

House Engrossed

public retirement plans; liabilities; administration

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2203

AN ACT

AMENDING SECTIONS 38-840.04, 38-843, 38-848, 38-867, 38-869, 38-891, 38-951 AND 38-953, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-840.04, Arizona Revised Statutes, is amended
3 to read:

4 38-840.04. Employer and member contributions

5 A. Beginning January 1, 2014, employers shall contribute the
6 percentage of the gross compensation of all of the members under their
7 employment so that the total employer contributions equals the amount that
8 the board determines is necessary to pay one-half of all benefits under
9 and costs of administering the EODC disability program.

10 B. Beginning January 1, 2014, a member shall contribute a
11 percentage of the member's gross compensation equal to the employer
12 contribution for the member required pursuant to subsection A of this
13 section.

14 C. The employer shall pay the member contributions required of
15 members on account of gross compensation earned. All employer and member
16 contributions shall be paid to the board. The board shall allocate the
17 contributions to the EODC disability program trust fund and shall place
18 the contributions in the EODC disability program's depository.

19 D. Each employer shall certify on each payroll the amount to be
20 contributed to the EODC disability program and shall remit that amount to
21 the board.

22 E. The department of administration and the treasurer of each
23 county and participating city and town shall transfer to the board the
24 contributions provided for in subsections A and B of this section within
25 ten working days after each payroll date. Contributions transferred after
26 these dates shall include a penalty equal to ten ~~per cent~~ PERCENT per
27 annum, compounded ~~daily~~ ANNUALLY, for each day that the contributions are
28 late. Delinquent payments due under this subsection, together with
29 interest charges as provided in this subsection and court costs, may be
30 recovered by action in a court of competent jurisdiction against the
31 person or persons responsible for the payments or, at the request of the
32 board, may be deducted from any other monies, including excise revenue
33 taxes, payable to a political subdivision by any department or agency of
34 this state.

35 F. If more than the correct amount of contributions required is
36 paid by an employer, proper adjustment shall be made in connection with
37 subsequent payments. The board shall return excess contributions to the
38 employer if the employer requests return of the contributions within one
39 year after the date of overpayment.

40 G. Member contributions are not refundable.

41 Sec. 2. Section 38-843, Arizona Revised Statutes, is amended to
42 read:

43 38-843. Contributions; employer account asset transfers

44 A. Each employer that participates in the system on behalf of a
45 group of employees who were covered under a prior public retirement

1 system, other than the federal social security act, shall transfer all
2 securities and monies attributable to the taxes and contributions of this
3 state other than this state's contribution to social security, the
4 employer and the employees for the covered group of employees under the
5 other system, such transfer to be made to the fund subject to all existing
6 liabilities and on or within sixty days following the employer's effective
7 date. All monies and securities transferred to the fund shall be credited
8 to the employer's account in the fund. A record of the market value and
9 the cost value of such transferred contributions shall be maintained for
10 actuarial and investment purposes.

11 B. As determined by actuarial valuations reported to the employer
12 and the local board by the board of trustees, each employer shall make
13 contributions sufficient under such actuarial valuations to meet both the
14 normal cost for members hired before July 1, 2017 plus the actuarially
15 determined amount required to amortize the unfunded accrued liability on a
16 level percent of compensation basis for all employees of the employer who
17 are members of the system or participants as defined in section 38-865,
18 paragraph 7, subdivision (a), item (i) over, beginning July 1, 2017, a
19 closed period of not more than twenty years, except as provided in
20 subsection M of this section, that is established by the board of trustees
21 taking into account the recommendation of the system's actuary. An
22 employer shall have the option of paying a higher level percent of
23 compensation thereby reducing its unfunded past service liability. An
24 employer shall also have the option of increasing its contributions in
25 order to reduce the contributions required from its members under
26 subsection C of this section, except that if an employer elects this
27 option the employer shall pay the same higher level percentage
28 contribution for all members of the eligible group. A county employer
29 that elected to pay a higher level percentage contribution rate may
30 eliminate that higher level percentage contribution rate amount for
31 members who are hired on or after January 1, 2015. During a period when
32 an employee is on industrial leave and the employee elects to continue
33 contributions during the period of industrial leave, the employer shall
34 make the contributions based on the compensation the employee would have
35 received in the employee's job classification if the employee was in
36 normal employment status. All contributions made by the employers and all
37 state taxes allocated to the fund shall be irrevocable and shall be used
38 to pay benefits under the system or to pay expenses of the system and
39 fund. The minimum employer contribution that is paid and that is in
40 excess of the normal cost plus the actuarially determined amount required
41 to amortize the unfunded accrued liability as calculated pursuant to this
42 subsection shall be used to reduce future employer contribution increases
43 and shall not be used to pay for an increase in benefits that are
44 otherwise payable to members. The board shall separately account for
45 these monies in the fund. Forfeitures arising because of severance of

1 employment before a member becomes eligible for a pension or any other
2 reason shall be applied to reduce the cost of the employer, not to
3 increase the benefits otherwise payable to members. After the close of
4 any fiscal year, if the system's actuary determines that the actuarial
5 valuation of an employer's account contains excess valuation assets other
6 than excess valuation assets that were in the employer's account as of
7 fiscal year 2004-2005 and is more than one hundred percent funded, the
8 board shall account for the excess valuation assets up to one hundred
9 percent of the present value of all future benefits of the employer in a
10 stabilization reserve account. After the close of any fiscal year, if the
11 system's actuary determines that the actuarial valuation of an employer's
12 account has a valuation asset deficiency and an unfunded actuarial accrued
13 liability, the board shall use any valuation assets in the stabilization
14 reserve account for that employer, to the extent available, to limit the
15 decline in that employer's funding ratio to not more than two percent.

