

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1609

## AN ACT

AMENDING SECTIONS 38-727, 38-801, 38-804, 38-805, 38-806, 38-807, 38-808, 38-809 AND 38-810, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-810.04; AMENDING SECTIONS 38-818, 38-842 AND 38-843, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-843.05; AMENDING SECTIONS 38-844.02, 38-845, 38-846.01 AND 38-846.02, ARIZONA REVISED STATUTES; AMENDING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 118, SECTION 10; REPEALING SECTION 38-849, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 45; AMENDING SECTION 38-856, ARIZONA REVISED STATUTES; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 53; REPEALING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 200, SECTION 54; AMENDING SECTIONS 38-884, 38-885, 38-886.01 AND 38-891, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-891.01; AMENDING SECTIONS 38-905, 38-911 AND 38-912, ARIZONA REVISED STATUTES; REPEALING LAWS 2005, CHAPTER 324, SECTION 2; RELATING TO PUBLIC RETIREMENT SYSTEMS AND PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-727, Arizona Revised Statutes, is amended to  
3 read:

4 38-727. Eligibility; options

5 The following provisions apply to all employees hired on or after the  
6 effective date:

7 1. All employees and officers of this state and all officers and  
8 employees of political subdivisions establishing a retirement plan  
9 administered by the board pursuant to this article who as a result of state  
10 service or service for the political subdivision are included in agreements  
11 providing for their coverage under the federal old age and survivors  
12 insurance system are subject to this article, except that membership is not  
13 mandatory:

14 (a) On the part of any employee who is eligible and who elects to  
15 participate in the optional retirement programs established by the Arizona  
16 board of regents pursuant to the authority conferred by section 15-1628 or by  
17 a community college district board pursuant to authority conferred by section  
18 15-1451.

19 (b) For a state elected official who is subject to term limits, who is  
20 eligible for participation in ASRS because the state elected official elected  
21 not to participate in the elected officials' retirement plan as provided in  
22 section 38-804, subsection A and who elects not to participate in ASRS as  
23 provided in paragraph 7 of this section.

24 (c) On the part of any employee or officer who is eligible to  
25 participate and who participates in the elected officials' retirement plan  
26 pursuant to article 3 of this chapter, the public safety personnel retirement  
27 system pursuant to article 4 of this chapter or the corrections officer  
28 retirement plan pursuant to article 6 of this chapter.

29 2. All employees and officers of political subdivisions whose  
30 compensation is provided wholly or in part from state monies and who are  
31 declared to be state employees and officers by the legislature for retirement  
32 purposes are subject, on legislative enactment, to this article and are  
33 members of ASRS.

34 3. Any member whose service terminates other than by death or  
35 withdrawal from membership is deemed to be a member of ASRS until the  
36 member's death benefit is paid.

37 4. Employees and officers shall not become members of ASRS and, if  
38 they are members immediately before becoming employed as provided by this  
39 section, shall have their membership status suspended while they are employed  
40 by state departments paying the salaries of their officers and employees  
41 wholly or in part from monies received from sources other than appropriations  
42 from the state general fund for the period or periods payment of the employer  
43 contributions is not made by or on behalf of the departments.

44 5. Notwithstanding other provisions of this section, a temporary  
45 employee of the legislature whose projected term of employment is for not

1 more than six months is ineligible for membership in ASRS. If the employment  
2 continues beyond six successive months, the employee may elect to either:

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

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

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

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

34 8. EVERY FULL-TIME SUPERIOR COURT COMMISSIONER WHO IS APPOINTED ON OR  
35 AFTER JULY 1 OF THE FIRST FISCAL YEAR AFTER THE SOCIAL SECURITY  
36 ADMINISTRATION APPROVES THE INCLUSION OF SUPERIOR COURT COMMISSIONERS ON THIS  
37 STATE'S SECTION 218 AGREEMENT IS A MEMBER OF ASRS AND IS SUBJECT TO THIS  
38 ARTICLE.

39 Sec. 2. Section 38-801, Arizona Revised Statutes, is amended to read:  
40 38-801. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Accumulated contributions" means the sum of all member  
43 contributions deducted from the member's salary pursuant to section 38-810,  
44 subsection A plus the amount transferred to the fund on behalf of the member  
45 plus the amount deposited in the fund pursuant to section 38-816.

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

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

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

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

12           (a) FOR AN ELECTED OFFICIAL WHO BECOMES A MEMBER OF THE PLAN BEFORE  
13 JANUARY 1, 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, the three  
14 consecutive years within the last ten completed years of credited service as  
15 an elected official that yield the highest average. If ~~an employee~~ A MEMBER  
16 does not have three consecutive years of credited service as an elected  
17 official, the considered period is the ~~employee's~~ MEMBER'S last consecutive  
18 period of employment with a plan employer immediately before retirement.

19           (b) FOR A RECENT ELECTED OFFICIAL, THE FIVE CONSECUTIVE YEARS WITHIN  
20 THE LAST TEN COMPLETED YEARS OF CREDITED SERVICE AS AN ELECTED OFFICIAL THAT  
21 YIELD THE HIGHEST AVERAGE. IF A MEMBER DOES NOT HAVE FIVE CONSECUTIVE YEARS  
22 OF CREDITED SERVICE AS AN ELECTED OFFICIAL, THE CONSIDERED PERIOD IS THE  
23 MEMBER'S LAST CONSECUTIVE PERIOD OF EMPLOYMENT WITH A PLAN EMPLOYER  
24 IMMEDIATELY BEFORE RETIREMENT.

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

26           7. "Credited service" means the number of whole and fractional years  
27 of a member's service as an elected official after the elected official's  
28 effective date of participation for which member and employer contributions  
29 are on deposit with the fund, plus credited service transferred to the plan  
30 from another retirement system or plan for public employees of this state,  
31 plus service as an elected official before the elected official's effective  
32 date of participation that is being funded pursuant to a joinder agreement  
33 pursuant to section 38-810, subsection C and section 38-815 or service that  
34 was redeemed pursuant to section 38-816. Credited service does not include  
35 periods of service for which an active member is uncompensated by the  
36 employer and for which no contributions to the plan are made.

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

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

1           10. "Determination period" means the ninety-day period in which the  
2 plan must review a domestic relations order that is submitted by a  
3 participant or alternate payee to determine whether the domestic relations  
4 order qualifies as a plan approved domestic relations order, calculated from  
5 the time the plan mails a notice of receipt to the participant and alternate  
6 payee.

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

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

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

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

21           15. "Elected official" means:

22           (a) Every elected official of this state.

23           (b) Every elected official of each county of this state.

24           (c) Every justice of the supreme court. ~~;~~

25           (d) Every judge of the court of appeals. ~~;~~

26           (e) Every judge of the superior court. ~~and~~

27           (f) Every full-time superior court commissioner WHO IS A MEMBER OF THE  
28 PLAN BEFORE JULY 1 OF THE FIRST FISCAL YEAR AFTER THE SOCIAL SECURITY  
29 ADMINISTRATION APPROVES THE INCLUSION OF SUPERIOR COURT COMMISSIONERS ON THIS  
30 STATE'S SECTION 218 AGREEMENT, except full-time superior court commissioners  
31 who failed to make a timely election of membership under the judges'  
32 retirement plan, repealed on August 7, 1985.

33           ~~(d)~~ (g) The administrator of the board if the administrator is a  
34 natural person.

35           ~~(e)~~ (h) Each elected official of an incorporated city or town whose  
36 employer has executed a proper joinder agreement for coverage of its elected  
37 officials.

38           (i) A RECENT ELECTED OFFICIAL.

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

41           (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

16 (f) An eligible deferred compensation plan described in section 457(b)  
17 of the internal revenue code that is maintained by a state, a political  
18 subdivision of a state or any agency or instrumentality of a state or a  
19 political subdivision of a state and that agrees to separately account for  
20 amounts transferred into the eligible deferred compensation plan from this  
21 plan.

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

24 (a) Any distribution that is one of a series of substantially equal  
25 periodic payments made not less frequently than annually for the life or life  
26 expectancy of the member or the joint lives or joint life expectancies of the  
27 member and the member's beneficiary or for a specified period of ten years or  
28 more.

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

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

33 19. "Employer" means a department, agency or political subdivision of  
34 this state that makes employer contributions to the plan pursuant to section  
35 38-810 on behalf of an elected official who participates in the plan.

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

37 21. "Notice of receipt" means a written document that is issued by the  
38 plan to a participant and alternate payee and that states that the plan has  
39 received a domestic relations order and a request for a determination that  
40 the domestic relations order is a plan approved domestic relations order.

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

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

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

5           25. "Personal representative" means the personal representative of a  
6 deceased alternate payee.

7           26. "Plan" means the elected officials' retirement plan.

8           27. "Plan approved domestic relations order" means a domestic relations  
9 order that the plan approves as meeting all the requirements for a plan  
10 approved domestic relations order as otherwise prescribed in this article.

11           28. "RECENT ELECTED OFFICIAL" MEANS AN ELECTED OFFICIAL WHO BECOMES A  
12 MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012 OR AN ELECTED OFFICIAL WHO IS  
13 REAPPOINTED, REELECTED OR RETAINED IN OFFICE PURSUANT TO LAW ON OR AFTER  
14 JANUARY 1, 2012.

15           ~~28.~~ 29. "Retired member" means a person who is being paid a pension  
16 based on the person's credited service as a member of the plan.

17           ~~29.~~ 30. "Segregated funds" means the amount of benefits that would  
18 currently be payable to an alternate payee pursuant to a domestic relations  
19 order under review by the plan, or a domestic relations order submitted to  
20 the plan that failed to qualify as a plan approved domestic relations order,  
21 if the domestic relations order were determined to be a plan approved  
22 domestic relations order.

23           ~~30.~~ 31. "System" means the public safety personnel retirement system.

24           Sec. 3. Section 38-804, Arizona Revised Statutes, is amended to read:

25           38-804. Membership; termination

26           A. All elected officials are members of the plan, except that a state  
27 elected official who is subject to term limits may elect not to participate  
28 in the plan. The state elected official who is subject to term limits shall  
29 make the election in writing and file the election with the board within  
30 thirty days after the state elected official assumes office. The election is  
31 effective on the first day of the state elected official's eligibility for  
32 that term of office. The election not to participate is specific for that  
33 term of office. If a state elected official who is subject to term limits  
34 fails to make an election as provided in this subsection, the state elected  
35 official is deemed to have elected to participate in the plan. The election  
36 not to participate in the plan is irrevocable and constitutes a waiver of all  
37 benefits provided by the plan for the state elected official's entire term,  
38 except for any benefits accrued by the state elected official in the plan for  
39 periods of participation ~~prior to~~ BEFORE being elected to an office subject  
40 to term limits or any benefits expressly provided by law. The state elected  
41 official who elects not to participate in the plan shall participate in the  
42 Arizona state retirement system unless the state elected official makes an  
43 irrevocable election not to participate in the Arizona state retirement  
44 system as provided in section 38-727.

1           B. If a member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012  
2 AND WHO IS NOT A RECENT ELECTED OFFICIAL ceases to hold office for any reason  
3 other than death or retirement, within twenty days after filing a completed  
4 application with the board, the member is entitled to receive the following  
5 amounts, less any benefit payments the member has received and any amount the  
6 member may owe to the plan:

7           1. If the member has less than five years of credited service with the  
8 plan, the member may withdraw the member's accumulated contributions from the  
9 plan.

10          2. If the member has five or more years of credited service with the  
11 plan, the member may withdraw the member's accumulated contributions plus an  
12 amount equal to the amount determined as follows:

13           (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
14 member contributions deducted from the member's salary pursuant to section  
15 38-810, subsection A.

16           (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
17 contributions deducted from the member's salary pursuant to section 38-810,  
18 subsection A.

19           (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
20 member contributions deducted from the member's salary pursuant to section  
21 38-810, subsection A.

22           (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
23 member contributions deducted from the member's salary pursuant to section  
24 38-810, subsection A.

25           (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
26 member contributions deducted from the member's salary pursuant to section  
27 38-810, subsection A.

28           (f) 10.0 or more years of credited service, one hundred per cent of  
29 all member contributions deducted from the member's salary pursuant to  
30 section 38-810, subsection A.

31          C. If a member has more than ten years of credited service with the  
32 plan, leaves the monies prescribed in subsection B of this section on account  
33 with the plan for more than thirty days after termination of employment and  
34 after that time period requests a refund of those monies, the member is  
35 entitled to receive the amount prescribed in subsection B of this section  
36 plus interest at a rate determined by the board for each year computed from  
37 and after the member's termination of employment.

38          D. IF A RECENT ELECTED OFFICIAL CEASES TO HOLD OFFICE FOR ANY REASON  
39 OTHER THAN DEATH OR RETIREMENT, WITHIN TWENTY DAYS AFTER FILING A COMPLETED  
40 APPLICATION WITH THE BOARD, THE MEMBER MAY WITHDRAW THE MEMBER'S ACCUMULATED  
41 CONTRIBUTIONS FROM THE PLAN AND SHALL BE PAID THE MEMBER'S ACCUMULATED  
42 CONTRIBUTIONS PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS OF THE DATE  
43 OF TERMINATION, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED AND ANY  
44 AMOUNT THE MEMBER MAY OWE TO THE PLAN.



1           ~~D.~~ E. If the amount prescribed in subsection B, ~~or~~ C OR D of this  
2 section includes monies that are an eligible rollover distribution and the  
3 member elects to have the distribution paid directly to an eligible  
4 retirement plan or individual retirement account or annuity and specifies the  
5 eligible retirement plan or individual retirement account or annuity to which  
6 the distribution is to be paid, the distribution shall be made in the form of  
7 a direct trustee-to-trustee transfer to the specified eligible retirement  
8 plan. The distribution shall be made in the form and at the time prescribed  
9 by the board. A member who receives the amount prescribed in subsection B,  
10 ~~or~~ C OR D of this section from the plan or who elects a transfer pursuant to  
11 this subsection forfeits the member's credited service, and all rights to  
12 benefits under the plan and membership in the plan terminate.

13           ~~E.~~ F. In no case shall more than twelve months of credited service be  
14 credited on account of all service rendered by a member in any one year.

15           ~~F.~~ G. If an elected official who has terminated the member's  
16 membership in the plan pursuant to subsection B of this section is  
17 subsequently elected or otherwise becomes eligible for membership in the plan  
18 pursuant to subsection A of this section, credited service only accrues from  
19 the date of the member's most recent eligibility as an elected official.

20           ~~G.~~ H. Notwithstanding subsection ~~F~~ G of this section, if an elected  
21 official files a written election form with the board within ninety days  
22 after the day of the member's reemployment as an elected official and repays  
23 the amount previously withdrawn pursuant to subsection B or C of this section  
24 within one year after the date of the member's reemployment as an elected  
25 official, with interest on that amount at the rate of nine per cent for each  
26 year, compounded each year from the date of withdrawal to the date of  
27 repayment, credited service shall be restored. Credited service shall not be  
28 restored until complete repayment is made to the fund.

