

REFERENCE TITLE: PSPRS; CORP; EORP amendments

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SB 1116

Introduced by  
Senators Yarbrough, McComish

## AN ACT

AMENDING SECTIONS 35-1002, 38-822, 38-843.05, 38-844, 38-846, 38-847, 38-849, 38-853, 38-853.01, 38-859, 38-860, 38-884 AND 38-893, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-895.02; AMENDING SECTIONS 38-904, 38-909 AND 38-910, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM, THE CORRECTIONS OFFICER RETIREMENT PLAN AND THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 35-1002, Arizona Revised Statutes, is amended to  
3 read:

4 35-1002. Swap agreements; provisions; purposes; credit  
5 enhancement

6 A. A governmental entity may enter into, modify, amend and terminate  
7 one or more swap agreements that it determines to be necessary or desirable  
8 in connection with, or incidental to, the conduct of its activities,  
9 including in connection with the issuance, carrying or securing of  
10 obligations or the acquisition or carrying of investments. A governmental  
11 entity may enter into swap agreements ~~which~~ THAT are to be effective at a  
12 future date or ~~which~~ THAT constitute an option to enter into swap agreements.  
13 Swap agreements entered into by a governmental entity shall contain such  
14 provisions, including payment, term, security, collateralization, termination  
15 penalty, default and remedy provisions, and shall be with such parties as the  
16 governmental entity determines to be necessary or desirable after due  
17 consideration to the creditworthiness of the parties. If the party to the  
18 swap agreement ~~which~~ THAT is not the governmental entity is not rated by a  
19 nationally recognized rating agency in one of the top two rating categories  
20 of the rating agency at the time the swap agreement is entered into, the  
21 party shall collateralize its obligations under the swap agreement with  
22 securities or cash acceptable to the governmental entity. Swap agreements  
23 may be payable from revenues of a utility undertaking, excise taxes, ad  
24 valorem taxes, street and highway revenues, monies that may be pledged to pay  
25 debt service on any bonds or other long-term obligations relating to the swap  
26 agreements, or any other legally available monies, as determined by the  
27 governmental entity.

28 B. A governmental entity shall not enter into a swap agreement other  
29 than TO IMPLEMENT ITS INVESTMENT POLICY OR for the purpose of managing an  
30 interest rate, commodity price, investment or similar risk that arises in  
31 connection with, or incidental to, the activities of the governmental entity.  
32 A governmental entity shall not carry on a business of acting as a dealer in  
33 swap agreements.

34 C. In connection with entering into any swap agreement a governmental  
35 entity may enter into agreements ~~which~~ THAT enhance the governmental entity's  
36 credit in the swap agreement or enhance the liquidity of the swap agreement,  
37 including a line of credit, letter of credit, insurance policy or other  
38 security.

39 Sec. 2. Section 38-822, Arizona Revised Statutes, is amended to read:  
40 38-822. Domestic relations orders; procedures; payments

41 A. Notwithstanding any other law, in a judicial proceeding for  
42 annulment, dissolution of marriage or legal separation that provides for the  
43 distribution of community property, or in any judicial proceeding to amend or  
44 enforce such a property distribution, a court in this state may issue a  
45 domestic relations order that provides that all or any part of a

1 participant's benefit or refund in the plan that would otherwise be payable  
2 to that participant shall instead be paid by the plan to an alternate payee.

3 B. A domestic relations order is not effective against the plan unless  
4 the domestic relations order is approved by the plan and qualifies as a plan  
5 approved domestic relations order. To qualify as a plan approved domestic  
6 relations order, a domestic relations order shall comply with any policies or  
7 procedures adopted pursuant to subsection K and shall also meet all of the  
8 following requirements:

9 1. The domestic relations order shall state the name and the last  
10 known mailing address of the participant and the name and last known mailing  
11 address of the alternate payee that is covered by the domestic relations  
12 order.

13 2. The domestic relations order shall clearly state the amount or  
14 percentage of the participant's benefits that is payable by the plan to the  
15 alternate payee or the precise manner in which the amount or percentage is to  
16 be determined.

17 3. The domestic relations order shall state the number of payments or  
18 periods to which the domestic relations order applies, if applicable.

19 4. The domestic relations order shall state that the domestic  
20 relations order applies to the plan.

21 5. The domestic relations order shall not require the plan to provide  
22 any type or form of benefit or any option not otherwise provided by this  
23 article.

24 6. The domestic relations order shall not require the plan to provide  
25 increased benefits determined on the basis of actuarial value.

26 7. The domestic relations order shall not require the payment of  
27 benefits to an alternate payee if the benefits are required to be paid to  
28 another alternate payee under a separate plan approved domestic relations  
29 order.

30 8. THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF  
31 COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED  
32 STATES.

33 C. On receipt by the plan of a certified copy of a domestic relations  
34 order and a written request for a determination that the domestic relations  
35 order is a plan approved domestic relations order, the plan shall promptly  
36 issue a written notice of receipt stating that the domestic relations order  
37 and request were received to the participant and alternate payee at the  
38 addresses on file, if any.

39 D. The plan has a determination period to issue a written  
40 determination indicating whether a domestic relations order qualifies as a  
41 plan approved domestic relations order. If the participant is receiving  
42 benefits during the determination period, and if the plan can determine the  
43 amount of the benefits that currently would be payable to the alternate payee  
44 if the domestic relations order were a plan approved domestic relations  
45 order, the plan shall hold the segregated funds and shall pay the remaining

1 portion of the benefits to the participant. If the plan determines the  
2 domestic relations order is a plan approved domestic relations order, the  
3 plan shall pay the participant and alternate payee pursuant to the plan  
4 approved domestic relations order in the month following the month in which  
5 the determination was issued, or in the month following the month in which a  
6 benefit is payable under the plan approved domestic relations order,  
7 whichever is later. If the plan determines the domestic relations order  
8 fails to qualify as a plan approved domestic relations order, the plan shall  
9 specify in its determination how the domestic relations order is deficient  
10 and how it may be amended to qualify as a plan approved domestic relations  
11 order. If the participant is currently receiving benefits, and if the plan  
12 can determine the amount of segregated funds that would be payable to the  
13 alternate payee if the domestic relations order were a plan approved domestic  
14 relations order, the plan shall hold the segregated funds during the cure  
15 period to allow the parties to submit a certified copy of an amended domestic  
16 relations order and a written request for a determination that the amended  
17 domestic relations order is a plan approved domestic relations order. During  
18 the cure period, the plan shall pay the participant's portion to the  
19 participant. At the end of the cure period, if the issue of whether an  
20 amended domestic relations order qualifies as a plan approved domestic  
21 relations order remains undetermined or if an amended domestic relations  
22 order is determined not to be a plan approved domestic relations order, the  
23 plan shall pay the segregated funds and the participant's portion to the  
24 participant. The participant shall hold the segregated funds in trust for  
25 the alternate payee as provided in subsection J. If an amended domestic  
26 relations order that is submitted after the expiration of the cure period is  
27 determined to be a plan approved domestic relations order, the plan shall  
28 make payments to an alternate payee under the plan approved domestic  
29 relations order only prospectively. A determination by the plan that a  
30 domestic relations order is not a plan approved domestic relations order does  
31 not prohibit a participant or alternate payee from submitting an amended  
32 domestic relations order to the plan.

33 E. Each participant and alternate payee is responsible for maintaining  
34 a current mailing address on file with the plan. The plan has no duty to  
35 attempt to locate any participant or alternate payee. The plan has no duty  
36 to provide a notice of receipt or determination or pay benefits by means  
37 other than mailing the notice or payments to the participant or alternate  
38 payee at the last known address that is on file with the plan. If the  
39 address of an alternate payee is unknown to the plan, but benefits are  
40 payable to the alternate payee pursuant to a plan approved domestic relations  
41 order, the plan shall either:

42 1. Hold the alternate payee's portion until such a time as the  
43 alternate payee provides the plan with a current address. Once the plan is  
44 notified of the alternate payee's current address, the plan shall  
45 prospectively pay the alternate payee's portion to the alternate payee.

1           2. Pay the alternate payee's portion to the participant, who shall  
2 hold the alternate payee's portion in trust as provided in subsection J,  
3 until such a time as the alternate payee is located. At that time the  
4 participant shall pay the alternate payee's portion directly to the alternate  
5 payee.

6           F. If the address of a participant is unknown to the plan, but  
7 benefits are payable to the participant pursuant to a plan approved domestic  
8 relations order, the plan shall hold the participant's portion until the  
9 participant provides the plan with a current address.

