

House Engrossed

PSPRS; CORP; local boards; consolidation

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

**CHAPTER 34**  
**HOUSE BILL 2381**

AN ACT

AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-802.01; AMENDING SECTION 38-847, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 38-847.02, 38-847.03 AND 38-847.04; AMENDING SECTIONS 38-848 AND 38-893, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-893.01; 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. Title 38, chapter 5, article 3, Arizona Revised  
3 Statutes, is amended by adding section 38-802.01, to read:  
4 38-802.01. Employer responsibilities under the system  
5 AN EMPLOYER SHALL SUBMIT ANY REPORTS, DATA, PAPERWORK OR OTHER  
6 MATERIALS THAT ARE REQUESTED BY THE BOARD OF TRUSTEES FOR ANY REASON,  
7 INCLUDING ELIGIBILITY DETERMINATIONS AND PROPER ADMINISTRATION OF THE  
8 PLAN.  
9 Sec. 2. Section 38-847, Arizona Revised Statutes, is amended to  
10 read:  
11 38-847. Local boards  
12 A. TO THE EXTENT OUTLINED IN THIS SECTION, the administration of  
13 the system and responsibility for making the provisions of the system  
14 effective for each employer are vested in a local board. The department  
15 of public safety, the Arizona game and fish department, the department of  
16 emergency and military affairs, the university of Arizona, Arizona state  
17 university, northern Arizona university, each county sheriff's office,  
18 each county attorney's office, each county parks department, each  
19 municipal fire department, each eligible fire district, each community  
20 college district, each municipal police department, the department of law,  
21 the department of liquor licenses and control, the Arizona department of  
22 agriculture, the Arizona state parks board, each Indian reservation police  
23 agency and each Indian reservation firefighting agency shall have a local  
24 board. A nonprofit corporation operating pursuant to sections 28-8423 and  
25 28-8424 shall have one local board for all of its members. Each local  
26 board shall be constituted as follows:  
27 1. For political subdivisions or Indian tribes, the mayor or chief  
28 elected official or a designee of the mayor or chief elected official  
29 approved by the respective governing body as ~~chairman~~ CHAIRPERSON, two  
30 members elected by secret ballot by members employed by the appropriate  
31 employer and two citizens, one of whom shall be the head of the merit  
32 system, or the head's designee from among the other members of the merit  
33 system, if it exists for the group of members, appointed by the mayor or  
34 chief elected official and with the approval of the governing body of the  
35 city or the governing body of the employer. The appointed two citizens  
36 shall serve on both local boards in a city or Indian tribes where both  
37 fire and police department employees are members.  
38 2. For state agencies and nonprofit corporations operating pursuant  
39 to sections 28-8423 and 28-8424, two members elected by secret ballot by  
40 the members employed by the appropriate employer and three citizens  
41 appointed by the governor. Each state agency local board shall elect a  
42 ~~chairman~~ CHAIRPERSON.

1           3. For fire districts, the chairperson of the fire district  
2 governing board or the chairperson's designee, two members elected by  
3 secret ballot by members employed by the fire district and two citizens  
4 appointed by the chairperson of the fire district governing board, one of  
5 whom is a resident of the fire district and one of whom has experience in  
6 personnel administration but who is not required to be a resident of the  
7 fire district.

8           4. For joint powers authorities organized pursuant to section  
9 48-805.01, the joint powers authority board ~~chairman~~ CHAIRPERSON or a  
10 designee approved by the governing body, two members elected by secret  
11 ballot by members employed by the joint powers authority and two citizens,  
12 one of whom is a resident of one of the partner entities and one of whom  
13 has experience in personnel administration but who is not required to be a  
14 resident of a partner entity.

15           B. On the taking effect of this system for an employer, the  
16 appointments and elections of local board members shall take place with  
17 one elective and appointive local board member serving a term ending two  
18 years after the effective date of participation for the employer and other  
19 local board members serving a term ending four years after the effective  
20 date. Thereafter, every second year, and as a vacancy occurs, an office  
21 shall be filled for a term of four years in the same manner as previously  
22 provided.

23           C. Each local board shall be fully constituted pursuant to  
24 subsection A of this section within sixty days after the employer's  
25 effective date of participation in the system. If the deadline is not  
26 met, on the written request of any member who is covered by the local  
27 board or the employer to the board of trustees, the board of trustees may  
28 appoint all vacancies of the local board pursuant to subsection A of this  
29 section and designate whether each appointive position is for a ~~two-year~~  
30 TWO-YEAR or ~~four-year~~ FOUR-YEAR term. If the board of trustees cannot  
31 find individuals to serve on the local board who meet the requirements of  
32 subsection A of this section, the board of trustees may appoint  
33 individuals to serve as interim local board members until qualified  
34 individuals are appointed or elected. Each local board shall meet at  
35 least twice a year. Each member of a local board, within ten days after  
36 the member's appointment or election, shall take an oath of office that,  
37 so far as it devolves on the member, the member shall diligently and  
38 honestly administer the affairs of the local board and that the member  
39 shall not knowingly violate or willingly ~~permit~~ ALLOW to be violated any  
40 of the provisions of law applicable to the system. WITHIN ONE HUNDRED  
41 EIGHTY DAYS AFTER APPOINTMENT OR ELECTION, EACH BOARD MEMBER SHALL  
42 COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF TRUSTEES,  
43 INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY  
44 RESPONSIBILITIES AND DUTIES.

