

REFERENCE TITLE: public retirement systems; administration

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

## **SB 1084**

Introduced by  
Senator Livingston

### AN ACT

AMENDING SECTIONS 38-643 AND 38-801, ARIZONA REVISED STATUTES; REPEALING SECTION 38-803, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 12; AMENDING SECTION 38-803, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 2; REPEALING SECTION 38-832, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 13; AMENDING SECTION 38-832, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 5; REPEALING SECTION 38-840.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 14; AMENDING SECTION 38-840.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 7; AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; REPEALING SECTION 38-848, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 15; AMENDING SECTION 38-848, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 34, SECTION 4 AND CHAPTER 251, SECTION 2; REPEALING SECTION 38-848.02, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 16; AMENDING SECTION 38-848.02, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 10; REPEALING SECTION 38-866, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 17; AMENDING SECTION 38-866, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 13; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES; REPEALING SECTION 38-883, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2021, CHAPTER 405, SECTION 18; AMENDING SECTION 38-883, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2019, CHAPTER 36, SECTION 17; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-643, Arizona Revised Statutes, is amended to  
3 read:

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

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

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

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

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

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

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

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

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

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

5 38-801. Definitions

6 In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 15. "Elected official" means:

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

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

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

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

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

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

9 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (e) Hardship distributions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2           Sec. 3. Repeal

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

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

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

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

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

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

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

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

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

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

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

32           1. Employ services as it deems necessary.

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

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

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

40           Sec. 5. Repeal

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

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

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

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

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

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

23           D. The board may:

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

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

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

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

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



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

9 Sec. 7. Repeal

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

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

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

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

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

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

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

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

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

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

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

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

43 1. Employ services as it deems necessary.

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

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

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

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

10           38-842. Definitions

11           In this article, unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 28. "Employers" means:

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

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

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

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

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

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

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

29 31. "Member":

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

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

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

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

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

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

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

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

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

30 32. "Normal retirement date" means:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11           Sec. 10. Repeal

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

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

17           38-848. Board of trustees; powers and duties; reporting  
18 requirements; independent trust fund;  
19 administrator; agents and employees; advisory  
20 committee

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

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

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

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 to obtain a state and federal criminal records check pursuant  
24 to section 41-1750 and Public Law 92-544. The department of public safety  
25 may exchange this fingerprint data with the federal bureau of  
26 investigation. A board member may be reappointed. Notwithstanding  
27 section 38-295, a board member may be removed from office only for cause  
28 by the appointing power or because the board member has vacated the  
29 member's seat on the board. A board member who is removed for cause shall  
30 be provided written notice and an opportunity for a response. The  
31 appointing power may remove a board member based on written findings that  
32 specify the reason for removal. Any vacancy that occurs other than by  
33 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  
35 appointment. 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  
42 article. All property and monies of the fund and other retirement plans  
43 that the board administers, including income from investments and from all  
44 other 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.

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

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

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

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

15 3. Also:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

29           1. A balance sheet.

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

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

33           4. A list of investments owned.

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

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

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

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

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

12           (a) Department of liquor licenses and control.

13           (b) Department of public safety.

14           (c) Northern Arizona university.

15           (d) University of Arizona.

16           (e) Arizona state university.

17           (f) Arizona game and fish department.

18           (g) Department of law.

19           (h) Department of emergency and military affairs.

20           (i) Arizona state parks board.

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

24           (a) State department of corrections.

25           (b) Department of public safety.

26           (c) The judiciary.

27           (d) Department of juvenile corrections.

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

31           M. The board shall:

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

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

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

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

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

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

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

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

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

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

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

23 1. Administer this article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 7. A representative from a county in this state.
- 2 8. A representative from a fire district in this state.
- 3 9. A representative from a state employer.
- 4 10. A representative from a tribal government located in this
- 5 state.

6 Sec. 12. Repeal  
7 Section 38-848.02, Arizona Revised Statutes, as amended by Laws  
8 2021, chapter 405, section 16, is repealed.

9 Sec. 13. Section 38-848.02, Arizona Revised Statutes, as amended by  
10 Laws 2019, chapter 36, section 10, is amended to read:

11 38-848.02. Board of trustees; report on employer and employee  
12 costs; posting funding ratio

13 A. On or before December ~~31~~ 1 of each year, the board of trustees  
14 shall provide to the legislature and the joint legislative budget  
15 committee and shall post on its website the shared cost structure of  
16 employees and employers, the funding status and the rate of return. The  
17 report to the legislature shall include when the trigger to the reduction  
18 in the employee rates is being met.

