement and duration

41 A. A normal retirement pension, an accidental disability pension, a
42 total and permanent disability pension or an ordinary disability pension
43 commences on the first day of the calendar month next following the
44 member's date of retirement. A survivor pension commences on the first

1 day of the calendar month next following the month in which the death
2 causing payment of the pension occurs.

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

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

9 D. The plan shall make payments pursuant to section 401(a)(9) of
10 the internal revenue code and the regulations that are issued under that
11 section. Notwithstanding any other provision of the plan, beginning
12 January 1, 1987 payment of benefits to a member shall commence ~~no~~ NOT
13 later than April 1 of the calendar year following the later of:

14 1. The calendar year in which the member attains ~~seventy and~~
15 ~~one-half~~ SEVENTY-TWO years of age.

16 2. The date the member terminates employment.

APPROVED BY THE GOVERNOR FEBRUARY 18, 2021.

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