29           ~~H.~~ I. If a retired member subsequently becomes an elected official,  
30 contributions shall not be made by the retired member ~~or the retired member's~~  
31 ~~employer~~ and credited service shall not accrue while the retired member is  
32 holding office.

33           ~~I.~~ J. In addition to subsection ~~H~~ I of this section, if a retired  
34 member subsequently becomes, by reason of election or reelection, an elected  
35 official of the same office from which the member retired within a time  
36 period following the member's retirement that is less than one full term for  
37 that office, the member shall not receive a pension. If the elected official  
38 ceases to hold the same office, the elected official is entitled to receive  
39 the same pension the elected official was receiving when the elected  
40 official's pension was discontinued pursuant to this subsection. Nothing in  
41 this subsection prohibits a retired judge called by the supreme court to  
42 active duties of a judge pursuant to section 38-813 from receiving retirement  
43 benefits.

1           Sec. 4. Section 38-805, Arizona Revised Statutes, is amended to read:  
2           38-805. Normal retirement and early retirement pensions

3           A. A member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012,  
4 WHO IS NOT A RECENT ELECTED OFFICIAL AND who ceases to hold office is  
5 eligible for a normal retirement pension, if the member satisfies one of the  
6 following requirements:

7           1. Has attained age sixty-five with five or more years of credited  
8 service.

9           2. Has attained age sixty-two with ten or more years of credited  
10 service.

11           3. Has twenty or more years of credited service.

12           B. A RECENT ELECTED OFFICIAL WHO CEASES TO HOLD OFFICE IS ELIGIBLE FOR  
13 A NORMAL RETIREMENT PENSION, IF THE MEMBER SATISFIES ONE OF THE FOLLOWING  
14 REQUIREMENTS:

15           1. HAS ATTAINED AGE SIXTY-FIVE WITH FIVE OR MORE YEARS OF CREDITED  
16 SERVICE.

17           2. HAS ATTAINED AGE SIXTY-TWO WITH TEN OR MORE YEARS OF CREDITED  
18 SERVICE.

19           ~~B.~~ C. A member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,  
20 2012, WHO IS NOT A RECENT ELECTED OFFICIAL, who has at least five years of  
21 credited service and WHO ceases to hold office as an elected official may  
22 take early retirement.

23           D. A RECENT ELECTED OFFICIAL WHO HAS AT LEAST TEN YEARS OF CREDITED  
24 SERVICE AND WHO CEASES TO HOLD OFFICE AS AN ELECTED OFFICIAL MAY TAKE EARLY  
25 RETIREMENT WHEN THE MEMBER ATTAINS AGE SIXTY.

26           ~~C.~~ E. On normal or early retirement, a retired member shall receive a  
27 pension computed pursuant to section 38-808, subsection B OR C until the  
28 member's death.

29           Sec. 5. Section 38-806, Arizona Revised Statutes, is amended to read:  
30           38-806. Disability retirement pensions

31           A. A member who becomes permanently mentally or physically  
32 incapacitated for the purpose of performing the duties of the member's office  
33 may receive disability retirement benefits if the board of trustees finds  
34 that all of the following apply:

35           1. The member submits either personally or by a guardian an affidavit  
36 as to the nature of the member's incapacity.

37           2. The member is medically examined by a board of three physicians,  
38 one designated by the administrator of the fund, one designated by the member  
39 or the member's guardian and one designated by the governor.

40           3. A majority of the board of physicians certifies to the board of  
41 trustees that:

42           (a) The member is mentally or physically incapacitated for the purpose  
43 of performing the duties of the member's office.

44           (b) The member's incapacity occurred during the member's term of  
45 office and is expected to be of an indefinite duration.

1 (c) The member should be retired.

2 B. On retirement by reason of disability under this section, a retired  
3 member shall receive a pension computed pursuant to section 38-808,  
4 subsection B, paragraph 2 OR SUBSECTION C, PARAGRAPH 2 until the member's  
5 death or until the member's pension is suspended, revoked or discontinued  
6 pursuant to this section.

7 C. If the board of trustees has reason to believe that a member,  
8 retired pursuant to this section but not yet eligible for normal retirement,  
9 may no longer be mentally or physically incapacitated from performing the  
10 duties of the public office from which the member retired, the board of  
11 trustees may require such retired member to be medically examined. The  
12 examination shall be conducted by a board of three physicians, one designated  
13 by the administrator of the fund, one designated by the retired member or the  
14 member's guardian and one designated by the governor.

15 D. The board of trustees shall discontinue pension payments to a  
16 member retired pursuant to this section, if the board of physicians certifies  
17 that the member is mentally and physically capable of performing the duties  
18 of the public office from which the member retired.

19 E. If the retired member refuses to submit to the medical examination,  
20 the administrator of the fund may suspend payment of the member's pension  
21 until the member submits to the medical examination. If the retired member  
22 refuses for one year or more to submit to medical examination, the board of  
23 trustees shall revoke the pension of a member retired under this section.

24 Sec. 6. Section 38-807, Arizona Revised Statutes, is amended to read:  
25 38-807. Survivor pensions

26 A. The surviving spouse of a deceased retired member shall be paid a  
27 surviving spouse's pension if the spouse was married to the member for a  
28 period of at least two consecutive years at the time of the member's  
29 death. Payment of a surviving spouse's pension commences as of the last day  
30 of the month following the retired member's date of death. The last payment  
31 shall be made as of the last day of the month in which the surviving spouse's  
32 death occurs. FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY  
33 1, 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, the amount of pension paid  
34 a surviving spouse is equal to three-fourths of the amount of the deceased  
35 retired member's pension at the time of death. FOR A RECENT ELECTED  
36 OFFICIAL, THE AMOUNT OF PENSION PAID A SURVIVING SPOUSE IS EQUAL TO ONE-HALF  
37 OF THE AMOUNT OF THE DECEASED RETIRED MEMBER'S PENSION AT THE TIME OF DEATH,  
38 EXCEPT THAT AT THE TIME OF RETIREMENT A MEMBER MAY ELECT AN OPTIONAL FORM OF  
39 RETIREMENT BENEFIT, AS DETERMINED BY THE BOARD, THAT PROVIDES FOR AN  
40 ACTUARIALLY REDUCED PENSION AND AN INCREASED SURVIVING SPOUSE'S BENEFIT. The  
41 surviving spouse shall file a written application with the plan in order to  
42 receive the survivor benefit.

43 B. The surviving spouse of a deceased active or inactive member shall  
44 be paid a surviving spouse's pension if the spouse was married to the member  
45 on the date of the member's death. Payment of a surviving spouse's pension

1 commences as of the last day of the month following the member's date of  
2 death. The last payment shall be made as of the last day of the month in  
3 which the surviving spouse's death occurs. For the purposes of this  
4 subsection, **FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,**  
5 **2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL,** the surviving spouse's pension  
6 shall be three-fourths of the amount calculated in the same manner as a  
7 disability pension is calculated pursuant to section 38-806. **FOR A RECENT**  
8 **ELECTED OFFICIAL, THE SURVIVING SPOUSE'S PENSION SHALL BE ONE-HALF OF THE**  
9 **AMOUNT CALCULATED IN THE SAME MANNER AS A DISABILITY PENSION IS CALCULATED**  
10 **PURSUANT TO SECTION 38-806.** The surviving spouse shall file a written  
11 application with the plan in order to receive the survivor benefit.

12 C. If the deceased retired or active or inactive member does not have  
13 an eligible surviving spouse or the pension of the eligible surviving spouse  
14 is terminated, each eligible child is entitled to receive a child's pension.  
15 A child's pension terminates if the child is adopted. In the case of a  
16 disabled child, the child's pension terminates if the child ceases to be  
17 under a disability or ceases to be a dependent of the surviving spouse or  
18 guardian. The amount of the pension of each eligible child is an equal share  
19 of the amount of the surviving spouse's pension. The surviving minor or  
20 disabled child's pension shall be paid to the person who is the legally  
21 appointed guardian or custodian of the eligible child.

22 D. If a member dies and no pension is payable on account of the  
23 member's death, the deceased member's accumulated contributions shall be paid  
24 to the person or persons designated by the deceased member in writing and  
25 filed with the board. If the designated person or persons do not survive the  
26 deceased member, the accumulated contributions shall be paid to the estate of  
27 the deceased member.

28 Sec. 7. Section 38-808, Arizona Revised Statutes, is amended to read:  
29 **38-808. Pension payments; computation of amounts; termination**

30 A. Plan retirement commences on the first day of the month following  
31 the date of the member's retirement or death. Pension payments shall be  
32 received on or about the first day of the month next following the member's  
33 plan retirement. The last pension payment shall be made as of the last day  
34 of the month in which the death of the retired member or the surviving spouse  
35 or minor children occurs. Pension payments shall not be made in advance.

36 B. **FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,**  
37 **2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL,** the monthly pension shall be  
38 equal to one-twelfth of the following amount:

39 1. Four per cent of the member's average yearly salary multiplied by  
40 the member's credited service, not to exceed eighty per cent of the member's  
41 average yearly salary. This amount shall be reduced if the member takes  
42 early retirement pursuant to section 38-805, subsection ~~B~~-C. The amount of  
43 reduction is three-twelfths of one per cent for each month the retired  
44 member's early retirement age precedes the member's normal retirement age

1 pursuant to section 38-805, subsection A, except that the reduction shall not  
2 be more than thirty per cent.

3 2. A member who meets the requirements for a disability retirement  
4 pension shall receive a disability pension equal to four per cent of the  
5 member's average yearly salary multiplied by twenty years of credited service  
6 if the member has ten or more years of credited service, four per cent of the  
7 member's average yearly salary multiplied by ten years of credited service if  
8 the member has five or more years of credited service but fewer than ten  
9 years of credited service or four per cent of the member's average yearly  
10 salary multiplied by five years of credited service if the member has fewer  
11 than five years of credited service.

12 C. THE MONTHLY PENSION OF A RECENT ELECTED OFFICIAL SHALL BE EQUAL TO  
13 ONE-TWELFTH OF THE FOLLOWING AMOUNT:

14 1. FOUR PER CENT OF THE MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY  
15 THE MEMBER'S CREDITED SERVICE THAT IS ACCRUED BEFORE JANUARY 1, 2012 AND  
16 THREE PER CENT OF THE MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY THE  
17 MEMBER'S CREDITED SERVICE THAT IS ACCRUED ON OR AFTER JANUARY 1, 2012, NOT TO  
18 EXCEED SEVENTY-FIVE PER CENT OF THE MEMBER'S AVERAGE YEARLY SALARY. THIS  
19 AMOUNT SHALL BE REDUCED IF THE MEMBER TAKES EARLY RETIREMENT PURSUANT TO  
20 SECTION 38-805, SUBSECTION D. THE AMOUNT OF REDUCTION IS ONE-HALF OF ONE PER  
21 CENT FOR EACH MONTH THE RETIRED MEMBER'S EARLY RETIREMENT AGE PRECEDES THE  
22 MEMBER'S NORMAL RETIREMENT AGE PURSUANT TO SECTION 38-805, SUBSECTION B.

23 2. A MEMBER WHO MEETS THE REQUIREMENTS FOR A DISABILITY RETIREMENT  
24 PENSION SHALL RECEIVE A DISABILITY PENSION EQUAL TO THREE PER CENT OF THE  
25 MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY TWENTY-FIVE YEARS OF CREDITED  
26 SERVICE IF THE MEMBER HAS TEN OR MORE YEARS OF CREDITED SERVICE, THREE PER  
27 CENT OF THE MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY TWELVE AND ONE-HALF  
28 YEARS OF CREDITED SERVICE IF THE MEMBER HAS FIVE OR MORE YEARS OF CREDITED  
29 SERVICE BUT FEWER THAN TEN YEARS OF CREDITED SERVICE OR THREE PER CENT OF THE  
30 MEMBER'S AVERAGE YEARLY SALARY MULTIPLIED BY 6.25 YEARS OF CREDITED SERVICE  
31 IF THE MEMBER HAS FEWER THAN FIVE YEARS OF CREDITED SERVICE.

32 ~~C.~~ D. The plan shall make payments pursuant to section 401(a)(9) of  
33 the internal revenue code and the regulations that are issued under that  
34 section. Notwithstanding any other provision of this plan, beginning January  
35 1, 1987 payment of benefits to a member shall commence no later than April 1  
36 of the calendar year following the later of:

37 1. The calendar year in which the member attains seventy and one-half  
38 years of age.

39 2. The date the member terminates employment.

40 ~~D.~~ E. If all pension payments terminate before an amount equal to the  
41 member's accumulated contributions has been paid, the difference between the  
42 member's accumulated contributions and the aggregate amount of pension  
43 payments shall be paid to the person or persons and in such shares as  
44 designated by the retired member in writing and filed with the board. If the

1 designated person or persons do not survive the retired member, the  
2 difference shall be paid to the estate of the retired member.

3 Sec. 8. Section 38-809, Arizona Revised Statutes, is amended to read:

4 38-809. Correction of pension payment errors; assignments  
5 prohibited; civil liability; restitution or payment  
6 of fine; forfeiture of benefits; violation;  
7 classification; offset of benefits

8 A. If the plan has made pension payments based on incorrect  
9 information and a person or an estate has been paid more or less than the  
10 person or estate should have been paid, the board shall adjust future  
11 payments so that the proper amount is paid. The adjustment may be made in  
12 such a manner that the equivalent actuarial present value of the benefit to  
13 which the person or estate is correctly entitled is paid.

14 B. Notwithstanding any other statute, benefits, member contributions  
15 or court fees including interest earnings and all other credits payable under  
16 the plan are not subject in any manner to anticipation, alienation, sale,  
17 transfer, assignment, pledge, encumbrance, charge, garnishment, execution or  
18 levy of any kind, either voluntary or involuntary, before actually being  
19 received by the person entitled to the benefit, contribution, earning or  
20 credit under the terms of the plan, and any attempt to dispose of any right  
21 under the terms of the plan as proscribed in this subsection is void. The  
22 fund is not liable for or subject to the debts, contracts, liabilities,  
23 enlargements or torts of any person entitled to a benefit, contribution,  
24 earning or credit under the terms of the plan.

25 C. Nothing in this section exempts employee benefits of any kind from  
26 a writ of attachment, a writ of execution, a writ of garnishment and orders  
27 of assignment issued by a court of record as the result of a judgment for  
28 arrearages of child support or for child support debt.

29 D. A person who defrauds the plan or who takes, converts, steals or  
30 embezzles monies owned by or from the plan and who fails or refuses to return  
31 the monies to the plan on the board's written request is subject to a civil  
32 suit by the plan in the superior court in Maricopa county. On entry of an  
33 order finding the person has defrauded the plan or taken, converted, stolen  
34 or embezzled monies owned by or from the plan, the court shall enter an order  
35 against that person and for the plan awarding the plan all of its costs and  
36 expenses of any kind, including attorney fees, that were necessary to  
37 successfully prosecute the action. The court shall also grant the plan a  
38 judicial lien on all of the nonexempt property of the person against whom  
39 judgment is entered pursuant to this subsection in an amount equal to all  
40 amounts awarded to the plan, plus interest at the rate prescribed by section  
41 44-1201, subsection A, until all amounts owed are paid to the plan.

