

Senate Engrossed

member distributions; deferred retirement; transfers

State of Arizona
Senate
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2021

CHAPTER 120

SENATE BILL 1046

AN ACT

AMENDING SECTIONS 38-842, 38-844.06, 38-844.07 AND 38-846.02, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-846.06; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-867.02; 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 38-842, Arizona Revised Statutes, is amended to
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition
7 that the local board finds totally and permanently prevents an employee
8 from performing a reasonable range of duties within the employee's job
9 classification and that was incurred in the performance of the employee's
10 duty.

11 2. "Accumulated contributions" means, for each member, the sum of
12 the amount of the member's aggregate contributions made to the fund and
13 the amount, if any, attributable to the employee's contributions before
14 the member's effective date under another public retirement system, other
15 than the federal social security act, and transferred to the fund minus
16 the benefits paid to or on behalf of the member.

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

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

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

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

26 7. "Average monthly benefit compensation" means the result obtained
27 by dividing the total compensation paid to an employee during a considered
28 period by the number of months, including fractional months, in which such
29 compensation was received. For an employee who becomes a member of the
30 system:

31 (a) Before January 1, 2012, the considered period shall be the
32 three consecutive years within the last twenty completed years of credited
33 service that yield the highest average.

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

41 (c) On or after July 1, 2017, the considered period is the five
42 consecutive years within the last fifteen completed years of credited
43 service that yield the highest average. In the computation under this
44 paragraph, a period of nonpaid or partially paid industrial leave shall be
45 considered based on the compensation the employee would have received in

1 the employee's job classification if the employee was not on industrial
2 leave.

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

5 9. "Catastrophic disability" means a physical and not a
6 psychological condition that the local board determines prevents the
7 employee from totally and permanently engaging in any gainful employment
8 and that results from a physical injury incurred in the performance of the
9 employee's duty.

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

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

14 12. "Compensation" means, for the purpose of computing retirement
15 benefits, base salary, overtime pay, shift differential pay, military
16 differential wage pay, compensatory time used by an employee in lieu of
17 overtime not otherwise paid by an employer and holiday pay paid to an
18 employee by the employer for the employee's performance of services in an
19 eligible group on a regular monthly, semimonthly or biweekly payroll basis
20 and longevity pay paid to an employee at least every six months for which
21 contributions are made to the system pursuant to section 38-843,
22 subsection D. Compensation does not include, for the purpose of computing
23 retirement benefits, payment for unused sick leave, payment in lieu of
24 vacation, payment for unused compensatory time or payment for any fringe
25 benefits. In addition, compensation does not include, for the purpose of
26 computing retirement benefits, payments made directly or indirectly by the
27 employer to the employee for work performed for a third party on a
28 contracted basis or any other type of agreement under which the third
29 party pays or reimburses the employer for the work performed by the
30 employee for that third party, except for third party contracts between
31 public agencies for law enforcement, criminal, traffic and crime
32 suppression activities training or fire, wildfire, emergency medical or
33 emergency management activities or where the employer supervises the
34 employee's performance of law enforcement, criminal, traffic and crime
35 suppression activities training or fire, wildfire, emergency medical or
36 emergency management activities. For the purposes of this paragraph,
37 "base salary" means the amount of compensation each employee is regularly
38 paid for personal services rendered to an employer before the addition of
39 any extra monies, including overtime pay, shift differential pay, holiday
40 pay, longevity pay, fringe benefit pay and similar extra payments.

41 13. "Credited service" means the member's total period of service
42 before the member's effective date of participation, plus those
43 compensated periods of the member's service thereafter for which the
44 member made contributions to the fund.

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

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

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

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

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

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

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

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

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

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

37 (a) Is under eighteen years of age.