16 C. Each member who was hired before July 1, 2017, throughout the
17 member's period of service from the member's effective date of
18 participation, shall contribute to the fund an amount equal to the amount
19 prescribed in subsection E of this section, except as provided in
20 subsection B of this section. Each member who was hired on or after July
21 1, 2017, throughout the member's period of service from the member's
22 effective date of participation, shall contribute to the fund an amount
23 equal to the amount prescribed in subsection H of this section. During a
24 period when an employee is on industrial leave and the employee elects to
25 continue contributions during the period of industrial leave, the employee
26 shall make the employee's contribution based on the compensation the
27 employee would have received in the employee's job classification if the
28 employee was in normal employment status. Contributions of members shall
29 be required as a condition of employment and membership in the system and
30 shall be made by payroll deductions. Every employee shall be deemed to
31 consent to such deductions. Payment of an employee's compensation, less
32 such payroll deductions, shall constitute a full and complete discharge
33 and satisfaction of all claims and demands by the employee relating to
34 remuneration for the employee's services rendered during the period
35 covered by the payment, except with respect to the benefits provided under
36 the system. A member may not, under any circumstance, borrow from, take a
37 loan against or remove contributions from the member's account before the
38 termination of membership in the plan or the receipt of a pension.

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

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

5 E. The amount contributed by a member who was hired before July 1,
6 2017 pursuant to subsection C of this section is:

7 1. Through June 30, 2011, 7.65 percent of the member's
8 compensation.

9 2. For fiscal year 2011-2012, 8.65 percent of the member's
10 compensation.

11 3. For fiscal year 2012-2013, 9.55 percent of the member's
12 compensation.

13 4. For fiscal year 2013-2014, 10.35 percent of the member's
14 compensation.

15 5. For fiscal year 2014-2015, 11.05 percent of the member's
16 compensation.

17 6. For fiscal year 2015-2016 through fiscal year 2022-2023, 11.65
18 percent of the member's compensation or 33.3 percent of the sum of the
19 member's contribution rate from the preceding fiscal year and the
20 aggregate computed employer contribution rate that is calculated pursuant
21 to subsection B of this section, whichever is lower, except that the
22 member contribution rate shall not be less than 7.65 percent of the
23 member's compensation and the employer contribution rate shall not be less
24 than the rate prescribed in subsection B of this section.

25 7. For fiscal year 2023-2024 and each fiscal year thereafter, 7.65
26 percent of the member's compensation.

27 F. From and after June 30, 2011 through June 30, 2023, the amount
28 of the member's contribution that exceeds 7.65 percent of the member's
29 compensation shall not be used to reduce the employer's contributions that
30 are calculated pursuant to subsection B of this section until the
31 employer's funded ratio, as expressed as a percentage of the employer's
32 actuarial value of assets to accrued actuarial liability as determined by
33 actuarial valuations reported pursuant to subsection B of this section, is
34 at or above one hundred percent.

35 G. From and after June 30, 2023, the amount of the ~~members~~ MEMBER'S
36 contribution that exceeds 7.65 percent of the member's compensation
37 collected pursuant to subsection E of this section and that was
38 accumulated from and after June 30, 2011 through June 30, 2023 may be used
39 in calculating the ~~employers~~ EMPLOYER'S contributions that are calculated
40 pursuant to subsection B of this section.

41 H. For members hired on or after July 1, 2017, the employer and
42 member contributions are determined as follows:

43 1. For employers and members in the public safety employer risk
44 pool:

1 (a) As determined by the system consolidated actuarial valuation
2 reported to the board of trustees, each employer shall make contributions
3 sufficient under such actuarial valuation to pay fifty percent of both the
4 normal cost plus the actuarially determined amount required to amortize
5 the total unfunded accrued liability within the risk pool for all
6 employers attributable to all members in the risk pool. For each year
7 that new unfunded liabilities are attributable to the public safety
8 employer risk pool, a new amortization base representing the most recent
9 annual gain or loss, smoothed over a period of not more than five years as
10 determined by the board, shall be created on a level-dollar basis over a
11 closed period equal to the average expected remaining service lives of all
12 members of the risk pool but not more than ten years, as determined by the
13 board.

14 (b) The remaining fifty percent of both the normal cost and
15 actuarially determined amount required to amortize the total unfunded
16 accrued liability within the public safety employer risk pool as
17 determined in subdivision (a) of this paragraph shall be divided by the
18 total number of members in the risk pool such that each member contributes
19 an equal percentage of the member's compensation. Member contributions
20 shall begin simultaneously with membership in the system and shall be made
21 by payroll deduction.

22 2. For employers and members that are not in the public safety
23 employer risk pool:

24 (a) As determined by actuarial valuations reported to the employer
25 and the local board by the board of trustees, each employer shall make
26 contributions sufficient under such actuarial valuations to pay fifty
27 percent of both the normal cost plus the actuarially determined amount
28 required to amortize the total unfunded accrued liability for each
29 employer attributable only to those members hired on or after July 1,
30 2017. For each year that new unfunded liabilities are attributable to the
31 employer's own members hired on or after July 1, 2017, a new amortization
32 base representing the most recent annual gain or loss, smoothed over a
33 period of not more than five years as determined by the board, shall be
34 created on a level-dollar basis over a closed period equal to the average
35 expected remaining service lives of all members but not more than ten
36 years, as determined by the board.

37 (b) The remaining fifty percent of both the normal cost and
38 actuarially determined amount required to amortize the total unfunded
39 accrued liability as determined pursuant to subdivision (a) of this
40 paragraph shall be divided by the total number of the employer's members
41 who were hired on or after July 1, 2017 such that each member contributes
42 an equal percentage of the member's compensation. Member contributions
43 shall begin simultaneously with membership in the system and shall be made
44 by payroll deduction.

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

5 1. The retirement system actuary, based on the annual valuation,
6 determines the stabilization reserve of an employer's account is funded to
7 one hundred percent of present value of all future benefits of the
8 employer.

9 2. The board determines that suspending, in whole or in part, the
10 normal cost contributions as calculated under subsection B of this section
11 would not be in conflict with its fiduciary responsibility.

12 J. An employer may request that the board transfer excess assets of
13 an employer's account that has no liabilities or beneficiaries to another
14 account of the employer that is managed by the board. The board may
15 authorize the transfer of assets if all of the following apply:

16 1. The board verifies that the employer's liabilities have been
17 reconciled with the administrator and there are no remaining or potential
18 liabilities or beneficiaries of the employer's account.

19 2. The board and the system bear no liability that the proposed
20 transfer conforms with any other restrictions on the use or transfer of
21 the assets of the proposed transfer.

22 3. The transfer does not violate the internal revenue code or
23 threaten to impair the system's status as a qualified plan under the
24 internal revenue code.

