

State of Arizona  
Senate  
Fifty-third Legislature  
Second Regular Session  
2018

# SENATE BILL 1251

## AN ACT

AMENDING SECTIONS 38-842.01, 38-842.02, 38-846.04, 38-848, 38-850, 38-865, 38-865.01, 38-867, 38-867.01, 38-868 AND 38-881.01, ARIZONA REVISED STATUTES; AMENDING SECTION 38-885.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2016, CHAPTER 74, SECTION 1; AMENDING SECTION 38-885.01, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2017, CHAPTER 163, SECTION 14; AMENDING SECTION 38-891, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-842.01, Arizona Revised Statutes, is amended  
3 to read:

4 38-842.01. Benefit election; eligibility; disability; death;  
5 employees hired on or after July 1, 2017

6 A. An employee who is hired on or after July 1, 2017 and who was  
7 not an active, an inactive or a retired member of the system or a member  
8 of the system with a disability on June 30, 2017 is eligible to  
9 participate in the system or the public safety personnel defined  
10 contribution retirement plan established pursuant to article 4.1 of this  
11 chapter, depending on the employee's election under this section. The  
12 employee's participation in either the system or the public safety  
13 personnel defined contribution retirement plan established pursuant to  
14 article 4.1 of this chapter begins ninety days after the date the employee  
15 is hired. Unless the elections made under this section are made before  
16 the ninetieth day after the date of employment, the employee is  
17 automatically enrolled in the system for the remainder of the employee's  
18 employment with any employer under the system. Any election made under  
19 this section is irrevocable and is the employee's election for the  
20 remainder of the employee's employment with any employer under the system,  
21 regardless of whether the employee's employment is continuous. The  
22 employee may make one of the following irrevocable elections:

23 1. To participate solely in the system.

24 2. To participate solely in the public safety personnel defined  
25 contribution retirement plan established pursuant to article 4.1 of this  
26 chapter.

27 B. An employee who makes an election to participate solely in the  
28 system or is automatically enrolled in the system pursuant to subsection A  
29 of this section and who is not covered by the federal old age and  
30 survivors insurance system is also enrolled in the public safety personnel  
31 defined contribution retirement plan established pursuant to article 4.1  
32 of this chapter during any period that the employee is not covered by the  
33 federal old age and survivors insurance system through an employer under  
34 the system. If such employee is subsequently covered by the federal old  
35 age and survivors insurance system, the employee **AND THE EMPLOYER** may not  
36 make any contributions **ON THE EMPLOYEE'S BEHALF** to the public safety  
37 personnel defined contribution retirement plan established pursuant to  
38 article 4.1 of this chapter that are described in section 38-867,  
39 subsection A, paragraph 1 or subsection B during the period the employee  
40 is covered by the federal old age and survivors insurance system. If at  
41 any later time the employee is not covered by the federal old age and  
42 survivors insurance system through an employer under the system, the  
43 employee **AND THE EMPLOYER** shall again be required to contribute **ON BEHALF**  
44 **OF THE EMPLOYEE** to the public safety personnel defined contribution  
45 retirement plan established pursuant to article 4.1 of this chapter as

1 required by section 38-867, subsection A, paragraph 1 and, if the employee  
2 made an irrevocable election to contribute more of the employee's gross  
3 pensionable compensation to the public safety personnel defined  
4 contribution retirement plan as provided in section 38-867, subsection B,  
5 such contributions shall be reestablished for the period the employee is  
6 not covered by the federal old age and survivors insurance system.

7 C. If an employee in the employee's first ninety days of employment  
8 is determined to be eligible for an accidental or catastrophic disability  
9 pension pursuant to section 38-844, the employee shall be automatically  
10 enrolled in the system for the remainder of the employee's employment with  
11 any employer under the system commencing on the employee's date of  
12 disability and shall receive an accidental or catastrophic disability  
13 pension as prescribed in this article.

14 D. If an employee in the employee's first ninety days of employment  
15 is killed in the line of duty or dies from injuries suffered in the line  
16 of duty, the employee shall be considered as having been enrolled in the  
17 system and the surviving spouse of the deceased employee is eligible for  
18 survivor benefits as prescribed in this article.

19 Sec. 2. Section 38-842.02, Arizona Revised Statutes, is amended to  
20 read:

21 38-842.02. Public safety employer risk pool

22 A. The public safety employer risk pool is established for members  
23 hired on or after July 1, 2017 and consists of, for actuarial purposes in  
24 the system and to determine contribution rates pursuant to section 38-843,  
25 any employer of an eligible group that has on May 1, 2017 two hundred  
26 fifty or fewer active members who were hired before July 1, 2017.

27 B. If an employer has more than two hundred fifty active members  
28 who were hired before July 1, 2017 in any eligible group on May 1, 2017,  
29 the employer may not participate in the risk pool for any of the  
30 employer's eligible groups, except that:

31 1. Each state agency's eligibility for the risk pool is not  
32 affected by another state agency's ineligibility for the risk pool.

33 2. For a county with multiple eligible groups in the system, the  
34 eligibility of each eligible group of a county for the risk pool is not  
35 affected by the ineligibility for the risk pool of another eligible group  
36 of that county.

37 C. Any Indian tribe that has elected to participate in the system  
38 and that qualifies for the public safety employer risk pool pursuant to  
39 subsection A of this section may elect to opt out of the risk pool before  
40 ~~January 1, 2018~~ JANUARY 1, 2019. The Indian tribe shall notify the  
41 administrator of the system in writing before ~~January 1, 2018~~ JANUARY 1,  
42 2019 of the Indian tribe's decision not to participate in the public  
43 safety employer risk pool. If an Indian tribe is a new employer in the  
44 system pursuant to subsection D of this section, the Indian tribe shall  
45 have ninety days after the date of participation to elect to opt out of

1 the risk pool and to notify the administrator of the system in writing of  
2 the Indian tribe's decision not to participate in the public safety  
3 employer risk pool.

4 D. This state or any political subdivision of this state, Indian  
5 tribe or public organization that becomes a new employer in the system and  
6 that has two hundred fifty or fewer employees, on the effective date of  
7 participation in the system pursuant to section 38-851, ~~that~~ WHO are in an  
8 eligible group shall participate in the public safety employer risk pool  
9 unless subsection B or C of this section applies.

10 E. If any individual employer in the public safety employer risk  
11 pool experiences a deviation in reported active member payroll of greater  
12 than twenty percent of the average of all participating employers in the  
13 risk pool in a twenty-four-month period, the system actuary shall prepare  
14 a financial impact report to determine whether the deviation creates an  
15 increased or decreased unfunded liability within the risk pool. If the  
16 deviation in reported active member payroll creates an increase to the  
17 unfunded liability within the risk pool, the responsible individual  
18 employer shall pay into the system, within sixty days after being notified  
19 of the amount due, one hundred percent of the cost of the increase in the  
20 unfunded liability. If the deviation in reported active member payroll  
21 creates a decrease to the unfunded liability within the risk pool, the  
22 system shall immediately credit the responsible individual employer one  
23 hundred percent of the cost of the decrease in the unfunded liability.

24 Sec. 3. Section 38-846.04, Arizona Revised Statutes, is amended to  
25 read:

26 38-846.04. Reinstatement of credited service; effect of prior  
27 law

28 A. A member who received a severance refund on termination of  
29 employment as provided in section 38-846.02, who is subsequently  
30 reemployed by an employer and who ~~redeposits~~ MAY HAVE REDEPOSITED the  
31 amount withdrawn with interest as provided in section 38-849 or a member  
32 who redeems prior service pursuant to statute is subject to the benefits  
33 and duties in effect at the following times for the specified situations:

34 1. At the time of the member's reemployment if the member is  
35 reemployed by an employer other than the same employer.