42 E. If a member is convicted of, or discharged because of, theft,  
43 embezzlement, fraud or misappropriation of an employer's property or property  
44 under the control of the employer, the member is subject to restitution and  
45 fines imposed by a court of competent jurisdiction. The court may order the

1 restitution or fines to be paid from any payments otherwise payable to the  
2 member from the plan. IF A MEMBER IS CONVICTED OF A FELONY PURSUANT TO THIS  
3 SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE  
4 MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND  
5 BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE  
6 UNDER THIS ARTICLE.

7 F. A person who knowingly makes any false statement or who falsifies  
8 or permits to be falsified any record of the plan with an intent to defraud  
9 the plan is guilty of a class 1 misdemeanor. If any change or error in the  
10 records results in any member or beneficiary receiving from the plan more or  
11 less than the member or beneficiary would have been entitled to receive had  
12 the records been correct, the plan shall correct the error, and as far as  
13 practicable shall adjust the payments in such a manner that the actuarial  
14 equivalent of the benefit to which the member or beneficiary was correctly  
15 entitled to receive shall be paid. If a member is convicted of a crime  
16 pursuant to this subsection, the member is entitled to receive a lump sum  
17 payment of the member's accumulated contributions but forfeits any future  
18 compensation and benefits that would otherwise accrue to the member or the  
19 member's estate under this article.

20 G. Notwithstanding any other provision of this article, the board may  
21 offset against any benefits otherwise payable by the plan to an active or  
22 retired member or survivor any court ordered amounts awarded to the board and  
23 plan and assessed against the member or survivor.

24 Sec. 9. Section 38-810, Arizona Revised Statutes, is amended to read:

25 38-810. Contributions

26 A. Each member shall contribute to the fund an amount equal to ~~seven~~  
27 ~~per cent of the member's gross salary~~ THE AMOUNT PRESCRIBED IN SUBSECTION F  
28 OR G OF THIS SECTION. Contributions of members shall be made by payroll  
29 deductions. Every member is deemed to consent to these deductions. Payment  
30 of a member's compensation, less these payroll deductions, constitutes a full  
31 and complete discharge and satisfaction of all claims and demands by the  
32 member relating to remuneration for the member's services rendered during the  
33 period covered by the payment, except with respect to the benefits provided  
34 under the plan.

35 B. The board's office shall be credited monthly with monies collected  
36 pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31,  
37 subsection D, paragraph 2, section 12-284.03, subsection A, paragraph 6,  
38 section 22-281, subsection C, paragraph 3 and section 41-178. The monies  
39 credited to the fund pursuant to this subsection shall be deposited in the  
40 fund on a monthly basis, and there shall be a complete accounting of the  
41 determination of these monies deposited in the fund.

42 C. As determined by actuarial valuations performed by the plan's  
43 actuary, each employer shall make level per cent compensation contributions  
44 sufficient under the actuarial valuation to meet both the normal cost plus  
45 the actuarially determined amount required to amortize the unfunded accrued

1 liability over, beginning July 1, 2005, a rolling period of at least twenty  
2 and not more than thirty years that is established by the board taking into  
3 account the recommendation of the plan's actuary, except that, beginning with  
4 fiscal year 2006-2007, the employer contribution rate shall not be less than  
5 ten per cent of salary. The monies deposited in the fund pursuant to  
6 subsection B of this section shall be used to reduce the contributions  
7 required of state and county employers only. Employers that entered the plan  
8 under a joinder agreement shall also contribute an amount equal to the  
9 unfunded accrued liability for that employer. The unfunded liability for  
10 each new employer shall be actuarially determined by the plan's actuary as of  
11 the effective date of participation of each employer and shall be payable on  
12 the effective date of participation. The minimum employer contribution that  
13 is paid and that is in excess of the normal cost plus the actuarially  
14 determined amount required to amortize the unfunded accrued liability as  
15 calculated pursuant to this subsection shall be used to reduce future  
16 employer contribution increases and shall not be used to pay for an increase  
17 in benefits that are otherwise payable to members. The board shall  
18 separately account for these monies in the fund. After the close of any  
19 fiscal year, if the plan's actuary determines that the actuarial valuation of  
20 the fund contains excess valuation assets and is more than one hundred per  
21 cent funded, the board shall account for fifty per cent of the excess  
22 valuation assets in a stabilization reserve account. After the close of any  
23 fiscal year, if the plan's actuary determines that the actuarial valuation of  
24 the fund has a valuation asset deficiency and an unfunded actuarial accrued  
25 liability, the board shall use any valuation assets in the stabilization  
26 reserve account, to the extent available, to limit the decline in the fund's  
27 funding ratio to not more than two per cent.

28 D. The department of administration and the treasurer of each county  
29 and participating city and town shall transfer to the board the contributions  
30 provided for in subsections A and C of this section within ten working days  
31 after each payroll date. The state, county treasurers and clerks of the  
32 superior court shall transfer the monies credited under subsection B of this  
33 section to the board on or before the fifteenth day of each calendar month  
34 that follows the month in which the court fees were collected. Contributions  
35 and monies credited under subsection B of this section and transferred after  
36 these dates shall include a penalty equal to ten per cent a year, compounded  
37 annually, for each day that the contributions or monies credited under  
38 subsection B of this section are late. Delinquent payments due under this  
39 subsection, together with interest charges as provided in this subsection and  
40 court costs, may be recovered by action in a court of competent jurisdiction  
41 against the person or persons responsible for the payments or, at the request  
42 of the board, may be deducted from any other monies, including excise revenue  
43 taxes, payable to a political subdivision by any department or agency of this  
44 state. If requested by the board, the state, county treasurers or clerks of  
45 the superior court shall transfer the monies credited under subsection B of



1 this section, in an amount determined by the board, directly to the qualified  
2 governmental excess benefit arrangement established pursuant to section  
3 38-803.01.

4 E. The employer shall pay the member contributions required of members  
5 on account of compensation earned after August 7, 1985. The paid  
6 contributions shall be treated as employer contributions for the purpose of  
7 determining tax treatment under the United States internal revenue code. The  
8 effective date of the employer payment shall not be before the date the  
9 retirement plan has received notification from the United States internal  
10 revenue service that pursuant to section 414(h) of the United States internal  
11 revenue code the member contributions paid will not be included in gross  
12 income for income tax purposes until the paid contributions are distributed  
13 by refund or pension payments. The employer shall pay the member  
14 contributions from monies established and available in the retirement  
15 deduction account, which monies would otherwise have been designated as  
16 member contributions and paid to the retirement plan. Member contributions  
17 paid pursuant to this subsection shall be treated for all other purposes, in  
18 the same manner and to the same extent, as member contributions made before  
19 August 7, 1985.

20 F. FOR A MEMBER WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,  
21 2012 AND WHO IS NOT A RECENT ELECTED OFFICIAL, THE AMOUNT CONTRIBUTED BY A  
22 MEMBER PURSUANT TO SUBSECTION A OF THIS SECTION IS:

23 1. THROUGH JUNE 30, 2011, SEVEN PER CENT OF THE MEMBER'S GROSS SALARY.

24 2. FOR FISCAL YEAR 2011-2012, NINE PER CENT OF THE MEMBER'S GROSS  
25 SALARY.

26 3. FOR FISCAL YEAR 2012-2013, TEN PER CENT OF THE MEMBER'S GROSS  
27 SALARY.

28 4. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, ELEVEN  
29 PER CENT OF THE MEMBER'S GROSS SALARY OR 33.3 PER CENT OF THE SUM OF THE  
30 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE NORMAL COST  
31 PLUS THE ACTUARIALLY DETERMINED AMOUNT REQUIRED TO AMORTIZE THE UNFUNDED  
32 ACCRUED LIABILITY FOR THE EMPLOYER AS CALCULATED PURSUANT TO SUBSECTION C OF  
33 THIS SECTION, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE  
34 SHALL NOT BE LESS THAN SEVEN PER CENT OF THE MEMBER'S COMPENSATION AND THE  
35 EMPLOYER CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN  
36 SUBSECTION C OF THIS SECTION.

37 G. FOR A RECENT ELECTED OFFICIAL, THE AMOUNT CONTRIBUTED BY A MEMBER  
38 PURSUANT TO SUBSECTION A OF THIS SECTION IS:

39 1. THROUGH JUNE 30, 2012, TEN PER CENT OF THE MEMBER'S GROSS SALARY.

40 2. FOR FISCAL YEAR 2012-2013, ELEVEN AND ONE-HALF PER CENT OF THE  
41 MEMBER'S GROSS SALARY.

42 3. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, THIRTEEN  
43 PER CENT OF THE MEMBER'S GROSS SALARY OR 33.3 PER CENT OF THE SUM OF THE  
44 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE NORMAL COST  
45 PLUS THE ACTUARIALLY DETERMINED AMOUNT REQUIRED TO AMORTIZE THE UNFUNDED

1 ACCRUED LIABILITY FOR THE EMPLOYER AS CALCULATED PURSUANT TO SUBSECTION C OF  
2 THIS SECTION, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE  
3 SHALL NOT BE LESS THAN SEVEN PER CENT OF THE MEMBER'S COMPENSATION AND THE  
4 EMPLOYER CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN  
5 SUBSECTION C OF THIS SECTION.

6 H. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE  
7 AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS SEVEN PER CENT OF THE  
8 MEMBER'S COMPENSATION SHALL NOT BE USED TO REDUCE THE EMPLOYER'S  
9 CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO SUBSECTION C OF THIS SECTION.

10 Sec. 10. Title 38, chapter 5, article 3, Arizona Revised Statutes, is  
11 amended by adding section 38-810.04, to read:

12 38-810.04. Retired member; return to work; employer  
13 contributions

14 A. AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION  
15 RATE ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A  
16 POSITION ORDINARILY FILLED BY AN ELECTED OFFICIAL OF THE EMPLOYER. THIS  
17 SECTION APPLIES TO A RETIRED MEMBER WHO HAS BEEN RETIRED FOR MORE THAN ONE  
18 FULL TERM FOR THAT OFFICE.

19 B. THE ALTERNATE CONTRIBUTION RATE SHALL BE EQUAL TO THAT PORTION OF  
20 THE TOTAL REQUIRED CONTRIBUTION THAT IS APPLIED TO THE AMORTIZATION OF THE  
21 UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR THE FISCAL YEAR BEGINNING JULY 1,  
22 BASED ON THE PLAN'S ACTUARY'S CALCULATION OF THE TOTAL REQUIRED CONTRIBUTION  
23 FOR THE PRECEDING FISCAL YEAR ENDED ON JUNE 30. THE ALTERNATE CONTRIBUTION  
24 RATE SHALL BE APPLIED TO THE COMPENSATION, GROSS SALARY OR CONTRACT FEE OF A  
25 RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

26 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN TEN PER CENT  
27 IN ANY FISCAL YEAR.

28 D. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND  
29 ESTABLISHED BY SECTION 38-802 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS  
30 UNDER THIS ARTICLE OR TO PAY THE EXPENSES OF THE PLAN. PAYMENTS MADE  
31 PURSUANT TO THIS SECTION BY EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE  
32 PRESCRIBED IN 38-810, SUBSECTION D, AND THEREAFTER SHALL BE INCREASED BY  
33 INTEREST FROM AND AFTER THAT DATE UNTIL PAYMENT IS RECEIVED BY THE PLAN.

34 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,  
35 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY THE BOARD AND THAT ARE NECESSARY  
36 TO DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A  
37 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, USE,  
38 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

39 Sec. 11. Section 38-818, Arizona Revised Statutes, is amended to read:

40 38-818. Benefit increases; definition

41 A. Effective July 1 of each year, each retired member or survivor of a  
42 retired member is entitled to receive a permanent increase in the base  
43 benefit equal to the amount determined pursuant to this section if either:

44 1. The retired member or survivor of a retired member was receiving  
45 benefits on or before July 31 of the two previous years.

- 1           2. The retired member or survivor of a retired member was fifty-five  
2 years of age or older on July 1 of the current year and was receiving  
3 benefits on or before July 31 of the previous year.
- 4           B. The monthly amount of a permanent increase provided by subsection A  
5 is determined as follows:
- 6           1. Determine the excess investment earnings on the actuarial present  
7 value of pensions in payment status.
- 8           2. Determine the actuarial present value, as of June 30 of the  
9 preceding calendar year, of a one-half of one per cent per month increase in  
10 the amount of each pension eligible for an increase.
- 11           3. Divide the amount determined in paragraph 1 of this subsection by  
12 the amount determined in paragraph 2 of this subsection.
- 13           4. From the quotient obtained in paragraph 3 of this subsection, drop  
14 any fraction.
- 15           5. Multiply the number obtained in paragraph 4 of this subsection by  
16 one-half of one per cent.
- 17           C. The excess investment earnings of pensions in payment status are  
18 equal to the actuarial present value of pensions in payment status multiplied  
19 by the ~~positive difference, if any, between the total return of the plan and~~  
20 ~~nine per cent~~ EXCESS INVESTMENT EARNINGS AMOUNT. The excess investment  
21 earnings on pensions in payment status are zero if the ~~total~~ AVERAGE ANNUAL  
22 return of the plan OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE  
23 IN THE CALCULATION OF THE ACTUARIAL VALUE OF ASSETS is less than or equal to  
24 nine per cent.
- 25           D. As used in this section: ~~, total~~
- 26           1. AVERAGE ANNUAL return and the actuarial present value of pensions  
27 in payment status are the amounts published in the annual report of the plan  
28 for the fiscal year ending June 30 of the calendar year preceding the July 1  
29 of the increase.
- 30           2. THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
31 LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE  
32 FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE  
33 INCREASE.
- 34           E. All excess investment earnings on pensions in payment status are  
35 available for benefit increases as provided in this section. Any excess  
36 investment earnings on pensions in payment status from any year ~~which~~ THAT  
37 are not used for benefit adjustments for that year are available for future  
38 benefit increases in the following years. Earnings on the excess investment  
39 earnings on pensions in payment status account balance at the rate of the  
40 total return as published in the annual report of the plan shall be added  
41 each year to the excess investment earnings on pensions in payment status  
42 account balance and shall be available for future benefit increases.
- 43           F. The maximum benefit increase under this section is limited to four  
44 per cent of the benefit being received on the preceding June 30.

1 G. FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS  
2 AMOUNT" MEANS:

3 1. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
4 LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.

5 2. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
6 LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER  
7 CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE  
8 ANNUAL RETURN OF THE PLAN AND NINE PER CENT.

9 3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
10 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE  
11 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE PLAN AND NINE  
12 PER CENT.