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

4 1. To decide all questions of eligibility for membership, ~~service~~  
5 ~~credits and benefits and determine the amount, manner and time of payment~~  
6 ~~of any benefits~~ AND DISABILITY AND IN THE LINE OF DUTY DEATH BENEFITS  
7 under the system.

8 2. To prescribe procedures to be followed by claimants in filing  
9 applications for DISABILITY AND IN THE LINE OF DUTY DEATH benefits.

10 3. To make a determination as to the right of any claimant to a  
11 DISABILITY AND IN THE LINE OF DUTY DEATH benefit, TO ISSUE OPINIONS ON  
12 QUESTIONS OF WHETHER BENEFITS ARE CONSISTENT WITH AND ALLOWABLE UNDER THE  
13 SYSTEM and to afford any claimant or the board of trustees, or both, a  
14 right to a rehearing on the original determination. Except as otherwise  
15 required by law, unless all parties involved in a matter presented to the  
16 local board for determination otherwise agree, the local board shall  
17 commence a hearing on the matter within ninety days after the date the  
18 matter is presented to the local board for determination. If a local  
19 board fails to commence a hearing as provided in this paragraph, on a  
20 matter presented to the local board for determination, the relief demanded  
21 by the party petitioning the local board is deemed granted and approved by  
22 the local board. ~~The granting and approval of this relief is considered~~  
23 ~~final and binding unless a timely request for rehearing or appeal is made~~  
24 ~~as provided in this article, unless the board of trustees determines that~~  
25 ~~granting the relief requested would violate the internal revenue code or~~  
26 ~~threaten to impair the system's status as a qualified plan under the~~  
27 ~~internal revenue code. If the board of trustees determines that granting~~  
28 ~~the requested relief would violate the internal revenue code or threaten~~  
29 ~~to impair the system's status as a qualified plan, the board of trustees~~  
30 ~~may refuse to grant the relief by issuing a written determination to the~~  
31 ~~local board and the party petitioning the local board for relief. The~~  
32 ~~decision by the board of trustees is subject to judicial review pursuant~~  
33 ~~to title 12, chapter 7, article 6.~~

34 4. To request and receive from the employers and from members such  
35 information as is necessary for the proper administration of the system  
36 and action on claims for eligibility for membership and DISABILITY AND IN  
37 THE LINE OF DUTY DEATH benefits, and to forward such information to the  
38 board of trustees.

39 5. To distribute, in such manner as the local board determines to  
40 be appropriate, information explaining the system received from the board  
41 of trustees.

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

1           7. To receive and review the actuarial valuation of the system for  
2 its group of members.

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

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

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

8           E. A local board ~~shall have no power to~~ MAY NOT add to, subtract  
9 from, modify or waive any of the terms of the system, change or add to any  
10 benefits provided by the system or waive or fail to apply any requirement  
11 of eligibility for membership or DISABILITY AND IN THE LINE OF DUTY DEATH  
12 benefits under the system. Notwithstanding any limitations periods  
13 imposed in this article, including subsection D, paragraph 3 and  
14 subsections G and H of this section, if the board of trustees determines a  
15 local board decision violates the internal revenue code or threatens to  
16 impair the system's status as a qualified plan under the internal revenue  
17 code, the local board's decision is not final and binding and the board of  
18 trustees may refrain from implementing or complying with the local board  
19 decision.

20           F. A local board, ~~from time to time,~~ shall establish and adopt such  
21 rules as it deems necessary ~~or desirable~~ for its administration AND TO  
22 ADJUDICATE CLAIMS AND DISPUTES. AT A MINIMUM, THE BOARD'S RULES SHALL  
23 INCORPORATE THE MODEL UNIFORM RULES FOR LOCAL BOARD PROCEDURE THAT ARE  
24 ISSUED BY THE BOARD OF TRUSTEES. All rules and decisions of a local board  
25 shall be uniformly and consistently applied to all members in similar  
26 circumstances. If a claim or dispute is presented to a local board for  
27 determination but the local board has not yet adopted uniform rules of  
28 procedure for adjudication of the claim or dispute, the local board shall  
29 adopt and use the model uniform rules of local board procedure that are  
30 issued by the board of trustees' fiduciary counsel to adjudicate the claim  
31 or dispute.

32           G. Except as otherwise provided in this article, any action by a  
33 majority vote of the members of a local board that is not inconsistent  
34 with the provisions of the system and the internal revenue code shall be  
35 final, conclusive and binding on all persons affected by it unless a  
36 timely application for a rehearing or appeal is filed as provided in this  
37 article. ~~No~~ NOT later than twenty days after taking action, the local  
38 board shall submit to the board of trustees the minutes from the local  
39 board meeting that include the name of the member affected by its  
40 decision, a description of the action taken and an explanation of the  
41 reasons and all documents submitted to the local board for the action  
42 taken, including the reports of a medical board. THE BOARD OF TRUSTEES  
43 MAY REQUIRE ADDITIONAL RECORDS FROM THE LOCAL BOARD OR THE EMPLOYER OR MAY  
44 REQUIRE THAT THE LOCAL BOARD CONDUCT A REHEARING ON THE MATTER. The board  
45 of trustees may not implement and comply with any local board action that

1 does not comply with the internal revenue code or that threatens to  
2 jeopardize the system's status as a qualified plan under the internal  
3 revenue code.