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

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

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

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

- 1 (b) Municipal firefighters.
- 2 (c) Paid full-time firefighters employed directly by a fire
3 district organized pursuant to section 48-803 or 48-804 or a joint powers
4 authority pursuant to section 48-805.01 with three or more full-time
5 firefighters, but not including firefighters employed by a fire district
6 pursuant to a contract with a corporation.
- 7 (d) State highway patrol officers who are certified peace officers.
- 8 (e) State firefighters.
- 9 (f) County sheriffs and deputies who are certified peace officers.
- 10 (g) Game and fish wardens who are certified peace officers.
- 11 (h) Police officers who are certified peace officers and
12 firefighters of a nonprofit corporation operating a public airport
13 pursuant to sections 28-8423 and 28-8424. A police officer shall be
14 designated pursuant to section 28-8426 to aid and supplement state and
15 local law enforcement agencies and a firefighter's sole duty shall be to
16 perform firefighting services, including services required by federal
17 regulations.
- 18 (i) Police officers who are certified peace officers and who are
19 appointed by the Arizona board of regents.
- 20 (j) Police officers who are certified peace officers and who are
21 appointed by a community college district governing board.
- 22 (k) State attorney general investigators who are certified peace
23 officers.
- 24 (l) County attorney investigators who are certified peace officers.
- 25 (m) Police officers who are certified peace officers and who are
26 employed by an Indian reservation police agency.
- 27 (n) Firefighters who are employed by an Indian reservation
28 firefighting agency.
- 29 (o) Department of liquor licenses and control investigators who are
30 certified peace officers.
- 31 (p) Arizona department of agriculture officers who are certified
32 peace officers.
- 33 (q) Arizona state parks board rangers and managers who are
34 certified peace officers.
- 35 (r) County park rangers who are certified peace officers.
- 36 25. "Eligible retirement plan" means any of the following that
37 accepts a distributee's eligible rollover distribution:
 - 38 (a) An individual retirement account described in section 408(a) of
39 the internal revenue code.
 - 40 (b) An individual retirement annuity described in section 408(b) of
41 the internal revenue code.
 - 42 (c) An annuity plan described in section 403(a) of the internal
43 revenue code.
 - 44 (d) A qualified trust described in section 401(a) of the internal
45 revenue code.

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

3 (f) An eligible deferred compensation plan described in section
4 457(b) of the internal revenue code that is maintained by a state, a
5 political subdivision of a state or any agency or instrumentality of a
6 state or a political subdivision of a state and that agrees to separately
7 account for amounts transferred into the eligible deferred compensation
8 plan from this plan.

9 (g) A ROTH INDIVIDUAL RETIREMENT ACCOUNT THAT SATISFIES THE
10 REQUIREMENTS OF SECTION 408A OF THE INTERNAL REVENUE CODE.

11 26. "Eligible rollover distribution" means a payment to a
12 distributee, but does not include any of the following:

13 (a) Any distribution that is one of a series of substantially equal
14 periodic payments made not less frequently than annually for the life or
15 life expectancy of the member or the joint lives or joint life
16 expectancies of the member and the member's beneficiary or for a specified
17 period of ten years or more.

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

20 (c) The portion of any distribution that is not includable in gross
21 income.

22 (d) Any distribution made to satisfy the requirements of section
23 415 of the internal revenue code.

24 (e) Hardship distributions.

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

28 27. "Employee" means any person who is employed by a participating
29 employer and who is a member of an eligible group but does not include any
30 persons compensated on a contractual or fee basis. If an eligible group
31 requires certified peace officer status or firefighter certification and
32 at the option of the local board, employee may include a person who is
33 training to become a certified peace officer or firefighter.

34 28. "Employers" means:

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

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

43 (c) The state highway patrol covered under the state highway patrol
44 retirement system.

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

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

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

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

16 31. "Member":

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

19 (i) Who is either a paid municipal police officer, a paid
20 firefighter, a law enforcement officer who is employed by this state
21 including the director thereof, a state firefighter who is primarily
22 assigned to firefighting duties, a firefighter or police officer of a
23 nonprofit corporation operating a public airport pursuant to sections
24 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement
25 merit system council, a state attorney general investigator who is a
26 certified peace officer, a county attorney investigator who is a certified
27 peace officer, a department of liquor licenses and control investigator
28 who is a certified peace officer, an Arizona department of agriculture
29 officer who is a certified peace officer, an Arizona state parks board
30 ranger or manager who is a certified peace officer, a county park ranger
31 who is a certified peace officer, a person who is a certified peace
32 officer and who is employed by an Indian reservation police agency, a
33 firefighter who is employed by an Indian reservation firefighting agency
34 or an employee included in a group designated as eligible employees under
35 a joinder agreement entered into by their employer after July 1, 1968 and
36 who is or was regularly assigned to hazardous duty or, beginning
37 retroactively to January 1, 2009, who is a police chief or a fire chief.