19 B. The board of trustees shall post on its website for each plan  
20 the board administers each employer's funding ratio.

21 Sec. 14. Repeal  
22 Section 38-866, Arizona Revised Statutes, as amended by Laws 2021,  
23 chapter 405, section 17, is repealed.

24 Sec. 15. Section 38-866, Arizona Revised Statutes, as amended by  
25 Laws 2019, chapter 36, section 13, is amended to read:

26 38-866. Defined contribution plan design; purpose; powers and  
27 duties of the board; administration; annual report

28 A. The board shall establish, design and administer a defined  
29 contribution plan to provide for the retirement of specified participants  
30 beginning July 1, 2017.

31 B. The purpose of this article is to provide a defined contribution  
32 plan that is fully funded on a current basis from employer and participant  
33 contributions.

34 C. The legislature intends that the defined contribution plan for  
35 participants under this article be designed to be a qualified governmental  
36 plan under section 401(a) of the internal revenue code, as amended, or  
37 successor provisions of law, and be exempt from taxation under section 501  
38 of the internal revenue code. The board may adopt any additional  
39 provision to the defined contribution plan that is necessary to fulfill  
40 this intent. Consistent with this intent, the board may submit to the  
41 internal revenue service a request for a determination letter that the  
42 defined contribution plan is a plan qualified under section 401(a) of the  
43 internal revenue code and a private letter ruling that all participant  
44 contributions that are picked up by the employer as provided in section

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

3 D. The board shall:

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

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

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

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

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

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

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

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

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

41 E. The board may:

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

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

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

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

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

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

23           38-881. Definitions

24           In this article, unless the context otherwise requires:

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

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

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

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

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

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



1           7. "Average monthly salary" means:

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

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

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

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

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

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

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

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

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

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

42           13. "Designated position" means:

43           (a) For a county:

44           (i) A county detention officer.

1 (ii) A nonuniformed employee of a sheriff's department whose  
2 primary duties require direct contact with inmates.

3 (b) For the state department of corrections and the department of  
4 juvenile corrections, only the following specifically designated  
5 positions:

- 6 (i) Food service.
- 7 (ii) Nursing personnel.
- 8 (iii) Corrections physician assistant.
- 9 (iv) Therapist.
- 10 (v) Corrections dental assistant.
- 11 (vi) Hygienist.
- 12 (vii) Corrections medical assistant.
- 13 (viii) Correctional service officer, including assistant deputy  
14 warden, deputy warden, warden and superintendent.
- 15 (ix) State correctional program officer.
- 16 (x) Parole or community supervision officers.
- 17 (xi) Investigators.
- 18 (xii) Teachers.
- 19 (xiii) Institutional maintenance workers.
- 20 (xiv) Youth corrections officer.
- 21 (xv) Youth program officer.
- 22 (xvi) Behavioral health treatment unit managers.
- 23 (xvii) The director and assistant directors of the department of  
24 juvenile corrections and the superintendent of the state educational  
25 system for committed youth.
- 26 (xviii) The director, deputy directors and assistant directors of  
27 the state department of corrections.
- 28 (xix) Other positions designated by the local board of the state  
29 department of corrections or the local board of the department of juvenile  
30 corrections pursuant to section 38-891.
- 31 (c) For a city or town, a city or town detention officer.
- 32 (d) For an employer of an eligible group as defined in section  
33 38-842, full-time dispatchers.
- 34 (e) For the judiciary, juvenile detention officers and those  
35 positions designated by the local board of the judiciary pursuant to  
36 section 38-891.
- 37 (f) For the department of public safety, state detention officers.
- 38 (g) For the judiciary, probation and surveillance officers.

39 14. "Determination" means a written document that indicates to a  
40 participant and alternate payee whether a domestic relations order  
41 qualifies as a plan approved domestic relations order.

42 15. "Determination period" means the ninety-day period in which the  
43 plan must review a domestic relations order that is submitted by a  
44 participant or alternate payee to determine whether the domestic relations  
45 order qualifies as a plan approved domestic relations order, calculated

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

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

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

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

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

15 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14           (e) Hardship distributions.

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

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

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

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

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

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

30           27. "Member":

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

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

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

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

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

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

5 28. "Normal retirement date" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7           Sec. 17. Repeal

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

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

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

14          A. The board shall:

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

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

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

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

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

40          B. The board of trustees may:

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

43           2. Utilize separate or commingled investment vehicles.

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

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

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