4 H. A claimant MAY APPLY FOR or the board of trustees may ~~apply for~~  
5 REQUIRE a rehearing before the local board within the time periods  
6 prescribed in this subsection, except that if a decision of a local board  
7 violates the internal revenue code or threatens to jeopardize the system's  
8 status as a qualified plan under the internal revenue code, ~~no~~ ANY  
9 limitation period for the board of trustees to ~~seek~~ REQUIRE a rehearing of  
10 a local board decision ~~applies~~ DOES NOT APPLY. An application for a  
11 rehearing shall be filed in writing with a member of the local board or  
12 its secretary within sixty days after:

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

17 2. The applicant-board of trustees receives notification of the  
18 local board's original action as prescribed by subsection G of this  
19 section by EMAIL OR certified mail.

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

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

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

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

31 M. The local board shall adopt such bylaws as it deems desirable.  
32 The local board shall elect a secretary who may, but need not, be a member  
33 of the local board. The secretary of the local board shall keep a record  
34 and prepare minutes of all meetings in compliance with chapter 3, article  
35 3.1 of this title and forward the minutes and all necessary communications  
36 to the board of trustees as prescribed by subsection G of this section.  
37 WITHIN ONE HUNDRED EIGHTY DAYS AFTER ELECTION, THE LOCAL BOARD'S SECRETARY  
38 SHALL COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF  
39 TRUSTEES, INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY  
40 RESPONSIBILITIES AND DUTIES.

41 N. The fees of the medical board and of the local board's  
42 independent legal counsel and all other expenses of the local board  
43 necessary for the administration of the system shall be paid by the  
44 employer and not the board of trustees or system at such rates and in such  
45 amounts as the local board shall approve. ~~legal counsel that is employed~~

1 ~~by the local board is independent of the employer and any employee~~  
2 ~~organization or member~~ EACH LOCAL BOARD SHALL HIRE AN INDEPENDENT LEGAL  
3 COUNSEL WHO IS NOT AN EMPLOYEE OF OR CONTRACTED WITH THE EMPLOYER OR ANY  
4 EMPLOYEE ORGANIZATION OR MEMBER and owes its duty of loyalty only to the  
5 local board in connection with its representation of the local board. THE  
6 LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL SHALL REVIEW THE MODEL UNIFORM  
7 RULES FOR LOCAL BOARD PROCEDURE THAT ARE ISSUED BY THE BOARD OF TRUSTEES.

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

13 P. The local board and the individual members of the local board  
14 shall be indemnified from the assets of the employer for any judgment  
15 against the local board or its members, including attorney fees and costs,  
16 arising from any act, or failure to act, made in good faith pursuant to  
17 the provisions of the system, including expenses reasonably incurred in  
18 the defense of any claim relating to the act or failure to act.

19 Q. A LOCAL BOARD SHALL SUBMIT TO THE BOARD OF TRUSTEES THE NAMES OF  
20 THE MEMBERS OF THE LOCAL BOARD AND THE LOCAL BOARD'S SECRETARY AND  
21 INDEPENDENT LEGAL COUNSEL AND SHALL SUBMIT ANY CHANGES TO THOSE POSITIONS  
22 WITHIN TEN DAYS AFTER THE CHANGE.

23 R. AN EMPLOYER AND A LOCAL BOARD SHALL SUBMIT ANY REPORTS, DATA,  
24 PAPERWORK OR OTHER MATERIALS THAT ARE REQUESTED BY THE BOARD OF TRUSTEES  
25 FOR ANY REASON, INCLUDING LOCAL BOARD ACTION OR INACTION OR TO INVESTIGATE  
26 A COMPLAINT REGARDING A LOCAL BOARD. IF THE BOARD OF TRUSTEES OR ITS  
27 DESIGNEE THROUGH AN AUDIT OR INVESTIGATION FINDS THAT THE LOCAL BOARD IS  
28 NOT IN COMPLIANCE WITH STATUTE OR THE MODEL UNIFORM RULES FOR LOCAL BOARD  
29 PROCEDURE, THE BOARD OF TRUSTEES SHALL NOTIFY THE LOCAL BOARD OF THE  
30 NONCOMPLIANCE AND THE LOCAL BOARD SHALL HAVE SIXTY DAYS TO TAKE CORRECTIVE  
31 ACTION. IF THE LOCAL BOARD FAILS TO TAKE ADEQUATE CORRECTIVE ACTION, THE  
32 BOARD OF TRUSTEES MAY ACT ON BEHALF OF THE LOCAL BOARD UNTIL THE MATTER IS  
33 RESOLVED. THE BOARD OF TRUSTEES OR ITS DESIGNEE SHALL WORK WITH THE LOCAL  
34 BOARD MEMBERS TO TAKE THE APPROPRIATE CORRECTIVE ACTIONS, INCLUDING  
35 APPOINTING ANY VACANT OR NONCOMPLIANT LOCAL BOARD MEMBER POSITIONS, IF  
36 NECESSARY, TO BRING THE LOCAL BOARD AND ITS MEMBERSHIP, POLICIES AND  
37 PROCEDURES INTO COMPLIANCE.

38 Sec. 3. Title 38, chapter 5, article 4, Arizona Revised Statutes,  
39 is amended by adding sections 38-847.02, 38-847.03 and 38-847.04, to read:

40 38-847.02. Voluntary local board consolidation; membership;  
41 duties

42 A. A LOCAL BOARD MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH  
43 OTHER LOCAL BOARDS TO CONSOLIDATE THE BOARDS FOR THE RESPECTIVE EMPLOYERS.