13 Sec. 12. Section 38-842, Arizona Revised Statutes, is amended to read:

14 38-842. Definitions

15 In this article, unless the context otherwise requires:

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

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

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

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

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

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

36 7. "Average monthly benefit compensation" means the result obtained by  
37 dividing the total compensation paid to an employee during a considered  
38 period by the number of months, including fractional months, in which such  
39 compensation was received. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE  
40 SYSTEM BEFORE JANUARY 1, 2012, the considered period shall be the three  
41 consecutive years within the last twenty completed years of credited service  
42 that yield the highest average. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE  
43 SYSTEM ON OR AFTER JANUARY 1, 2012, THE CONSIDERED PERIOD IS THE FIVE  
44 CONSECUTIVE YEARS WITHIN THE LAST TWENTY COMPLETED YEARS OF CREDITED SERVICE  
45 THAT YIELD THE HIGHEST AVERAGE. In the computation under this paragraph, a

1 period of nonpaid or partially paid industrial leave shall be considered  
2 based on the compensation the employee would have received in the employee's  
3 job classification if the employee was not on industrial leave.

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

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

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

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

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

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

42 14. "Cure period" means the ninety-day period in which a participant or  
43 alternate payee may submit an amended domestic relations order and request a  
44 determination, calculated from the time the system issues a determination

1 finding that a previously submitted domestic relations order did not qualify  
2 as a plan approved domestic relations order.

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

6 16. "Determination" means a written document that indicates to a  
7 participant and alternate payee whether a domestic relations order qualifies  
8 as a plan approved domestic relations order.

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

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

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

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

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

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

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

33 (a) Is under eighteen years of age.

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

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

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

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

42 (b) Municipal fire fighters.

43 (c) Paid full-time fire fighters employed directly by a fire district  
44 organized pursuant to section 48-803 or 48-804 with three or more full-time

1 fire fighters, but not including fire fighters employed by a fire district  
2 pursuant to a contract with a corporation.

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

4 (e) State fire fighters.

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

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

7 (h) Police officers who are certified peace officers and fire fighters  
8 of a nonprofit corporation operating a public airport pursuant to sections  
9 28-8423 and 28-8424. A police officer shall be designated pursuant to  
10 section 28-8426 to aid and supplement state and local law enforcement  
11 agencies and a fire fighter's sole duty shall be to perform fire fighting  
12 services, including services required by federal regulations.

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

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

17 (k) State attorney general investigators who are certified peace  
18 officers.

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

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

22 (n) Fire fighters who are employed by an Indian reservation fire  
23 fighting agency.

24 (o) Police officers who are certified peace officers and who are  
25 appointed by the department of administration.

26 (p) Department of liquor licenses and control investigators who are  
27 certified peace officers.

28 (q) Arizona department of agriculture officers who are certified peace  
29 officers.

30 (r) Arizona state parks board rangers and managers who are certified  
31 peace officers.

32 (s) County park rangers who are certified peace officers.

33 25. "Eligible retirement plan" means any of the following that accepts  
34 a distributee's eligible rollover distribution:

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

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

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

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

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

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

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

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

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

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

18 27. "Employee" means any person who is employed by a participating  
19 employer and who is a member of an eligible group but does not include any  
20 persons compensated on a contractual or fee basis. If an eligible group  
21 requires certified peace officer status and at the option of the local board,  
22 employee may include a person who is training to become a certified peace  
23 officer.

24 28. "Employers" means:

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

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

33 (c) The state highway patrol covered under the state highway patrol  
34 retirement system.

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

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

43 29. "Fund" means the public safety personnel retirement fund, which is  
44 the fund established to receive and invest contributions accumulated



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

4           31. "Member" means any full-time employee who meets all of the  
5 following qualifications:

6           (a) Who is either a paid municipal police officer, a paid fire  
7 fighter, a law enforcement officer who is employed by this state including  
8 the director thereof, a state fire fighter who is primarily assigned to fire  
9 fighting duties, a fire fighter or police officer of a nonprofit corporation  
10 operating a public airport pursuant to sections 28-8423 and 28-8424, all  
11 ranks designated by the Arizona law enforcement merit system council, a state  
12 attorney general investigator who is a certified peace officer, a county  
13 attorney investigator who is a certified peace officer, a police officer who  
14 is appointed by the department of administration and who is a certified peace  
15 officer, a department of liquor licenses and control investigator who is a  
16 certified peace officer, an Arizona department of agriculture officer who is  
17 a certified peace officer, an Arizona state parks board ranger or manager who  
18 is a certified peace officer, a county park ranger who is a certified peace  
19 officer, a person who is a certified peace officer and who is employed by an  
20 Indian reservation police agency, a fire fighter who is employed by an Indian  
21 reservation fire fighting agency or an employee included in a group  
22 designated as eligible employees under a joinder agreement entered into by  
23 their employer after July 1, 1968 and who is or was regularly assigned to  
24 hazardous duty.

25           (b) Who, on or after the employee's effective date of participation,  
26 is receiving compensation for personal services rendered to an employer or  
27 would be receiving compensation except for an authorized leave of absence.

28           (c) Whose customary employment is at least forty hours per week or,  
29 for those employees who customarily work fluctuating work weeks, whose  
30 customary employment averages at least forty hours per week.

31           (d) Who is engaged to work for more than six months in a calendar  
32 year.

33           (e) Who, if economic conditions exist, is required to take furlough  
34 days or reduce the hours of ~~their~~ THE EMPLOYEE'S normal work week below forty  
35 hours but not less than thirty hours per pay cycle, and maintain ~~their~~ THE  
36 EMPLOYEE'S active member status within the system as long as the hour change  
37 does not extend beyond twelve consecutive months.

38           (f) Who has not attained age sixty-five before the employee's  
39 effective date of participation or who was over age sixty-five with  
40 twenty-five years or more of service prior to the employee's effective date  
41 of participation.

42           32. "Normal retirement date" means:

43           (a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY  
44 1, 2012, the first day of the calendar month immediately following ~~an~~ THE  
45 employee's completion of twenty years of service or the employee's

1 sixty-second birthday and the employee's completion of fifteen years of  
2 service.

3 (b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER  
4 JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING  
5 THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS  
6 AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE.

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

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

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

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

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

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

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

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

1 Those individuals who are assigned solely to support duties such as  
2 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
3 personnel, mechanics and dispatchers are not assigned to hazardous duty  
4 regardless of their position classification title. Since the normal duties of  
5 those jobs described in this paragraph are constantly changing, questions as  
6 to 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 by  
8 local boards are subject to rehearing and appeal.

9 41. "Retirement" or "retired" means termination of employment after a  
10 member has fulfilled all requirements for a pension **OR, FOR AN EMPLOYEE WHO**  
11 **BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE**  
12 **AND SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE.** Retirement shall be  
13 considered as commencing on the first day of the month immediately following  
14 a member's last day of employment or authorized leave of absence, if later.

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

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

41 44. "State" means the state of Arizona, including any department,  
42 office, board, commission, agency or other instrumentality of the state.

43 45. "System" means the public safety personnel retirement system  
44 established by this article.

1           46. "Temporary disability" means a physical or mental condition that  
2 the local board finds totally and temporarily prevents an employee from  
3 performing a reasonable range of duties within the employee's department and  
4 that was incurred in the performance of the employee's duty.

5           Sec. 13. Section 38-843, Arizona Revised Statutes, is amended to read:  
6           38-843. Contributions

7           A. Each employer who participates in the system on behalf of a group  
8 of employees who were covered under a prior public retirement system, other  
9 than the federal social security act, shall transfer all securities and  
10 monies attributable to the taxes and contributions of the state other than  
11 the state contribution to social security, the employer and the employees for  
12 the covered group of employees under the other system, such transfer to be  
13 made to the fund subject to all existing liabilities and on or within sixty  
14 days following the employer's effective date. All monies and securities  
15 transferred to the fund shall be credited to the employer's account in the  
16 fund. A record of the market value and the cost value of such transferred  
17 contributions shall be maintained for actuarial and investment purposes.

18           B. As determined by actuarial valuations reported to the employer and  
19 the local board by the board of trustees, each employer shall make level per  
20 cent of compensation contributions sufficient under such actuarial valuations  
21 to meet both the normal cost plus the actuarially determined amount required  
22 to amortize the unfunded accrued liability over, beginning July 1, 2005, a  
23 rolling period of at least twenty and not more than thirty years that is  
24 established by the board of trustees taking into account the recommendation  
25 of the system's actuary, except that, beginning with fiscal year 2006-2007,  
26 except as otherwise provided, the employer contribution rate shall not be  
27 less than eight per cent of compensation. For any employer whose actual  
28 contribution rate is less than eight per cent of compensation for fiscal year  
29 2006-2007, that employer's contribution rate is not subject to the eight per  
30 cent minimum but, for fiscal year 2006-2007 and each year thereafter, shall  
31 be at least five per cent and not more than the employer's actual  
32 contribution rate. An employer shall have the option of paying a higher  
33 level per cent of compensation thereby reducing its unfunded past service  
34 liability. An employer shall also have the option of increasing its  
35 contributions in order to reduce the contributions required from its members  
36 under subsection C, except that if an employer elects this option the  
37 employer shall pay the same higher level percentage contribution for all  
38 members of the eligible group. During a period when an employee is on  
39 industrial leave and the employee elects to continue contributions during the  
40 period of industrial leave, the employer shall make the contributions based  
41 on the compensation the employee would have received in the employee's job  
42 classification if the employee was in normal employment status. All  
43 contributions made by the employers and all state taxes allocated to the fund  
44 shall be irrevocable and shall be used to pay benefits under the system or to  
45 pay expenses of the system and fund. The minimum employer contribution that

1 is paid and that is in excess of the normal cost plus the actuarially  
2 determined amount required to amortize the unfunded accrued liability as  
3 calculated pursuant to this subsection shall be used to reduce future  
4 employer contribution increases and shall not be used to pay for an increase  
5 in benefits that are otherwise payable to members. The board shall  
6 separately account for these monies in the fund. Forfeitures arising because  
7 of severance of employment before a member becomes eligible for a pension or  
8 any other reason shall be applied to reduce the cost of the employer, not to  
9 increase the benefits otherwise payable to members. After the close of any  
10 fiscal year, if the system's actuary determines that the actuarial valuation  
11 of an employer's account contains excess valuation assets other than excess  
12 valuation assets that were in the employer's account as of fiscal year  
13 2004-2005 and is more than one hundred per cent funded, the board shall  
14 account for fifty per cent of the excess valuation assets in a stabilization  
15 reserve account. After the close of any fiscal year, if the system's actuary  
16 determines that the actuarial valuation of an employer's account has a  
17 valuation asset deficiency and an unfunded actuarial accrued liability, the  
18 board shall use any valuation assets in the stabilization reserve account for  
19 that employer, to the extent available, to limit the decline in that  
20 employer's funding ratio to not more than two per cent.

21 C. Each member, throughout the member's period of service from the  
22 member's effective date of participation, shall contribute to the fund an  
23 amount equal to ~~7.65 per cent of the member's compensation~~ THE AMOUNT  
24 PRESCRIBED IN SUBSECTION E OR F, except as provided in subsection B. During  
25 a period when an employee is on industrial leave and the employee elects to  
26 continue contributions during the period of industrial leave, the employee  
27 shall make the employee's contribution based on the compensation the employee  
28 would have received in the employee's job classification if the employee was  
29 in normal employment status. Contributions of members shall be required as a  
30 condition of employment and membership in the system and shall be made by  
31 payroll deductions. Every employee shall be deemed to consent to such  
32 deductions. Payment of an employee's compensation, less such payroll  
33 deductions, shall constitute a full and complete discharge and satisfaction  
34 of all claims and demands by the employee relating to remuneration for the  
35 employee's services rendered during the period covered by the payment, except  
36 with respect to the benefits provided under the system.

37 D. Each employer shall transfer to the board the employer and employee  
38 contributions provided for in subsections B and C within ten working days  
39 after each payroll date. Contributions transferred after that date shall  
40 include a penalty of ten per cent per annum, compounded annually, for each  
41 day the contributions are late, such penalty to be paid by the employer.  
42 Delinquent payments due under this subsection, together with interest charges  
43 as provided in this subsection, may be recovered by action in a court of  
44 competent jurisdiction against an employer liable for the payments or, at the  
45 request of the board, may be deducted from any other monies, including excise

1 revenue taxes, payable to such employer by any department or agency of this  
2 state.

3 E. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY  
4 1, 2012, THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION C IS:

5 1. THROUGH JUNE 30, 2011, 7.65 PER CENT OF THE MEMBER'S COMPENSATION.

6 2. FOR FISCAL YEAR 2011-2012, 9.65 PER CENT OF THE MEMBER'S  
7 COMPENSATION.

8 3. FOR FISCAL YEAR 2012-2013, 10.65 PER CENT OF THE MEMBER'S  
9 COMPENSATION.

10 4. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, 11.65  
11 PER CENT OF THE MEMBER'S COMPENSATION OR 33.3 PER CENT OF THE SUM OF THE  
12 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE  
13 COMPUTED EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION  
14 B, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE  
15 LESS THAN 7.65 PER CENT OF THE MEMBER'S COMPENSATION AND THE EMPLOYER  
16 CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION B.

17 F. FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER  
18 JANUARY 1, 2012, THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION C  
19 IS:

20 1. THROUGH JUNE 30, 2012, 10.65 PER CENT OF THE MEMBER'S COMPENSATION.

21 2. FOR FISCAL YEAR 2012-2013, 12.15 PER CENT OF THE MEMBER'S  
22 COMPENSATION.

23 3. FOR FISCAL YEAR 2013-2014 AND EACH FISCAL YEAR THEREAFTER, 13.65  
24 PER CENT OF THE MEMBER'S COMPENSATION OR 33.3 PER CENT OF THE SUM OF THE  
25 MEMBER'S CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE  
26 COMPUTED EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION  
27 B, WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE  
28 LESS THAN 7.65 PER CENT OF THE MEMBER'S COMPENSATION AND THE EMPLOYER  
29 CONTRIBUTION RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION B.

30 G. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE  
31 AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS 7.65 PER CENT OF THE  
32 MEMBER'S COMPENSATION SHALL NOT BE USED TO REDUCE THE EMPLOYER'S  
33 CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO SUBSECTION B.

34 Sec. 14. Title 38, chapter 5, article 4, Arizona Revised Statutes, is  
35 amended by adding section 38-843.05, to read:

36 38-843.05. Retired members; return to work; employer  
37 contributions

38 A. AN EMPLOYER SHALL PAY CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION  
39 RATE ON BEHALF OF A RETIRED MEMBER WHO RETURNS TO WORK IN ANY CAPACITY IN A  
40 POSITION ORDINARILY FILLED BY AN EMPLOYEE OF THE EMPLOYER OF AN ELIGIBLE  
41 GROUP. THIS SECTION APPLIES TO A RETIRED MEMBER WHO RETURNS TO WORK WITH  
42 ANOTHER PARTICIPATING EMPLOYER AND A RETIRED MEMBER WHO RETURNS TO WORK AFTER  
43 SIXTY CONSECUTIVE DAYS WITH THE SAME EMPLOYER FROM WHICH THE MEMBER RETIRED.