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

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

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

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

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

12 (b) Does not include an employee who is hired on or after July 1,
13 2017, who makes the irrevocable election to participate solely in the
14 public safety personnel defined contribution retirement plan established
15 pursuant to article 4.1 of this chapter and who was not an active, an
16 inactive or a retired member of the system or a member of the system with
17 a disability on June 30, 2017.

18 32. "Normal retirement date" means:

19 (a) For an employee who becomes a member of the system before
20 January 1, 2012, the first day of the calendar month immediately following
21 the employee's completion of twenty years of service or the employee's
22 sixty-second birthday and the employee's completion of fifteen years of
23 service.

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

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

33 33. "Notice of receipt" means a written document that is issued by
34 the system to a participant and alternate payee and that states that the
35 system has received a domestic relations order and a request for a
36 determination that the domestic relations order is a plan approved
37 domestic relations order.

38 34. "Ordinary disability" means a physical condition that the local
39 board determines will prevent an employee totally and permanently from
40 performing a reasonable range of duties within the employee's department
41 or a mental condition that the local board determines will prevent an
42 employee totally and permanently from engaging in any substantial gainful
43 activity.

44 35. "Participant" means a member who is subject to a domestic
45 relations order.

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

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

6 38. "Personal representative" means the personal representative of
7 a deceased alternate payee.

8 39. "Physician" means a physician who is licensed pursuant to title
9 32, chapter 13 or 17.

10 40. "Plan approved domestic relations order" means a domestic
11 relations order that the system approves as meeting all the requirements
12 for a plan approved domestic relations order as otherwise prescribed in
13 this article.

14 41. "Plan year" or "fiscal year" means the period beginning on July
15 1 of any year and ending on June 30 of the next succeeding year.

16 42. "Regularly assigned to hazardous duty" means regularly assigned
17 to duties of the type normally expected of municipal police officers,
18 municipal or state firefighters, eligible fire district firefighters,
19 state highway patrol officers, county sheriffs and deputies, fish and game
20 wardens, firefighters and police officers of a nonprofit corporation
21 operating a public airport pursuant to sections 28-8423 and 28-8424,
22 police officers who are appointed by the Arizona board of regents or a
23 community college district governing board, state attorney general
24 investigators who are certified peace officers, county attorney
25 investigators who are certified peace officers, department of liquor
26 licenses and control investigators who are certified peace officers,
27 Arizona department of agriculture officers who are certified peace
28 officers, Arizona state parks board rangers and managers who are certified
29 peace officers, county park rangers who are certified peace officers,
30 police officers who are certified peace officers and who are employed by
31 an Indian reservation police agency or firefighters who are employed by an
32 Indian reservation firefighting agency. Those individuals who are
33 assigned solely to support duties such as secretaries, stenographers,
34 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
35 dispatchers are not assigned to hazardous duty regardless of their
36 position classification title. Since the normal duties of those jobs
37 described in this paragraph are constantly changing, questions as to
38 whether a person is or was previously regularly assigned to hazardous duty
39 shall be resolved by the local board on a case-by-case basis. Resolutions
40 by local boards are subject to rehearing and appeal.

41 43. "Retirement" or "retired" means termination of employment after
42 a member has fulfilled all requirements for a pension, for an employee who
43 becomes a member of the system on or after January 1, 2012 and before July
44 1, 2017, attains the age and service requirements for a normal retirement
45 date or for an employee who becomes a member of the system on or after

1 July 1, 2017 attains the age and credited service requirements for a
2 normal retirement date. Retirement shall be considered as commencing on
3 the first day of the month immediately following a member's last day of
4 employment or authorized leave of absence, if later.