44 B. THE CONSOLIDATED LOCAL BOARD SHALL WORK WITH THE BOARD OF  
45 TRUSTEES TO ENSURE THAT THE NEW BOARD IS DULY EMPANELED CONSISTENT WITH

1 THE REPRESENTATION OUTLINED IN SECTION 38-847, SUBSECTION A AND THAT ALL  
2 APPOINTMENTS OR ELECTIONS FOR LOCAL BOARD MEMBERS ARE COMPLETED IN A  
3 TIMELY MANNER. THE CONSOLIDATED LOCAL BOARD SHALL SUBMIT TO THE BOARD OF  
4 TRUSTEES THE NAMES OF THE MEMBERS OF THE CONSOLIDATED LOCAL BOARD AND THE  
5 CONSOLIDATED LOCAL BOARD'S SECRETARY AND INDEPENDENT LEGAL COUNSEL AND  
6 SHALL SUBMIT ANY CHANGES TO THOSE POSITIONS WITHIN TEN DAYS AFTER THE  
7 CHANGE.

8 C. THE CONSOLIDATED LOCAL BOARD SHALL DECIDE ELIGIBILITY FOR  
9 MEMBERSHIP AND DISABILITY AND IN THE LINE OF DUTY DEATH BENEFITS AND HAVE  
10 ALL OF THE DUTIES AND RESPONSIBILITIES OF A LOCAL BOARD PURSUANT TO THIS  
11 ARTICLE.

12 D. WITHIN ONE HUNDRED EIGHTY DAYS AFTER APPOINTMENT OR ELECTION,  
13 ALL CONSOLIDATED LOCAL BOARD MEMBERS AND THE LOCAL BOARD'S SECRETARY SHALL  
14 COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF TRUSTEES,  
15 INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY  
16 RESPONSIBILITIES AND DUTIES. THE LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL  
17 SHALL REVIEW THE MODEL UNIFORM RULES FOR LOCAL BOARD PROCEDURE THAT ARE  
18 ISSUED BY THE BOARD OF TRUSTEES.

19 E. THE LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL MAY NOT BE EMPLOYED  
20 BY OR CONTRACTED WITH THE EMPLOYER OR ANY EMPLOYEE ORGANIZATIONS. THE  
21 INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER OF THE PLAN BEFORE  
22 ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD DECISION.

23 38-847.03. Uniform medical review; administrator; disability  
24 decisions; definitions

25 A. WITHIN TEN DAYS AFTER A LOCAL BOARD RECEIVES AN APPLICATION FOR  
26 DISABILITY BENEFITS OR IN THE LINE OF DUTY DEATH BENEFITS, THE LOCAL BOARD  
27 SECRETARY SHALL SUBMIT THE APPLICATION TO THE ADMINISTRATOR.

28 B. AFTER A LOCAL BOARD HAS MADE A DETERMINATION ON THE APPLICATION,  
29 OR THE APPLICATION IS DEEMED GRANTED PURSUANT TO SECTION 38-847,  
30 SUBSECTION D, PARAGRAPH 3 OR SECTION 38-893, SUBSECTION D, PARAGRAPH 2 FOR  
31 DISABILITY BENEFITS OR IN THE LINE OF DUTY DEATH BENEFITS, THE  
32 ADMINISTRATOR OR THE ADMINISTRATOR'S DESIGNEE SHALL REVIEW THE FINDINGS.  
33 THE ADMINISTRATOR MAY CONTRACT WITH MEDICAL PROFESSIONALS TO REVIEW  
34 APPLICATIONS UNDER THIS SECTION.

35 C. THE BOARD OF TRUSTEES OR THE ADMINISTRATOR MAY REQUIRE  
36 ADDITIONAL RECORDS FROM THE LOCAL BOARD OR THE EMPLOYER OR MAY REQUIRE  
37 THAT THE LOCAL BOARD CONDUCT A REHEARING ON THE MATTER.

38 D. IF THE BOARD OF TRUSTEES DISAGREES WITH THE DECISION OF THE  
39 LOCAL BOARD AFTER A REHEARING REQUESTED PURSUANT TO SUBSECTION C OF THIS  
40 SECTION, THE DECISION IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12,  
41 CHAPTER 7, ARTICLE 6.

42 E. FOR THE PURPOSES OF THIS SECTION:

43 1. "ADMINISTRATOR" MEANS THE ADMINISTRATOR APPOINTED BY THE BOARD  
44 PURSUANT TO SECTION 38-848.





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

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

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

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

36           1. Is absent without excuse from three consecutive regular meetings  
37 of the board.

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

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

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

1           2. A securities analyst.

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

5           4. A chartered financial analyst in good standing as determined by  
6 the chartered financial analyst institute.

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

10          6. An economist.

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

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

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

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

1 administers, and shall be used to pay benefits to members or their  
2 beneficiaries or to pay expenses of operation and administration of the  
3 system and fund and other retirement plans that the board administers.

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

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

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

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

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

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

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

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

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

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

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

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

44 I. The board is not liable for the exercise of more than ordinary  
45 care and prudence in the selection of investments and performance of its

1 duties under the system and is not limited to so-called "legal investments  
2 for trustees", but all monies of the system and other plans that the board  
3 administers shall be invested subject to all of the conditions,  
4 limitations and restrictions imposed by law.

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

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

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

13 3. Also:

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

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

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

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

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

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

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

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

42 7. Appear before local boards and the courts of this state and  
43 political subdivisions of this state through counsel or an appointed  
44 representative to protect the fund or the assets of other plans that the  
45 board administers. The board is not responsible for the actions or

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

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

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

17 10. Settle threatened or actual litigation against any system or  
18 plan that the board administers.

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

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

27 1. A balance sheet.

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

29 3. A report on an actuarial valuation of its assets and  
30 liabilities.

31 4. A list of investments owned.