25 K. For the purposes of requesting a transfer of assets pursuant to
26 this section, an employer must meet both of the following requirements:

27 1. The governing body of the employer adopts a resolution
28 requesting the transfer of assets in an open session where public comment
29 is allowed.

30 2. The employer submits a written request to the administrator of
31 the board for the transfer of assets along with the adopted resolution.

32 L. For a state employer that meets the requirements of subsection J
33 of this section, the joint legislative budget committee may request from
34 the administrator of the board confirmation that an employer's account
35 meets the requirements to transfer the account assets. The legislature
36 shall pass a bill directing the board to transfer the assets from the
37 eligible employer account to another account of the employer. Before the
38 legislature passes the bill, the joint legislative budget committee shall
39 confirm with the administrator of the board that the assets are eligible
40 for transfer to another employer account and discuss the matter in a
41 scheduled public meeting.

42 M. For the purposes of calculating unfunded liability amortization
43 payments pursuant to subsection B of this section, an employer may make a
44 onetime election to request that the board use a closed period of not more

1 than thirty years if the employer meets both of the following
2 requirements:

3 1. The governing body of the employer adopts a resolution
4 requesting the longer amortization period and specifying the actuarial
5 valuation date for which the new amortization period is to begin. The
6 actuarial valuation date chosen must be the system's fiscal year end
7 either immediately before or immediately after the date of the resolution.

8 2. The employer submits a written request for the longer
9 amortization period along with the adopted resolution to the administrator
10 of the board.

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

13 O. EXCEPT AS PROVIDED IN SUBSECTION P OF THIS SECTION, if a
14 member's employment is terminated with an employer by either party, the
15 total liability under the system associated with the member's service with
16 the employer remains with the employer.

17 P. IF AN ACTIVE OR INACTIVE MEMBER WHO IS REEMPLOYED IN THE SAME
18 RETIREMENT PLAN UNDER THE SYSTEM WITH A SUBSEQUENT EMPLOYER, ASSETS EQUAL
19 TO THE ACTUARIALLY ACCRUED LIABILITY EARNED WITH THE PREVIOUS EMPLOYER
20 THROUGH THE DATE OF REEMPLOYMENT SHALL TRANSFER TO THE SUBSEQUENT EMPLOYER
21 AND ALL BENEFIT LIABILITIES FOR THE MEMBER ARE ATTRIBUTED TO THAT
22 EMPLOYER. ACTUARIALLY ACCRUED LIABILITY SHALL BE COMPUTED USING THE
23 ACTUARIAL METHODS AND ASSUMPTIONS PRESCRIBED BY THE SYSTEM'S ACTUARY AND
24 ADOPTED BY THE BOARD.

25 Sec. 3. Section 38-848, Arizona Revised Statutes, is amended to
26 read:

27 38-848. Board of trustees; powers and duties; reporting
28 requirements; independent trust fund;
29 administrator; agents and employees; advisory
30 committee

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

40 1. Two members representing law enforcement, one of whom is
41 appointed by the president of the senate and one of whom is appointed by
42 the governor. A statewide association representing law enforcement in
43 this state shall forward nominations to the appointing elected officials,
44 providing at least three nominees for each position. At least one of the

1 members appointed under this paragraph shall be an elected local board
2 member.

3 2. Two members representing firefighters, one of whom is appointed
4 by the speaker of the house of representatives and one of whom is
5 appointed by the governor. A statewide association representing
6 firefighters in this state shall forward nominations to the appointing
7 elected officials, providing at least three nominees for each position.
8 At least one of the members appointed under this paragraph shall be an
9 elected local board member.

10 3. Three members representing cities and towns in this state, one
11 of whom is appointed by the president of the senate, one of whom is
12 appointed by the speaker of the house of representatives and one of whom
13 is appointed by the governor. An association representing cities and
14 towns in this state shall forward nominations to the appointing elected
15 officials, providing at least three nominees for each position. These
16 nominees shall represent taxpayers or employers and may not be members of
17 the system.

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

23 5. One member who is appointed by the governor from a list of three
24 nominees forwarded by the board. The board shall select the nominees to
25 forward to the governor from a list of at least five nominees received
26 from the advisory committee.

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

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

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

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

10 1. A portfolio manager acting in a fiduciary capacity.
11 2. A securities analyst.
12 3. A senior executive or principal of a trust institution,
13 investment organization or endowment fund acting either in a management or
14 an investment-related capacity.
15 4. A chartered financial analyst in good standing as determined by
16 the chartered financial analyst institute.
17 5. A current or former professor or instructor at the college or
18 university level in the field of economics, finance, actuarial science,
19 accounting or pension-related subjects.
20 6. An economist.
21 7. Any other senior executive engaged in the field of public or
22 private finances or with experience with public pension systems.
23 8. A senior executive in insurance, banking, underwriting,
24 auditing, human resources or risk management.

25 D. All monies in the fund shall be deposited and held in a public
26 safety personnel retirement system depository. Monies in the fund shall
27 be disbursed from the depository separate and apart from all monies or
28 funds of this state and the agencies, instrumentalities and subdivisions
29 of this state, except that the board may commingle the assets of the fund
30 and the assets of all other plans entrusted to its management in one or
31 more group trusts, subject to the crediting of receipts and earnings and
32 charging of payments to the appropriate employer, system or plan. The
33 monies shall be secured by the depository in which they are deposited and
34 held to the same extent and in the same manner as required by the general
35 depository law of this state. For purposes of making the decision to
36 invest in securities owned by the fund or any plan or trust administered
37 by the board, the fund and assets of the plans and the plans' trusts are
38 subject to the sole management of the board for the purpose of this
39 article except that, on the board's election to invest in a particular
40 security or make a particular investment, the assets comprising the
41 security or investment may be chosen and managed by third parties approved
42 by the board. The board may invest in portfolios of securities chosen and
43 managed by a third party. The board's decision to invest in securities
44 such as mutual funds, commingled investment funds, exchange traded funds,
45 private equity or venture capital limited partnerships, real estate

1 limited partnerships or limited liability companies and real estate
2 investment trusts whose assets are chosen and managed by third parties is
3 not an improper delegation of the board's investment authority.