5 44. "Segregated funds" means the amount of benefits that would
6 currently be payable to an alternate payee pursuant to a domestic
7 relations order under review by the system, or a domestic relations order
8 submitted to the system that failed to qualify as a plan approved domestic
9 relations order, if the domestic relations order were determined to be a
10 plan approved domestic relations order.

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

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

33 47. "System" means the public safety personnel retirement system
34 established by this article.

35 48. "Temporary disability" means a physical or mental condition
36 that the local board finds totally and temporarily prevents an employee
37 from performing a reasonable range of duties within the employee's
38 department and that was incurred in the performance of the employee's
39 duty.

40 Sec. 2. Section 38-844.06, Arizona Revised Statutes, is amended to
41 read:

42 38-844.06. Additional deferred retirement option plan
43 provisions

44 A. Beginning on the day after the date the member elects to
45 participate in the deferred retirement option plan, employee and employer

1 contributions pursuant to section 38-843 cease with respect to that
2 member.

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

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

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

14 C. If a member dies during the period of the member's deferred
15 retirement option plan participation, ~~the designated beneficiary of the~~
16 ~~member is entitled to receive all amounts in the member's deferred~~
17 ~~retirement option plan participation account.~~ THE ENTIRE AMOUNT IN THE
18 MEMBER'S DEFERRED RETIREMENT OPTION PLAN PARTICIPATION ACCOUNT SHALL BE
19 TRANSFERRED BY THE SYSTEM'S TRUSTEE DIRECTLY TO THE TRUSTEE OF THE PUBLIC
20 SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT
21 TO ARTICLE 4.1 OF THIS CHAPTER AND DEPOSITED IN AN ACCOUNT ESTABLISHED ON
22 BEHALF OF THE DECEASED MEMBER. ON DEPOSIT OF THE MONIES IN THE ACCOUNT,
23 THE MONIES SHALL BE MADE IMMEDIATELY AVAILABLE TO THE MEMBER'S BENEFICIARY
24 TO EITHER WITHDRAW ALL OR ANY PORTION OF THE MONIES OR DIRECTLY TRANSFER
25 ALL OR ANY PORTION OF THE MONIES TO AN ELIGIBLE RETIREMENT PLAN IN
26 ACCORDANCE WITH SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE.

27 Sec. 3. Section 38-844.07, Arizona Revised Statutes, is amended to
28 read:

29 38-844.07. Designation of deferred retirement option plan
30 beneficiaries

31 A. A member who elects to participate in the deferred retirement
32 option plan shall designate a beneficiary. A member's beneficiary
33 designation applies to all ~~distributions pursuant to the~~ AMOUNTS IN THE
34 MEMBER'S deferred retirement option plan PARTICIPATION ACCOUNT.

35 B. If a designated beneficiary predeceases a deferred retirement
36 option plan participant who dies before designating a new beneficiary, ~~all~~
37 ~~distributions pursuant to~~ the BENEFICIARY OF THE PARTICIPANT'S deferred
38 retirement option plan PARTICIPATION ACCOUNT shall be ~~made to~~ THE
39 FOLLOWING PERSONS IN THE FOLLOWING ORDER OF PRIORITY:

- 40 1. THE PARTICIPANT'S SURVIVING SPOUSE.
- 41 2. THE PARTICIPANT'S NATURAL OR ADOPTED CHILDREN IN EQUAL SHARES.
- 42 3. The PARTICIPANT'S estate ~~of the deferred retirement option plan~~
43 ~~participant.~~

1 C. A member shall not make a beneficiary designation pursuant to
2 this section that results in an abrogation of a member's community
3 property obligations under the applicable laws of this state.

4 Sec. 4. Section 38-846.02, Arizona Revised Statutes, is amended to
5 read:

6 38-846.02. Termination of membership

7 A. On termination of employment for any reason other than death or
8 retirement, within twenty days after filing a completed application with
9 the board, a member who becomes a member of the system before January 1,
10 2012 is entitled to receive the following amounts, less any benefit
11 payments the member has received or any amount the member may owe to the
12 system:

13 1. If the member has less than five years of credited service with
14 the system, the member may withdraw the member's accumulated contributions
15 from the system.