36 2. At the time of the member's reemployment if the member is  
37 reemployed by the same employer at least ninety days after the date of  
38 termination.

39 3. At the time of the member's most recent termination if the  
40 member is reemployed by the same employer in any capacity within ninety  
41 days after the date of termination.

42 B. Subsection A of this section does not apply if a court of  
43 competent jurisdiction orders reinstatement of benefits and duties under a  
44 prior law.

1 C. If a member was initially employed on or after July 1, 2017,  
2 regardless of whether the member received a severance refund or redeposits  
3 the amount withdrawn with interest, the member shall return to the system  
4 as irrevocably elected pursuant to section 38-842.01.

5 D. A member who transfers credited service from one employer to  
6 another employer pursuant to section 38-853 retains the benefits and  
7 duties in effect at the time of the member's transfer.

8 Sec. 4. Section 38-848, Arizona Revised Statutes, is amended to  
9 read:

10 38-848. Board of trustees; powers and duties; independent  
11 trust fund; administrator; agents and employees;  
12 advisory committee

13 A. Beginning January 1, 2017, the board of trustees shall consist  
14 of nine members and shall have the rights, powers and duties that are set  
15 forth in this section. The term of office of members shall be five years  
16 to expire on the third Monday in January of the appropriate year. The  
17 board shall select a chairperson from among its members each calendar  
18 year. Members are eligible to receive compensation in an amount of fifty  
19 dollars a day, but not to exceed one thousand dollars in any one fiscal  
20 year, and are eligible for reimbursement of expenses pursuant to chapter  
21 4, article 2 of this title. Beginning January 1, 2017, the board consists  
22 of the following members appointed as follows:

23 1. Two members representing law enforcement, one of whom is  
24 appointed by the president of the senate and one of whom is appointed by  
25 the governor. A statewide association representing law enforcement in  
26 this state shall forward nominations to the appointing elected officials,  
27 providing at least three nominees for each position. At least one of the  
28 members appointed under this paragraph shall be an elected local board  
29 member.

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

37 3. Three members representing cities and towns in this state, one  
38 of whom is appointed by the president of the senate, one of whom is  
39 appointed by the speaker of the house of representatives and one of whom  
40 is appointed by the governor. An association representing cities and  
41 towns in this state shall forward nominations to the appointing elected  
42 officials, providing at least three nominees for each position. These  
43 nominees shall represent taxpayers or employers and may not be members of  
44 the system.

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

6           5. One member who is appointed by the governor from a list of three  
7 nominees forwarded by the board. The board shall select the nominees to  
8 forward to the governor from a list of at least five nominees received  
9 from the advisory committee.

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

28           1. Is absent without excuse from three consecutive regular meetings  
29 of the board.

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

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

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

38           2. A securities analyst.

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

42           4. A chartered financial analyst in good standing as determined by  
43 the chartered financial analyst institute.

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

4           6. An economist.

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

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

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

34           E. All contributions under this system and other retirement plans  
35 that the board administers shall be forwarded to the board and shall be  
36 held, invested and reinvested by the board as provided in this article.  
37 All property and monies of the fund and other retirement plans that the  
38 board administers, including income from investments and from all other  
39 sources, shall be retained for the exclusive benefit of members, as  
40 provided in the system and other retirement plans that the board  
41 administers, and shall be used to pay benefits to members or their  
42 beneficiaries or to pay expenses of operation and administration of the  
43 system and fund and other retirement plans that the board administers.

44           F. The board shall have the full power in its sole discretion to  
45 invest and reinvest, alter and change the monies accumulated under the

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

22 1. ~~That~~ Not more than eighty percent of the combined assets of the  
23 system or other plans that the board manages ~~shall be~~ IS invested at any  
24 given time in corporate stocks, based on THE cost value of ~~such~~ THE stocks  
25 irrespective of capital appreciation.

26 2. ~~That no~~ NOT more than five percent of the combined assets of the  
27 system or other plans that the board manages ~~shall be~~ IS invested in  
28 corporate stock issued by any one corporation, other than corporate stock  
29 issued by corporations chartered by the United States government or  
30 corporate stock issued by a bank or insurance company.

31 3. ~~That~~ Not more than five percent of the voting stock of any one  
32 corporation ~~shall be~~ IS owned by the system and other plans that the board  
33 administers, except that this limitation does not apply to membership  
34 interests in limited liability companies.

35 4. ~~That~~ Corporate stocks and exchange traded funds eligible for  
36 direct purchase ~~shall be~~ ARE restricted to stocks and exchange traded  
37 funds that, except for bank stocks, insurance stocks, stocks acquired for  
38 coinvestment in connection with the system's or the plans' or trusts'  
39 commingled investments and interests in limited liability companies and  
40 mutual funds, are ~~either~~ ANY OF THE FOLLOWING:

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

44 (b) Designated or approved on notice of issuance for designation on  
45 the national market system of a national securities association registered



1 under the securities exchange act of 1934, as amended (15 United States  
2 Code sections 78a through 78pp).

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

5 (d) Listed or approved on issuance for listing on an exchange of a  
6 foreign country with which the United States is maintaining diplomatic  
7 relations at the time of purchase, except that ~~no~~ NOT more than twenty  
8 percent of the combined assets of the system and other plans that the  
9 board manages ~~shall be~~ IS invested in foreign securities, based on the  
10 cost value of the stocks irrespective of capital appreciation.

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

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

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

39 I. The board ~~shall not be held~~ IS NOT liable for the exercise of  
40 more than ordinary care and prudence in the selection of investments and  
41 performance of its duties under the system and ~~shall not be~~ IS NOT limited  
42 to so-called "legal investments for trustees", but all monies of the  
43 system and other plans that the board administers shall be invested  
44 subject to all of the conditions, limitations and restrictions imposed by  
45 law.

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

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

5 2. Sell, exchange, convey, transfer or otherwise dispose of any  
6 investments made on behalf of the system or other plans the board  
7 administers in the name of the system or plans by private contract or at  
8 public auction.

9 3. Also:

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

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

13 (c) Exercise any conversion privileges, subscription rights or  
14 other options and make any payments incidental to the exercise of the  
15 conversion privileges, subscription rights or other options.

16 (d) Consent to or otherwise participate in corporate  
17 reorganizations or other changes affecting corporate securities, delegate  
18 discretionary powers and pay any assessments or charges in connection  
19 therewith.

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

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

26 5. Register any investment held by the system or other plans whose  
27 assets the board administers in the name of the system or plan or in the  
28 name of a nominee or trust.

29 6. At the expense of the system or other plans that the board  
30 administers, enter into an agreement with any bank or banks for the  
31 safekeeping and handling of securities and other investments coming into  
32 the possession of the board. The agreement shall be entered into under  
33 terms and conditions that secure the proper safeguarding, inventory,  
34 withdrawal and handling of the securities and other investments. ~~No~~  
35 Access to and ~~no~~ deposit or withdrawal of the securities from any place of  
36 deposit selected by the board ~~shall be permitted or made~~ IS NOT ALLOWED  
37 AND MAY NOT BE MADE except as the terms of the agreement may provide.