44 B. THE ALTERNATE CONTRIBUTION RATE SHALL BE EQUAL TO THAT PORTION OF  
45 THE TOTAL REQUIRED CONTRIBUTION THAT IS APPLIED TO THE AMORTIZATION OF THE

1 UNFUNDED ACTUARIAL ACCRUED LIABILITY FOR THE FISCAL YEAR BEGINNING JULY 1,  
2 BASED ON THE SYSTEM'S ACTUARY'S CALCULATION OF THE TOTAL REQUIRED  
3 CONTRIBUTION FOR THE PRECEDING FISCAL YEAR ENDED ON JUNE 30. THE ALTERNATE  
4 CONTRIBUTION RATE SHALL BE APPLIED TO THE COMPENSATION, GROSS SALARY OR  
5 CONTRACT FEE OF A RETIRED MEMBER WHO MEETS THE REQUIREMENTS OF THIS SECTION.

6 C. THE ALTERNATE CONTRIBUTION RATE SHALL NOT BE LESS THAN EIGHT PER  
7 CENT IN ANY FISCAL YEAR.

8 D. ALL CONTRIBUTIONS MADE BY THE EMPLOYER AND ALLOCATED TO THE FUND  
9 ARE IRREVOCABLE AND SHALL BE USED AS BENEFITS UNDER THIS ARTICLE OR TO PAY  
10 THE EXPENSES OF THE SYSTEM. PAYMENTS MADE PURSUANT TO THIS SECTION BY  
11 EMPLOYERS BECOME DELINQUENT AFTER THE DUE DATE PRESCRIBED IN 38-843,  
12 SUBSECTION D, AND THEREAFTER SHALL BE INCREASED BY INTEREST FROM AND AFTER  
13 THAT DATE UNTIL PAYMENT IS RECEIVED BY THE SYSTEM.

14 E. AN EMPLOYER OF A RETIRED MEMBER SHALL SUBMIT ANY REPORTS, DATA,  
15 PAPERWORK OR MATERIALS THAT ARE REQUESTED BY THE BOARD AND THAT ARE NECESSARY  
16 TO DETERMINE THE COMPENSATION, GROSS SALARY OR CONTRACT FEE ASSOCIATED WITH A  
17 RETIRED MEMBER WHO RETURNS TO WORK OR TO DETERMINE THE FUNCTION, USE,  
18 EFFICACY OR OPERATION OF THE RETURN TO WORK PROGRAM.

19 Sec. 15. Section 38-844.02, Arizona Revised Statutes, is amended to  
20 read:

21 38-844.02. Deferred retirement option plan for employees hired  
22 before January 1, 2012; purpose

23 A. A deferred retirement option plan is established FOR THOSE  
24 EMPLOYEES WHO BECOME MEMBERS OF THE SYSTEM BEFORE JANUARY 1, 2012. The  
25 purpose of the deferred retirement option plan is to add flexibility to the  
26 system and to provide members who elect to participate in the deferred  
27 retirement option plan access to a lump sum benefit in addition to their  
28 normal monthly retirement benefit on actual retirement.

29 B. The board shall offer the deferred retirement option plan to  
30 members on a voluntary basis as an alternative method of benefit accrual  
31 under the system.

32 Sec. 16. Section 38-845, Arizona Revised Statutes, is amended to read:

33 38-845. Amount of retirement benefit; purchase of firearm

34 A. A member who meets the requirements for a normal pension, WHO  
35 BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012 and WHO has twenty  
36 years of credited service shall receive a monthly amount ~~which~~ THAT equals  
37 fifty per cent of the member's average monthly benefit compensation. If the  
38 member retires with other than twenty years of credited service, the  
39 foregoing amount shall be:

40 1. Reduced by four per cent for each year of credited service under  
41 twenty years, with pro rata reduction for any fractional year.

42 2. Increased by a monthly amount equal to two per cent of the member's  
43 average monthly benefit compensation multiplied by the number of the member's  
44 years of credited service in excess of twenty years, with pro rata increase  
45 for any fractional year, except that if a member retires with twenty-five or



1 more years of credited service the amount shall be increased by a monthly  
2 amount equal to two and one-half per cent of the member's average monthly  
3 benefit compensation multiplied by the number of the member's years of  
4 credited service in excess of twenty years, with pro rata increase for any  
5 fractional year. Notwithstanding the provisions of this subsection, the  
6 maximum amount payable as a normal pension shall be eighty per cent of the  
7 average monthly benefit compensation.

8 B. A member who meets the requirements for an accidental disability  
9 pension shall receive a monthly amount, which shall be computed in the same  
10 manner as a normal pension, using the member's average monthly benefit  
11 compensation before termination of employment and the member's actual  
12 credited service or twenty years of credited service, whichever is greater.

13 C. A member who meets the requirements for an ordinary disability  
14 pension shall receive a monthly amount that is equal to a fraction times the  
15 member's normal pension that is computed according to subsection A OR G if  
16 the member had twenty years of credited service. The fraction is the result  
17 obtained by dividing the member's actual years of credited service, not to  
18 exceed twenty years of credited service, by twenty.

19 D. A member who meets the requirements for a temporary disability  
20 pension shall receive a monthly amount ~~which shall be~~ THAT IS equal to  
21 one-twelfth of fifty per cent of the member's annual compensation received  
22 immediately prior to the date on which the member's disability was incurred.

23 E. A member who meets the requirements for a catastrophic disability  
24 pension is ~~entitle~~ ENTITLED to receive a monthly amount computed as follows:

25 1. For the first sixty months, ninety per cent of the member's average  
26 monthly benefit compensation before termination of employment.

27 2. After sixty months, sixty-two and one-half per cent of the member's  
28 average monthly benefit compensation before termination of employment or  
29 computed in the same manner as a normal pension using the member's average  
30 monthly benefit compensation before termination of employment and the  
31 member's actual credited service, whichever is greater.

32 F. A member who was employed before September 15, 1989 by an employer  
33 participating in the system and who retires on or after November 1, 2001 is  
34 entitled to receive a tax equity benefit allowance consisting of a permanent  
35 increase of two per cent of the member's base benefit retroactive to the day  
36 of retirement.

37 G. A MEMBER WHO MEETS THE REQUIREMENTS FOR A NORMAL PENSION, WHO  
38 BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1, 2012 AND WHO HAS  
39 TWENTY-FIVE YEARS OF CREDITED SERVICE SHALL RECEIVE A MONTHLY AMOUNT THAT  
40 EQUALS SIXTY-TWO AND ONE-HALF PER CENT OF THE MEMBER'S AVERAGE MONTHLY  
41 BENEFIT COMPENSATION. IF THE MEMBER RETIRES WITH OTHER THAN TWENTY-FIVE  
42 YEARS OF CREDITED SERVICE, THE FOREGOING AMOUNT SHALL BE:

43 1. REDUCED BY FOUR PER CENT FOR EACH YEAR OF CREDITED SERVICE UNDER  
44 TWENTY-FIVE YEARS, WITH PRO RATA REDUCTION FOR ANY FRACTIONAL YEAR.



1           2. INCREASED BY A MONTHLY AMOUNT EQUAL TO TWO AND ONE-HALF PER CENT OF  
2 THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION MULTIPLIED BY THE NUMBER OF  
3 THE MEMBER'S YEARS OF CREDITED SERVICE IN EXCESS OF TWENTY-FIVE YEARS, WITH  
4 PRO RATA INCREASE FOR ANY FRACTIONAL YEAR. NOTWITHSTANDING THE PROVISIONS OF  
5 THIS SUBSECTION, THE MAXIMUM AMOUNT PAYABLE AS A NORMAL PENSION SHALL BE  
6 EIGHTY PER CENT OF THE AVERAGE MONTHLY BENEFIT COMPENSATION.

7           ~~G.~~ H. In addition to the amounts received under subsection A, B, C,  
8 D, ~~or~~ E OR G and subject to the approval of the employer, the pension  
9 includes the ability of a member to purchase the handgun or shotgun issued by  
10 the employer to the member at less than fair market value.

11           Sec. 17. Section 38-846.01, Arizona Revised Statutes, is amended to  
12 read:

13           38-846.01. Deferred annuity; exception

14           A. If any member who has at least ten years of credited service  
15 terminates employment for reasons other than retirement or disability, the  
16 member may elect to receive a deferred annuity, except that if the annuitant  
17 withdraws all or part of the annuitant's accumulated contributions in the  
18 system all rights in and to a deferred annuity shall be forfeited by the  
19 annuitant. A deferred annuity is a lifetime monthly payment actuarially  
20 equivalent to the annuitant's accumulated contributions in the system plus an  
21 equal amount paid by the employer and shall commence on application on or  
22 after the sixty-second birthday of the annuitant. The annuity is not a  
23 retirement benefit and annuitants are not entitled to receive any amount  
24 prescribed by section 38-845, subsection F, ~~or~~ section 38-846, 38-856 or  
25 38-857.

26           B. THIS SECTION DOES NOT APPLY TO A MEMBER WHO BECOMES A MEMBER OF THE  
27 SYSTEM ON OR AFTER JANUARY 1, 2012. SUCH A PERSON WHO ATTAINS A NORMAL  
28 RETIREMENT DATE IS ELIGIBLE FOR RETIREMENT AND A RETIREMENT BENEFIT EVEN IF  
29 THE MEMBER TERMINATES EMPLOYMENT WITH AN EMPLOYER BEFORE THE AGE REQUIREMENT  
30 FOR NORMAL RETIREMENT IF THE MEMBER ATTAINS THE SERVICE REQUIREMENT FOR  
31 NORMAL RETIREMENT.

32           Sec. 18. Section 38-846.02, Arizona Revised Statutes, is amended to  
33 read:

34           38-846.02. Termination of membership

35           A. On termination of employment for any reason other than death or  
36 retirement, within twenty days after filing a completed application with the  
37 board, a member WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1, 2012 is  
38 entitled to receive the following amounts, less any benefit payments the  
39 member has received or any amount the member may owe to the system:

40           1. If the member has less than five years of credited service with the  
41 system, the member may withdraw the member's accumulated contributions from  
42 the system.

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

1 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
2 member contributions deducted from the member's salary pursuant to section  
3 38-843, subsection C.

4 (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
5 contributions deducted from the member's salary pursuant to section 38-843,  
6 subsection C.

7 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
8 member contributions deducted from the member's salary pursuant to section  
9 38-843, subsection C.

10 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
11 member contributions deducted from the member's salary pursuant to section  
12 38-843, subsection C.

13 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
14 member contributions deducted from the member's salary pursuant to section  
15 38-843, subsection C.

16 (f) 10.0 or more years of credited service, one hundred per cent of  
17 all member contributions deducted from the member's salary pursuant to  
18 section 38-843, subsection C.

19 B. If a member WHO BECOMES A MEMBER OF THE SYSTEM BEFORE JANUARY 1,  
20 2012 has more than ten years of credited service with the system, leaves the  
21 monies prescribed in subsection A of this section on account with the system  
22 for more than thirty days after termination of employment and after that time  
23 period requests a refund of those monies, the member is entitled to receive  
24 the amount prescribed in subsection A of this section plus interest at a rate  
25 determined by the board for each year computed from and after the member's  
26 termination of employment.

27 C. ON TERMINATION OF EMPLOYMENT FOR ANY REASON OTHER THAN DEATH OR  
28 RETIREMENT, WITHIN TWENTY DAYS AFTER FILING A COMPLETED APPLICATION WITH THE  
29 BOARD, A MEMBER WHO BECOMES A MEMBER OF THE SYSTEM ON OR AFTER JANUARY 1,  
30 2012 IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT EQUAL TO THE MEMBER'S  
31 ACCUMULATED CONTRIBUTION PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS  
32 OF THE DATE OF TERMINATION, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED  
33 AS OF THE DATE OF TERMINATION OR ANY AMOUNT THE MEMBER MAY OWE TO THE SYSTEM.

34 ~~C.~~ D. If the amount prescribed in subsection A, ~~or~~ B OR C of this  
35 section includes monies that are an eligible rollover distribution and the  
36 member elects to have the distribution paid directly to an eligible  
37 retirement plan or individual retirement account or annuity and specifies the  
38 eligible retirement plan or individual retirement account or annuity to which  
39 the distribution is to be paid, the distribution shall be made in the form of  
40 a direct trustee-to-trustee transfer to the specified eligible retirement  
41 plan. The distribution shall be made in the form and at the time prescribed  
42 by the board. A member who withdraws the amount prescribed in subsection A,  
43 ~~or~~ B OR C of this section from the system or who elects a transfer pursuant  
44 to this section forfeits all rights to benefits under the system and rights  
45 to rehearing and appeal, except as provided in section 38-849.

1           Sec. 19. Section 38-849, Arizona Revised Statutes, as amended by Laws  
2 2010, chapter 118, section 10, is amended to read:

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

7           A. If a member is convicted of, or discharged because of, theft,  
8 embezzlement, fraud or misappropriation of an employer's property or property  
9 under the control of the employer, the member shall be subject to restitution  
10 and fines imposed by a court of competent jurisdiction. The court may order  
11 the restitution or fines to be paid from any payments otherwise payable to  
12 the member from the retirement system. **IF A MEMBER IS CONVICTED OF A FELONY**  
13 **PURSUANT TO THIS SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM**  
14 **PAYMENT OF THE MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE**  
15 **COMPENSATION AND BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE**  
16 **MEMBER'S ESTATE UNDER THIS ARTICLE.**

17           B. A person who knowingly makes any false statement or who falsifies  
18 or permits to be falsified any record of the system with an intent to defraud  
19 the system is guilty of a class 6 felony. If any change or error in the  
20 records results in any member or beneficiary receiving from the system more  
21 or less than the member or beneficiary would have been entitled to receive  
22 had the records been correct, the local board shall correct such error, and  
23 as far as practicable shall adjust the payments in such manner that the  
24 actuarial equivalent of the benefit to which such member or beneficiary was  
25 correctly entitled shall be paid. If a member is convicted of a crime  
26 specified in this subsection the member shall be entitled to receive a lump  
27 sum payment of the member's accumulated contributions but forfeits any future  
28 compensation and benefits that would otherwise accrue to the member or the  
29 member's estate under this article.

30           C. If a member who received a severance refund on termination of  
31 employment, as provided in section 38-846.02, is subsequently reemployed by  
32 an employer, the member's prior service credits shall be cancelled and  
33 service shall be credited only from the date the member's most recent  
34 reemployment period commenced. However, if the former member's reemployment  
35 with the same employer occurred within two years after the former member's  
36 termination date, and, within ninety days after reemployment the former  
37 member signs a written election consenting to reimburse the fund within one  
38 year, the former member shall be required to redeposit the amount withdrawn  
39 at the time of the former member's separation from service, with interest  
40 thereon at the rate of nine per cent for each year compounded each year from  
41 the date of withdrawal to the date of repayment. On satisfaction of this  
42 obligation the member's prior service credits shall be reinstated.