16 2. If the member has five or more years of credited service with
17 the system, the member may withdraw the member's accumulated contributions
18 plus an amount equal to the amount determined as follows:

19 (a) 5.0 to 5.9 years of credited service, twenty-five percent of
20 all member contributions deducted from the member's salary pursuant to
21 section 38-843, subsection C.

22 (b) 6.0 to 6.9 years of credited service, forty percent of all
23 member contributions deducted from the member's salary pursuant to section
24 38-843, subsection C.

25 (c) 7.0 to 7.9 years of credited service, fifty-five percent of all
26 member contributions deducted from the member's salary pursuant to section
27 38-843, subsection C.

28 (d) 8.0 to 8.9 years of credited service, seventy percent of all
29 member contributions deducted from the member's salary pursuant to section
30 38-843, subsection C.

31 (e) 9.0 to 9.9 years of credited service, eighty-five percent of
32 all member contributions deducted from the member's salary pursuant to
33 section 38-843, subsection C.

34 (f) 10.0 or more years of credited service, one hundred percent of
35 all member contributions deducted from the member's salary pursuant to
36 section 38-843, subsection C.

37 B. If a member who becomes a member of the system before January 1,
38 2012 has more than ten years of credited service with the system, leaves
39 the monies prescribed in subsection A of this section on account with the
40 system for more than thirty days after termination of employment and after
41 that time period requests a refund of those monies, the member is entitled
42 to receive the amount prescribed in subsection A of this section plus
43 interest at a rate determined by the board for each year computed from and
44 after the member's termination of employment.

1 C. On termination of employment for any reason other than death or
2 retirement, within twenty days after filing a completed application with
3 the board, a member who becomes a member of the system on or after January
4 1, 2012 is entitled to receive a lump sum payment equal to the member's
5 accumulated contribution plus interest at a rate determined by the board
6 as of the date of termination, less any benefit payments the member has
7 received as of the date of termination or any amount the member may owe to
8 the system.

9 D. ~~If the amount prescribed in subsection A, B or C of this section~~
10 ~~includes monies that are an eligible rollover distribution and the member~~
11 ~~elects to have the distribution paid directly to an eligible retirement~~
12 ~~plan or individual retirement account or annuity and specifies the~~
13 ~~eligible retirement plan or individual retirement account or annuity to~~
14 ~~which the distribution is to be paid, the distribution shall be made in~~
15 ~~the form of a direct trustee-to-trustee transfer to the specified eligible~~
16 ~~retirement plan. The distribution shall be made in the form and at the~~
17 ~~time prescribed by the board.~~ A member who withdraws the amount
18 prescribed in subsection A, B or C of this section from the system or who
19 elects a transfer pursuant to ~~this~~ section 38-846.06 forfeits all rights
20 to benefits under the system and rights to rehearing and appeal, except as
21 provided in section 38-849.

22 E. ~~For distributions occurring from and after December 31, 2007, a~~
23 ~~member or a member's beneficiary, including a nonspouse designated~~
24 ~~beneficiary to the extent permitted under subsection F of this section,~~
25 ~~may roll over an eligible rollover distribution as defined in section~~
26 ~~402(c)(4) of the internal revenue code to a Roth individual retirement~~
27 ~~account, if, for distributions occurring before January 1, 2010, the~~
28 ~~member or the member's beneficiary satisfies the requirements for making a~~
29 ~~Roth individual retirement account contribution under section~~
30 ~~408A(c)(3)(B) of the internal revenue code, as in effect on the date of~~
31 ~~the rollover. Any amount rolled over to a Roth individual retirement~~
32 ~~account is included in the gross income of the member or the member's~~
33 ~~beneficiary to the extent the amounts would have been included in gross~~
34 ~~income if not rolled over as required under section 408A(d)(3)(A) of the~~
35 ~~internal revenue code. For the purposes of this subsection, the~~
36 ~~administrator is not responsible for ensuring the member or the member's~~
37 ~~beneficiary is eligible to make a rollover to a Roth individual retirement~~
38 ~~account.~~