38 7. Appear before local boards and the courts of this state and  
39 political subdivisions of this state through counsel or AN appointed  
40 representative to protect the fund or the assets of other plans that the  
41 board administers. The board is not responsible for the actions or  
42 omissions of the local boards under this system but may seek a review or  
43 rehearing of actions or omissions of local boards. The board does not  
44 have a duty to review actions of the local boards but may do so in its  
45 discretion in order to protect the fund. No limitations period precludes

1 the board or administrator from contesting, or requires the board or  
2 administrator to implement or comply with, a local board decision that  
3 violates the internal revenue code or that threatens to impair the ~~tax~~  
4 ~~qualified~~ TAX-QUALIFIED status of the system or any plan administered by  
5 the board or administrator.

6 8. Empower the fund administrator to take actions on behalf of the  
7 board that are necessary for the protection and administration of the fund  
8 or the assets of other plans that the board administers pursuant to the  
9 guidelines of the board.

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

13 10. Settle threatened or actual litigation against any system or  
14 plan that the board administers.

15 K. Investment expenses and operation and administrative expenses of  
16 the board shall be accounted for separately and allocated against  
17 investment income.

18 L. The board, as soon as possible within a period of six months  
19 following the close of any fiscal year, shall transmit to the governor and  
20 the legislature a comprehensive annual financial report on the operation  
21 of the system and other plans that the board administers ~~containing~~ THAT  
22 CONTAINS, among other things:

23 1. A balance sheet.

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

25 3. A report on an actuarial valuation of its assets and  
26 liabilities.

27 4. A list of investments owned.

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

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

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

41 8. An estimate of the aggregate employer contribution rate for the  
42 public safety personnel retirement system for the next ten fiscal years  
43 and an estimate of the aggregate employer contribution rate for the  
44 corrections officer retirement plan for the next ten fiscal years.

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

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

13           10. An estimate of the employer contribution rates for the next ten  
14 fiscal years for each of the following employers within the corrections  
15 officer retirement plan:

- 16          (a) State department of corrections.
- 17          (b) Department of public safety.
- 18          (c) The judiciary.
- 19          (d) Department of juvenile corrections.

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

22          M. The board shall:

23           1. Maintain the accounts of the system and other plans that the  
24 board administers and issue statements to each employer annually and to  
25 each member who ~~may request it~~ REQUESTS A STATEMENT.

26           2. Report the results of the actuarial valuations to the local  
27 boards and employers.

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

32           4. Permit the auditor general to make an annual audit and transmit  
33 the results to the governor and the legislature.

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

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

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

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

5           1. Administer this article.

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

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

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

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

23           6. Be responsible for income, the collection of the income and the  
24 accuracy of all expenditures.

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

28           8. Perform additional duties and powers prescribed by the board and  
29 delegated to the administrator.

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

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

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

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

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

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

31 T. On the basis of the tables the board adopts, the actuary shall  
32 make a valuation of the assets and liabilities of the funds of the system  
33 and other plans that the board administers ~~not less frequently than~~ AT  
34 LEAST every year. By November 1 of each year the board shall provide a  
35 preliminary report and by December 15 of each year provide a final report  
36 to the governor, the speaker of the house of representatives and the  
37 president of the senate on the contribution rate for the ensuing fiscal  
38 year.

39 U. Neither the board nor any member or employee of the board shall  
40 directly or indirectly, for himself or as an agent, in any manner use the  
41 monies or deposits of the fund except to make current and necessary  
42 payments, nor shall the board or any member or employee become an endorser  
43 or surety or in any manner an obligor for monies loaned by or borrowed  
44 from the fund or the assets of any other plans that the board administers.

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

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

11 X. ~~Beginning January 1, 2017,~~ The public safety personnel  
12 retirement system advisory committee is established and shall serve as a  
13 liaison between the board and the members and employers of the system.  
14 The committee shall be appointed by the chairperson of the board from  
15 names submitted to the chairperson by associations representing law  
16 enforcement, firefighters, state government, counties, cities and towns  
17 and tribal governments. The committee shall select a chairperson from  
18 among its members each calendar year. The committee shall consist of the  
19 following ten members:

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

30 state.

31 Sec. 5. Section 38-850, Arizona Revised Statutes, is amended to  
32 read:

33 38-850. Assurances and liabilities; board of trustee  
34 discretion; overpayments; underpayments

35 A. Nothing contained in the system shall be construed as a contract  
36 of employment between an employer and any employee, or as a right of any  
37 employee to be continued in the employment of an employer, or as a  
38 limitation of the rights of an employer to discharge any of its employees,  
39 with or without cause.

40 B. No employee shall have any right to, or interest in, any assets  
41 of the fund on termination of his employment or otherwise, except as  
42 provided from time to time under the system, and then only to the extent  
43 of the benefits payable to such employee out of the assets of the  
44 fund. All payments of benefits as provided for in the system shall be  
45 made solely out of the assets of the fund, and the employers, the board

1 and any member of the board are not liable for payment of benefits in any  
2 manner.

3 C. Benefits, employee contributions or employer contributions,  
4 including interest, earnings and all other credits, payable under this  
5 system shall not be subject in any manner to anticipation, alienation,  
6 sale, transfer, assignment, pledge, encumbrance, charge, garnishment,  
7 execution or levy of any kind, either voluntary or involuntary, prior to  
8 actually being received by the person entitled to the benefit,  
9 contribution, earning or credit, under the terms of the system, and any  
10 attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber,  
11 charge or otherwise dispose of any such right hereunder shall be void.  
12 The fund shall not in any manner be liable for, or subject to, the debts,  
13 contracts, liabilities, engagements or torts of any person entitled to  
14 such rights hereunder. This subsection does not preclude arrangements for  
15 the withholding of taxes from benefit payments, arrangements for the  
16 recovery of benefit overpayments, arrangements for the transfer of benefit  
17 rights to another plan or arrangements for direct deposit of benefit  
18 payments in an account in a bank, savings and loan association or credit  
19 union if the arrangement is not part of an arrangement constituting an  
20 assignment or alienation.

21 D. The employers, the board of trustees, the board of trustees'  
22 administrator, **DEPUTY OR** assistant administrators and employees and any  
23 member of a local board do not guarantee the fund in any manner against  
24 loss or depreciation, and none of them shall be liable for any act or  
25 failure to act, that is made in good faith pursuant to the provisions of  
26 the system. The employers ~~shall not be~~ **ARE NOT** responsible for any act or  
27 failure to act of a local board or any of its members or for any act or  
28 failure to act of the board of trustees. A local board and the individual  
29 members of a local board ~~shall not be~~ **ARE NOT** responsible for any act or  
30 failure to act of any employer or the board of trustees.

31 E. The board, in its discretion, may make payment to a person  
32 entitled to any payment under the system who is under a legal disability  
33 in any one or more of the following ways:

- 34 1. Directly to such person.
- 35 2. To his legal guardian or conservator.
- 36 3. To his spouse or to any other person charged with his support to  
37 be expended for his benefit.

38 F. If, through misstatement or computation error, benefits are  
39 underpaid or overpaid, there is no liability for any more than the correct  
40 benefit sums under the system. Overpayments may be deducted from future  
41 payments under the system, and underpayments may be added to future  
42 payments under the system. A member or other benefit recipient may elect  
43 to repay in a lump sum any overpayment in lieu of receiving reduced  
44 benefits under the system.



1 G. ~~Nothing in~~ This section ~~exempts~~ DOES NOT EXEMPT employee  
2 benefits of any kind from a writ of attachment, a writ of execution, a  
3 writ of garnishment and orders of assignment issued by a court of record  
4 ~~which~~ THAT are the result of a judgment taken for arrearages for child  
5 support or for a child support debt or restitution or fines imposed in  
6 accordance with section 38-849, subsection A.