10           G. If the alternate payee identified in a plan approved domestic  
11 relations order predeceases the participant and the plan approved domestic  
12 relations order does not otherwise provide for the disposition of the  
13 alternate payee's interest the plan shall pay the alternate payee's portion  
14 to the personal representative of the deceased alternate payee pursuant to  
15 this subsection. The personal representative is responsible for maintaining  
16 a current mailing address on file with the plan. The plan has no duty to  
17 attempt to locate any personal representative. The plan is not responsible  
18 for making benefit payments to a personal representative until the personal  
19 representative has both:

20           1. Persuaded the plan that the personal representative is authorized  
21 to receive payments designated for the deceased alternate payee.

22           2. Provided the plan with an address to which the payments should be  
23 sent.

24           H. If, within thirty days after the date the plan verifies an  
25 alternate payee's death, a personal representative does not make demand on  
26 the plan for the alternate payee's portion, the plan shall either:

27           1. Hold the alternate payee's portion until the time a personal  
28 representative makes a proper demand for payment of the alternate payee's  
29 portion.

30           2. Remit the alternate payee's portion to the participant, who shall  
31 hold the amounts in trust for the estate of the alternate payee until the  
32 personal representative is identified. At that time the participant shall  
33 pay the alternate payee's portion paid by the plan to the participant to the  
34 personal representative.

35           Thereafter, the plan shall prospectively pay the alternate payee's portion to  
36 the personal representative.

37           I. Amounts held or paid pursuant to this section shall not accrue  
38 interest unless otherwise prescribed by this article.

39           J. The plan is not liable to the participant, the alternate payee, any  
40 personal representative of the estate of an alternate payee or any other  
41 person for any amount paid, withheld or disbursed by the plan pursuant to  
42 this section. If one or more payments are made by the plan to a person not  
43 otherwise entitled to receive the payments, the recipient of the payment is  
44 designated a constructive trustee for the payment received and, together with

1 the marital community, if any, is the sole party against whom an action may  
2 be brought to recover the payment.

3 K. The plan may adopt policies and procedures that govern the  
4 implementation of this section.

5 Sec. 3. Section 38-843.05, Arizona Revised Statutes, is amended to  
6 read:

7 38-843.05. Retired members; return to work; employer  
8 contributions

9 A. An employer shall pay contributions at an alternate contribution  
10 rate on behalf of a retired member who returns to work in any capacity in a  
11 position ordinarily filled by an employee of the employer of an eligible  
12 group. ~~This section applies to a retired member who returns to work with~~

13 ~~another participating employer and a retired member who returns to work after~~  
14 ~~sixty consecutive days with the same employer from which the member retired.~~

15 FOR THE PURPOSES OF THIS SUBSECTION, "RETURNS TO WORK IN ANY CAPACITY"  
16 INCLUDES A RETIRED MEMBER WHO RETURNS TO WORK AND IS INELIGIBLE FOR BENEFITS  
17 PURSUANT TO SECTION 38-849, SUBSECTION E.

18 B. The alternate contribution rate shall be equal to that portion of  
19 the total required contribution that is applied to the amortization of the  
20 unfunded actuarial accrued liability for the fiscal year beginning July 1,  
21 based on the system's actuary's calculation of the total required  
22 contribution for the preceding fiscal year ended on June 30. The alternate  
23 contribution rate shall be applied to the compensation, gross salary or  
24 contract fee of a retired member who meets the requirements of this section.

25 C. The alternate contribution rate shall not be less than eight per  
26 cent in any fiscal year.

27 D. All contributions made by the employer and allocated to the fund  
28 are irrevocable and shall be used as benefits under this article or to pay  
29 the expenses of the system. Payments made pursuant to this section by  
30 employers become delinquent after the due date prescribed in SECTION 38-843,  
31 subsection D, and thereafter shall be increased by interest from and after  
32 that date until payment is received by the system.

33 E. An employer of a retired member shall IMMEDIATELY NOTIFY THE LOCAL  
34 BOARD AFTER THE EMPLOYMENT OF A RETIRED MEMBER AND SHALL submit any reports,  
35 data, paperwork or materials that are requested by the board ~~and~~ OR THE LOCAL  
36 BOARD that are necessary to determine the compensation, gross salary or  
37 contract fee associated with a retired member who returns to work or to  
38 determine the function, use, efficacy or operation of the return to work  
39 program.

40 Sec. 4. Section 38-844, Arizona Revised Statutes, is amended to read:

41 38-844. Requirements for retirement benefits and disability  
42 pensions

43 A. A member shall be eligible for a normal pension on retirement on or  
44 after the member's normal retirement date. Payment of a normal pension shall  
45 commence as of the first day of the month following the date of retirement,

1 and the last payment shall be made as of the last day of the month in which  
2 the death of the retired member occurs.

3 B. A member is eligible for an accidental disability pension if the  
4 member's employment is terminated by reason of accidental disability. A  
5 member is eligible for an ordinary disability pension if the member's  
6 employment is terminated before the member's normal retirement date by reason  
7 of ordinary disability. A member shall file an application for a disability  
8 pension after the disabling incident or within one year after the date the  
9 member ceases to be an employee. Timely application for an accidental,  
10 catastrophic or ordinary disability pension is a prerequisite to receipt of  
11 the pension. Payment of an accidental, catastrophic or ordinary disability  
12 pension shall commence as of the first day of the month following the date of  
13 retirement or the expiration of a period during which the member is receiving  
14 sick leave payments or a temporary disability pension, whichever is later.  
15 The last payment shall be made as of the last day of the month in which the  
16 death of the retired member occurs, or if disability ceases before the  
17 member's normal retirement date, the first day of the month in which  
18 disability ceases.

19 C. A member is eligible for a catastrophic disability pension if the  
20 member's employment is terminated by reason of catastrophic disability. If  
21 more than the allowable catastrophic disability pensions are approved by the  
22 local boards in a calendar year, from and after December 31 of the following  
23 calendar year a member of the system is not eligible to apply for a  
24 catastrophic disability pension. On or before January 31, the board of  
25 trustees shall report to the president of the senate and the speaker of the  
26 house of representatives the number of catastrophic disability pensions that  
27 were approved by the local boards in the preceding calendar year. For the  
28 purposes of this subsection, "allowable catastrophic disability pensions"  
29 means for calendar year 2004, ten, and for subsequent calendar years the  
30 number of allowable catastrophic disability pensions allowed in the prior  
31 calendar year minus the number of catastrophic disability pensions approved  
32 by the local boards in the prior calendar year plus four.

33 D. Notwithstanding any other provision of this section, no member  
34 shall qualify for an accidental, catastrophic or ordinary disability pension  
35 if the local board determines that the member's disability results from the  
36 following:

37 1. An injury suffered while engaged in a felonious criminal act or  
38 enterprise.

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

41 3. A physical or mental condition or injury that existed or occurred  
42 before the member's date of membership in the system.

43 E. Accidental or ordinary disability shall be considered to have  
44 ceased and an accidental or ordinary disability pension terminates if the  
45 member:

1           1. Has sufficiently recovered, in the opinion of the local board,  
2 based on a medical examination by a physician or clinic appointed by the  
3 local board, to be able to engage in a reasonable range of duties within the  
4 member's department and the member refuses an offer of employment by an  
5 employer in the system.

6           2. Refuses to undergo any medical examination requested by the local  
7 board, provided that a medical examination shall not be required more  
8 frequently than once in any calendar year.

9           F. Sixty months after the award of a catastrophic disability pension,  
10 the local board shall reevaluate the member. If the member still qualifies  
11 for the catastrophic disability pension, the member is entitled to continue  
12 to receive the pension at the reduced amount prescribed in section 38-845,  
13 subsection E. A catastrophic disability shall be considered to have ceased  
14 and a catastrophic disability pension terminates if the local board  
15 determines that the member has sufficiently recovered and is able to engage  
16 in gainful employment based on a medical examination by a physician or a  
17 clinic appointed by the local board. After the sixty month review, the  
18 catastrophic disability shall be considered to have ceased and a catastrophic  
19 disability pension terminates if the local board determines that the member  
20 has sufficiently recovered and is able to engage in gainful employment based  
21 on a medical examination by a physician or a clinic appointed by the local  
22 board, except that the medical examination shall not be required more  
23 frequently than once in a calendar year. The medical review after the sixty  
24 month period does not apply after the date the catastrophic disability  
25 pensioner would have attained twenty-five years of service assuming the  
26 pensioner remained a member of the system. The local board shall also  
27 terminate a catastrophic disability pension if the member refuses to undergo  
28 any medical examination requested by the local board. A member whose  
29 catastrophic disability pension is terminated may apply for and if eligible  
30 is entitled to receive an accidental disability pension as provided in this  
31 section.

32           G. Subsection E of this section does not apply after a disability  
33 pensioner's normal retirement date. The amount of a disability pension shall  
34 not be recomputed at a disability pensioner's normal retirement date.

35           H. If accidental or ordinary disability ceases before a retired member  
36 attains the member's normal retirement date and the member is reemployed by  
37 an employer, the pension payable on the member's subsequent retirement shall  
38 be determined as provided in section 38-849, subsection ~~D~~ E.