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

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

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

1           8. An estimate of the aggregate employer contribution rate for the  
2 public safety personnel retirement system for the next ten fiscal years  
3 and an estimate of the aggregate employer contribution rate for the  
4 corrections officer retirement plan for the next ten fiscal years.

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

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

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

- 20           (a) State department of corrections.
- 21           (b) Department of public safety.
- 22           (c) The judiciary.
- 23           (d) Department of juvenile corrections.

24           11. An estimate of the aggregate fees paid for private equity  
25 investments, including management fees and performance fees.

26           M. The board shall:

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

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

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

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

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



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

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

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

7           1. Administer this article.

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

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

14          4. Establish and maintain an adequate system of accounts and  
15 records for the system and other plans that the board administers, which  
16 shall be integrated with the accounts, records and procedures of the  
17 employers so that the system and other plans that the board administers  
18 operate most effectively and at minimum expense and that duplication of  
19 records and accounts is avoided.

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

25          6. Be responsible for income, the collection of the income and the  
26 accuracy of all expenditures.

27          7. Recommend to the board annual contracts for the system's  
28 actuary, auditor, investment counsel, legal counsel and safeguarding of  
29 securities.

30          8. Perform additional duties and powers prescribed by the board and  
31 delegated to the administrator.

32          O. The system is an independent trust fund and the board is not  
33 subject to title 41, chapter 6. Contracts for goods and services approved  
34 by the board are not subject to title 41, chapter 23. As an independent  
35 trust fund whose assets are separate and apart from all other funds of  
36 this state, the system and the board are not subject to the restrictions  
37 prescribed in section 35-154 or article IX, sections 5 and 8, Constitution  
38 of Arizona. Loans, guarantees, investment management agreements and  
39 investment contracts that are entered into by the board are contracts  
40 memorializing obligations or interests in securities that the board has  
41 concluded, after thorough due diligence, do not involve investments in  
42 Sudan or Iran or otherwise provide support to terrorists or in any way  
43 facilitate illegal immigration into the United States. These contracts do  
44 not involve the procurement, supply or provision of goods, equipment,

1 labor, materials or services that would require the warranties required by  
2 section 41-4401.

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

8 Q. In consultation with the director of the department of  
9 administration, the board may enter into employment agreements and  
10 establish the terms of those agreements with persons holding any of the  
11 following system positions:

- 12 1. Administrator.
- 13 2. Deputy or assistant administrator.
- 14 3. Chief investment officer.
- 15 4. Deputy chief investment officer.
- 16 5. Fiduciary or investment counsel.

17 R. The attorney general or an attorney approved by the attorney  
18 general and paid by the fund is the attorney for the board and shall  
19 represent the board in any legal proceeding or forum that the board deems  
20 appropriate. The board, administrator, deputy or assistant administrators  
21 and employees of the board are not personally liable for any acts done in  
22 their official capacity in good faith reliance on the written opinions of  
23 the board's attorney.

24 S. At least once in each five-year period after the effective date,  
25 the actuary shall make an actuarial investigation into the mortality,  
26 service and compensation experience of the members and beneficiaries of  
27 the system and other plans that the board administers and shall make a  
28 special valuation of the assets and liabilities of the monies of the  
29 system and plans. Taking into account the results of the investigation  
30 and special valuation, the board shall adopt for the system and other  
31 plans that the board administers those mortality, service and other tables  
32 deemed necessary.

33 T. On the basis of the tables the board adopts, the actuary shall  
34 make a valuation of the assets and liabilities of the funds of the system  
35 and other plans that the board administers at least every year. By  
36 November 1 of each year the board shall provide a preliminary report and  
37 by December 31 of each year provide a final report to the governor, the  
38 speaker of the house of representatives and the president of the senate on  
39 the contribution rate for the ensuing fiscal year.

40 U. Neither the board nor any member or employee of the board shall  
41 directly or indirectly, for ~~himself~~ THE BOARD, THE MEMBER OR THE EMPLOYEE  
42 or as an agent, in any manner use the monies or deposits of the fund  
43 except to make current and necessary payments, nor shall the board or any  
44 member or employee become an endorser or surety or in any manner an

1 obligor for monies loaned by or borrowed from the fund or the assets of  
2 any other plans that the board administers.

3 V. Financial or commercial information that is provided to the  
4 board, employees of the board and attorneys of the board in connection  
5 with investments in which the board has invested or investments the board  
6 has considered for investment is confidential, proprietary and not a  
7 public record if the information is information that would customarily not  
8 be released to the public by the person or entity from whom the  
9 information was obtained.

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

13 X. The public safety personnel retirement system advisory committee  
14 is established and shall serve as a liaison between the board and the  
15 members and employers of the system. The committee shall be appointed by  
16 the chairperson of the board from names submitted to the chairperson by  
17 associations representing law enforcement, firefighters, state government,  
18 counties, cities and towns and tribal governments. The committee shall  
19 select a chairperson from among its members each calendar year. The  
20 committee shall consist of the following ten members:

- 21 1. A member who is a law enforcement officer.
- 22 2. A member who is a firefighter.
- 23 3. A member of the elected officials' retirement plan.
- 24 4. A member of the corrections officer retirement plan.
- 25 5. A retiree from the public safety personnel retirement system.
- 26 6. A representative from a city or town in this state.
- 27 7. A representative from a county in this state.
- 28 8. A representative from a fire district in this state.
- 29 9. A representative from a state employer.
- 30 10. A representative from a tribal government located in this  
31 state.