4 E. All contributions under this system and other retirement plans
5 that the board administers shall be forwarded to the board and shall be
6 held, invested and reinvested by the board as provided in this article.
7 All property and monies of the fund and other retirement plans that the
8 board administers, including income from investments and from all other
9 sources, shall be retained for the exclusive benefit of members, as
10 provided in the system and other retirement plans that the board
11 administers, and shall be used to pay benefits to members or their
12 beneficiaries or to pay expenses of operation and administration of the
13 system and fund and other retirement plans that the board administers.

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

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

41 2. Not more than five percent of the combined assets of the system
42 or other plans that the board manages is invested in corporate stock
43 issued by any one corporation, other than corporate stock issued by
44 corporations chartered by the United States government or corporate stock
45 issued by a bank or insurance company.

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

5 4. Corporate stocks and exchange traded funds eligible for direct
6 purchase are restricted to stocks and exchange traded funds that, except
7 for bank stocks, insurance stocks, stocks acquired for coinvestment in
8 connection with the system's or the plans' or trusts' commingled
9 investments and interests in limited liability companies and mutual funds,
10 are any of the following:

11 (a) Listed or approved on issuance for listing on an exchange
12 registered under the securities exchange act of 1934, as amended
13 (15 United States Code sections 78a through 78pp).

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

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

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

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

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

1 H. Conference call meetings of the board that are held for
2 investment purposes only are not subject to chapter 3, article 3.1 of this
3 title, except that the board shall maintain minutes of these conference
4 call meetings and make them available for public inspection within
5 twenty-four hours after the meeting. The board shall review the minutes
6 of each conference call meeting and shall ratify all legal actions taken
7 during each conference call meeting at the next scheduled meeting of the
8 board.

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

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

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

19 2. Sell, exchange, convey, transfer or otherwise dispose of any
20 investments made on behalf of the system or other plans the board
21 administers in the name of the system or plans by private contract or at
22 public auction.

23 3. Also:

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

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

27 (c) Exercise any conversion privileges, subscription rights or
28 other options and make any payments incidental to the exercise of the
29 conversion privileges, subscription rights or other options.

30 (d) Consent to or otherwise participate in corporate
31 reorganizations or other changes affecting corporate securities, delegate
32 discretionary powers and pay any assessments or charges in connection
33 therewith.

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

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

40 5. Register any investment held by the system or other plans whose
41 assets the board administers in the name of the system or plan or in the
42 name of a nominee or trust.

43 6. At the expense of the system or other plans that the board
44 administers, enter into an agreement with any bank or banks for the
45 safekeeping and handling of securities and other investments coming into

1 the possession of the board. The agreement shall be entered into under
2 terms and conditions that secure the proper safeguarding, inventory,
3 withdrawal and handling of the securities and other investments. Access
4 to and deposit or withdrawal of the securities from any place of deposit
5 selected by the board is not allowed and may not be made except as the
6 terms of the agreement provide.

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

18 8. Empower the fund administrator to take actions on behalf of the
19 board that are necessary for the protection and administration of the fund
20 or the assets of other plans that the board administers pursuant to the
21 guidelines of the board.

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

25 10. Settle threatened or actual litigation against any system or
26 plan that the board administers.

27 K. Investment expenses and operation and administrative expenses of
28 the board shall be accounted for separately and allocated against
29 investment income.

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

35 1. A balance sheet.

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

37 3. A report on an actuarial valuation of its assets and
38 liabilities.

39 4. A list of investments owned.

40 5. The total rate of return, yield on cost, ~~and~~ percentage of cost
41 to market value of the fund and the assets of other plans that the board
42 administers.

43 6. Any other statistical and financial data that may be necessary
44 for the proper understanding of the financial condition of the system and
45 other plans that the board administers and the results of their

1 operations. A synopsis of the annual report shall be published for the
2 information of members of the system, the elected officials' retirement
3 plan or the corrections officer retirement plan.

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

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

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

- 15 (a) Department of liquor licenses and control.
- 16 (b) Department of public safety.
- 17 (c) Northern Arizona university.
- 18 (d) University of Arizona.
- 19 (e) Arizona state university.
- 20 (f) Arizona game and fish department.
- 21 (g) Department of law.
- 22 (h) Department of emergency and military affairs.
- 23 (i) Arizona state parks board.

24 10. An estimate of the employer contribution rates for the next ten
25 fiscal years for each of the following employers within the corrections
26 officer retirement plan:

- 27 (a) State department of corrections.
- 28 (b) Department of public safety.
- 29 (c) The judiciary.
- 30 (d) Department of juvenile corrections.

31 11. An estimate of the aggregate fees paid for private equity
32 investments and other alternative investments, including management fees
33 and performance fees and carried interest.

34 M. The board shall:

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

38 2. Report the results of the actuarial valuations to the local
39 boards and employers.

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

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

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

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

11 7. Establish procedures and guidelines for contracts with
12 actuaries, auditors, investment counsel and legal counsel and for
13 safeguarding of securities.

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

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

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

26 1. Administer this article.

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

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

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

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

44 6. Be responsible for income, the collection of the income and the
45 accuracy of all expenditures.

1 7. Recommend to the board annual contracts for the system's
2 actuary, auditor, investment counsel, legal counsel and safeguarding of
3 securities.

4 8. Perform additional duties and powers prescribed by the board and
5 delegated to the administrator.

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

21 P. ALL TRUST FUNDS ADMINISTERED BY THE BOARD ARE EXEMPT FROM TITLE
22 44, CHAPTER 3. THE BOARD SHALL ADOPT POLICIES FOR MONIES PRESUMED TO BE
23 ABANDONED, INCLUDING REQUIREMENTS FOR THE NOTIFICATION OF THE PRESUMED
24 OWNER AND FOR DISTRIBUTING THE MONIES IF THE OWNER ESTABLISHES AN
25 ENTITLEMENT IN THE MONIES. MONIES IN THE RETIREMENT PLANS AND SYSTEM
26 ADMINISTERED BY THE BOARD ARE PRESUMED TO BE ABANDONED TWO YEARS AFTER ANY
27 OF THE FOLLOWING, WHICHEVER OCCURS FIRST:

28 1. THE DATE OF THE DISTRIBUTION OR ATTEMPTED DISTRIBUTION OF THE
29 MONIES.

30 2. THE DATE OF THE REQUIRED DISTRIBUTION AS STATED IN THE PLAN OR
31 TRUST AGREEMENT THAT GOVERNS THE PLAN.