7 Sec. 6. Section 38-865, Arizona Revised Statutes, is amended to  
8 read:

9 38-865. Definitions

10 In this article, unless the context otherwise requires:

11 1. "Annuity account" means an account that is established for each  
12 participant to record the deposit of participant contributions, employer  
13 contributions and interest, dividends or other accumulations credited on  
14 behalf of the participant.

15 2. "Board" means the board of trustees of the public safety  
16 personnel retirement system established by section 38-848.

17 3. "Compensation":

18 (a) For participants as defined in paragraph 7, subdivision (a) of  
19 this section AND SECTION 38-865.01, has the same meaning prescribed in  
20 section 38-842.

21 (b) For participants as defined in paragraph 7, subdivision (b) of  
22 this section, means salary as defined in section 38-881.

23 4. "Defined contribution plan" means the public safety personnel  
24 defined contribution retirement plan established pursuant to this article.

25 5. "Employer" has the same meaning prescribed in section 38-842 or  
26 38-881, as applicable.

27 6. "Employer contribution" means an amount deposited by an  
28 employer, from the employer's own monies, in the participant's annuity  
29 account on a periodic basis coinciding with the participant's regular pay  
30 period.

31 7. "Participant" means:

32 (a) A member as defined in section 38-842, paragraph 31,  
33 subdivision (a), excluding subdivision (a), item (vi), who is one of the  
34 following:

35 (i) An employee who is hired on or after July 1, 2017, who makes  
36 the irrevocable election to participate solely in the defined contribution  
37 plan established pursuant to this article and who was not an active, an  
38 inactive or a retired member of the system or a member of the system with  
39 a disability on June 30, 2017.

40 (ii) An employee who is hired on or after July 1, 2017, who is not  
41 covered by the federal old age and survivors insurance system and who  
42 makes the irrevocable election to participate in the system or is enrolled  
43 in the system pursuant to section 38-842.01, subsection A.

44 (b) A member as defined in section 38-881, paragraph 27,  
45 subdivision (a) ~~or (b)~~ who is one of the following:

1 (i) An employee who is hired on or after July 1, 2018, WHO IS NOT  
2 IN A DESIGNATED POSITION AS DEFINED IN SECTION 38-881, PARAGRAPH 13,  
3 SUBDIVISION (g) and who was not an active, an inactive or a retired member  
4 of the corrections officer retirement plan or a member of the corrections  
5 officer retirement plan with a disability on June 30, 2018.

6 (ii) An employee who is hired on or after July 1, 2018, who is in a  
7 designated position as defined in section 38-881, paragraph 13,  
8 subdivision (g), who makes the irrevocable election pursuant to section  
9 38-881.01 to participate solely in the defined contribution plan  
10 established pursuant to this article and who was not an active, an  
11 inactive or a retired member of the corrections officer retirement plan or  
12 a member of the corrections officer retirement plan with a disability on  
13 June 30, 2018.

14 8. "Pensionable compensation" means the amount of the participant's  
15 annual compensation that does not exceed the limitation specified in  
16 section 38-843.04 or 38-895.01, as applicable.

17 9. "System" means the public safety personnel retirement system  
18 established by article 4 of this chapter.

19 Sec. 7. Section 38-865.01, Arizona Revised Statutes, is amended to  
20 read:

21 38-865.01. Definition of participant

22 For the purposes of this article, "participant" includes a member as  
23 defined in section 38-842, paragraph 31, SUBDIVISION (a), excluding  
24 subdivision (a), item (vi), who is hired on or after January 1, 2012 and  
25 before July 1, 2017, who is not covered by the federal old age and  
26 survivors insurance system and who is a member of the system.

27 Sec. 8. Section 38-867, Arizona Revised Statutes, is amended to  
28 read:

29 38-867. Contributions; member; employer; pickup

30 A. Each participant in the defined contribution plan shall  
31 contribute the following percentage of the participant's gross pensionable  
32 compensation by salary reduction that shall be deposited in the  
33 participant's annuity account:

34 1. For a participant as defined in section 38-865, paragraph 7,  
35 subdivision (a), item (ii), three percent.

36 2. For a participant as defined in section 38-865, paragraph 7,  
37 subdivision (a), item (i), nine percent.

38 3. For a participant as defined in section 38-865, paragraph 7,  
39 subdivision (b), seven percent.

40 B. A participant as defined in section 38-865 may make a one-time  
41 irrevocable election, before the participant is eligible to participate in  
42 any qualified plan of the employer, to contribute more than the percentage  
43 of the participant's gross pensionable compensation specified in this  
44 section, up to the amount allowable under section 415(c) of the internal  
45 revenue code. A participant as defined in section 38-865, paragraph 7,

1 subdivision (b) may make a onetime irrevocable election, before the  
2 participant is eligible to participate in any qualified plan of the  
3 employer, to contribute less than the percentage of the participant's  
4 gross pensionable compensation specified in this section but may not elect  
5 to contribute less than five percent of the participant's gross  
6 pensionable compensation. The election made pursuant to this subsection  
7 shall be the participant's contribution rate for the remainder of the  
8 participant's employment with any employer under the system or the  
9 corrections officer retirement plan, as applicable.

10 C. Although designated as employee contributions, all participant  
11 contributions made to the defined contribution plan shall be picked up and  
12 paid by the employer in lieu of contributions by the employee. The  
13 contributions picked up by an employer may be made through a reduction in  
14 the participant's compensation. A participant in the defined contribution  
15 plan may not choose to receive the contributed amounts directly instead of  
16 the employer paying the amounts to the defined contribution plan. All  
17 participant contributions that are picked up by the employer as provided  
18 in this subsection shall be treated as employer contributions under  
19 section 414(h) of the internal revenue code, shall be excluded from the  
20 participant's gross income for federal and state income tax purposes and  
21 are includable in the gross income of the participant or the participant's  
22 beneficiaries only in the taxable year in which they are distributed.

23 D. Each employer shall annually make a contribution equal to the  
24 following percentages of each participant's gross pensionable  
25 compensation:

26 1. For a participant as defined in section 38-865, paragraph 7,  
27 subdivision (a), item (ii), three percent.

28 2. For a participant as defined in section 38-865, paragraph 7,  
29 subdivision (a), item (i), nine percent.

30 3. For a participant as defined in section 38-865, paragraph 7,  
31 subdivision (b), five percent.

32 E. The pro rata share of the amount paid in subsection D of this  
33 section shall be paid on each date that a participant contribution is made  
34 and shall be credited to the participant's annuity account.

35 F. A participant of the defined contribution plan may not take  
36 loans on any portion of the accumulated assets in the participant's  
37 annuity account.

38 G. Each participant as defined in section 38-865, paragraph 7,  
39 subdivision (a), item (i) and subdivision (b) and each employer shall  
40 contribute to the public safety personnel defined contribution retirement  
41 plan disability program established by article 4.2 of this chapter.

42 H. A participant's contributions and earnings on those  
43 contributions are immediately vested.

44 I. A participant as defined in section 38-865, paragraph 7,  
45 subdivision (a) **OR SECTION 38-865.01** is fully vested in the defined

1 contribution plan after ten years of service, with employer contributions  
2 vesting at a rate of ten percent per year. If a participant DESCRIBED IN  
3 THIS SUBSECTION dies OR IS DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL OR  
4 CATASTROPHIC DISABILITY PENSION PURSUANT TO SECTION 38-844 before  
5 completing ten years of service, the employer contributions are  
6 immediately fully vested.