43           D. If a retired member becomes employed in any capacity by the  
44 employer from which the member retired before sixty consecutive days after  
45 the member's date of retirement, the system shall not make pension payments

1 to the retired member during the period of reemployment. If a retired member  
2 is reemployed by an employer, no EMPLOYEE contributions shall be made on the  
3 retired member's account, nor any service credited, during the period of the  
4 reemployment. Notwithstanding this subsection, if a retired member  
5 subsequently becomes employed in the same position by the employer from which  
6 the member retired, the system shall not make pension payments to the retired  
7 member during the period of reemployment. On subsequent termination of  
8 employment by the retired member, the retired member is entitled to receive a  
9 pension based on the member's service and compensation before the date of the  
10 member's reemployment. If a member who retired under disability is  
11 reemployed by an employer as an employee, that member shall be treated as if  
12 the member had been on an uncompensated leave of absence during the period of  
13 the member's disability retirement and shall be a contributing member of the  
14 system. Within ten days after a retired member is reemployed by the employer  
15 from which the member retired, the employer shall advise the ~~fund-manager~~  
16 BOARD in writing as to whether the retired member has been reemployed in the  
17 same position from which the member retired. The ~~fund-manager~~ BOARD shall  
18 review all reemployment determinations. If the ~~fund-manager~~ BOARD is not  
19 provided the necessary information to make a reemployment determination, the  
20 ~~fund-manager~~ BOARD shall suspend pension payments until information is  
21 received and a determination is made that the reemployment meets the  
22 requirements of this subsection. For the purposes of this subsection, "same  
23 position" means the member is in a position where the member performs  
24 substantially similar duties that were performed and exercises substantially  
25 similar authority that was exercised by the retired member before retirement.

26 E. A person who defrauds the system or who takes, converts, steals or  
27 embezzles monies owned by or from the system and who fails or refuses to  
28 return the monies to the system on the ~~fund-manager's~~ BOARD'S written request  
29 is subject to civil suit by the system in the superior court in Maricopa  
30 county. On entry of an order finding the person has defrauded the system or  
31 taken, converted, stolen or embezzled monies owned by or from the system, the  
32 court shall enter an order against that person and for the system awarding  
33 the system all of its costs and expenses of any kind, including attorney  
34 fees, that were necessary to successfully prosecute the action. The court  
35 shall also grant the system a judicial lien on all of the nonexempt property  
36 of the person against whom judgment is entered pursuant to this subsection in  
37 an amount equal to all amounts awarded to the system, plus interest at the  
38 rate prescribed by section 44-1201, subsection A, until all amounts owed are  
39 paid to the system.

40 F. Notwithstanding any other provision of this article, the ~~fund~~  
41 ~~manager~~ BOARD may offset against any benefits otherwise payable by the system  
42 to an active or retired member or survivor any court ordered amounts awarded  
43 to the ~~fund-manager~~ BOARD and system and assessed against the member or  
44 survivor.

1           Sec. 20. Repeal

2           Section 38-849, Arizona Revised Statutes, as amended by Laws 2010,  
3 chapter 200, section 45, is repealed.

4           Sec. 21. Section 38-856, Arizona Revised Statutes, is amended to read:  
5 38-856. Benefit increases: definition

6           A. Effective July 1 of each year, each retired member or survivor of a  
7 retired member is entitled to receive a permanent increase in the base  
8 benefit equal to the amount determined pursuant to this section if either:

9           1. The retired member or the survivor of a retired member was  
10 receiving benefits on or before July 31 of the two previous years.

11           2. The retired member or survivor of a retired member was fifty-five  
12 years of age or older on July 1 of the current year and was receiving  
13 benefits on or before July 31 of the previous year.

14           B. The monthly amount of a permanent increase provided by subsection A  
15 is determined as follows:

16           1. Determine the excess investment earnings on the net assets of the  
17 fund.

18           2. Determine the excess investment earnings account balance.

19           3. Determine the actuarial present value, as of June 30 of the  
20 preceding calendar year, of a five dollar per month increase in the amount of  
21 each pension eligible for an increase.

22           4. Add the amounts determined in paragraphs 1 and 2 of this subsection  
23 then divide by the amount determined in paragraph 3 of this subsection.

24           5. From the quotient obtained in paragraph 4 of this subsection, drop  
25 any fraction.

26           6. Multiply the number obtained in paragraph 5 of this subsection by  
27 five dollars.

28           C. The excess investment earnings on the net assets of the fund are  
29 equal to the total assets of the fund less any amount allocated to the excess  
30 investment earnings account multiplied by ~~one half of the positive~~  
31 ~~difference, if any, between the total return of the system and nine per cent~~  
32 **THE EXCESS INVESTMENT EARNINGS AMOUNT**. The excess investment earnings on the  
33 net assets of the fund are zero if the ~~total~~ **AVERAGE ANNUAL** return of the  
34 system **OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE IN THE**  
35 **CALCULATION OF THE ACTUARIAL VALUE OF ASSETS** is less than or equal to nine  
36 per cent.

37           D. As used in this section: ~~, total~~

38           1. **AVERAGE ANNUAL** return and the net assets of the fund are the  
39 amounts published in the annual report of the system for the fiscal year  
40 ending June 30 of the calendar year preceding the July 1 of the increase.

41           2. **THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED**  
42 **LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE**  
43 **FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE**  
44 **INCREASE.**

1 E. All excess investment earnings on the net assets of the fund are  
2 available for benefit increases as provided in this section. Any excess  
3 investment earnings on the net assets of the fund from any year ~~which~~ THAT  
4 are not used for benefit adjustments for that year are available for future  
5 benefit increases in the following years. Earnings on the excess investment  
6 earnings account balance at the rate of the total return as published in the  
7 annual report of the system shall be added each year to the excess investment  
8 earnings account and shall be available for future benefit increases.

9 F. The maximum benefit increase under this section is limited to the  
10 equivalent of four per cent of the average normal benefit being received on  
11 the preceding June 30.

12 G. FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS  
13 AMOUNT" MEANS:

14 1. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
15 LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.

16 2. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
17 LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER  
18 CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE  
19 ANNUAL RETURN OF THE SYSTEM AND NINE PER CENT.

20 3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
21 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE  
22 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE SYSTEM AND NINE  
23 PER CENT.

24 Sec. 22. Section 38-881, Arizona Revised Statutes, as amended by Laws  
25 2010, chapter 200, section 53, is amended to read:

26 38-881. Definitions

27 In this article, unless the context otherwise requires:

28 1. "Accidental disability" means a physical or mental condition that  
29 the local board finds totally and permanently prevents an employee from  
30 performing a reasonable range of duties within the employee's department, was  
31 incurred in the performance of the employee's duties and was the result of  
32 any of the following:

33 (a) Physical contact with inmates, prisoners, parolees or persons on  
34 probation.

35 (b) Responding to a confrontational situation with inmates, prisoners,  
36 parolees or persons on probation.

37 (c) A job related motor vehicle accident while on official business  
38 for the employee's employer. A job related motor vehicle accident does not  
39 include an accident that occurs on the way to or from work. Persons found  
40 guilty of violating a personnel rule, a rule established by the employee's  
41 employer or a state or federal law in connection with a job related motor  
42 vehicle accident do not meet the conditions for accidental disability.

43 2. "Accumulated member contributions" means for each member the sum of  
44 the amount of all the member's contributions deducted from the member's  
45 salary and paid to the fund, plus member contributions transferred to the

1 fund by another retirement plan covering public employees of this state, plus  
2 previously withdrawn accumulated member contributions that are repaid to the  
3 fund in accordance with this article, minus any benefits paid to or on behalf  
4 of a member.

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

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

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

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

14 7. "Average monthly salary" means, **FOR AN EMPLOYEE WHO BECOMES A**  
15 **MEMBER OF THE PLAN BEFORE JANUARY 1, 2012**, one-thirty-sixth of the aggregate  
16 amount of salary that is paid a member by a participating employer during a  
17 period of thirty-six consecutive months of service in which the member  
18 received the highest salary within the last one hundred twenty months of  
19 service **AND, FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER**  
20 **JANUARY 1, 2012, ONE-SIXTIETH OF THE AGGREGATE AMOUNT OF SALARY THAT IS PAID**  
21 **A MEMBER BY A PARTICIPATING EMPLOYER DURING A PERIOD OF SIXTY CONSECUTIVE**  
22 **MONTHS OF SERVICE IN WHICH THE MEMBER RECEIVED THE HIGHEST SALARY WITHIN THE**  
23 **LAST ONE HUNDRED TWENTY MONTHS OF SERVICE.** Average monthly salary means the  
24 aggregate amount of salary that is paid a member divided by the member's  
25 months of service if the member has less than thirty-six **OR SIXTY** months of  
26 service. In the computation under this paragraph, a period of nonpaid or  
27 partially paid industrial leave shall be considered based on the salary the  
28 employee would have received in the employee's job classification if the  
29 employee was not on industrial leave.

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

33 9. "Board" means the board of trustees of the public safety personnel  
34 retirement system.

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

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

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

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



1 order qualifies as a plan approved domestic relations order, calculated from  
2 the time the plan mails a notice of receipt to the participant and alternate  
3 payee.

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

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

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

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

16 (a) Is under eighteen years of age.

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

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

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

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

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

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

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

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

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

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

42 (a) Any distribution that is one of a series of substantially equal  
43 periodic payments made not less frequently than annually for the life or life  
44 expectancy of the member or the joint lives or joint life expectancies of the

1 member and the member's beneficiary or for a specified period of ten years or  
2 more.

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

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

7 22. "Employee" means a person employed by a participating employer in a  
8 designated position.

9 23. "Employer" means an agency or department of this state or a  
10 political subdivision of this state that has one or more employees in a  
11 designated position.

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

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

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

19 27. "Member" means any employee who meets all of the following  
20 qualifications:

21 (a) Who is a full-time paid person employed by a participating  
22 employer in a designated position.

23 (b) Who is receiving salary for personal services rendered to a  
24 participating employer or would be receiving salary except for an authorized  
25 leave of absence.

26 (c) Whose customary employment is at least forty hours each week.

27 28. "Normal retirement date" means:

28 (a) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1,  
29 2012, the first day of the calendar month immediately following ~~an~~ THE  
30 employee's completion of twenty years of service or, in the case of a  
31 dispatcher, twenty-five years of service, the employee's sixty-second  
32 birthday and completion of ten years of service or the month in which the sum  
33 of the employee's age and years of credited service equals eighty.

34 (b) FOR AN EMPLOYEE WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER  
35 JANUARY 1, 2012, THE FIRST DAY OF THE CALENDAR MONTH IMMEDIATELY FOLLOWING  
36 THE EMPLOYEE'S COMPLETION OF TWENTY-FIVE YEARS OF SERVICE IF THE EMPLOYEE IS  
37 AT LEAST FIFTY-TWO AND ONE-HALF YEARS OF AGE OR THE EMPLOYEE'S SIXTY-SECOND  
38 BIRTHDAY AND COMPLETION OF TEN YEARS OF SERVICE.

39 29. "Notice of receipt" means a written document that is issued by the  
40 plan to a participant and alternate payee and that states that the plan has  
41 received a domestic relations order and a request for a determination that  
42 the domestic relations order is a plan approved domestic relations order.

43 30. "Ordinary disability" means a physical condition that the local  
44 board determines will totally and permanently prevent an employee from  
45 performing a reasonable range of duties within the employee's department or a

1 mental condition that the local board determines will totally and permanently  
2 prevent an employee from engaging in any substantial gainful activity.

3 31. "Participant" means a member who is subject to a domestic relations  
4 order.

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

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

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

13 35. "Personal representative" means the personal representative of a  
14 deceased alternate payee.

15 36. "Plan approved domestic relations order" means a domestic relations  
16 order that the plan approves as meeting all the requirements for a plan  
17 approved domestic relations order as otherwise prescribed in this article.

18 37. "Probation or surveillance officer" means an officer appointed  
19 pursuant to section 8-203, 12-251 or 12-259 but does not include other  
20 personnel, office assistants or support staff.

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

23 39. "Retirement" or "retired" means termination of employment after a  
24 member has fulfilled all requirements for a pension **OR, FOR AN EMPLOYEE WHO**  
25 **BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012, ATTAINS THE AGE AND**  
26 **SERVICE REQUIREMENTS FOR A NORMAL RETIREMENT DATE.**

27 40. "Retirement plan" or "plan" means the corrections officer  
28 retirement plan established by this article.

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

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

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

7           44. "Total and permanent disability" means a physical or mental  
8 condition that is not an accidental disability, that the local board finds  
9 totally and permanently prevents a member from engaging in any gainful  
10 employment and that is the direct and proximate result of the member's  
11 performance of the member's duty as an employee of a participating employer.

12           Sec. 23. Repeal

13           Section 38-881, Arizona Revised Statutes, as amended by Laws 2010,  
14 chapter 200, section 54, is repealed.

15           Sec. 24. Section 38-884, Arizona Revised Statutes, is amended to read:

16           38-884. Membership of retirement plan; termination; credited  
17 service; redemption

18           A. Each employee of a participating employer is a member of the plan  
19 unless the employee is receiving a pension from the plan. A person employed  
20 shall undergo a medical examination performed by a doctor or clinic appointed  
21 by the local board or, in the case of a state correctional officer who is  
22 employed by the state department of corrections, complete a physical  
23 examination pursuant to section 41-1822, subsection B. For the purposes of  
24 subsection B of this section, the doctor or clinic appointed by the local  
25 board may be the employer's regular employee or contractor.

26           B. The purpose of the medical examination authorized by this section  
27 is to identify a member's physical or mental condition or injury that existed  
28 or occurred before the member's date of membership in the plan. Any employee  
29 who fails or refuses to submit to the medical examination prescribed in this  
30 section is deemed to waive all rights to disability benefits under this  
31 article. Medical examinations conducted under this article shall not be  
32 conducted or used for purposes of hiring, advancement, discharge, job  
33 training or other terms, conditions and privileges of employment unrelated to  
34 receipt or qualification for pension benefits or service credits from the  
35 fund. This subsection does not affect or impair the right of an employer to  
36 prescribe medical or physical standards for employees or prospective  
37 employees.

38           C. If a member **WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012**  
39 ceases to be an employee for any reason other than death or retirement,  
40 within twenty days after filing a completed application with the board, the  
41 member is entitled to receive the following amounts, less any benefit  
42 payments the member has received and any amount the member may owe to the  
43 plan:

1           1. If the member has less than five years of credited service with the  
2 plan, the member may withdraw the member's accumulated contributions from the  
3 plan.

4           2. If the member has five or more years of credited service with the  
5 plan, the member may withdraw the member's accumulated contributions plus an  
6 amount equal to the amount determined as follows:

7           (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
8 member contributions deducted from the member's salary pursuant to section  
9 38-891, subsection B.