32 3. IF DETERMINABLE BY THE HOLDER, THE DATE SPECIFIED IN THE INCOME
33 TAX LAWS OF THE UNITED STATES BY WHICH DISTRIBUTION OF THE MONIES MUST
34 BEGIN IN ORDER TO AVOID A TAX PENALTY.

35 ~~P.~~ Q. The board, the administrator, the deputy or assistant
36 administrators and all persons employed by them are subject to title 41,
37 chapter 4, article 4. The administrator, deputy or assistant
38 administrators and other employees of the board are entitled to receive
39 compensation pursuant to section 38-611.

40 ~~Q.~~ R. In consultation with the director of the department of
41 administration, the board may enter into employment agreements and
42 establish the terms of those agreements with persons holding any of the
43 following system positions:

44 1. Administrator.

45 2. Deputy or assistant administrator.

1 3. Chief investment officer.

2 4. Deputy chief investment officer.

3 5. Fiduciary or investment counsel.

4 ~~R.~~ S. The attorney general or an attorney approved by the attorney
5 general and paid by the fund is the attorney for the board and shall
6 represent the board in any legal proceeding or forum that the board deems
7 appropriate. The board, administrator, deputy or assistant administrators
8 and employees of the board are not personally liable for any acts done in
9 their official capacity in good faith reliance on the written opinions of
10 the board's attorney.

11 ~~S.~~ T. At least once in each five-year period after the effective
12 date, the actuary shall make an actuarial investigation into the
13 mortality, service and compensation experience of the members and
14 beneficiaries of the system and other plans that the board administers and
15 shall make a special valuation of the assets and liabilities of the monies
16 of the system and plans. Taking into account the results of the
17 investigation and special valuation, the board shall adopt for the system
18 and other plans that the board administers those mortality, service and
19 other tables deemed necessary.

20 ~~T.~~ U. On the basis of the tables the board adopts, the actuary
21 shall make a valuation of the assets and liabilities of the funds of the
22 system and other plans that the board administers at least every year. By
23 November 1 of each year the board shall provide a preliminary report and
24 by December 1 of each year provide a final report to the governor, the
25 speaker of the house of representatives and the president of the senate on
26 the contribution rate for the ensuing fiscal year.

27 ~~U.~~ V. Neither the board nor any member or employee of the board
28 shall directly or indirectly, for the board, the member or the employee or
29 as an agent, in any manner use the monies or deposits of the fund except
30 to make current and necessary payments, nor shall the board or any member
31 or employee become an endorser or surety or in any manner an obligor for
32 monies loaned by or borrowed from the fund or the assets of any other
33 plans that the board administers.

34 ~~V.~~ W. Financial or commercial information that is provided to the
35 board, employees of the board and attorneys of the board in connection
36 with investments in which the board has invested or investments the board
37 has considered for investment is confidential, proprietary and not a
38 public record if the information is information that would customarily not
39 be released to the public by the person or entity from whom the
40 information was obtained.

41 ~~W.~~ X. A person who is a dealer as defined in section 44-1801 and
42 who is involved in securities or investments related to the board's
43 investments is not eligible to serve on the board.

44 ~~X.~~ Y. The public safety personnel retirement system advisory
45 committee is established and shall serve as a liaison between the board

1 and the members and employers of the system. The president of the senate
2 and the speaker of the house of representatives shall each appoint to the
3 committee one member. The remaining members of the committee shall be
4 appointed by the chairperson of the board from names submitted to the
5 chairperson by associations representing law enforcement, firefighters,
6 state government, counties, cities and towns and tribal governments. The
7 committee shall select a chairperson from among its members each calendar
8 year. The committee members appointed by the chairperson of the board
9 shall consist of the following ten members:

- 10 1. A member who is a law enforcement officer.
- 11 2. A member who is a firefighter.
- 12 3. A member of the elected officials' retirement plan.
- 13 4. A member of the corrections officer retirement plan.
- 14 5. A retiree from the public safety personnel retirement system.
- 15 6. A representative from a city or town in this state.
- 16 7. A representative from a county in this state.
- 17 8. A representative from a fire district in this state.
- 18 9. A representative from a state employer.
- 19 10. A representative from a tribal government located in this
20 state.

21 Sec. 4. Section 38-867, Arizona Revised Statutes, is amended to
22 read:

23 38-867. Contributions; member; employer; pickup

24 A. Each participant in the defined contribution plan shall
25 contribute the following percentage of the participant's gross pensionable
26 compensation by salary reduction that shall be deposited in the
27 participant's annuity account:

- 28 1. For a participant as defined in section 38-865, paragraph 7,
29 subdivision (a), item (ii), three percent.
- 30 2. For a participant as defined in section 38-865, paragraph 7,
31 subdivision (a), item (i), nine percent.
- 32 3. For a participant as defined in section 38-865, paragraph 7,
33 subdivision (b), seven percent.

34 B. A participant as defined in section 38-865 may make a onetime
35 irrevocable election, before the participant is eligible to participate in
36 any qualified plan of the employer, to contribute more than the percentage
37 of the participant's gross pensionable compensation specified in this
38 section, up to the amount allowable under section 415(c) of the internal
39 revenue code. A participant as defined in section 38-865, paragraph 7,
40 subdivision (b) may make a onetime irrevocable election, before the
41 participant is eligible to participate in any qualified plan of the
42 employer, to contribute less than the percentage of the participant's
43 gross pensionable compensation specified in this section but may not elect
44 to contribute less than five percent of the participant's gross
45 pensionable compensation. The election made pursuant to this subsection

1 shall be the participant's contribution rate for the remainder of the
2 participant's employment.

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

16 D. Each employer shall annually make a contribution equal to the
17 following percentages of each participant's gross pensionable
18 compensation:

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

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

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

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

28 ~~F. A participant of the defined contribution plan may not take~~
29 ~~loans on any portion of the accumulated assets in the participant's~~
30 ~~annuity account.~~

31 ~~G.~~ F. Each participant as defined in section 38-865, paragraph 7,
32 subdivision (a), item (i) and subdivision (b) and each employer shall
33 contribute:

34 1. To the public safety personnel defined contribution retirement
35 plan disability program established by article 4.2 of this chapter.