39           I. A member shall be eligible for a temporary disability pension if  
40 the member's employment is terminated before the member's normal retirement  
41 date by reason of temporary disability. Payment of a temporary disability  
42 pension shall commence as of the first day of the month following the date of  
43 disability or the expiration of a period during which the member is receiving  
44 compensation and sick leave payments, whichever is later. The last payment  
45 shall be made as of the first day of the month in which either the death of

1 the member occurs or the local board deems the member is no longer under  
2 temporary disability, whichever first occurs, provided that no more than  
3 twelve monthly temporary disability payments shall be made in total to the  
4 member.

5 J. If on the expiration of a temporary disability pension the local  
6 board finds on application that the member has an accidental or ordinary  
7 disability, the member shall be eligible for an accidental or ordinary  
8 disability pension, as provided in this section.

9 K. The system shall make payments pursuant to section 401(a)(9) of the  
10 internal revenue code and the regulations that are issued under that  
11 section. Notwithstanding any other provision of the system, beginning  
12 January 1, 1987 payment of benefits to a member shall commence no later than  
13 April 1 of the calendar year following the later of:

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

16 2. The date the member terminates employment.

17 Sec. 5. Section 38-846, Arizona Revised Statutes, is amended to read:

18 38-846. Death benefits

19 A. The surviving spouse of a deceased retired member shall be paid a  
20 surviving spouse's pension if the spouse was married to the member for a  
21 period of at least two consecutive years at the time of the member's death.  
22 Payment of a surviving spouse's pension shall commence as of the last day of  
23 the month following the retired member's date of death. The last payment  
24 shall be made as of the last day of the month in which the surviving spouse's  
25 death occurs.

26 B. The surviving spouse of a deceased member shall be paid a surviving  
27 spouse's pension if the spouse was married to the member on the date of the  
28 member's death. Payment of a surviving spouse's pension commences as of the  
29 last day of the month following the member's date of death. The last payment  
30 shall be made as of the last day of the month in which the surviving spouse's  
31 death occurs.

32 C. The surviving spouse of a deceased retired member is entitled to  
33 receive a monthly amount equal to four-fifths of the monthly amount of  
34 pension that the decedent would have received immediately before death.

35 D. The surviving spouse of a deceased member who was not killed in the  
36 line of duty or did not die from injuries suffered in the line of duty is  
37 entitled to receive a monthly amount calculated in the same manner as an  
38 accidental disability pension is calculated pursuant to section 38-845,  
39 subsection B. The surviving spouse of a deceased member who is killed in the  
40 line of duty or dies from injuries suffered in the line of duty is entitled  
41 to receive a monthly amount equal to the deceased member's average monthly  
42 benefit compensation less any amount payable for an eligible child under this  
43 section. A member who was eligible for or receiving a temporary disability  
44 pension at the time of the member's death is not deemed to be retired for the  
45 purposes of this subsection. For the purposes of this subsection, "killed in

1 the line of duty" means the decedent's death was the direct and proximate  
2 result of the performance of the decedent's public safety duties and does not  
3 include suicide.

4 E. A surviving spouse shall file a written application with the system  
5 in order to receive a survivor benefit.

6 F. If at least one eligible child is surviving at the death of a  
7 member or retired member, but no surviving spouse's pension then becomes  
8 payable, a guardian's or conservator's pension shall be payable to the person  
9 who is serving, or who is deemed by the local board to be serving, as the  
10 legally appointed guardian or custodian of the eligible child. If an  
11 eligible child of a member or retired member is surviving at the member's or  
12 retired member's death, the eligible child is entitled to receive a child's  
13 pension payable to the person who is serving or who is deemed by the local  
14 board to be serving as the legally appointed guardian or custodian of the  
15 eligible child. A child's pension or a guardian's or conservator's pension  
16 terminates if the child is adopted. In the case of a disabled child, the  
17 child's pension or the guardian's or conservator's pension terminates if the  
18 child ceases to be under a disability or ceases to be a dependent of the  
19 surviving spouse or guardian. The member may also direct by designation to  
20 the local board that the guardian or conservator pension or child's pension  
21 be paid to the trustee of a trust created for the benefit of the eligible  
22 child. A guardian's or conservator's pension shall also become payable if at  
23 least one eligible child is surviving when a surviving spouse's pension  
24 terminates. The guardian or conservator shall file a written application  
25 with the system in order to receive the guardian's or conservator's pension  
26 and child's pension.

27 G. The board shall pay a guardian's or conservator's pension during  
28 the same period in which a pension is payable to at least one eligible  
29 child. The guardian, conservator or designated trustee is entitled to  
30 receive the same monthly amount as would have been payable to the decedent's  
31 surviving spouse had a surviving spouse's pension become payable on the  
32 decedent's death.

33 H. Each eligible child is entitled to a monthly amount equal to  
34 one-tenth of the monthly amount of pension that the deceased member or  
35 retired member would have received immediately before death. The pension for  
36 a child of a deceased member shall be calculated in the same manner as an  
37 accidental disability is calculated pursuant to section 38-845, subsection B.  
38 A deceased member shall be assumed to be retired for reasons of accidental  
39 disability immediately before the member's death. If there are three or more  
40 children eligible for a child's pension, a maximum of two shares of the  
41 child's pension shall be payable, the aggregate of such shares to be  
42 apportioned in equal measure to each eligible child.

43 I. If a member has accumulated contributions remaining in the system  
44 at the date of death of the last beneficiary, a lump sum refund of such  
45 accumulated contributions shall be payable to the person whom the member has

1 designated IN WRITING TO THE LOCAL BOARD as the member's refund beneficiary,  
2 or if the member's refund beneficiary is not then surviving, to the  
3 designated contingent refund beneficiary, or if the designated contingent  
4 refund beneficiary is not then surviving, ~~to such person~~ OR IF THE SURVIVING  
5 DESIGNATED BENEFICIARY DOES NOT APPLY FOR THE BENEFIT, AT THE ELECTION OF THE  
6 LOCAL BOARD TO THE PERSON'S nearest of kin as ~~selected~~ DETERMINED by the  
7 local board OR TO THE ESTATE OF THE DECEASED MEMBER. The amount of the lump  
8 sum refund shall be the remaining accumulated contributions. The beneficiary  
9 or person who is ~~selected as~~ CLAIMING TO BE THE nearest of kin shall file a  
10 written application in order to receive the refund.

11 J. In calculating the right to and the amount of the surviving  
12 spouse's pension, the law in effect on the date of the death of the member or  
13 retired member controls, unless the law under which the member retired  
14 provides for a greater benefit amount for a surviving spouse.

15 Sec. 6. Section 38-847, Arizona Revised Statutes, is amended to read:  
16 38-847. Local boards

17 A. The administration of the system and responsibility for making the  
18 provisions of the system effective for each employer are vested in a local  
19 board. The department of public safety, the Arizona game and fish  
20 department, the department of emergency and military affairs, the university  
21 of Arizona, Arizona state university, northern Arizona university, each  
22 county sheriff's office, each county attorney's office, each county parks  
23 department, each municipal fire department, each eligible fire district, each  
24 community college district, each municipal police department, the department  
25 of law, the department of liquor licenses and control, the Arizona department  
26 of agriculture, the Arizona state parks board, each Indian reservation police  
27 agency and each Indian reservation fire fighting agency shall have a local  
28 board. A nonprofit corporation operating pursuant to sections 28-8423 and  
29 28-8424 shall have one local board for all of its members. Each local board  
30 shall be constituted as follows:

31 1. For political subdivisions or Indian tribes, the mayor or chief  
32 elected official or a designee of the mayor or chief elected official  
33 approved by the respective governing body as chairman, two members elected by  
34 secret ballot by members employed by the appropriate employer and two  
35 citizens, one of whom shall be the head of the merit system, or the head's  
36 designee from among the other members of the merit system, if it exists for  
37 the group of members, appointed by the mayor or chief elected official and  
38 with the approval of the governing body of the city or the governing body of  
39 the employer. The appointed two citizens shall serve on both local boards in  
40 a city or Indian tribes where both fire and police department employees are  
41 members.

42 2. For state agencies and nonprofit corporations operating pursuant to  
43 sections 28-8423 and 28-8424, two members elected by secret ballot by members  
44 employed by the appropriate employer and three citizens appointed by the  
45 governor. Each state agency local board shall elect a chairman.

1           3. For fire districts organized pursuant to section 48-804, the  
2 secretary-treasurer as chairman, two members elected by secret ballot by  
3 members employed by the fire district and two citizens appointed by the  
4 secretary-treasurer, one of whom is a resident of the fire district and one  
5 of whom has experience in personnel administration but who is not required to  
6 be a resident of the fire district.