10           (b) 6.0 to 6.9 years of credited service, forty per cent of all member  
11 contributions deducted from the member's salary pursuant to section 38-891,  
12 subsection B.

13           (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
14 member contributions deducted from the member's salary pursuant to section  
15 38-891, subsection B.

16           (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
17 member contributions deducted from the member's salary pursuant to section  
18 38-891, subsection B.

19           (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
20 member contributions deducted from the member's salary pursuant to section  
21 38-891, subsection B.

22           (f) 10.0 or more years of credited service, one hundred per cent of  
23 all member contributions deducted from the member's salary pursuant to  
24 section 38-891, subsection B.

25           D. If a member WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012  
26 has more than ten years of credited service with the plan, leaves the monies  
27 prescribed in subsection C of this section on account with the plan for more  
28 than thirty days after termination of employment and after that time period  
29 requests a refund of those monies, the member is entitled to receive the  
30 amount prescribed in subsection C of this section plus interest at a rate  
31 determined by the board for each year computed from and after the member's  
32 termination of employment.

33           E. THE ACCUMULATED MEMBER CONTRIBUTIONS OF A MEMBER WHO CEASES TO BE  
34 AN EMPLOYEE FOR A REASON OTHER THAN DEATH OR RETIREMENT AND WHO BECOMES A  
35 MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012 SHALL BE PAID TO THE MEMBER  
36 PLUS INTEREST AT A RATE DETERMINED BY THE BOARD AS OF THE DATE OF TERMINATION  
37 WITHIN TWENTY DAYS AFTER FILING WITH THE PLAN A WRITTEN APPLICATION FOR  
38 PAYMENT.

39           ~~E.~~ F. If the refund includes monies that are an eligible rollover  
40 distribution and the member elects to have the distribution paid directly to  
41 an eligible retirement plan or individual retirement account or annuity and  
42 specifies the eligible retirement plan or individual retirement account or  
43 annuity to which the distribution is to be paid, the distribution shall be  
44 made in the form of a direct trustee-to-trustee transfer to the specified

1 eligible retirement plan. The distribution shall be made in the form and at  
2 the time prescribed by the board.

3 ~~F.~~ G. Service shall be credited to a member's individual credited  
4 service account in accordance with rules the local board prescribes. In no  
5 case shall more than twelve months of credited service be credited on account  
6 of all service rendered by a member in any one year. In no case shall  
7 service be credited for any period during which the member is not employed in  
8 a designated position, except as provided by sections 38-921 and 38-922.

9 ~~G.~~ H. Credited service is forfeited if the amounts prescribed in  
10 subsection C, ~~or~~ D OR E of this section are paid or are transferred in  
11 accordance with this section.

12 ~~H.~~ I. If a former member becomes reemployed with the same employer  
13 within two years after the former member's termination date, a member may  
14 have forfeited credited service attributable to service rendered during a  
15 prior period of service as an employee restored on satisfaction of each of  
16 the following conditions:

17 1. The member files with the plan a written application for  
18 reinstatement of forfeited credited service within ninety days after again  
19 becoming an employee.

20 2. The retirement fund is paid the total amount previously withdrawn  
21 pursuant to subsection C, ~~or~~ D OR E of this section plus compound interest  
22 from the date of withdrawal to the dates of repayment. Interest shall be  
23 computed at the rate of nine per cent for each year compounded each year from  
24 the date of withdrawal to the date of repayment. Forfeited credited service  
25 shall not be restored until complete payment is received by the fund.

26 3. The required payment is completed within one year after returning  
27 to employee status.

28 ~~I.~~ J. A present active member of the plan who received a refund of  
29 accumulated contributions from the plan pursuant to subsection C, ~~or~~ D OR E  
30 of this section and forfeited credited service pursuant to subsection ~~G.~~ H of  
31 this section may elect to redeem any part of that forfeited credited service  
32 by paying into the plan any amounts required pursuant to this subsection. A  
33 present active member who elects to redeem any part of forfeited credited  
34 service for which the member is deemed eligible by the board shall pay into  
35 the plan the amounts previously paid or transferred as a refund of the  
36 member's accumulated contributions plus an amount, computed by the plan's  
37 actuary that is necessary to equal the increase in the actuarial present  
38 value of projected benefits resulting from the redemption calculated using  
39 the actuarial methods and assumptions prescribed by the plan's actuary.

40 ~~J.~~ K. A retired member may become employed by an employer in a  
41 designated position and continue to receive a pension if the employment  
42 occurs at least twelve months after retirement. The retired member shall not  
43 contribute to the fund and shall not accrue credited service. If a retired  
44 member becomes employed by an employer in a designated position before twelve  
45 months after retirement:

1           1. Payment of the retired member's pension shall be suspended until  
2 the retired member again ceases to be an employee. The amount of pension  
3 shall not be changed on account of service as an employee subsequent to  
4 retirement.

5           2. The retired member shall not contribute to the fund and shall not  
6 accrue credited service.

7           Sec. 25. Section 38-885, Arizona Revised Statutes, is amended to read:  
8 38-885. Normal retirement; conditions and pension

9           A. A member may retire if the member:

10           1. Files a written application for normal retirement with the plan in  
11 the form prescribed by the plan.

12           2. Ceases to be an employee before the date of retirement.

13           3. Meets one of the age and service requirements for normal retirement  
14 prescribed in subsection B **OR D**.

15           B. A member **WHO BECOMES A MEMBER OF THE PLAN BEFORE JANUARY 1, 2012** is  
16 eligible for a normal retirement pension if the member satisfies one of the  
17 following requirements:

18           1. Is **AT LEAST** sixty-two years ~~or older~~ **OF AGE** and has ten or more  
19 years of service.

20           2. Has twenty or more years of service or, in the case of a  
21 dispatcher, twenty-five **OR MORE** years **OF SERVICE**.

22           3. The sum of the member's age and years of credited service equals at  
23 least eighty.

24           C. A member who meets the requirements for a normal retirement pension  
25 **PURSUANT TO SUBSECTION B** and who has twenty years or twenty-five years, as  
26 applicable, of credited service is entitled to receive a pension that equals  
27 fifty per cent of the member's average monthly salary, except that:

28           1. If the member retires with more than twenty years of credited  
29 service the foregoing amount shall be increased by a monthly amount equal to  
30 two per cent of the member's average monthly salary multiplied by the number  
31 of the member's years of credited service in excess of twenty years, with pro  
32 rata increase for any fractional years, except that if a member retires with  
33 twenty-five or more years of credited service the foregoing amount shall be  
34 increased by a monthly amount equal to two and one-half per cent of the  
35 member's average monthly salary multiplied by the number of the member's  
36 years of credited service in excess of twenty years, with pro rata increase  
37 for any fractional year.

38           2. If the member retires pursuant to subsection B but has less than  
39 twenty years of credited service, the member is entitled to receive a pension  
40 equal to the product of:

41           (a) Two and one-half per cent of the member's average monthly salary.

42           (b) The member's credited service.

43           **D. A PERSON WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1,**  
44 **2012 IS ELIGIBLE FOR A NORMAL RETIREMENT PENSION IF THE PERSON SATISFIES ONE**  
45 **OF THE FOLLOWING REQUIREMENTS:**





1 pension is equal to a fraction times the member's normal retirement pension  
2 that is computed pursuant to section 38-885, subsection C as if the member  
3 had twenty years of credited service. The fraction is the result obtained by  
4 dividing the member's actual years of credited service, not to exceed twenty  
5 years of credited service, by twenty. For a full-time dispatcher OR A PERSON  
6 WHO BECOMES A MEMBER OF THE PLAN ON OR AFTER JANUARY 1, 2012, the amount of  
7 an ordinary disability pension is equal to a fraction times the member's  
8 normal retirement pension that is computed pursuant to section 38-885,  
9 subsection C OR E as if the member had twenty-five years of credited service.  
10 The fraction is the result obtained by dividing the member's actual years of  
11 credited service, not to exceed twenty-five years of credited service, by  
12 twenty-five.

13 D. During the period, if any, between the effective date of ordinary  
14 disability retirement and the date the disabled retired member attains  
15 sixty-two years of age the local board may require a disabled retired member  
16 to undergo periodic reevaluation of the continuation of ordinary disability.  
17 If the disabled retired member refuses to submit to reevaluation, the local  
18 board may suspend payment of the pension. If the refusal continues for one  
19 year, the local board may revoke the disabled retired member's rights to the  
20 pension. An ordinary disability pension is terminated if the local board  
21 finds the retired member no longer meets the requirements for ordinary  
22 disability retirement.

23 E. A member does not qualify for an ordinary disability pension if the  
24 local board determines that the member's disability results from any of the  
25 following:

26 1. An injury suffered while engaged in a felonious criminal act or  
27 enterprise.

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

30 3. A physical or mental condition or injury that existed or occurred  
31 before the member's date of membership in the plan.

32 F. Local boards shall base a finding of ordinary disability on medical  
33 evidence that is obtained by a medical doctor or clinic selected by the local  
34 board and shall disregard any other medical evidence or opinions. If the  
35 local board retains more than one medical doctor or clinic in connection with  
36 the application, the local board shall resolve any material conflicts  
37 presented in the medical evidence that is presented by the medical doctors or  
38 clinics.

39 G. For the purposes of this section, "ordinary disability" means a  
40 physical condition that the local board determines will prevent an employee  
41 from totally and permanently performing a reasonable range of duties within  
42 the employee's department or a mental condition that the local board  
43 determines will prevent an employee from totally and permanently engaging in  
44 any substantial gainful activity.

1           Sec. 27. Section 38-891, Arizona Revised Statutes, is amended to read:

2           38-891. Employer and member contributions

3           A. As determined by actuarial valuations reported to the employers and  
4 the local boards by the board, each employer shall make level per cent of  
5 salary contributions sufficient under the actuarial valuations to meet both  
6 the normal cost plus the actuarially determined amount required to amortize  
7 the unfunded accrued liability over, beginning July 1, 2005, a rolling period  
8 of at least twenty and not more than thirty years that is established by the  
9 board taking into account the recommendation of the plan's actuary, except  
10 that, beginning with fiscal year 2006-2007, except as otherwise provided, the  
11 employer contribution rate shall not be less than six per cent of salary.  
12 For any employer whose actual contribution rate is less than six per cent of  
13 salary for fiscal year 2006-2007 and each year thereafter, that employer's  
14 contribution rate shall be at least five per cent and not more than the  
15 employer's actual contribution rate. An employer may pay a higher level per  
16 cent of salary thereby reducing its unfunded past service liability. All  
17 contributions made by the employers and all state taxes allocated to the fund  
18 shall be irrevocable and shall be used to pay benefits under the plan or to  
19 pay expenses of the plan and fund. The minimum employer contribution that is  
20 paid and that is in excess of the normal cost plus the actuarially determined  
21 amount required to amortize the unfunded accrued liability as calculated  
22 pursuant to this subsection shall be used to reduce future employer  
23 contribution increases and shall not be used to pay for an increase in  
24 benefits that are otherwise payable to members. The board shall separately  
25 account for these monies in the fund. Forfeitures arising because of  
26 severance of employment before a member becomes eligible for a pension or for  
27 any other reason shall be applied to reduce the cost to the employer, not to  
28 increase the benefits otherwise payable to members. After the close of any  
29 fiscal year, if the plan's actuary determines that the actuarial valuation of  
30 an employer's account contains excess valuation assets other than excess  
31 valuation assets that were in the employer's account as of fiscal year  
32 2004-2005 and is more than one hundred per cent funded, the board shall  
33 account for fifty per cent of the excess valuation assets in a stabilization  
34 reserve account. After the close of any fiscal year, if the plan's actuary  
35 determines that the actuarial valuation of an employer's account has a  
36 valuation asset deficiency and an unfunded actuarial accrued liability, the  
37 board shall use any valuation assets in the stabilization reserve account for  
38 that employer, to the extent available, to limit the decline in that  
39 employer's funding ratio to not more than two per cent.

40           B. ~~Except as provided by subsection I,~~ Each member shall contribute  
41 ~~7.96 per cent of the member's salary~~ THE AMOUNT PRESCRIBED IN SUBSECTION H to  
42 the retirement plan. Member contributions shall be made by payroll  
43 deduction. Continuation of employment by the member constitutes consent and  
44 agreement to the deduction of the applicable member contribution. Payment of  
45 the member's salary less the deducted contributions constitutes full and

1 complete discharge and satisfaction of all claims and demands of the member  
2 relating to salary for services rendered during the period covered by the  
3 payment.

4 C. Each participating employer shall cause the member contributions to  
5 be deducted from the salary of each member. The deducted member  
6 contributions shall be paid to the retirement plan within five working days  
7 and shall be credited to the member's individual account.

8 D. During a period when an employee is on industrial leave and the  
9 employee elects to continue contributions during the period of industrial  
10 leave, the employer and employee shall make contributions based on the salary  
11 the employee would have received in the employee's job classification if the  
12 employee was in normal employment status.

13 E. The local board of the state department of corrections or the local  
14 board of the department of juvenile corrections may specify a position within  
15 that department as a designated position if the position is filled by an  
16 employee who has at least five years of credited service under the plan, who  
17 is transferred to temporarily fill the position and who makes a written  
18 request to the local board to specify the position as a designated position  
19 within ninety days of being transferred. On the employee leaving the  
20 position, the position is no longer a designated position. For the purposes  
21 of this subsection, "temporarily filled" means an employee is transferred to  
22 fill the position for a period of not more than one year.

23 F. The local board of the state department of corrections or the local  
24 board of the department of juvenile corrections may specify a designated  
25 position within the department as a nondesignated position if the position is  
26 filled by an employee who has at least five years of credited service under  
27 the Arizona state retirement system and who makes a written request to the  
28 local board to specify the position as a nondesignated position within ninety  
29 days of accepting the position. On the employee leaving the position, the  
30 position reverts to a designated position.

31 G. The local board of the judiciary may specify positions within the  
32 administrative office of the courts that require direct contact with and  
33 primarily provide training or technical expertise to county probation,  
34 surveillance or juvenile detention officers as a designated position if the  
35 position is filled by an employee who is a member of the plan currently  
36 employed in a designated position as a probation, surveillance or juvenile  
37 detention officer and who has at least five years of credited service under  
38 the plan. An employee who fills such a position shall make a written request  
39 to the local board to specify the position as a designated position within  
40 ninety days of accepting the position. On the employee leaving the position,  
41 the position reverts to a nondesignated position.