36 2. For participants who make an election pursuant to section
37 38-869, an equal amount for the group health benefits plan payments as
38 specified in section 38-869 as determined by actuarial valuations reported
39 by the board to the employer and local board, which shall be deposited in
40 a separate account established pursuant to section 38-869.

41 ~~H.~~ G. A participant's contributions and earnings on those
42 contributions are immediately vested.

43 ~~I.~~ H. A participant as defined in section 38-865, paragraph 7,
44 subdivision (a) or section 38-865.01 is fully vested in the defined
45 contribution plan after ten years of service, with employer contributions

1 vesting at a rate of ten percent per year. If a participant described in
2 this subsection dies or is determined to be eligible for an accidental or
3 catastrophic disability pension pursuant to section 38-844 before
4 completing ten years of service, the employer contributions are
5 immediately fully vested.

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

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

13 ~~K.~~ J. If a participant as defined in section 38-865, paragraph 7,
14 subdivision (b) dies or is determined to be eligible for an accidental or
15 total and permanent disability pension pursuant to section 38-886 before
16 completing three years of service, the employer contributions are
17 immediately fully vested.

18 Sec. 5. Section 38-869, Arizona Revised Statutes, is amended to
19 read:

20 38-869. Group health benefits plan; retired participants;
21 definition

22 A. The board shall establish, design and administer a group health
23 benefits plan to provide group health benefits as prescribed in sections
24 38-857 and 38-906 for retired participants who make an election pursuant
25 to this section. Monies collected pursuant to section 38-867, subsection
26 ~~G.~~ F, paragraph 2 shall be deposited in a separate account solely to pay
27 for group health benefits provided under this section, and the amounts
28 shall be held by the board in trust for the purpose of providing the group
29 health benefits.

30 B. The purpose of this section is to provide a group health
31 benefits plan that is fully funded on a current basis from employer and
32 participant contributions. The board shall subject the account to
33 actuarial analysis and manage the account in an actuarially sound manner.

34 C. Contributions made to the account are nonrefundable and are
35 separate assets for the purposes of funding the group health benefits
36 plan.

37 D. The legislature intends that the group health benefits plan for
38 participants constitutes the exercise by the board of an essential
39 governmental function as provided in section 115(1) of the internal
40 revenue code, as amended, or successor provisions of law and that the
41 trust created pursuant to this section is exempt from federal and state
42 income tax. Notwithstanding subsection A of this section, if the board
43 dissolves the trust created pursuant to this section, any remaining assets
44 shall be returned to the employers that have contributed to the trust in
45 such amounts as the board determines. The board may adopt any additional

1 provisions to the group health benefits plan that ~~is~~ ARE necessary to
2 fulfill this intent.

3 E. For ninety days after July 1, 2022, existing participants shall
4 have the opportunity to participate in the group health benefits plan by
5 opting in through an irrevocable election to pay the required costs of the
6 group health benefits plan through payroll deduction. For ninety days
7 after employment, participants who are hired after July 1, 2022 may
8 participate in the group health benefits plan by making an irrevocable
9 election to pay the required costs of the group health benefits plan
10 through payroll deduction. If a participant fails to make an irrevocable
11 election within the ninety-day period specified in this subsection, the
12 participant shall be excluded from receiving any benefits specified in
13 this section during the participant's retirement and may not again have an
14 election to participate if the participant is ever reemployed in a
15 position in which the participant may again participate in the defined
16 contribution plan.

17 F. Each participant who makes an election pursuant to subsection E
18 of this section and the participant's employer shall pay an equal amount
19 for costs, as actuarially determined, for the group health benefits plan
20 pursuant to section 38-867.

21 G. Each employer shall transfer to the board the employer and
22 participant contributions paid pursuant to section 38-867, subsection
23 ~~G~~ F, paragraph 2 within ten working days after each payroll date.
24 Contributions transferred after that date shall include a penalty to be
25 paid by the employer of ten percent per year, compounded annually, for
26 each day the contributions are late. Delinquent payments due under this
27 subsection, together with interest charges as provided in this subsection,
28 may be recovered by an action in a court of competent jurisdiction against
29 an employer that is liable for the payments or, at the request of the
30 board, may be deducted from any other monies, including excise revenue
31 taxes, payable to such an employer by any department or agency of this
32 state.

33 H. Notwithstanding any other law, the board may authorize the
34 system to administer the group health benefits plan, to pay costs from the
35 account to the system for administrative expenses and to allocate costs on
36 a pro rata basis consistent with subsection F of this section.

37 I. The group health ~~benefit~~ BENEFITS plan established pursuant to
38 this section shall provide a retired participant who has made an election
39 pursuant to this section, payments prescribed in section 38-857,
40 subsection A or B, or section 38-906, subsection A or B, as applicable, if
41 the retired participant both:

42 1. Meets the requirements of the normal retirement date as defined
43 in section 38-842, paragraph 32, subdivision (c) or section 38-881,
44 paragraph 28, subdivision (c), as applicable.

45 2. Has elected either:

1 (a) To participate in the group health and accident coverage
2 provided by section 38-651.01 or 38-782 or any other retiree health and
3 accident insurance coverage provided or administered by a participating
4 employer.

5 (b) To purchase individual health care coverage and receive a
6 payment pursuant to this section through the retired participant's former
7 employer if that former employer assumes the administrative functions
8 associated with the payment, including verification that the payment is
9 used to pay for health insurance coverage if the payment is made to the
10 retired participant.

11 J. For the purposes of this section, "participant" means a
12 participant as defined in section 38-865, paragraph 7, subdivision (a),
13 item (i) and subdivision (b).