7 J. A participant as defined in section 38-865, paragraph 7,  
8 subdivision (b) is fully vested in the defined contribution plan after  
9 three years of service, with the employer contributions vesting at the  
10 following rates:

- 11 1. Twenty-five percent after the first year of service.
- 12 2. Fifty percent after the second year of service.
- 13 3. One hundred percent after the third year of service.

14 K. If a participant as defined in section 38-865, paragraph 7,  
15 subdivision (b) dies OR IS DETERMINED TO BE ELIGIBLE FOR AN ACCIDENTAL OR  
16 TOTAL AND PERMANENT DISABILITY PENSION PURSUANT TO SECTION 38-886 before  
17 completing three years of service, the employer contributions are  
18 immediately fully vested.

19 Sec. 9. Section 38-867.01, Arizona Revised Statutes, is amended to  
20 read:

21 38-867.01. Rollover distributions and contributions:  
22 definitions

23 A. A lump sum distribution made pursuant to section 38-844.08,  
24 subsection B OR SECTION 38-885.01, SUBSECTION J shall be deposited in ~~the~~  
25 A SEPARATE ROLLOVER account ~~of~~ FOR the participant as defined in  
26 SUBSECTION C, PARAGRAPH 2, SUBDIVISION (a) OR (b) OF this section and made  
27 immediately available for the participant to either withdraw all or any  
28 portion of the lump sum deposit or directly transfer all or any portion of  
29 the lump sum deposit to an eligible retirement plan as required by section  
30 401(a)(31) of the internal revenue code.

31 B. A PARTICIPANT AS DEFINED IN SUBSECTION C, PARAGRAPH 2,  
32 SUBDIVISION (c) OF THIS SECTION MAY MAKE A ROLLOVER CONTRIBUTION FROM A  
33 QUALIFIED PLAN OR AN IRA THAT SHALL BE DEPOSITED IN A SEPARATE ROLLOVER  
34 ACCOUNT FOR THE PARTICIPANT AND MADE IMMEDIATELY AVAILABLE FOR THE  
35 PARTICIPANT TO EITHER WITHDRAW ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT  
36 OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP SUM DEPOSIT TO AN  
37 ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION 401(a)(31) OF THE INTERNAL  
38 REVENUE CODE.

39 ~~B.~~ C. For the purposes of this section: ~~—~~

40 1. "IRA" MEANS AN INDIVIDUAL RETIREMENT ACCOUNT OR AN INDIVIDUAL  
41 RETIREMENT ANNUITY DESCRIBED IN SECTIONS 408(a) OR 408(b) OF THE INTERNAL  
42 REVENUE CODE.

43 2. "Participant" means ANY OF THE FOLLOWING:

44 (a) A member as defined in section 38-842, paragraph 31, excluding  
45 subdivision (a), item (vi), who is hired before January 1, 2012 and who

1 has elected to enter the deferred retirement option plan established by  
2 section 38-844.02.

3 (b) A MEMBER AS DEFINED IN SECTION 38-881 WHO HAS ELECTED TO ENTER  
4 THE REVERSE DEFERRED RETIREMENT OPTION PLAN ESTABLISHED BY SECTION  
5 38-885.01.

6 (c) AN INDIVIDUAL WHO HAS MADE A ROLLOVER CONTRIBUTION PURSUANT TO  
7 SUBSECTION B OF THIS SECTION AND WHO IS EITHER:

8 (i) A CURRENT EMPLOYEE OF AN EMPLOYER AS DEFINED IN SECTION 38-842  
9 OR SECTION 38-881.

10 (ii) CURRENTLY RECEIVING OR ENTITLED TO RECEIVE A PENSION FROM THE  
11 PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM OR THE CORRECTIONS OFFICER  
12 RETIREMENT PLAN.

13 (iii) A FORMER EMPLOYEE WHO WAS AN ACTIVE PARTICIPANT, AS DEFINED  
14 IN SECTION 38-865 OR 38-865.01, IN THE DEFINED CONTRIBUTION PLAN WHO HAS  
15 AN ANNUITY ACCOUNT BALANCE OR A SEPARATE ROLLOVER ACCOUNT BALANCE.

16 3. "QUALIFIED PLAN" MEANS AN ELIGIBLE DEFERRED COMPENSATION PLAN  
17 UNDER SECTION 457(b) OF THE INTERNAL REVENUE CODE THAT IS MAINTAINED BY A  
18 STATE, A POLITICAL SUBDIVISION OF A STATE OR ANY AGENCY OR INSTRUMENTALITY  
19 OF A STATE OR A POLITICAL SUBDIVISION OF A STATE, A TAX-QUALIFIED  
20 RETIREMENT PLAN DESCRIBED IN SECTION 401(a) OR 403(a) OF THE INTERNAL  
21 REVENUE CODE OR AN ANNUITY CONTRACT DESCRIBED IN SECTION 403(b) OF THE  
22 INTERNAL REVENUE CODE.

23 4. "SEPARATE ROLLOVER ACCOUNT" MEANS A FULLY VESTED AND  
24 NONFORFEITABLE SEPARATE ACCOUNT MAINTAINED UNDER THE DEFINED CONTRIBUTION  
25 PLAN FOR THE BENEFIT OF A PARTICIPANT WHO HAS MADE A ROLLOVER CONTRIBUTION  
26 TO THE PLAN AS AUTHORIZED BY SUBSECTION A OR B OF THIS SECTION.

27 Sec. 10. Section 38-868, Arizona Revised Statutes, is amended to  
28 read:

29 38-868. Contributions: member: employer: applicability of  
30 article

31 A. On or before June 30, 2017, a participant as defined in section  
32 38-865.01 may make an irrevocable election to opt out of the defined  
33 contribution plan established by this article, which shall be the  
34 participant's election for the remainder of the participant's employment  
35 with any employer under the system.

36 B. Beginning July 1, 2017, a participant as defined in section  
37 38-865.01 in the defined contribution plan shall contribute three percent  
38 of the participant's gross pensionable compensation by salary reduction  
39 that shall be deposited in the participant's annuity account.

40 C. Each employer of a participant as defined in section 38-865.01  
41 shall annually make a contribution equal to the following percentages of  
42 the participant's gross pensionable compensation:

43 1. For a participant that is hired in 2012, for fiscal years  
44 2017-2018 through 2023-2024, four percent and three percent for each  
45 fiscal year thereafter.

1           2. For a participant that is hired in 2013, for fiscal years  
2 2017-2018 through 2022-2023, four percent and three percent for each  
3 fiscal year thereafter.

4           3. For a participant that is hired in 2014, for fiscal years  
5 2017-2018 through 2021-2022, four percent and three percent for each  
6 fiscal year thereafter.

7           4. For a participant that is hired in 2015, for fiscal years  
8 2017-2018 through 2020-2021, four percent and three percent for each  
9 fiscal year thereafter.

10          5. For a participant that is hired in 2016, for fiscal years  
11 2017-2018 through 2019-2020, four percent and three percent for each  
12 fiscal year thereafter.

13          6. For a participant that is hired on or after January 1, 2017 and  
14 before July 1, 2017, for fiscal year 2017-2018, four percent and three  
15 percent for each fiscal year thereafter.