42 ~~H. Beginning with fiscal year 2008-2009, if the aggregate computed~~  
43 ~~employer contribution rate that is calculated pursuant to subsection A is~~  
44 ~~less than six per cent of salary, beginning on July 1 of the following fiscal~~  
45 ~~year the member contribution rate prescribed in subsection B or I is~~

1 ~~permanently reduced by an amount that is equal to the difference between six~~  
2 ~~per cent and the aggregate computed employer contribution rate.~~  
3 ~~Notwithstanding this subsection, the member contribution rate shall not be~~  
4 ~~less than 7.65 per cent of the member's salary.~~

5 ~~I. Notwithstanding subsection B, except for a full time dispatcher, a~~  
6 ~~member shall contribute 8.41 per cent of the member's salary to the~~  
7 ~~retirement plan. After the close of any fiscal year, if the plan's actuary~~  
8 ~~determines that the aggregate ratio of the funding value of accrued assets to~~  
9 ~~the accrued liabilities of the fund is at least one hundred per cent, from~~  
10 ~~and after June 30 of the following year, except for a full-time dispatcher, a~~  
11 ~~member shall contribute 7.96 per cent of the member's salary to the~~  
12 ~~retirement plan. Additionally, the member's contribution to the retirement~~  
13 ~~plan may also be permanently reduced pursuant to subsection H.~~

14 H. THE AMOUNT CONTRIBUTED BY A MEMBER PURSUANT TO SUBSECTION B IS:

15 1. THROUGH JUNE 30, 2011, 8.41 PER CENT OF THE MEMBER'S SALARY, EXCEPT  
16 FOR A FULL-TIME DISPATCHER. THE AMOUNT CONTRIBUTED BY A FULL-TIME DISPATCHER  
17 THROUGH JUNE 30, 2011 IS 7.96 PER CENT OF THE MEMBER'S SALARY.

18 2. FOR FISCAL YEAR 2011-2012, 8.91 PER CENT OF THE MEMBER'S SALARY,  
19 EXCEPT FOR A FULL-TIME DISPATCHER. THE AMOUNT CONTRIBUTED BY A FULL-TIME  
20 DISPATCHER FOR FISCAL YEAR 2011-2012 IS 8.46 PER CENT OF THE MEMBER'S SALARY.

21 3. FOR FISCAL YEAR 2012-2013 AND EACH FISCAL YEAR THEREAFTER, 8.91 PER  
22 CENT OF THE MEMBER'S SALARY OR FIFTY PER CENT OF THE SUM OF THE MEMBER'S  
23 CONTRIBUTION RATE FROM THE PRECEDING FISCAL YEAR AND THE AGGREGATE COMPUTED  
24 EMPLOYER CONTRIBUTION RATE THAT IS CALCULATED PURSUANT TO SUBSECTION A,  
25 WHICHEVER IS LOWER, EXCEPT THAT THE MEMBER CONTRIBUTION RATE SHALL NOT BE  
26 LESS THAN 7.65 PER CENT OF THE MEMBER'S SALARY AND THE EMPLOYER CONTRIBUTION  
27 RATE SHALL NOT BE LESS THAN THE RATE PRESCRIBED IN SUBSECTION A.

28 I. NOTWITHSTANDING SUBSECTION H, PARAGRAPH 3, THE CONTRIBUTION RATE  
29 FOR A FULL-TIME DISPATCHER IS FORTY-FIVE BASIS POINTS LESS THAN THE MEMBER  
30 CONTRIBUTION AMOUNT CALCULATED PURSUANT TO SUBSECTION H, PARAGRAPH 3, EXCEPT  
31 THAT AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES  
32 THAT THE AGGREGATE RATIO OF THE FUNDING VALUE OF THE ACCRUED ASSETS TO THE  
33 ACCRUED LIABILITIES OF THE FUND IS AT LEAST ONE HUNDRED PER CENT, FROM AND  
34 AFTER JUNE 30 OF THE FOLLOWING YEAR THE MEMBER CONTRIBUTION RATE FOR A  
35 FULL-TIME DISPATCHER IS EQUAL TO THE MEMBER CONTRIBUTION RATE FOR A MEMBER  
36 WHO IS NOT A FULL-TIME DISPATCHER.

37 J. FOR FISCAL YEAR 2011-2012 AND EACH FISCAL YEAR THEREAFTER, THE  
38 AMOUNT OF THE MEMBER'S CONTRIBUTION THAT EXCEEDS 8.41 PER CENT OF THE  
39 MEMBER'S SALARY FOR A MEMBER OTHER THAN A FULL-TIME DISPATCHER OR 7.96 PER  
40 CENT OF THE MEMBER'S SALARY FOR A FULL-TIME DISPATCHER SHALL NOT BE USED TO  
41 REDUCE THE EMPLOYER'S CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO  
42 SUBSECTION A.



1           3. Determine the actuarial present value, as of June 30 of the  
2 preceding calendar year, of a five dollar per month increase in the amount of  
3 each pension eligible for an increase.

4           4. Add the amounts determined in paragraphs 1 and 2 of this subsection  
5 and divide that sum by the amount determined in paragraph 3 of this  
6 subsection.

7           5. From the quotient obtained in paragraph 4 of this subsection, drop  
8 any fraction.

9           6. Multiply the number obtained in paragraph 5 of this subsection by  
10 five dollars.

11           C. The excess investment earnings on the net assets of the fund are  
12 equal to the total assets of the fund less any amount allocated to the excess  
13 investment earnings account multiplied by ~~one-half of the positive~~  
14 ~~difference, if any, between the total return of the plan and nine per cent~~  
15 **THE EXCESS INVESTMENT EARNINGS AMOUNT**. The excess investment earnings on the  
16 net assets of the fund are zero if the ~~total~~ **AVERAGE ANNUAL** return of the  
17 plan **OVER THE PERIOD OF YEARS ESTABLISHED BY THE BOARD FOR USE IN THE**  
18 **CALCULATION OF THE ACTUARIAL VALUE OF ASSETS** is less than or equal to nine  
19 per cent.

20           D. As used in this section: ~~, total~~

21           1. **AVERAGE ANNUAL** return and net assets of the fund are the amounts  
22 published in the annual report of the plan for the fiscal year ending June 30  
23 of the calendar year preceding the July 1 of the increase.

24           2. **THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED**  
25 **LIABILITY OF THE FUND IS THE NUMBER DETERMINED BY THE ADMINISTRATOR FOR THE**  
26 **FISCAL YEAR ENDING JUNE 30 OF THE CALENDAR YEAR PRECEDING THE JULY 1 OF THE**  
27 **INCREASE.**

28           E. All excess investment earnings on the net assets of the fund are  
29 available for benefit increases as provided in this section. Any excess  
30 investment earnings on the net assets of the fund from any year ~~which~~ **THAT**  
31 are not used for benefit adjustments for that year are available for future  
32 benefit increases in the following years. Earnings on the excess investment  
33 earnings account balance at the rate of the total return as published in the  
34 annual report of the plan shall be added each year to the excess investment  
35 earnings account and shall be available for future benefit increases.

36           F. The maximum benefit increase under this section is limited to four  
37 per cent of the benefit being received on the preceding June 30.

38           G. **FOR THE PURPOSES OF THIS SECTION, "EXCESS INVESTMENT EARNINGS**  
39 **AMOUNT" MEANS:**

40           1. **IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED**  
41 **LIABILITY OF THE FUND IS SEVENTY PER CENT OR LESS, ZERO.**

42           2. **IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED**  
43 **LIABILITY OF THE FUND IS MORE THAN SEVENTY PER CENT BUT LESS THAN EIGHTY PER**  
44 **CENT, ONE-QUARTER OF THE POSITIVE DIFFERENCE, IF ANY, BETWEEN THE AVERAGE**  
45 **ANNUAL RETURN OF THE PLAN AND NINE PER CENT.**

1           3. IF THE RATIO OF THE MARKET VALUE OF ASSETS TO THE ACTUARIAL ACCRUED  
2 LIABILITY OF THE FUND IS EIGHTY PER CENT OR MORE, ONE-HALF OF THE POSITIVE  
3 DIFFERENCE, IF ANY, BETWEEN THE AVERAGE ANNUAL RETURN OF THE PLAN AND NINE  
4 PER CENT.

5           Sec. 30. Section 38-911, Arizona Revised Statutes, is amended to read:  
6           38-911. Deferred annuity; eligibility; amount; exception

7           A. If any member who has at least ten years of credited service  
8 terminates employment for reasons other than retirement or disability, the  
9 person may elect to receive a deferred annuity, except that if the person  
10 withdraws the person's accumulated contributions from the plan, all rights to  
11 a deferred annuity are forfeited. A deferred annuity is a lifetime monthly  
12 payment that is actuarially equivalent to the annuitant's accumulated  
13 contributions in the plan plus an equal amount paid by the employer and  
14 commences on application on or after the sixty-second birthday of the  
15 annuitant. The deferred annuity is not a retirement benefit and annuitants  
16 are not entitled to receive any amount prescribed by section 38-887, 38-888,  
17 38-904, 38-905 or 38-906.

18           B. THIS SECTION DOES NOT APPLY TO A MEMBER WHO BECOMES A MEMBER OF THE  
19 PLAN ON OR AFTER JANUARY 1, 2012. SUCH A PERSON WHO ATTAINS A NORMAL  
20 RETIREMENT DATE IS ELIGIBLE FOR RETIREMENT AND A RETIREMENT BENEFIT EVEN IF  
21 THE MEMBER TERMINATES EMPLOYMENT WITH AN EMPLOYER BEFORE THE AGE REQUIREMENT  
22 FOR NORMAL RETIREMENT IF THE MEMBER ATTAINS THE SERVICE REQUIREMENT FOR  
23 NORMAL RETIREMENT.

24           Sec. 31. Section 38-912, Arizona Revised Statutes, is amended to read:  
25           38-912. Civil liability; restitution or payment of fine;

26                           forfeiture of benefits; violation; classification;  
27                           offset of benefits

28           A. A person who defrauds the plan or who takes, converts, steals or  
29 embezzles monies owned by or from the plan and who fails or refuses to return  
30 the monies to the plan on the board's written request is subject to civil  
31 suit by the plan in the superior court in Maricopa county. On entry of an  
32 order finding the person has defrauded the plan or taken, converted, stolen  
33 or embezzled monies owned by or from the plan, the court shall enter an order  
34 against that person and for the plan awarding the plan all of its costs and  
35 expenses of any kind, including attorney fees, that were necessary to  
36 successfully prosecute the action. The court shall also grant the plan a  
37 judicial lien on all of the nonexempt property of the person against whom  
38 judgment is entered pursuant to this subsection in an amount equal to all  
39 amounts awarded to the plan, plus interest at the rate prescribed by section  
40 44-1201, subsection A, until all amounts owed are paid to the plan.

41           B. If a member is convicted of, or discharged because of, theft,  
42 embezzlement, fraud or misappropriation of an employer's property or property  
43 under the control of the employer, the member is subject to restitution and  
44 fines imposed by a court of competent jurisdiction. The court may order the  
45 restitution or fines to be paid from any payments otherwise payable to the



1 member from the plan. IF A MEMBER IS CONVICTED OF A FELONY PURSUANT TO THIS  
2 SUBSECTION, THE MEMBER IS ENTITLED TO RECEIVE A LUMP SUM PAYMENT OF THE  
3 MEMBER'S ACCUMULATED CONTRIBUTIONS BUT FORFEITS ANY FUTURE COMPENSATION AND  
4 BENEFITS THAT WOULD OTHERWISE ACCRUE TO THE MEMBER OR THE MEMBER'S ESTATE  
5 UNDER THIS ARTICLE.

6 C. A person who knowingly makes any false statement or who falsifies  
7 or permits to be falsified any record of the plan with an intent to defraud  
8 the plan is guilty of a class 6 felony. If any change or error in the  
9 records results in any member or beneficiary receiving from the plan more or  
10 less than the member or beneficiary would have been entitled to receive had  
11 the records been correct, the local board shall correct the error, and as far  
12 as practicable shall adjust the payments in a manner that the actuarial  
13 equivalent of the benefit to which the member or beneficiary was correctly  
14 entitled shall be paid. If a member is convicted of a crime pursuant to this  
15 subsection the member is entitled to receive a lump sum payment of the  
16 member's accumulated contributions but forfeits any future compensation and  
17 benefits that would otherwise accrue to the member or the member's estate  
18 under this article.

19 D. Notwithstanding any other provision of this article, the board may  
20 offset against any benefits otherwise payable by the plan to a member or  
21 survivor any court ordered amounts awarded to the board and plan and assessed  
22 against the member or survivor.

23 Sec. 32. Repeal

24 Laws 2005, chapter 324, section 2 is repealed.

25 Sec. 33. Severability

26 If a provision of this act or its application to any person or  
27 circumstance is held invalid, the invalidity does not affect other provisions  
28 or applications of the act that can be given effect without the invalid  
29 provision or application, and to this end the provisions of this act are  
30 severable.

31 Sec. 34. Legislative findings

32 The Legislature finds:

33 1. That the current structure of the public safety personnel  
34 retirement system, the corrections officer retirement plan and the elected  
35 officials' retirement plan does not lead to the goal of attaining one hundred  
36 per cent funded status and jeopardizes the future payment of benefits to  
37 current and future retirees of these three retirement programs.

38 2. That the current structure of the public safety personnel  
39 retirement system, the corrections officer retirement plan and the elected  
40 officials' retirement plan requires a contribution rate from employees that  
41 is too low in relation to the cost associated with the benefits required by  
42 the plan design and therefore places a greater financial burden on employers.

43 3. That the current method of funding benefit increases to retirees  
44 decreases the probability of the funds achieving their actuarially assumed  
45 earning rate in positive and negative investment environments and invariably



1 leads to greater investment risk on the part of the fund's trustees. It is  
2 fundamentally unsound to provide a benefit increase during times when the  
3 funded status of the retirement programs is less than seventy per cent. The  
4 suspension of benefit increases is intended to improve the funded status of  
5 the retirement programs to preserve future benefits for plan participants.

6 4. It is necessary to change the current benefit structure to take  
7 into consideration the increased life expectancy of members and future  
8 employees and make the reforms necessary to preserve the funded status of the  
9 retirement programs in future years.

10 5. To protect the future benefits of retired, active and future  
11 employees it is necessary to make the changes outlined in this act to  
12 preserve the funded status of these three retirement programs and return the  
13 programs to fiscal solvency.

14 Sec. 35. Defined contribution study committee; delayed repeal

15 A. The defined contribution study committee is established consisting  
16 of the members of the state board of investment established by section  
17 35-311, Arizona Revised Statutes.

18 B. The committee shall study and make recommendations as to the  
19 feasibility and cost of transferring existing members of a public retirement  
20 system or plan to a new defined contribution plan as well as providing for a  
21 defined contribution plan for newly hired public employees.

22 C. On or before December 31, 2011, the committee shall submit a  
23 written report of its findings and recommendations to the speaker of the  
24 house of representatives, the president of the senate and the governor. The  
25 committee shall provide a copy of the report to the secretary of state.

26 D. This section is repealed from and after September 30, 2012.

27 Sec. 36. Retroactivity

28 A. Sections 38-818, 38-856 and 38-905, Arizona Revised Statutes, as  
29 amended by this act, apply retroactively to from and after June 29, 2011.

30 B. Sections 38-810, 38-843 and 38-891, Arizona Revised Statutes, as  
31 amended by this act, apply retroactively to from and after June 30, 2011.