32 Sec. 5. Section 38-893, Arizona Revised Statutes, is amended to  
33 read:

34 38-893. Local boards; powers and duties; rules; hearings;  
35 administrative review

36 A. **TO THE EXTENT OUTLINED IN THIS SECTION**, the administration of  
37 the plan and the responsibility for making the provisions of the plan  
38 effective for each employer are vested in a local board. The state  
39 department of corrections, the department of juvenile corrections, the  
40 department of public safety, each participating county sheriff's  
41 department, each participating city or town, each participating employer  
42 of full-time dispatchers for eligible groups as defined in section 38-842  
43 and the judiciary shall have a local board. Each local board is  
44 constituted as follows:

1           1. For the state departments, two members who are elected by secret  
2 ballot by members employed by that department in a designated position and  
3 two citizens who are appointed by the governor. The director of each  
4 state department shall appoint one member to the local board who is  
5 knowledgeable in personnel actions. Each state department local board  
6 shall elect a ~~chairman~~ CHAIRPERSON.

7           2. For each participating county, the ~~chairman~~ CHAIRPERSON of the  
8 board of supervisors, or the ~~chairman's~~ CHAIRPERSON'S designee who is  
9 approved by the board of supervisors, as ~~chairman~~ CHAIRPERSON, two members  
10 who are elected by secret ballot by members employed by the participating  
11 county in a designated position and two citizens, one of whom shall be the  
12 head of the merit system if it exists for the group of members, who are  
13 appointed by the ~~chairman~~ CHAIRPERSON of the board of supervisors with the  
14 approval of the board of supervisors.

15           3. For political subdivisions, the mayor or chief elected official  
16 or a designee of the mayor or chief elected official approved by the  
17 respective governing body as ~~chairman~~ CHAIRPERSON, two members elected by  
18 secret ballot by members employed by the appropriate employer and two  
19 citizens, one of whom shall be the head of the merit system if it exists  
20 for the group of members, appointed by the mayor or chief elected official  
21 and with the approval of the city council or governing body of the  
22 employer.

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

28           B. The appointments and elections of local board members shall take  
29 place with one elective and one appointive board member, as designated by  
30 the appointing authority, serving a term ending two years after the date  
31 of appointment or election and the other local board members serving a  
32 term ending four years after the date of appointment or election.  
33 Thereafter, every second year, and as a vacancy occurs, an office shall be  
34 filled for a term of four years in the same manner as provided in this  
35 section. Each local board shall meet at least twice each year.

36           C. Each local board shall be fully constituted pursuant to  
37 subsection A of this section within sixty days after the employer's  
38 effective date of participation in the plan. If the deadline is not met,  
39 on the written request of any member who is covered by the local board or  
40 the employer to the board of trustees, the board of trustees shall appoint  
41 all vacancies of the local board pursuant to subsection A of this section  
42 and designate whether each appointive position is for a ~~two-year~~ TWO-YEAR  
43 or ~~four-year~~ FOUR-YEAR term. If the board of trustees cannot find  
44 individuals to serve on the local board who meet the requirements of  
45 subsection A of this section, the board of trustees may appoint

1 individuals to serve as interim local board members until qualified  
2 individuals are appointed or elected. Within ten days after the member's  
3 appointment or election, each member of a local board shall take an oath  
4 of office that, so far as it devolves on the member, the member shall  
5 diligently and honestly administer the affairs of the local board and  
6 shall not knowingly violate or willingly ~~permit~~ ALLOW to be violated any  
7 of the provisions of law applicable to the plan. **WITHIN ONE HUNDRED**  
8 **EIGHTY DAYS AFTER APPOINTMENT OR ELECTION, EACH BOARD MEMBER SHALL**  
9 **COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF TRUSTEES,**  
10 **INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY**  
11 **RESPONSIBILITIES AND DUTIES.**

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

14 1. Decide all questions of eligibility ~~and service credits and~~  
15 ~~determine the amount, manner and time of payment of any benefit~~ **FOR**  
16 **MEMBERSHIP AND DISABILITY AND IN THE LINE OF DUTY DEATH BENEFITS** under the  
17 plan.

18 2. Make a determination as to the right of a claimant to a  
19 **DISABILITY OR IN THE LINE OF DUTY DEATH** benefit, **ISSUE OPINIONS ON**  
20 **QUESTIONS OF WHETHER BENEFITS ARE CONSISTENT WITH AND ALLOWABLE UNDER THE**  
21 **PLAN** and afford a claimant or the board of trustees, or both, a right to a  
22 rehearing on the original determination. Except as otherwise required by  
23 law, unless all parties involved in a matter presented to the local board  
24 for determination otherwise agree, the local board shall commence a  
25 hearing on the matter within ninety days after the date the matter is  
26 presented to the local board for determination. If a local board fails to  
27 commence a hearing as provided in this paragraph, on a matter presented to  
28 the local board for determination, the relief demanded by the party  
29 petitioning the local board is deemed granted and approved by the local  
30 board. ~~The granting and approval of this relief is considered final and~~  
31 ~~binding unless a timely request for rehearing or appeal is made as~~  
32 ~~provided in this article, unless the board of trustees determines that~~  
33 ~~granting the relief requested would violate the internal revenue code or~~  
34 ~~threaten to impair the plan's status as a qualified plan under the~~  
35 ~~internal revenue code. If the board of trustees determines that granting~~  
36 ~~the requested relief would violate the internal revenue code or threaten~~  
37 ~~to impair the plan's status as a qualified plan, the board of trustees may~~  
38 ~~refuse to grant the relief by issuing a written determination to the local~~  
39 ~~board and the party petitioning the local board for relief. The decision~~  
40 ~~by the board of trustees is subject to judicial review pursuant to title~~  
41 ~~12, chapter 7, article 6.~~

42 3. Request and receive from the employers and from members  
43 information as is necessary for the proper administration of the plan and  
44 action on claims for **DISABILITY AND IN THE LINE OF DUTY DEATH** benefits and  
45 forward the information to the board of trustees.