14 Sec. 6. Section 38-891, Arizona Revised Statutes, is amended to
15 read:

16 38-891. Employer and member contributions

17 A. As determined by actuarial valuations reported to the employers
18 and the local boards by the board, each employer shall make contributions
19 sufficient under the actuarial valuations to meet both the normal cost for
20 members hired before July 1, 2018 plus the actuarially determined amount
21 required to amortize the unfunded accrued liability on a level percent of
22 salary basis for all employees of the employer who are members of the plan
23 or participants as defined in section 38-865, paragraph 7, subdivision (b)
24 over, beginning July 1, 2018, a closed period of not more than twenty
25 years, except as provided in subsection M or O of this section, that is
26 established by the board taking into account the recommendation of the
27 plan's actuary, except that, beginning with fiscal year 2006-2007, except
28 as otherwise provided, the employer contribution rate shall not be less
29 than six percent of salary. For any employer whose actual contribution
30 rate is less than six percent of salary for fiscal year 2006-2007 and each
31 year thereafter, that employer's contribution rate shall be at least five
32 percent and not more than the employer's actual contribution rate. An
33 employer may pay a higher level percent of salary thereby reducing its
34 unfunded past service liability. All contributions made by the employers
35 and all state taxes allocated to the fund shall be irrevocable and shall
36 be used to pay benefits under the plan or to pay expenses of the plan and
37 fund. The minimum employer contribution that is paid and that is in
38 excess of the normal cost plus the actuarially determined amount required
39 to amortize the unfunded accrued liability as calculated pursuant to this
40 subsection shall be used to reduce future employer contribution increases
41 and shall not be used to pay for an increase in benefits that are
42 otherwise payable to members. The board shall separately account for
43 these monies in the fund. Forfeitures arising because of severance of
44 employment before a member becomes eligible for a pension or for any other
45 reason shall be applied to reduce the cost to the employer, not to

1 increase the benefits otherwise payable to members. After the close of
2 any fiscal year, if the plan's actuary determines that the actuarial
3 valuation of an employer's account contains excess valuation assets other
4 than excess valuation assets that were in the employer's account as of
5 fiscal year 2004-2005 and is more than one hundred percent funded, the
6 board shall account for fifty percent of the excess valuation assets in a
7 stabilization reserve account. After the close of any fiscal year, if the
8 plan's actuary determines that the actuarial valuation of an employer's
9 account has a valuation asset deficiency and an unfunded actuarial accrued
10 liability, the board shall use any valuation assets in the stabilization
11 reserve account for that employer, to the extent available, to limit the
12 decline in that employer's funding ratio to not more than two percent.

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

28 C. Each employer shall transfer to the board the employer and
29 employee contributions provided for in this section within ten working
30 days after each payroll date. Contributions transferred after that date
31 shall include a penalty of ten percent per annum, compounded annually, for
32 each day the contributions are late. The employer shall pay this
33 penalty. Delinquent payments due under this subsection, together with
34 interest charges as provided in this subsection, may be recovered by
35 action in a court of competent jurisdiction against an employer liable for
36 the payments or, at the request of the board, may be deducted from any
37 other monies, including excise revenue taxes, payable to the employer by
38 any department or agency of this state.

39 D. During a period when an employee is on industrial leave and the
40 employee elects to continue contributions during the period of industrial
41 leave, the employer and employee shall make contributions based on the
42 salary the employee would have received in the employee's job
43 classification if the employee was in normal employment status.

44 E. The local board of the state department of corrections or the
45 local board of the department of juvenile corrections may specify a

1 position within that department as a designated position if the position
2 is filled by an employee who has at least five years of credited service
3 under the plan, who is transferred to temporarily fill the position and
4 who makes a written request to the local board to specify the position as
5 a designated position within ninety days after being transferred. On the
6 employee leaving the position, the position is no longer a designated
7 position.

8 F. The local board of the state department of corrections, the
9 local board of the department of juvenile corrections, the local board of
10 the judiciary or the local board of a county, city or town that operates
11 detention facilities may specify a designated position within the
12 department or facility as a nondesignated position if the position is
13 filled by an employee who has at least five years of credited service
14 under the Arizona state retirement system and who makes a written request
15 to the local board to specify the position as a nondesignated position
16 within ninety days after accepting the position. On the employee leaving
17 the position, the position reverts to a designated position.

18 G. The local board of the judiciary may specify positions within
19 the administrative office of the courts that require direct contact with
20 and primarily provide training or technical expertise to county probation,
21 surveillance or juvenile detention officers as a designated position if
22 the position is filled by an employee who is a member of the plan
23 currently employed in a designated position as a probation, surveillance
24 or juvenile detention officer and who has at least five years of credited
25 service under the plan. An employee who fills such a position shall make
26 a written request to the local board to specify the position as a
27 designated position within ninety days after accepting the position. On
28 the employee leaving the position, the position reverts to a nondesignated
29 position.

30 H. The amount contributed by a member who was hired before July 1,
31 2018 pursuant to subsection B of this section is:

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

35 2. For fiscal year 2011-2012 and each fiscal year thereafter, 8.41
36 percent of the member's salary or fifty percent of the sum of the member's
37 contribution rate from the preceding fiscal year and the aggregate
38 computed employer contribution rate that is calculated pursuant to
39 subsection A of this section, whichever is lower, except that the member
40 contribution rate shall not be less than 7.65 percent of the member's
41 salary and the employer contribution rate shall not be less than the rate
42 prescribed in subsection A of this section.

43 I. Notwithstanding subsection H, paragraph 2 of this section, the
44 contribution rate for a full-time dispatcher is forty-five basis points
45 less than the member contribution amount calculated pursuant to subsection

1 H, paragraph 2 of this section, except that after the close of any fiscal
2 year, if the plan's actuary determines that the aggregate ratio of the
3 funding value of the accrued assets to the accrued liabilities of the fund
4 is at least one hundred percent, from and after June 30 of the following
5 year the member contribution rate for a full-time dispatcher is equal to
6 the member contribution rate for a member who is not a full-time
7 dispatcher.

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

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

16 1. As determined by actuarial valuations reported to the employer
17 and the local board by the board of trustees, each employer shall make
18 contributions sufficient under such actuarial valuations to pay 33.3
19 percent of the normal cost plus 50 percent of the actuarially determined
20 amount required to amortize the total unfunded accrued liability for each
21 employer attributable only to those members hired on or after July 1,
22 2018. For each year that new unfunded liabilities are attributable to the
23 employer's own members hired on or after July 1, 2018, a new amortization
24 base representing the most recent annual gain or loss, smoothed over a
25 period not more than five years as determined by the board, shall be
26 created on a level-dollar basis over a closed period equal to the average
27 expected remaining service lives of all members but not more than ten
28 years, as determined by the board.

29 2. The remaining 66.7 percent of the normal cost and the remaining
30 50 percent of the actuarially determined amount required to amortize the
31 total unfunded accrued liability as determined pursuant to paragraph 1 of
32 this subsection shall be divided by the total number of the employer's
33 members who were hired on or after July 1, 2018 such that each member
34 contributes an equal percentage of the member's compensation. Member
35 contributions shall begin simultaneously with membership in the plan and
36 shall be made by payroll deduction.