16          D. IF A PARTICIPANT AS DEFINED IN SECTION 38-865.01 IS SUBSEQUENTLY  
17 COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE SYSTEM, THE  
18 PARTICIPANT AND THE PARTICIPANT'S EMPLOYER MAY NOT MAKE ANY CONTRIBUTIONS  
19 ON THE PARTICIPANT'S BEHALF PURSUANT TO THIS SECTION DURING THE PERIOD THE  
20 PARTICIPANT IS COVERED BY THE FEDERAL OLD AGE AND SURVIVORS INSURANCE  
21 SYSTEM. IF AT A LATER TIME THE PARTICIPANT IS NOT COVERED BY THE FEDERAL  
22 OLD AGE AND SURVIVORS INSURANCE SYSTEM THROUGH AN EMPLOYER UNDER THE  
23 SYSTEM, THE PARTICIPANT AND THE PARTICIPANT'S EMPLOYER SHALL AGAIN BE  
24 REQUIRED TO CONTRIBUTE ON BEHALF OF THE EMPLOYEE PURSUANT TO THIS SECTION.

25          ~~D.~~ E. All of the provisions of this article apply to a participant  
26 as defined in section 38-865.01.

27          ~~E.~~ F. For a participant as defined in section 38-865.01, an  
28 employer may choose to pay a portion of the participant's contributions  
29 under this section in an amount of not more than the difference between  
30 the contribution rate specified under section 38-843 for employees hired  
31 on or after January 1, 2012 and before July 1, 2017 and for any employee  
32 hired before January 1, 2012.

33          Sec. 11. Section 38-881.01, Arizona Revised Statutes, is amended to  
34 read:

35          38-881.01. Employees hired on or after July 1, 2018; defined  
36                                   contribution plan; benefit election; disability

37          A. Except as provided in subsection B of this section, an employee  
38 who is hired on or after July 1, 2018, who is a member as defined in  
39 section 38-881, paragraph 27, subdivision (a) and who was not an active,  
40 an inactive or a retired member of the plan or a member of the plan with a  
41 disability on June 30, 2018 shall participate in the public safety  
42 personnel defined contribution retirement plan established pursuant to  
43 article 4.1 of this chapter.

44          B. An employee who is hired on or after July 1, 2018, who is in a  
45 designated position as defined in section 38-881, paragraph 13,

1 subdivision (g) and who was not an active, an inactive or a retired member  
2 of the plan or a member of the plan with a disability on June 30, 2018 is  
3 eligible to participate in the corrections officer retirement plan or the  
4 public safety personnel defined contribution retirement plan established  
5 pursuant to article 4.1 of this chapter, depending on the employee's  
6 election under this section. During the first sixty days of an employee's  
7 employment and before the employee makes a decision regarding the  
8 individual's retirement plan, the board shall provide each probation and  
9 surveillance officer who is hired on or after July 1, 2018 live, objective  
10 educational training, counseling and participant-specific plan information  
11 about both the corrections officer retirement plan and the public safety  
12 personnel defined contribution retirement plan options. The employee's  
13 participation in either the plan or the public safety personnel defined  
14 contribution retirement plan established pursuant to article 4.1 of this  
15 chapter begins ninety days after the date the employee is hired. Unless  
16 the elections made under this section are made before the ninetieth day  
17 after the date of employment, the employee is automatically enrolled in  
18 the plan for the remainder of the employee's employment with any employer  
19 under the plan. Any election made under this section is irrevocable and  
20 is the employee's election for the remainder of the employee's employment  
21 with any employer under the plan, regardless of whether the employee's  
22 employment is continuous. The employee may make one of the following  
23 irrevocable elections:

24 1. To participate solely in the corrections officer retirement  
25 plan.

26 2. To participate solely in the public safety personnel defined  
27 contribution retirement plan established pursuant to article 4.1 of this  
28 chapter.

29 C. If an employee specified in subsection B of this section in the  
30 employee's first ninety days of employment is determined to be eligible  
31 for an accidental OR TOTAL AND PERMANENT disability pension pursuant to  
32 section 38-886, the employee shall be automatically enrolled in the  
33 corrections officer retirement plan for the remainder of the employee's  
34 employment with any employer under the plan commencing on the employee's  
35 date of disability and shall receive an accidental OR TOTAL AND PERMANENT  
36 disability pension as prescribed in this article.

37 D. IF AN EMPLOYEE SPECIFIED IN SUBSECTION B OF THIS SECTION IN THE  
38 EMPLOYEE'S FIRST NINETY DAYS OF EMPLOYMENT IS KILLED IN THE LINE OF DUTY  
39 OR DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY, THE EMPLOYEE SHALL BE  
40 CONSIDERED AS HAVING BEEN ENROLLED IN THE CORRECTIONS OFFICER RETIREMENT  
41 PLAN AND THE SURVIVING SPOUSE OF THE DECEASED EMPLOYEE IS ELIGIBLE FOR  
42 SURVIVOR BENEFITS AS PRESCRIBED IN THIS ARTICLE.

1           Sec. 12. Section 38-885.01, Arizona Revised Statutes, as amended by  
2 Laws 2016, chapter 74, section 1, is amended to read:

3           38-885.01. Reverse deferred retirement option plan; purpose

4           A. A reverse deferred retirement option plan is established. The  
5 purpose of the reverse deferred retirement option plan is to add  
6 flexibility to the plan and to provide members who elect to participate in  
7 the reverse deferred retirement option plan access to a lump sum benefit  
8 in addition to their normal monthly retirement benefit on actual  
9 retirement.

10          B. The board shall offer the reverse deferred retirement option  
11 plan to members on a voluntary basis as an alternative method of benefit  
12 accrual under the plan.

13          C. Any member who is eligible for a normal pension pursuant to  
14 section 38-885, who is not awarded an accidental, ordinary or total and  
15 permanent disability pension and who has at least twenty-four years of  
16 credited service, or in the case of a dispatcher, who has at least  
17 twenty-five years of credited service, is eligible to participate in the  
18 reverse deferred retirement option plan.

19          D. A member who elects to participate in the reverse deferred  
20 retirement option plan shall voluntarily and irrevocably:

21           1. Designate a reverse deferred retirement option plan date that is  
22 the first day of the calendar month immediately following a member's  
23 completion of twenty-four years of credited service or a date not more  
24 than sixty consecutive months before the date the member elects to  
25 participate in the reverse deferred retirement option plan, whichever is  
26 later.

27           2. Agree to terminate employment on the date the member elects to  
28 participate in the reverse deferred retirement option plan.

29           3. Receive benefits from the plan on termination of employment at  
30 the same time and in the same manner as otherwise prescribed in this  
31 article using the factors of credited service and average monthly salary  
32 in effect on the reverse deferred retirement option plan date.

33          E. On election, a reverse deferred retirement option plan  
34 participation account is established within the plan on behalf of each  
35 reverse deferred retirement option plan participant. All benefits accrued  
36 pursuant to this article shall be accounted for in the reverse deferred  
37 retirement option plan participation account. A reverse deferred  
38 retirement option plan participant does not have a claim on the assets of  
39 the plan with respect to the member's reverse deferred retirement option  
40 plan participation account and assets shall not be set aside for any  
41 reverse deferred retirement option plan participant that are separate from  
42 all other system assets.

43          F. All amounts credited to a member's reverse deferred retirement  
44 option plan participation account are fully vested.



1 G. A member's reverse deferred retirement option plan participation  
2 account shall be credited with the following:

3 1. An amount that is credited as though accrued monthly from the  
4 reverse deferred retirement option plan date to the date the member  
5 elected to participate in the reverse deferred retirement option plan and  
6 that is computed in the same manner as a normal retirement benefit using  
7 the factors of credited service and average monthly salary in effect on  
8 the reverse deferred retirement option plan date.

9 2. An amount that is credited as though accrued monthly and that  
10 represents interest at a rate equal to the yield on a five year treasury  
11 note as of the first day of the month as published by the federal reserve  
12 board.