7           B. On the taking effect of this system for an employer, the  
8 appointments and elections of local board members shall take place with one  
9 elective and appointive local board member serving a term ending two years  
10 after the effective date of participation for the employer and other local  
11 board members serving a term ending four years after the effective date.  
12 Thereafter, every second year, and as a vacancy occurs, an office shall be  
13 filled for a term of four years in the same manner as previously provided.

14           C. Each local board shall be fully constituted pursuant to subsection  
15 A of this section within sixty days after the employer's effective date of  
16 participation in the system. If the deadline is not met, on the written  
17 request of any member who is covered by the local board or the employer to  
18 the board of trustees, the board of trustees may appoint all vacancies of the  
19 local board pursuant to subsection A of this section and designate whether  
20 each appointive position is for a two year or four year term. If the board  
21 of trustees cannot find individuals to serve on the local board who meet the  
22 requirements of subsection A of this section, the board of trustees may  
23 appoint individuals to serve as interim local board members until qualified  
24 individuals are appointed or elected. Each local board shall meet at least  
25 twice a year. Each member of a local board, within ten days after the  
26 member's appointment or election, shall take an oath of office that, so far  
27 as it devolves on the member, the member shall diligently and honestly  
28 administer the affairs of the local board and that the member shall not  
29 knowingly violate or willingly permit to be violated any of the provisions of  
30 law applicable to the system.

31           D. Except as limited by subsection E of this section, a local board  
32 shall have such powers as may be necessary to discharge the following duties:

33           1. To decide all questions of eligibility and service credits, and  
34 determine the amount, manner and time of payment of any benefits under the  
35 system.

36           2. To prescribe procedures to be followed by claimants in filing  
37 applications for benefits.

38           3. To make a determination as to the right of any claimant to a  
39 benefit and to afford any claimant or the board of trustees, or both, a right  
40 to a rehearing on the original determination. **EXCEPT AS OTHERWISE REQUIRED**  
41 **BY LAW**, unless all parties involved in a matter presented to the local board  
42 for determination otherwise agree, the local board shall commence a hearing  
43 on the matter within ninety days after the date the matter is presented to  
44 the local board for determination. If a local board fails to commence a  
45 hearing as provided in this paragraph, on a matter presented to the local

1 board for determination, the relief demanded by the party petitioning the  
 2 local board is deemed granted and approved by the local board. The granting  
 3 and approval of this relief is considered final and binding unless a timely  
 4 request for rehearing or appeal is made as provided in this article, unless  
 5 the board of trustees determines that granting the relief requested would  
 6 violate the internal revenue code or threaten to impair the system's status  
 7 as a qualified plan under the internal revenue code. If the board of  
 8 trustees determines that granting the requested relief would violate the  
 9 internal revenue code or threaten to impair the system's status as a  
 10 qualified plan, the board of trustees may refuse to grant the relief by  
 11 issuing a written determination to the local board and the party petitioning  
 12 the local board for relief. The decision by the board of trustees is subject  
 13 to judicial review pursuant to title 12, chapter 7, article 6.

14 4. To request and receive from the employers and from members such  
 15 information as is necessary for the proper administration of the system and  
 16 action on claims for benefits and to forward such information to the board of  
 17 trustees.

18 5. To distribute, in such manner as the local board determines to be  
 19 appropriate, information explaining the system received from the board of  
 20 trustees.

21 6. To furnish the employer, the board of trustees and the legislature,  
 22 on request, with such annual reports with respect to the administration of  
 23 the system as are reasonable and appropriate.

24 7. To receive and review the actuarial valuation of the system for its  
 25 group of members.

26 8. To receive and review reports of the financial condition and of the  
 27 receipts and disbursements of the fund from the board of trustees.

28 9. To appoint medical boards as provided in section 38-859.

29 10. To sue and be sued to effectuate the duties and responsibilities  
 30 set forth in this article.

31 E. A local board shall have no power to add to, subtract from, modify  
 32 or waive any of the terms of the system, change or add to any benefits  
 33 provided by the system or waive or fail to apply any requirement of  
 34 eligibility for membership or benefits under the system. Notwithstanding any  
 35 limitations periods imposed in this article, including subsection D,  
 36 paragraph 3 and subsections G and H of this section, if the board of trustees  
 37 determines a local board decision violates the internal revenue code or  
 38 threatens to impair the system's status as a qualified plan under the  
 39 internal revenue code, the local board's decision is not final and binding  
 40 and the board of trustees may refrain from implementing or complying with the  
 41 local board decision.

42 F. A local board, from time to time, shall establish and adopt such  
 43 rules as it deems necessary or desirable for its administration. All rules  
 44 and decisions of a local board shall be uniformly and consistently applied to  
 45 all members in similar circumstances. If a claim or dispute is presented to

1 a local board for determination but the local board has not yet adopted  
2 uniform rules of procedure for adjudication of the claim or dispute, the  
3 local board shall adopt and use the model uniform rules of local board  
4 procedure that are issued by the board of trustees' fiduciary counsel to  
5 adjudicate the claim or dispute.

6 G. Except as otherwise provided in this article, any action by a  
7 majority vote of the members of a local board that is not inconsistent with  
8 the provisions of the system and the internal revenue code shall be final,  
9 conclusive and binding on all persons affected by it unless a timely  
10 application for a rehearing or appeal is filed as provided in this article.  
11 No later than twenty days after taking action, the local board shall submit  
12 to the board of trustees the minutes from the local board meeting that  
13 include the name of the member affected by its decision, a description of the  
14 action taken and an explanation of the reasons and ALL documents ~~supporting~~  
15 ~~the local board's action~~ SUBMITTED TO THE LOCAL BOARD FOR THE ACTION TAKEN,  
16 INCLUDING THE REPORTS OF A MEDICAL BOARD. The board of trustees may not  
17 implement and comply with any local board action that does not comply with  
18 the internal revenue code or that threatens to jeopardize the system's status  
19 as a qualified plan under the internal revenue code.

20 H. A claimant or the board of trustees may apply for a rehearing  
21 before the local board within the time periods prescribed in this subsection,  
22 except that if a decision of a local board violates the internal revenue code  
23 or threatens to jeopardize the system's status as a qualified plan under the  
24 internal revenue code, no limitation period for the board of trustees to seek  
25 a rehearing of a local board decision applies. An application for a  
26 rehearing shall be filed in writing with a member of the local board or its  
27 secretary within sixty days after:

28 1. The applicant-claimant receives notification of the local board's  
29 original action by certified mail, by attending the meeting at which the  
30 action is taken or by receiving benefits from the system pursuant to the  
31 local board's original action, whichever occurs first.

32 2. The applicant-board of trustees receives notification of the local  
33 board's original action as prescribed by subsection G of this section by  
34 certified mail.

35 I. A hearing before a local board on a matter remanded from the  
36 superior court is not subject to a rehearing before the local board.

37 J. Decisions of local boards are subject to judicial review pursuant  
38 to title 12, chapter 7, article 6.

39 K. When making a ruling, determination or calculation, the local board  
40 shall be entitled to rely on information furnished by the employer, A MEDICAL  
41 BOARD, the board of trustees, independent legal counsel or the actuary for  
42 the system.

43 L. Each member of a local board is entitled to one vote. A majority  
44 is necessary for a decision by the members of a local board at any meeting of  
45 the local board.

1 M. The local board shall adopt such bylaws as it deems desirable. The  
2 local board shall elect a secretary who may, but need not, be a member of the  
3 local board. The secretary of the local board shall keep a record and  
4 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of  
5 this title and forward the minutes and all necessary communications to the  
6 board of trustees as prescribed by subsection G of this section.

7 N. The fees of the medical board and of the local board's independent  
8 legal counsel and all other expenses of the local board necessary for the  
9 administration of the system shall be paid by the employer and not the board  
10 of trustees or system at such rates and in such amounts as the local board  
11 shall approve. Legal counsel that is employed by the local board is  
12 independent of the employer and any employee organization or member and owes  
13 its duty of loyalty only to the local board in connection with its  
14 representation of the local board.

15 O. The local board shall issue directions to the board of trustees  
16 concerning all benefits that are to be paid from the employer's account  
17 pursuant to the provisions of the fund. The local board shall keep on file,  
18 in such manner as it may deem convenient or proper, all reports from the  
19 board of trustees and the actuary.

20 P. The local board and the individual members of the local board shall  
21 be indemnified from the assets of the employer for any judgment against the  
22 local board or its members, including attorney fees and costs, arising from  
23 any act, or failure to act, made in good faith pursuant to the provisions of  
24 the system, including expenses reasonably incurred in the defense of any  
25 claim relating to the act or failure to act.