1           4. Distribute, in the manner the local board determines to be  
2 appropriate, information explaining the plan that is received from the  
3 board of trustees.

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

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

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

16           8. Prescribe procedures to be followed by claimants in filing  
17 applications for benefits.

18           9. Receive and review the actuarial valuation of the plan for its  
19 group of members.

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

22           E. A local board ~~has no power to~~ MAY NOT add to, subtract from,  
23 modify or waive any of the terms of the plan, change or add to any  
24 benefits provided by the plan or waive or fail to apply any requirement of  
25 eligibility for membership or DISABILITY AND IN THE LINE OF DUTY DEATH  
26 benefits under the plan. Notwithstanding any limitations periods imposed  
27 in this article, including subsections G and H of this section, if the  
28 board of trustees determines a local board decision violates the internal  
29 revenue code or threatens to impair the plan's status as a qualified plan  
30 under the internal revenue code, the local board's decision is not final  
31 and binding and the board of trustees may refrain from implementing or  
32 complying with the local board decision.

33           F. A local board, ~~from time to time,~~ shall establish and adopt  
34 rules as it deems necessary ~~or desirable~~ for its administration AND TO  
35 ADJUDICATE CLAIMS OR DISPUTES. AT A MINIMUM THE BOARD'S RULES SHALL  
36 INCORPORATE THE MODEL UNIFORM RULES FOR LOCAL BOARD PROCEDURE THAT ARE  
37 ISSUED BY THE BOARD OF TRUSTEES. All rules and decisions of a local board  
38 shall be uniformly and consistently applied to all members in similar  
39 circumstances. If a claim or dispute is presented to a local board for  
40 determination but the local board has not yet adopted uniform rules of  
41 procedure for adjudication of the claim or dispute, the local board shall  
42 adopt and use the model uniform rules of local board procedure that are  
43 issued by the board of trustees' fiduciary counsel to adjudicate the claim  
44 or dispute.

1 G. Except as otherwise provided in this article, an action by a  
2 majority vote of the members of a local board that is not inconsistent  
3 with the provisions of the plan and the internal revenue code is final,  
4 conclusive and binding on all persons affected by it, unless a timely  
5 application for a rehearing or appeal is filed as provided in this  
6 article. ~~no~~ NOT later than twenty days after taking action, the local  
7 board shall submit to the board of trustees the minutes from the local  
8 board meeting that include the name of the member affected by its  
9 decision, a description of the action taken and an explanation of the  
10 reasons and all documents submitted to the local board for the action  
11 taken, including the reports of a medical board. THE BOARD OF TRUSTEES  
12 MAY REQUIRE ADDITIONAL RECORDS FROM THE LOCAL BOARD OR THE EMPLOYER OR MAY  
13 REQUIRE THAT THE LOCAL BOARD CONDUCT A REHEARING ON THE MATTER. The board  
14 of trustees may not implement and comply with any local board action that  
15 does not comply with the internal revenue code or that threatens to  
16 jeopardize the plan's status as a qualified plan under the internal  
17 revenue code.

18 H. A claimant MAY APPLY FOR or the board of trustees may ~~apply for~~  
19 REQUIRE a rehearing before the local board within the time periods  
20 prescribed in this subsection, except that if a decision of a local board  
21 violates the internal revenue code or threatens to jeopardize the plan's  
22 status as a qualified plan under the internal revenue code, ~~no~~ ANY  
23 limitation period for the board of trustees to ~~seek~~ REQUIRE a rehearing of  
24 a local board decision ~~applies~~ DOES NOT APPLY. A claimant or the board of  
25 trustees shall file an application for rehearing in writing with a member  
26 of the local board or its secretary within sixty days after:

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

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

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

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

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

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

1 M. The local board shall adopt bylaws as it deems necessary. The  
2 local board shall elect a secretary who may, but need not, be a member of  
3 the local board. The secretary of the local board shall keep a record and  
4 prepare minutes of all meetings in compliance with chapter 3, article 3.1  
5 of this title and forward the minutes and all necessary communications to  
6 the board of trustees as prescribed by subsection G of this section.  
7 ~~WITHIN ONE HUNDRED EIGHTY DAYS AFTER ELECTION, THE LOCAL BOARD SECRETARY~~  
8 ~~SHALL COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF~~  
9 ~~TRUSTEES, INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY~~  
10 ~~RESPONSIBILITIES AND DUTIES.~~

11 N. EACH LOCAL BOARD SHALL HIRE AN INDEPENDENT LEGAL COUNSEL. THE  
12 LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL MAY NOT BE EMPLOYED BY OR  
13 CONTRACTED WITH THE EMPLOYER OR ANY EMPLOYEE ORGANIZATIONS OR MEMBER OF  
14 THE PLAN. THE LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL SHALL REVIEW THE  
15 MODEL UNIFORM RULES FOR LOCAL BOARD PROCEDURE THAT ARE ISSUED BY THE BOARD  
16 OF TRUSTEES.