13 H. Employee and employer contributions pursuant to section 38-891  
14 that are deposited during the period of the reverse deferred retirement  
15 option plan are not eligible to be refunded to the employer or member.

16 I. The participant is not entitled to receive any amount prescribed  
17 by section 38-905 or 38-906 during the reverse deferred retirement option  
18 plan participation period.

19 J. The form of payment shall be a lump sum distribution. ~~The~~  
20 ~~member or the member's beneficiary may make a direct rollover of the lump~~  
21 ~~sum distribution to an eligible retirement plan under the same rules~~  
22 ~~specified in section 38-884, subsections G, H and I~~ THAT IS DIRECTLY  
23 DEPOSITED IN AN ACCOUNT CREATED FOR THE MEMBER IN THE PUBLIC SAFETY  
24 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
25 ARTICLE 4.1 OF THIS CHAPTER. ON DEPOSIT OF THE LUMP SUM PAYMENT, THE  
26 MEMBER SHALL IMMEDIATELY BE ABLE TO EITHER WITHDRAW ALL OR ANY PORTION OF  
27 THE LUMP SUM DEPOSIT OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP  
28 SUM DEPOSIT TO AN ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION  
29 401(a)(31) OF THE INTERNAL REVENUE CODE.

30 K. The reverse deferred retirement option plan shall not jeopardize  
31 in any way the tax qualified status of the plan under the rules of the  
32 internal revenue service. The board may adopt additional provisions to  
33 the extent necessary or appropriate for the reverse deferred retirement  
34 option plan to comply with applicable federal laws or rules.

35 Sec. 13. Section 38-885.01, Arizona Revised Statutes, as amended by  
36 Laws 2017, chapter 163, section 14, is amended to read:

37 38-885.01. Reverse deferred retirement option plan; purpose

38 A. A reverse deferred retirement option plan is established. The  
39 purpose of the reverse deferred retirement option plan is to add  
40 flexibility to the plan and to provide members who elect to participate in  
41 the reverse deferred retirement option plan access to a lump sum benefit  
42 in addition to their normal monthly retirement benefit on actual  
43 retirement.

1           B. The board shall offer the reverse deferred retirement option  
2 plan to members on a voluntary basis as an alternative method of benefit  
3 accrual under the plan.

4           C. Any member who is eligible for a normal pension pursuant to  
5 section 38-885, who is not awarded an accidental, ordinary or total and  
6 permanent disability pension and who has at least twenty-four years of  
7 credited service, or in the case of a dispatcher, who has at least  
8 twenty-five years of credited service, is eligible to participate in the  
9 reverse deferred retirement option plan.

10          D. A member who elects to participate in the reverse deferred  
11 retirement option plan shall voluntarily and irrevocably:

12           1. Designate a reverse deferred retirement option plan date that is  
13 the first day of the calendar month immediately following a member's  
14 completion of twenty-four years of credited service or a date not more  
15 than sixty consecutive months before the date the member elects to  
16 participate in the reverse deferred retirement option plan, whichever is  
17 later.

18           2. Agree to terminate employment on the date the member elects to  
19 participate in the reverse deferred retirement option plan.

20           3. Receive benefits from the plan on termination of employment at  
21 the same time and in the same manner as otherwise prescribed in this  
22 article using the factors of credited service and average monthly salary  
23 in effect on the reverse deferred retirement option plan date.

24          E. On election, a reverse deferred retirement option plan  
25 participation account is established within the plan on behalf of each  
26 reverse deferred retirement option plan participant. All benefits accrued  
27 pursuant to this article shall be accounted for in the reverse deferred  
28 retirement option plan participation account. A reverse deferred  
29 retirement option plan participant does not have a claim on the assets of  
30 the plan with respect to the member's reverse deferred retirement option  
31 plan participation account and assets shall not be set aside for any  
32 reverse deferred retirement option plan participant that are separate from  
33 all other system assets.

34          F. All amounts credited to a member's reverse deferred retirement  
35 option plan participation account are fully vested.

36          G. A member's reverse deferred retirement option plan participation  
37 account shall be credited with the following:

38           1. An amount that is credited as though accrued monthly from the  
39 reverse deferred retirement option plan date to the date the member  
40 elected to participate in the reverse deferred retirement option plan and  
41 that is computed in the same manner as a normal retirement benefit using  
42 the factors of credited service and average monthly salary in effect on  
43 the reverse deferred retirement option plan date.

44           2. An amount that is credited as though accrued monthly and that  
45 represents interest at a rate equal to the yield on a five year treasury

1 note as of the first day of the month as published by the federal reserve  
2 board.

3 H. Employee and employer contributions pursuant to section 38-891  
4 that are deposited during the period of the reverse deferred retirement  
5 option plan are not eligible to be refunded to the employer or member.

6 I. The participant is not entitled to receive any amount prescribed  
7 by section 38-906 during the reverse deferred retirement option plan  
8 participation period.

9 J. The form of payment shall be a lump sum distribution. ~~The~~  
10 ~~member or the member's beneficiary may make a direct rollover of the lump~~  
11 ~~sum distribution to an eligible retirement plan under the same rules~~  
12 ~~specified in section 38-884, subsections G, H and I~~ THAT IS DIRECTLY  
13 DEPOSITED IN AN ACCOUNT CREATED FOR THE MEMBER IN THE PUBLIC SAFETY  
14 PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN ESTABLISHED PURSUANT TO  
15 ARTICLE 4.1 OF THIS CHAPTER. ON DEPOSIT OF THE LUMP SUM PAYMENT, THE  
16 MEMBER SHALL IMMEDIATELY BE ABLE TO EITHER WITHDRAW ALL OR ANY PORTION OF  
17 THE LUMP SUM DEPOSIT OR DIRECTLY TRANSFER ALL OR ANY PORTION OF THE LUMP  
18 SUM DEPOSIT TO AN ELIGIBLE RETIREMENT PLAN AS REQUIRED BY SECTION  
19 401(a)(31) OF THE INTERNAL REVENUE CODE.

20 K. The reverse deferred retirement option plan shall not jeopardize  
21 in any way the tax qualified status of the plan under the rules of the  
22 internal revenue service. The board may adopt additional provisions to  
23 the extent necessary or appropriate for the reverse deferred retirement  
24 option plan to comply with applicable federal laws or rules.

25 Sec. 14. Section 38-891, Arizona Revised Statutes, is amended to  
26 read:

27 38-891. Employer and member contributions

28 A. As determined by actuarial valuations reported to the employers  
29 and the local boards by the board, each employer shall make contributions  
30 sufficient under the actuarial valuations to meet both the normal cost for  
31 members hired before July 1, 2018 plus the actuarially determined amount  
32 required to amortize the unfunded accrued liability on a level percent of  
33 salary basis for all employees of the employer who are members of the plan  
34 or participants as defined in section 38-865, paragraph 7, subdivision (b)  
35 over, beginning July 1, 2018, a closed period of not more than twenty  
36 years, except as provided in subsection M or O of this section, that is  
37 established by the board taking into account the recommendation of the  
38 plan's actuary, except that, beginning with fiscal year 2006-2007, except  
39 as otherwise provided, the employer contribution rate shall not be less  
40 than six percent of salary. For any employer whose actual contribution  
41 rate is less than six percent of salary for fiscal year 2006-2007 and each  
42 year thereafter, that employer's contribution rate shall be at least five  
43 percent and not more than the employer's actual contribution rate. An  
44 employer may pay a higher level percent of salary thereby reducing its  
45 unfunded past service liability. All contributions made by the employers

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

24 B. Each member who was hired before July 1, 2018, shall contribute  
25 the amount prescribed in subsection H of this section to the retirement  
26 plan. Each member who was hired on or after July 1, 2018, through the  
27 member's period of service from the member's effective date of  
28 participation, shall contribute an amount equal to the amount prescribed  
29 in subsection K of this section. Member contributions shall be made by  
30 payroll deduction. Continuation of employment by the member constitutes  
31 consent and agreement to the deduction of the applicable member  
32 contribution. Payment of the member's salary less the deducted  
33 contributions constitutes full and complete discharge and satisfaction of  
34 all claims and demands of the member relating to salary for services  
35 rendered during the period covered by the payment. A member may not,  
36 under any circumstance, borrow from, take a loan against or remove  
37 contributions from the member's account before the termination of  
38 membership in the plan or the receipt of a pension.