26 Sec. 7. Section 38-849, Arizona Revised Statutes, is amended to read:

27 38-849. Limitations on receiving pension: violation:  
28 classification: reemployment after severance:  
29 reinstatement of service credits: reemployment of  
30 retired or disabled member

31 A. If a member is convicted of, or discharged because of, theft,  
32 embezzlement, fraud or misappropriation of an employer's property or property  
33 under the control of the employer, the member shall be subject to restitution  
34 and fines imposed by a court of competent jurisdiction. The court may order  
35 the restitution or fines to be paid from any payments otherwise payable to  
36 the member from the retirement system.

37 B. A person who knowingly makes any false statement or who falsifies  
38 or permits to be falsified any record of the system with an intent to defraud  
39 the system is guilty of a class 5 felony. If any change or error in the  
40 records results in any member or beneficiary receiving from the system more  
41 or less than the member or beneficiary would have been entitled to receive  
42 had the records been correct, the local board shall correct such error, and  
43 as far as practicable shall adjust the payments in such manner that the  
44 actuarial equivalent of the benefit to which such member or beneficiary was

1 correctly entitled shall be paid. If a member is convicted of a crime  
 2 specified in this subsection, section 13-713 applies.

3 C. IF A MEMBER WHO RECEIVED A SEVERANCE REFUND ON TERMINATION OF  
 4 EMPLOYMENT PURSUANT TO SECTION 38-846.02 BECOMES REEMPLOYED WITH THE SAME  
 5 EMPLOYER WITHIN TWO YEARS AFTER THE FORMER MEMBER'S TERMINATION DATE, THE  
 6 MEMBER MAY HAVE FORFEITED CREDITED SERVICE ATTRIBUTABLE TO SERVICE RENDERED  
 7 DURING A PRIOR PERIOD OF SERVICE AS AN EMPLOYEE RESTORED ON SATISFACTION OF  
 8 EACH OF THE FOLLOWING CONDITIONS:

9 1. THE MEMBER FILES WITH THE SYSTEM A WRITTEN APPLICATION FOR  
 10 REINSTATEMENT OF FORFEITED CREDITED SERVICE WITHIN NINETY DAYS AFTER AGAIN  
 11 BECOMING AN EMPLOYEE.

12 2. THE RETIREMENT FUND IS PAID THE TOTAL AMOUNT PREVIOUSLY WITHDRAWN  
 13 PURSUANT TO SECTION 38-846.02 PLUS COMPOUND INTEREST FROM THE DATE OF  
 14 WITHDRAWAL TO THE DATE OF REPAYMENT. INTEREST SHALL BE COMPUTED AT THE RATE  
 15 OF NINE PER CENT FOR EACH YEAR COMPOUNDED EACH YEAR FROM THE DATE OF  
 16 WITHDRAWAL TO THE DATE OF REPAYMENT. FORFEITED CREDITED SERVICE SHALL NOT BE  
 17 RESTORED UNTIL COMPLETE PAYMENT IS RECEIVED BY THE FUND.

18 3. THE REQUIRED PAYMENT IS COMPLETED WITHIN ONE YEAR AFTER RETURNING  
 19 TO EMPLOYEE STATUS.

20 ~~C. D. If a member who received a severance refund on termination of~~  
 21 ~~employment, as provided in section 38-846.02, is subsequently reemployed by~~  
 22 ~~an employer, the member's prior service credits shall be cancelled and~~  
 23 ~~service shall be credited only from the date the member's most recent~~  
 24 ~~reemployment period commenced. However, if the former member's reemployment~~  
 25 ~~with the same employer occurred within two years after the former member's~~  
 26 ~~termination date, and, within ninety days after reemployment the former~~  
 27 ~~member signs a written election consenting to reimburse the fund within one~~  
 28 ~~year, the former member shall be required to redeposit the amount withdrawn~~  
 29 ~~at the time of the former member's separation from service, with interest~~  
 30 ~~thereon at the rate of nine per cent for each year compounded each year from~~  
 31 ~~the date of withdrawal to the date of repayment~~

32 A PRESENT ACTIVE MEMBER OF  
 33 THE SYSTEM WHO FORFEITED CREDITED SERVICE AND RECEIVED A SEVERANCE REFUND  
 34 PURSUANT TO SECTION 38-846.02 MAY ELECT TO REDEEM ANY PART OF THAT FORFEITED  
 35 CREDITED SERVICE BY PAYING INTO THE SYSTEM ANY AMOUNTS REQUIRED PURSUANT TO  
 36 THIS SUBSECTION. A PRESENT ACTIVE MEMBER WHO ELECTS TO REDEEM ANY PART OF  
 37 FORFEITED CREDITED SERVICE FOR WHICH THE MEMBER IS DEEMED ELIGIBLE BY THE  
 38 BOARD SHALL PAY INTO THE SYSTEM THE AMOUNTS PREVIOUSLY PAID OR TRANSFERRED TO  
 39 THE MEMBER AS A SEVERANCE REFUND PLUS AN AMOUNT, COMPUTED BY THE SYSTEM'S  
 40 ACTUARY THAT IS NECESSARY TO EQUAL THE INCREASE IN THE ACTUARIAL PRESENT  
 41 VALUE OF PROJECTED BENEFITS RESULTING FROM THE REDEMPTION CALCULATED USING  
 42 THE ACTUARIAL METHODS AND ASSUMPTIONS PRESCRIBED BY THE SYSTEM'S ACTUARY. On  
 43 satisfaction of this obligation the member's prior service credits shall be  
 reinstated.

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

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

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

1           Sec. 8. Section 38-853, Arizona Revised Statutes, is amended to read:  
2           38-853. Transfer of credited service

3           A. A member who terminates employment with an employer and accepts,  
4 ~~within two years,~~ a position with the same or another employer participating  
5 in the system, **AFTER COMPLETING AN APPLICATION THAT IS ACCEPTABLE TO THE**  
6 **BOARD,** shall have the member's credited service transferred to the member's  
7 record with the new employer provided the member leaves the member's  
8 accumulated contributions on deposit with the fund. The termination of  
9 employment shall not constitute a break in service. However, the period not  
10 employed shall not be considered as service.

11           B. The new employer's account shall be credited with the member's  
12 accumulated contributions plus the amount, if any, necessary to equal the  
13 increase in the actuarial present value of projected benefits to the extent  
14 funded on a market value basis as of the most recent actuarial valuation  
15 resulting from the transfer as calculated by the system's actuary using the  
16 actuarial methods and assumptions adopted by the board.

17           Sec. 9. Section 38-853.01, Arizona Revised Statutes, is amended to  
18 read:

19           38-853.01. Redemption of prior service; calculation

20           A. Each present active member of the system who has at least ten years  
21 of service with the system may elect to redeem up to sixty months of any part  
22 of the following prior service or employment by paying into the system any  
23 amounts required under subsection B if the prior service or employment is not  
24 on account with any other retirement system:

25           1. Prior service in this state as an employee with an employer now  
26 covered by the system or prior service with an agency of the United States  
27 government, a state of the United States or a political subdivision of this  
28 state or of a state of the United States as a full-time paid firefighter or  
29 full-time paid certified peace officer.

30           2. Subject to any limitations prescribed by federal law, prior  
31 employment as an employee of a corporation that contracted with an employer  
32 now covered by the system to provide firefighting services on behalf of that  
33 employer as a full-time paid firefighter or that provided firefighting  
34 services for a political subdivision of this state.

35           B. Any present active member who elects to redeem any part of the  
36 prior service or employment for which the employee is deemed eligible by the  
37 board under this section shall pay into the system the amounts previously  
38 withdrawn by the member, if any, as a refund of the member's accumulated  
39 contributions plus accumulated interest as determined by the board and the  
40 additional amount, if any, computed by the system's actuary that is necessary  
41 to equal the increase in the actuarial present value of projected benefits  
42 resulting from the redemption calculated using the actuarial methods and  
43 assumptions prescribed by the system's actuary. **THE DISCOUNT RATE USED BY**  
44 **THE ACTUARY FOR THE REDEMPTION CALCULATION PURSUANT TO THIS SUBSECTION IS AN**  
45 **AMOUNT EQUAL TO THE LESSER OF THE ASSUMED RATE OF RETURN THAT IS PRESCRIBED**

1 BY THE BOARD OR AN AMOUNT EQUAL TO THE YIELD ON A TEN-YEAR TREASURY NOTE AS  
2 OF MARCH 1 THAT IS PUBLISHED BY THE FEDERAL RESERVE BOARD PLUS TWO PER CENT.  
3 THE DISCOUNT RATE IS EFFECTIVE BEGINNING IN THE NEXT FISCAL YEAR, AND THE  
4 BOARD SHALL RECALCULATE THE RATE EACH YEAR.

5 C. A member electing to redeem service pursuant to this section may  
6 pay for service being redeemed in the form of a lump sum payment to the  
7 system, a trustee-to-trustee transfer or a direct rollover of an eligible  
8 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or  
9 (vi) of the internal revenue code or a rollover of an eligible distribution  
10 from an individual retirement account or annuity described in section 408(a)  
11 or (b) of the internal revenue code.