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

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

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

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

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

14 2. The employer submits a written request for the longer
15 amortization period along with the adopted resolution to the administrator
16 of the board.

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

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

22 P. EXCEPT AS PROVIDED IN SUBSECTION Q OF THIS SECTION, if a
23 member's employment is terminated with an employer by either party, the
24 total liability under the plan associated with the member's service with
25 the employer remains with the employer.

26 Q. IF AN ACTIVE OR INACTIVE MEMBER WHO IS REEMPLOYED IN THE SAME
27 RETIREMENT PLAN WITH A SUBSEQUENT EMPLOYER, ASSETS EQUAL TO THE
28 ACTUARIALLY ACCRUED LIABILITY EARNED WITH THE PREVIOUS EMPLOYER THROUGH
29 THE DATE OF REEMPLOYMENT SHALL TRANSFER TO THE SUBSEQUENT EMPLOYER AND ALL
30 BENEFIT LIABILITIES FOR THE MEMBER ARE ATTRIBUTED TO THAT EMPLOYER.
31 ACTUARIALLY ACCRUED LIABILITY SHALL BE COMPUTED USING THE ACTUARIAL
32 METHODS AND ASSUMPTIONS PRESCRIBED BY THE SYSTEM'S ACTUARY AND ADOPTED BY
33 THE BOARD.

34 Sec. 7. Section 38-951, Arizona Revised Statutes, is amended to
35 read:

36 38-951. Definitions

37 In this article, unless the context otherwise requires:

38 1. "Board" means the Arizona state retirement system board
39 established by section 38-713 or the board of trustees established by
40 section 38-848.

41 2. "Eligible group" means any of the following:

42 (a) The Arizona state retirement system established by article 2 of
43 this chapter.

44 (b) The elected officials' retirement plan established by article 3
45 of this chapter.

1 (c) The public safety personnel retirement system established by
2 article 4 of this chapter.

3 (d) The corrections officer retirement plan established by article
4 6 of this chapter.

5 (e) An optional retirement program established pursuant to section
6 15-1451 or 15-1628.

7 (f) THE ELECTED OFFICIALS' DEFINED CONTRIBUTION RETIREMENT SYSTEM
8 ESTABLISHED PURSUANT TO ARTICLE 3.1 OF THIS CHAPTER.

9 (g) THE PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT
10 PLAN ESTABLISHED PURSUANT TO ARTICLE 4.1 OF THIS CHAPTER.

11 3. "Employer" means an agency or department of this state or an
12 agency or department of a political subdivision of this state that has
13 employees in an eligible group.

14 4. "Plan" means a defined contribution plan authorized by this
15 article.

16 Sec. 8. Section 38-953, Arizona Revised Statutes, is amended to
17 read:

18 38-953. Supplemental option

19 A. A supplemental defined contribution plan is in addition to and
20 does not replace an employee's existing state defined benefit OR DEFINED
21 CONTRIBUTION retirement plan.

22 B. Except as provided in subsection C OF THIS SECTION, any
23 contributing member of an eligible group that establishes a supplemental
24 defined contribution plan as authorized by this article may participate in
25 the supplemental defined contribution plan. Participation in any plan
26 established by an eligible group authorizes the member's employer to make
27 reductions or deductions in the member's compensation. The employer shall
28 submit any reports required by the plan. Any compensation deferred under
29 the plan shall be included as regular compensation or compensation for the
30 purpose of computing the retirement and pension benefits earned by any
31 employee participating in the plan.

32 C. If the Arizona state retirement system establishes a
33 supplemental defined contribution plan and an employer member of the
34 Arizona state retirement system elects to participate in the supplemental
35 defined contribution plan, any employee member of the employer who meets
36 the eligibility requirements that are prescribed by the board for
37 participation in the supplemental defined contribution plan and that are
38 selected by the member's employer may participate in the supplemental
39 defined contribution plan.

40 D. An employee shall make an election to participate in a
41 supplemental defined contribution plan within two years after the employee
42 first meets the eligibility requirements to participate in the plan. An
43 election to participate in a plan is irrevocable and continues for the
44 remainder of the employee's employment with the employer.

1 E. If an employee elects to participate in a plan pursuant to this
2 section, the employee shall contribute a prescribed amount of the
3 employee's gross compensation, which shall be a percentage of the
4 employee's gross compensation, a fixed dollar amount, an amount prescribed
5 in the plan or some other definitive amount that may not be modified or
6 revoked by the employee. As the plan prescribes, an employer may annually
7 increase or decrease the employee contributions in increments of one ~~per~~
8 ~~cent~~ PERCENT up to the maximum allowed by law, or the employee may make a
9 one-time irrevocable election of the employee's contribution amount. An
10 employee is not required to contribute under this subsection in order to
11 qualify for an employer match under subsection F or G OF THIS SECTION.
12 The employer match may accrue from any program established by the
13 employer.

14 F. An employer may elect to match the contributions made by the
15 employee to the supplemental defined contribution plan at a rate
16 determined by the employer. The employer shall pay this amount to the
17 supplemental defined contribution plan in which the employee participates.

18 G. An employer may elect to match the contributions made by the
19 employee to any other program established by the employer under the
20 internal revenue code, including any plan established under internal
21 revenue code section 401(a), 403(b) or 457, at a rate determined by the
22 employer. The employee shall determine whether the employer pays the
23 matching contribution to the 401(a), 403(b), ~~or~~ or 457 plan in which the
24 employee participates, ~~to~~ to the supplemental defined contribution plan in
25 which the employee participates or to any other plan established by the
26 employer.

27 H. The rate of the employer match under subsection F or G OF THIS
28 SECTION shall be determined at the beginning of that employer's budget
29 cycle and shall terminate at the end of that budget cycle. If an employer
30 elects to match under subsection F or G OF THIS SECTION, the employer
31 shall make the contributions.

32 Sec. 9. Retroactivity

33 A. Section 38-843, Arizona Revised Statutes, as amended by this
34 act, applies retroactively to from and after August 5, 2016.

35 B. Section 38-891, Arizona Revised Statutes, as amended by this
36 act, applies retroactively to from and after August 9, 2017.