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

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

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

31 R. A LOCAL BOARD SHALL SUBMIT TO THE BOARD OF TRUSTEES THE NAMES OF  
32 THE MEMBERS OF THE LOCAL BOARD AND THE LOCAL BOARD'S SECRETARY AND  
33 INDEPENDENT LEGAL COUNSEL AND SHALL SUBMIT ANY CHANGES TO THOSE POSITIONS  
34 WITHIN TEN DAYS AFTER THE CHANGE.

35 S. AN EMPLOYER AND A LOCAL BOARD SHALL SUBMIT ANY REPORTS, DATA,  
36 PAPERWORK OR OTHER MATERIALS THAT ARE REQUESTED BY THE BOARD OF TRUSTEES  
37 FOR ANY REASON, INCLUDING LOCAL BOARD ACTION OR INACTION OR TO INVESTIGATE  
38 A COMPLAINT REGARDING A LOCAL BOARD. IF THE BOARD OF TRUSTEES OR ITS  
39 DESIGNEE THROUGH AN AUDIT OR INVESTIGATION FINDS THAT THE LOCAL BOARD IS  
40 NOT IN COMPLIANCE WITH STATUTE OR THE MODEL UNIFORM RULES FOR LOCAL BOARD  
41 PROCEDURE, THE BOARD OF TRUSTEES SHALL NOTIFY THE LOCAL BOARD OF THE  
42 NONCOMPLIANCE AND THE LOCAL BOARD SHALL HAVE SIXTY DAYS TO TAKE CORRECTIVE  
43 ACTION. IF THE LOCAL BOARD FAILS TO TAKE ADEQUATE CORRECTIVE ACTION, THE  
44 BOARD OF TRUSTEES MAY ACT ON BEHALF OF THE LOCAL BOARD UNTIL THE MATTER IS  
45 RESOLVED. THE BOARD OF TRUSTEES OR ITS DESIGNEE SHALL WORK WITH THE LOCAL



1 BOARD MEMBERS TO TAKE THE APPROPRIATE CORRECTIVE ACTIONS, INCLUDING  
2 APPOINTING ANY VACANT OR NONCOMPLIANT LOCAL BOARD MEMBER POSITIONS, IF  
3 NECESSARY, TO BRING THE LOCAL BOARD AND ITS MEMBERSHIP, POLICIES AND  
4 PROCEDURES INTO COMPLIANCE.

5 Sec. 6. Title 38, chapter 5, article 6, Arizona Revised Statutes,  
6 is amended by adding section 38-893.01, to read:

7 38-893.01. Voluntary local board consolidation; membership;  
8 duties

9 A. A LOCAL BOARD MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH  
10 OTHER LOCAL BOARDS TO CONSOLIDATE THE BOARDS FOR THE RESPECTIVE EMPLOYERS.

11 B. THE CONSOLIDATED LOCAL BOARD SHALL WORK WITH THE BOARD OF  
12 TRUSTEES TO ENSURE THAT THE NEW BOARD IS DULY EMPANELED CONSISTENT WITH  
13 THE REPRESENTATION OUTLINED IN SECTION 38-893, SUBSECTION A AND THAT ALL  
14 APPOINTMENTS OR ELECTIONS FOR LOCAL BOARD MEMBERS ARE COMPLETED IN A  
15 TIMELY MANNER. THE CONSOLIDATED LOCAL BOARD SHALL SUBMIT TO THE BOARD OF  
16 TRUSTEES THE NAMES OF THE MEMBERS OF THE CONSOLIDATED LOCAL BOARD AND THE  
17 CONSOLIDATED LOCAL BOARD'S SECRETARY AND INDEPENDENT LEGAL COUNSEL AND  
18 SHALL SUBMIT ANY CHANGES TO THOSE POSITIONS WITHIN TEN DAYS AFTER THE  
19 CHANGE.

20 C. THE CONSOLIDATED LOCAL BOARD SHALL DECIDE ELIGIBILITY FOR  
21 MEMBERSHIP AND DISABILITY AND IN THE LINE OF DUTY DEATH BENEFITS AND HAVE  
22 ALL OF THE DUTIES AND RESPONSIBILITIES OF A LOCAL BOARD PURSUANT TO THIS  
23 ARTICLE.

24 D. WITHIN ONE HUNDRED EIGHTY DAYS AFTER APPOINTMENT OR ELECTION,  
25 ALL CONSOLIDATED LOCAL BOARD MEMBERS AND THE LOCAL BOARD'S SECRETARY SHALL  
26 COMPLETE LOCAL BOARD TRAINING AS PRESCRIBED BY THE BOARD OF TRUSTEES,  
27 INCLUDING OPEN MEETING LAWS, ETHICS, LEGAL REVIEW AND FIDUCIARY  
28 RESPONSIBILITIES AND DUTIES. THE LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL  
29 SHALL REVIEW THE MODEL UNIFORM RULES FOR LOCAL BOARD PROCEDURE THAT ARE  
30 ISSUED BY THE BOARD OF TRUSTEES.

31 E. THE LOCAL BOARD'S INDEPENDENT LEGAL COUNSEL MAY NOT BE EMPLOYED  
32 BY OR CONTRACTED WITH THE EMPLOYER OR ANY EMPLOYEE ORGANIZATIONS. THE  
33 INDEPENDENT LEGAL COUNSEL MAY NOT REPRESENT A MEMBER OF THE PLAN BEFORE  
34 ANY LOCAL BOARD OR ANY JUDICIAL APPEAL OF A LOCAL BOARD DECISION.

35 Sec. 7. Effective date

36 This act is effective from and after December 31, 2021.

APPROVED BY THE GOVERNOR FEBRUARY 24, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE FEBRUARY 24, 2021.