12 Sec. 10. Section 38-859, Arizona Revised Statutes, is amended to read:  
13 38-859. Medical boards; purposes; composition; medical  
14 examinations

15 A. The purposes of a medical board are to:

16 1. Identify a physical or mental condition or injury that existed or  
17 occurred prior to the member's date of membership in the system and for which  
18 benefits may otherwise be limited by section 38-844, subsection D.

19 2. Evaluate a member's eligibility for an accidental disability  
20 pension.

21 3. Evaluate a member's eligibility for an ordinary disability pension.

22 4. Evaluate a member's eligibility for a temporary disability pension.

23 5. Evaluate a member's eligibility for a catastrophic disability  
24 pension.

25 6. FOR THE PURPOSES OF SECTION 38-846, DETERMINE THROUGH APPROPRIATE  
26 MEDICAL EVIDENCE THE PROXIMATE CAUSE OF DEATH FOR MEMBERS WHO ARE KILLED IN  
27 THE LINE OF DUTY IF THE DEATH OCCURS MORE THAN ONE YEAR AFTER THE DATE OF  
28 INJURY.

29 B. For the purpose of determining a disability, the medical board  
30 shall be composed of a designated physician or a clinic other than the  
31 employer's regular employee or contractee. Employees employed after October  
32 1, 1992 shall undergo a medical examination for the purpose of identifying a  
33 physical or mental condition or injury that existed or occurred prior to a  
34 member's date of membership in the system and for which benefits may  
35 otherwise be limited by section 38-844, subsection D, and for this purpose,  
36 the medical board shall be composed of a designated physician or a clinic  
37 that may be the employer's regular employee or contractee.

38 C. A finding of accidental, ordinary, temporary or catastrophic  
39 disability shall be based on medical evidence by a physician or clinic  
40 appointed by the local board pursuant to section 38-847, subsection D,  
41 paragraph 9 that established the disability. The local board shall resolve  
42 material conflicts in medical evidence. If required, the local board may  
43 employ other physicians or clinics to report on special cases. With the  
44 approval of the local board, a physician or clinic employed by the local

1 board may employ occupational specialists to assist the physician or clinic  
2 in rendering an opinion.

3 D. All employees shall undergo medical examinations before a physician  
4 or clinic appointed by the local board pursuant to and for the reasons  
5 prescribed in this article. An employee who fails to comply with this  
6 subsection waives all rights to disability benefits under this article.

7 E. The examining physician or clinic shall report the results of  
8 examinations to the local board, and the secretary of the local board shall  
9 preserve the report as a permanent record. Medical examinations conducted  
10 pursuant to this article shall not be conducted or utilized for the purposes  
11 of hiring, advancement, discharge, job training or other terms, conditions  
12 and privileges of employment unrelated to the receipt of or qualification for  
13 pension benefits or service credits under the system.

14 F. This section does not affect or impair the right of an employer to  
15 prescribe medical or physical standards for employees or prospective  
16 employees.

17 Sec. 11. Section 38-860, Arizona Revised Statutes, is amended to read:  
18 38-860. Domestic relations orders; procedures; payments

19 A. Notwithstanding any other law, in a judicial proceeding for  
20 annulment, dissolution of marriage or legal separation that provides for the  
21 distribution of community property, or in any judicial proceeding to amend or  
22 enforce such a property distribution, a court in this state may issue a  
23 domestic relations order that provides that all or any part of a  
24 participant's benefit or refund in the system that would otherwise be payable  
25 to that participant shall instead be paid by the system to an alternate  
26 payee.

27 B. A domestic relations order is not effective against the system  
28 unless the domestic relations order is approved by the system and qualifies  
29 as a plan approved domestic relations order. To qualify as a plan approved  
30 domestic relations order, a domestic relations order shall comply with any  
31 policies or procedures adopted pursuant to subsection K and shall also meet  
32 all of the following requirements:

33 1. The domestic relations order shall state the name and the last  
34 known mailing address of the participant and the name and last known mailing  
35 address of the alternate payee that is covered by the domestic relations  
36 order.

37 2. The domestic relations order shall clearly state the amount or  
38 percentage of the participant's benefits that is payable by the system to the  
39 alternate payee or the precise manner in which the amount or percentage is to  
40 be determined.

41 3. The domestic relations order shall state the number of payments or  
42 periods to which the domestic relations order applies, if applicable.

43 4. The domestic relations order shall state that the domestic  
44 relations order applies to the system.

1           5. The domestic relations order shall not require the system to  
2 provide any type or form of benefit or any option not otherwise provided by  
3 this article.

4           6. The domestic relations order shall not require the system to  
5 provide increased benefits determined on the basis of actuarial value.

6           7. The domestic relations order shall not require the payment of  
7 benefits to an alternate payee if the benefits are required to be paid to  
8 another alternate payee under a separate plan approved domestic relations  
9 order.

10           8. THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF  
11 COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED  
12 STATES.

13           C. On receipt by the system of a certified copy of a domestic  
14 relations order and a written request for a determination that the domestic  
15 relations order is a plan approved domestic relations order, the system shall  
16 promptly issue a written notice of receipt stating that the domestic  
17 relations order and request were received to the participant and alternate  
18 payee at the addresses on file, if any.

19           D. The system has a determination period to issue a written  
20 determination indicating whether a domestic relations order qualifies as a  
21 plan approved domestic relations order. If the participant is receiving  
22 benefits during the determination period, and if the system can determine the  
23 amount of the benefits that currently would be payable to the alternate payee  
24 if the domestic relations order were a plan approved domestic relations  
25 order, the system shall hold the segregated funds and shall pay the remaining  
26 portion of the benefits to the participant. If the system determines the  
27 domestic relations order is a plan approved domestic relations order, the  
28 system shall pay the participant and alternate payee pursuant to the plan  
29 approved domestic relations order in the month following the month in which  
30 the determination was issued, or in the month following the month in which a  
31 benefit is payable under the plan approved domestic relations order,  
32 whichever is later. If the system determines the domestic relations order  
33 fails to qualify as a plan approved domestic relations order, the system  
34 shall specify in its determination how the domestic relations order is  
35 deficient and how it may be amended to qualify as a plan approved domestic  
36 relations order. If the participant is currently receiving benefits, and if  
37 the system can determine the amount of segregated funds that would be payable  
38 to the alternate payee if the domestic relations order were a plan approved  
39 domestic relations order, the system shall hold the segregated funds during  
40 the cure period to allow the parties to submit a certified copy of an amended  
41 domestic relations order and a written request for a determination that the  
42 amended domestic relations order is a plan approved domestic relations order.  
43 During the cure period, the system shall pay the participant's portion to the  
44 participant. At the end of the cure period, if the issue of whether an  
45 amended domestic relations order qualifies as a plan approved domestic

1 relations order remains undetermined or if an amended domestic relations  
2 order is determined not to be a plan approved domestic relations order, the  
3 system shall pay the segregated funds and the participant's portion to the  
4 participant. The participant shall hold the segregated funds in trust for  
5 the alternate payee as provided in subsection J. If an amended domestic  
6 relations order that is submitted after the expiration of the cure period is  
7 determined to be a plan approved domestic relations order, the system shall  
8 make payments to an alternate payee under the plan approved domestic  
9 relations order only prospectively. A determination by the system that a  
10 domestic relations order is not a plan approved domestic relations order does  
11 not prohibit a participant or alternate payee from submitting an amended  
12 domestic relations order to the system.

13 E. Each participant and alternate payee is responsible for maintaining  
14 a current mailing address on file with the system. The system has no duty to  
15 attempt to locate any participant or alternate payee. The system has no duty  
16 to provide a notice of receipt or determination or pay benefits by means  
17 other than mailing the notice or payments to the participant or alternate  
18 payee at the last known address that is on file with the system. If the  
19 address of an alternate payee is unknown to the system, but benefits are  
20 payable to the alternate payee pursuant to a plan approved domestic relations  
21 order, the system shall either:

22 1. Hold the alternate payee's portion until such a time as the  
23 alternate payee provides the system with a current address. Once the system  
24 is notified of the alternate payee's current address, the system shall  
25 prospectively pay the alternate payee's portion to the alternate payee.

26 2. Pay the alternate payee's portion to the participant, who shall  
27 hold the alternate payee's portion in trust as provided in subsection J,  
28 until such a time as the alternate payee is located. At that time the  
29 participant shall pay the alternate payee's portion directly to the alternate  
30 payee.

31 F. If the address of a participant is unknown to the system, but  
32 benefits are payable to the participant pursuant to a plan approved domestic  
33 relations order, the system shall hold the participant's portion until the  
34 participant provides the system with a current address.