39 F. ~~For distributions made from and after December 31, 2009, a~~
40 ~~nonspouse designated beneficiary as defined in section 401(a)(9)(E) of the~~
41 ~~internal revenue code may elect to directly roll over an eligible rollover~~
42 ~~distribution to an individual retirement account under section 408(a) of~~
43 ~~the internal revenue code or an individual retirement annuity under~~
44 ~~section 408(b) of the internal revenue code that is established on behalf~~
45 ~~of the designated beneficiary and that will be treated as an inherited~~

~~individual retirement plan pursuant to section 402(c)(11) of the internal revenue code. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution as defined in section 402(c)(4) of the internal revenue code. In applying this subsection, a nonspouse rollover is subject to the direct rollover requirements under section 401(a)(31) of the internal revenue code, the rollover notice requirements under section 402(f) of the internal revenue code and the mandatory withholding requirements under section 3405(c) of the internal revenue code.~~

~~g. For plan years occurring before January 1, 2007, the period for providing the rollover notice as required under section 402(f) of the internal revenue code is not less than thirty days and not more than ninety days before the date of distribution and, for plan years beginning from and after December 31, 2006, the period for providing the rollover notice as required under section 402(f) of the internal revenue code is not less than thirty days and not more than one hundred eighty days before the date of distribution.~~

Sec. 5. Title 38, chapter 5, article 4, Arizona Revised Statutes, is amended by adding section 38-846.06, to read:

38-846.06. Eligible rollover distributions; direct rollovers

A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A MEMBER OR THE MEMBER'S SURVIVING SPOUSE BENEFICIARY WHO IS ENTITLED TO RECEIVE AN ELIGIBLE ROLLOVER DISTRIBUTION MAY ELECT TO DIRECTLY ROLL OVER ALL OR PART OF THAT DISTRIBUTION TO AN ELIGIBLE RETIREMENT PLAN.

B. A MEMBER'S BENEFICIARY WHO IS NOT THE MEMBER'S SPOUSE MAY ELECT TO DIRECTLY ROLL OVER ALL OR PART OF AN ELIGIBLE ROLLOVER DISTRIBUTION FROM THE SYSTEM ON THE DEATH OF THE MEMBER UNDER THE SAME TERMS AND CONDITIONS AS APPLY TO A MEMBER OR THE MEMBER'S SURVIVING SPOUSE BENEFICIARY PURSUANT TO THIS SECTION, EXCEPT THAT A NONSPOUSE BENEFICIARY MAY ELECT TO MAKE A DIRECT ROLLOVER ONLY TO AN ELIGIBLE RETIREMENT PLAN AS DEFINED IN SECTION 38-842, PARAGRAPH 25, SUBDIVISION (a) OR (b).

C. IF A MEMBER OR THE MEMBER'S BENEFICIARY ELECTS TO HAVE AN ELIGIBLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN, THAT DISTRIBUTION SHALL BE MADE IN THE FORM OF A DIRECT TRUSTEE-TO-TRUSTEE TRANSFER TO THE SPECIFIED ELIGIBLE RETIREMENT PLAN. THE DISTRIBUTION SHALL BE MADE IN THE FORM AND AT THE TIME PRESCRIBED BY THE BOARD.

D. ALL ROLLOVERS MADE PURSUANT TO THIS SECTION ARE SUBJECT TO THE DIRECT ROLLOVER REQUIREMENTS UNDER SECTION 401(a)(31) OF THE INTERNAL REVENUE CODE, THE ROLLOVER NOTICE REQUIREMENTS UNDER SECTION 402(f) OF THE INTERNAL REVENUE CODE AND THE MANDATORY WITHHOLDING REQUIREMENTS UNDER SECTION 3405(c) OF THE INTERNAL REVENUE CODE. THE PERIOD FOR PROVIDING THE ROLLOVER NOTICE AS REQUIRED UNDER SECTION 402(f) OF THE INTERNAL REVENUE CODE IS NOT LESS THAN THIRTY DAYS AND NOT MORE THAN ONE HUNDRED EIGHTY DAYS BEFORE THE DATE OF DISTRIBUTION.