39 C. Each employer shall transfer to the board the employer and  
40 employee contributions provided for in this section within ten working  
41 days after each payroll date. Contributions transferred after that date  
42 shall include a penalty of ten percent per annum, compounded annually, for  
43 each day the contributions are late. The employer shall pay this  
44 penalty. Delinquent payments due under this subsection, together with  
45 interest charges as provided in this subsection, may be recovered by

1 action in a court of competent jurisdiction against an employer liable for  
2 the payments or, at the request of the board, may be deducted from any  
3 other monies, including excise revenue taxes, payable to the employer by  
4 any department or agency of this state.

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

10 E. The local board of the state department of corrections or the  
11 local board of the department of juvenile corrections may specify a  
12 position within that department as a designated position if the position  
13 is filled by an employee who has at least five years of credited service  
14 under the plan, who is transferred to temporarily fill the position and  
15 who makes a written request to the local board to specify the position as  
16 a designated position within ninety days after being transferred. On the  
17 employee leaving the position, the position is no longer a designated  
18 position.

19 F. The local board of the state department of corrections, the  
20 local board of the department of juvenile corrections, **THE LOCAL BOARD OF**  
21 **THE JUDICIARY** or the local board of a county, city or town that operates  
22 detention facilities may specify a designated position within the  
23 department or facility as a nondesignated position if the position is  
24 filled by an employee who has at least five years of credited service  
25 under the Arizona state retirement system and who makes a written request  
26 to the local board to specify the position as a nondesignated position  
27 within ninety days after accepting the position. On the employee leaving  
28 the position, the position reverts to a designated position.

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

41 H. The amount contributed by a member who was hired before July 1,  
42 2018 pursuant to subsection B of this section is:

43 1. Through June 30, 2011, 8.41 percent of the member's salary,  
44 except for a full-time dispatcher. The amount contributed by a full-time  
45 dispatcher through June 30, 2011 is 7.96 percent of the member's salary.

1           2. For fiscal year 2011-2012 and each fiscal year thereafter, 8.41  
2 percent of the member's salary or fifty percent of the sum of the member's  
3 contribution rate from the preceding fiscal year and the aggregate  
4 computed employer contribution rate that is calculated pursuant to  
5 subsection A of this section, whichever is lower, except that the member  
6 contribution rate shall not be less than 7.65 percent of the member's  
7 salary and the employer contribution rate shall not be less than the rate  
8 prescribed in subsection A of this section.

9           I. Notwithstanding subsection H, paragraph 2 of this section, the  
10 contribution rate for a full-time dispatcher is forty-five basis points  
11 less than the member contribution amount calculated pursuant to subsection  
12 H, paragraph 2 of this section, except that after the close of any fiscal  
13 year, if the plan's actuary determines that the aggregate ratio of the  
14 funding value of the accrued assets to the accrued liabilities of the fund  
15 is at least one hundred percent, from and after June 30 of the following  
16 year the member contribution rate for a full-time dispatcher is equal to  
17 the member contribution rate for a member who is not a full-time  
18 dispatcher.

19           J. For fiscal year 2011-2012 and each fiscal year thereafter, the  
20 amount of the member's contribution that exceeds 8.41 percent of the  
21 member's salary for a member other than a full-time dispatcher or 7.96  
22 percent of the member's salary for a full-time dispatcher shall not be  
23 used to reduce the employer's contributions that are calculated pursuant  
24 to subsection A of this section.

25           K. For members hired on or after July 1, 2018, the employer and  
26 member contributions are determined as follows:

27           1. As determined by actuarial valuations reported to the employer  
28 and the local board by the board of trustees, each employer shall make  
29 contributions sufficient under such actuarial valuations to pay 33.3  
30 percent of the normal cost plus 50 percent of the actuarially determined  
31 amount required to amortize the total unfunded accrued liability for each  
32 employer attributable only to those members hired on or after July 1,  
33 2018. For each year that new unfunded liabilities are attributable to the  
34 employer's own members hired on or after July 1, 2018, a new amortization  
35 base representing the most recent annual gain or loss, smoothed over a  
36 period not more than five years as determined by the board, shall be  
37 created on a level-dollar basis over a closed period equal to the average  
38 expected remaining service lives of all members but not more than ten  
39 years, as determined by the board.

40           2. The remaining 66.7 percent of the normal cost and the remaining  
41 50 percent of the actuarially determined amount required to amortize the  
42 total unfunded accrued liability as determined pursuant to paragraph 1 of  
43 this subsection shall be divided by the total number of the employer's  
44 members who were hired on or after July 1, 2018 such that each member  
45 contributes an equal percentage of the member's compensation. Member

1 contributions shall begin simultaneously with membership in the plan and  
2 shall be made by payroll deduction.

3 L. In any fiscal year, an employer's contribution to the plan in  
4 combination with member contributions may not be less than the actuarially  
5 determined normal cost for that fiscal year. The board may not suspend  
6 contributions to the plan unless both of the following apply:

7 1. The plan's actuary, based on the annual valuation, determines  
8 that continuing to accrue excess earnings could result in disqualification  
9 of the plan's tax-exempt status under the provisions of the United States  
10 internal revenue code.

11 2. The board determines that the receipt of any additional  
12 contributions required under this section would conflict with its  
13 fiduciary responsibility.

14 M. For the purposes of calculating unfunded liability amortization  
15 payments pursuant to subsection A of this section, an employer may make a  
16 onetime election to request that the board use a closed period of not more  
17 than thirty years if the employer meets both of the following  
18 requirements:

19 1. The governing body of the employer adopts a resolution  
20 requesting the longer amortization period and specifying the actuarial  
21 valuation date for which the new amortization period is to begin. The  
22 actuarial valuation date chosen must be the plan's fiscal year end either  
23 immediately before or immediately after the date of the resolution.

24 2. The employer submits a written request for the longer  
25 amortization period along with the adopted resolution to the administrator  
26 of the board.

27 N. For the purposes of subsection M of this section, employer does  
28 not include this state or any state agency.

29 O. For the purposes of calculating unfunded liability amortization  
30 payments pursuant to subsection A of this section, the board may use a  
31 closed period of not more than thirty years for the judiciary.

32 P. If a member's employment is terminated with an employer by  
33 either party, the total liability under the plan associated with the  
34 member's service with the employer remains with the employer.

35 Sec. 15. Retroactivity

36 Section 38-842.02, Arizona Revised Statutes, as amended by this act,  
37 applies retroactively to from and after December 31, 2017.

38 Sec. 16. Conditional enactment

39 Section 38-885.01, Arizona Revised Statutes, as amended by Laws  
40 2017, chapter 163, section 14 and this act, becomes effective on the date  
41 prescribed by Laws 2017, chapter 163, section 24 but only on the  
42 occurrence of the condition prescribed by Laws 2017, chapter 163,  
43 section 24.