35 G. If the alternate payee identified in a plan approved domestic  
36 relations order predeceases the participant and the plan approved domestic  
37 relations order does not otherwise provide for the disposition of the  
38 alternate payee's interest the system shall pay the alternate payee's portion  
39 to the personal representative of the deceased alternate payee pursuant to  
40 this subsection. The personal representative is responsible for maintaining  
41 a current mailing address on file with the system. The system has no duty to  
42 attempt to locate any personal representative. The system is not responsible  
43 for making benefit payments to a personal representative until the personal  
44 representative has both:

1           1. Persuaded the system that the personal representative is authorized  
2 to receive payments designated for the deceased alternate payee.

3           2. Provided the system with an address to which the payments should be  
4 sent.

5           H. If, within thirty days after the date the system verifies an  
6 alternate payee's death, a personal representative does not make demand on  
7 the system for the alternate payee's portion, the system shall either:

8           1. Hold the alternate payee's portion until the time a personal  
9 representative makes a proper demand for payment of the alternate payee's  
10 portion.

11           2. Remit the alternate payee's portion to the participant, who shall  
12 hold the amounts in trust for the estate of the alternate payee until the  
13 personal representative is identified. At that time the participant shall  
14 pay the alternate payee's portion paid by the system to the participant to  
15 the personal representative.

16           Thereafter, the plan shall prospectively pay the alternate payee's portion to  
17 the personal representative.

18           I. Amounts held or paid pursuant to this section shall not accrue  
19 interest unless otherwise prescribed by this article.

20           J. The system is not liable to the participant, the alternate payee,  
21 any personal representative of the estate of an alternate payee or any other  
22 person for any amount paid, withheld or disbursed by the system pursuant to  
23 this section. If one or more payments are made by the system to a person not  
24 otherwise entitled to receive the payments, the recipient of the payment is  
25 designated a constructive trustee for the payment received and, together with  
26 the marital community, if any, is the sole party against whom an action may  
27 be brought to recover the payment.

28           K. The system may adopt policies and procedures that govern the  
29 implementation of this section.

30           Sec. 12. Section 38-884, Arizona Revised Statutes, is amended to read:  
31 38-884. Membership of retirement plan; termination; credited  
32 service; redemption

33           A. Each employee of a participating employer is a member of the plan  
34 unless the employee is receiving a pension from the plan. A person employed  
35 shall undergo a medical examination performed by a doctor or clinic appointed  
36 by the local board or, in the case of a state correctional officer who is  
37 employed by the state department of corrections, complete a physical  
38 examination pursuant to section 41-1822, subsection B. For the purposes of  
39 subsection B of this section, the doctor or clinic appointed by the local  
40 board may be the employer's regular employee or contractor.

41           B. The purpose of the medical examination authorized by this section  
42 is to identify a member's physical or mental condition or injury that existed  
43 or occurred before the member's date of membership in the plan. Any employee  
44 who fails or refuses to submit to the medical examination prescribed in this  
45 section is deemed to waive all rights to disability benefits under this

1 article. Medical examinations conducted under this article shall not be  
2 conducted or used for purposes of hiring, advancement, discharge, job  
3 training or other terms, conditions and privileges of employment unrelated to  
4 receipt or qualification for pension benefits or service credits from the  
5 fund. This subsection does not affect or impair the right of an employer to  
6 prescribe medical or physical standards for employees or prospective  
7 employees.

8 C. If a member who becomes a member of the plan before January 1, 2012  
9 ceases to be an employee for any reason other than death or retirement,  
10 within twenty days after filing a completed application with the board, the  
11 member is entitled to receive the following amounts, less any benefit  
12 payments the member has received and any amount the member may owe to the  
13 plan:

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

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

20 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all  
21 member contributions deducted from the member's salary pursuant to section  
22 38-891, subsection B.

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

26 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all  
27 member contributions deducted from the member's salary pursuant to section  
28 38-891, subsection B.

29 (d) 8.0 to 8.9 years of credited service, seventy per cent of all  
30 member contributions deducted from the member's salary pursuant to section  
31 38-891, subsection B.

32 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all  
33 member contributions deducted from the member's salary pursuant to section  
34 38-891, subsection B.

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

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

1 E. The accumulated member contributions of a member who ceases to be  
2 an employee for a reason other than death or retirement and who becomes a  
3 member of the plan on or after January 1, 2012 shall be paid to the member  
4 plus interest at a rate determined by the board as of the date of termination  
5 within twenty days after filing with the plan a written application for  
6 payment.

7 F. If the refund includes monies that are an eligible rollover  
8 distribution and the member elects to have the distribution paid directly to  
9 an eligible retirement plan or individual retirement account or annuity and  
10 specifies the eligible retirement plan or individual retirement account or  
11 annuity to which the distribution is to be paid, the distribution shall be  
12 made in the form of a direct trustee-to-trustee transfer to the specified  
13 eligible retirement plan. The distribution shall be made in the form and at  
14 the time prescribed by the board.

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

21 H. Credited service is forfeited if the amounts prescribed in  
22 subsection C, D or E of this section are paid or are transferred in  
23 accordance with this section.

24 I. If a former member becomes reemployed with the same employer within  
25 two years after the former member's termination date, a member may have  
26 forfeited credited service attributable to service rendered during a prior  
27 period of service as an employee restored on satisfaction of each of the  
28 following conditions:

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

32 2. The retirement fund is paid the total amount previously withdrawn  
33 pursuant to subsection C, D or E of this section plus compound interest from  
34 the date of withdrawal to the dates of repayment. Interest shall be computed  
35 at the rate of nine per cent for each year compounded each year from the date  
36 of withdrawal to the date of repayment. Forfeited credited service shall not  
37 be restored until complete payment is received by the fund.

38 3. The required payment is completed within one year after returning  
39 to employee status.

40 J. IF A MEMBER WHO RECEIVES A SEVERANCE REFUND ON TERMINATION OF  
41 EMPLOYMENT PURSUANT TO SUBSECTION C, D OR E OF THIS SECTION IS SUBSEQUENTLY  
42 REEMPLOYED BY AN EMPLOYER, THE MEMBER'S PRIOR SERVICE CREDITS ARE CANCELLED,  
43 AND THE BOARD SHALL CREDIT SERVICE ONLY FROM THE DATE THE MEMBER'S MOST  
44 RECENT REEMPLOYMENT PERIOD COMMENCED. HOWEVER, a present active member of  
45 the plan who received a refund of accumulated contributions from the plan

1 pursuant to subsection C, D or E of this section and forfeited credited  
 2 service pursuant to subsection H of this section may elect to redeem any part  
 3 of that forfeited credited service by paying into the plan any amounts  
 4 required pursuant to this subsection. A present active member who elects to  
 5 redeem any part of forfeited credited service for which the member is deemed  
 6 eligible by the board shall pay into the plan the amounts previously paid or  
 7 transferred as a refund of the member's accumulated contributions plus an  
 8 amount, computed by the plan's actuary that is necessary to equal the  
 9 increase in the actuarial present value of projected benefits resulting from  
 10 the redemption calculated using the actuarial methods and assumptions  
 11 prescribed by the plan's actuary. **ON SATISFACTION OF THIS OBLIGATION, THE**  
 12 **BOARD SHALL REINSTATE THE MEMBER'S PRIOR SERVICE CREDITS.**

13 K. A retired member may become employed by an employer in a designated  
 14 position and continue to receive a pension if the employment occurs at least  
 15 twelve months after retirement. The retired member shall not contribute to  
 16 the fund and shall not accrue credited service. If a retired member becomes  
 17 employed by an employer in a designated position before twelve months after  
 18 retirement:

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

23 2. The retired member shall not contribute to the fund and shall not  
 24 accrue credited service.

25 Sec. 13. Section 38-893, Arizona Revised Statutes, is amended to read:  
 26 38-893. Local boards; powers and duties; rules; hearings;  
 27 administrative review

28 A. The administration of the plan and the responsibility for making  
 29 the provisions of the plan effective for each employer are vested in a local  
 30 board. The state department of corrections, the department of juvenile  
 31 corrections, the department of public safety, each participating county  
 32 sheriff's department, each participating city or town, each participating  
 33 employer of full-time dispatchers for eligible groups as defined in section  
 34 38-842 and the judiciary shall have a local board. Each local board is  
 35 constituted as follows:

36 1. For the state departments, two members who are elected by secret  
 37 ballot by members employed by that department in a designated position and  
 38 two citizens who are appointed by the governor. The director of each state  
 39 department shall appoint one member to the local board who is knowledgeable  
 40 in personnel actions. Each state department local board shall elect a  
 41 chairman.

42 2. For each participating county, the chairman of the board of  
 43 supervisors, or the chairman's designee who is approved by the board of  
 44 supervisors, as chairman, two members who are elected by secret ballot by  
 45 members employed by the participating county in a designated position and two

1 citizens, one of whom shall be the head of the merit system if it exists for  
2 the group of members, who are appointed by the chairman of the board of  
3 supervisors with the approval of the board of supervisors.

4 3. For political subdivisions, the mayor or chief elected official or  
5 a designee of the mayor or chief elected official approved by the respective  
6 governing body as chairman, two members elected by secret ballot by members  
7 employed by the appropriate employer and two citizens, one of whom shall be  
8 the head of the merit system if it exists for the group of members, appointed  
9 by the mayor or chief elected official and with the approval of the city  
10 council or governing body of the employer.

11 4. For the judiciary, two members who are elected by secret ballot by  
12 members who are employed as a probation, surveillance or juvenile detention  
13 officer, a designee of the chief justice of the Arizona supreme court and two  
14 citizens, one of whom shall be the head of a human resource department for  
15 the group of members, appointed by the chief justice.

16 B. The appointments and elections of local board members shall take  
17 place with one elective and one appointive board member, as designated by the  
18 appointing authority, serving a term ending two years after the date of  
19 appointment or election and the other local board members serving a term  
20 ending four years after the date of appointment or election. Thereafter,  
21 every second year, and as a vacancy occurs, an office shall be filled for a  
22 term of four years in the same manner as provided in this section.

23 C. Each local board shall be fully constituted pursuant to subsection  
24 A of this section within sixty days after the employer's effective date of  
25 participation in the plan. If the deadline is not met, on the written  
26 request of any member who is covered by the local board or the employer to  
27 the board of trustees, the board of trustees shall appoint all vacancies of  
28 the local board pursuant to subsection A of this section and designate  
29 whether each appointive position is for a two year or four year term. If the  
30 board of trustees cannot find individuals to serve on the local board who  
31 meet the requirements of subsection A of this section, the board of trustees  
32 may appoint individuals to serve as interim local board members until  
33 qualified individuals are appointed or elected. Within ten days after the  
34 member's appointment or election, each member of a local board shall take an  
35 oath of office that, so far as it devolves on the member, the member shall  
36 diligently and honestly administer the affairs of the local board and shall  
37 not knowingly violate or willingly permit to be violated any of the  
38 provisions of law applicable to the plan.

39 D. Except as limited by subsection E of this section, a local board  
40 shall:

41 1. Decide all questions of eligibility and service credits and  
42 determine the amount, manner and time of payment of any benefit under the  
43 plan.

44 2. Make a determination as to the right of a claimant to a benefit and  
45 afford a claimant or the board of trustees, or both, a right to a rehearing

1 on the original determination. ~~—~~ EXCEPT AS OTHERWISE REQUIRED BY LAW,  
2 UNLESS ALL PARTIES INVOLVED IN A MATTER PRESENTED TO THE LOCAL BOARD FOR  
3 DETERMINATION OTHERWISE AGREE, THE LOCAL BOARD SHALL COMMENCE A HEARING ON  
4 THE MATTER WITHIN NINETY DAYS AFTER THE DATE THE MATTER IS PRESENTED TO THE  
5 LOCAL BOARD FOR DETERMINATION. IF A LOCAL BOARD FAILS TO COMMENCE A HEARING  
6 AS PROVIDED IN THIS PARAGRAPH, ON A MATTER PRESENTED TO THE LOCAL BOARD FOR  
7 DETERMINATION, THE RELIEF DEMANDED BY THE PARTY PETITIONING THE LOCAL BOARD  
8 IS DEEMED GRANTED AND APPROVED BY THE LOCAL BOARD. THE GRANTING AND APPROVAL  
9 OF THIS RELIEF IS CONSIDERED FINAL AND BINDING UNLESS A TIMELY REQUEST FOR  
10 REHEARING OR APPEAL IS MADE AS PROVIDED IN THIS ARTICLE, unless the board of  
11 trustees determines that granting the relief requested would violate the  
12 internal revenue code or threaten to impair the plan's status as a qualified  
13 plan under the internal revenue code. If the board of trustees determines  
14 that granting the requested relief would violate the internal revenue code or  
15 threaten to impair the plan's status as a qualified plan, the board of  
16 trustees may refuse to grant the relief by issuing a written determination to  
17 the local board and the party petitioning the local board for relief. The  
18 decision by the board of trustees is subject to judicial review pursuant to  
19 title 12, chapter 7, article 6.

20 3. Request and receive from the employers and from members information  
21 as is necessary for the proper administration of the plan and action on  
22 claims for benefits and forward the information to the board of trustees.

23 4. Distribute, in the manner the local board determines to be  
24 appropriate, information explaining the plan that is received from the board  
25 of trustees.

26 5. Furnish the employer, the board of trustees and the legislature, on  
27 request, with annual reports with respect to the administration of the plan  
28 that are reasonable and appropriate.

29 6. Appoint a medical board, which is composed of a designated  
30 physician or clinic other than the employer's regular employee or contractor.  
31 If required, the local board may employ other physicians to report on special  
32 cases. The examining physician or clinic shall report the results of  
33 examinations made to the local board, and the secretary of the local board  
34 shall preserve the report as a permanent record.

35 7. Sue and be sued to effectuate the duties and responsibilities set  
36 forth in this article.

37 8. Prescribe procedures to be followed by claimants in filing  
38 applications for benefits.

39 9. Receive and review the actuarial valuation of the plan for its  
40 group of members.

41 10. Receive and review reports of the financial condition and of the  
42 receipts and disbursements of the fund from the board of trustees.

43 E. A local board has no power to add to, subtract from, modify or  
44 waive any of the terms of the plan, change or add to any benefits provided by  
45 the plan or waive or fail to apply any requirement of eligibility for

1 membership or benefits under the plan. Notwithstanding any limitations  
2 periods imposed in this article, including subsections G and H of this  
3 section, if the board of trustees determines a local board decision violates  
4 the internal revenue code or threatens to impair the plan's status as a  
5 qualified plan under the internal revenue code the local board's decision is  
6 not final and binding and the board of trustees may refrain from implementing  
7 or complying with the local board decision.

8 F. A local board, from time to time, shall establish and adopt rules  
9 as it deems necessary or desirable for its administration. All rules and  
10 decisions of a local board shall be uniformly and consistently applied to all  
11 members in similar circumstances. If a claim or dispute is presented to a  
12 local board for determination but the local board has not yet adopted uniform  
13 rules of procedure for adjudication of the claim or dispute, the local board  
14 shall adopt and use the model uniform rules of local board procedure that are  
15 issued by the board of trustees' fiduciary counsel to adjudicate the claim or  
16 dispute.

17 G. Except as otherwise provided in this article, an action by a  
18 majority vote of the members of a local board that is not inconsistent with  
19 the provisions of the plan and the internal revenue code is final, conclusive  
20 and binding on all persons affected by it, unless a timely application for a  
21 rehearing or appeal is filed as provided in this article. No later than  
22 twenty days after taking action, the local board shall submit to the board of  
23 trustees the minutes from the local board meeting that include the name of  
24 the member affected by its decision, a description of the action taken and an  
25 explanation of the reasons and ALL documents ~~supporting the local board's~~  
26 ~~action~~ SUBMITTED TO THE LOCAL BOARD FOR THE ACTION TAKEN, INCLUDING THE  
27 REPORTS OF A MEDICAL BOARD. The board of trustees may not implement and  
28 comply with any local board action that does not comply with the internal  
29 revenue code or that threatens to jeopardize the plan's status as a qualified  
30 plan under the internal revenue code.

31 H. A claimant or the board of trustees may apply for a rehearing  
32 before the local board within the time periods prescribed in this subsection,  
33 except that if a decision of a local board violates the internal revenue code  
34 or threatens to jeopardize the plan's status as a qualified plan under the  
35 internal revenue code, no limitation period for the board of trustees to seek  
36 a rehearing of a local board decision applies. A claimant or the board of  
37 trustees shall file an application for rehearing in writing with a member of  
38 the local board or its secretary within sixty days after:

39 1. The claimant receives notification of the local board's original  
40 action by certified mail, by attending the meeting at which the action is  
41 taken or by receiving benefits from the plan pursuant to the local board's  
42 original action, whichever occurs first.

43 2. The board of trustees receives notification of the local board's  
44 original action as prescribed by subsection G of this section by certified  
45 mail.

1 I. A hearing before a local board on a matter remanded from the  
2 superior court is not subject to a rehearing before the local board.

3 J. Decisions of local boards are subject to judicial review pursuant  
4 to title 12, chapter 7, article 6.

5 K. When making a ruling, determination or calculation, the local board  
6 is entitled to rely on information furnished by the employer, the board of  
7 trustees, independent legal counsel or the actuary for the plan.

8 L. Each member of a local board is entitled to one vote. A majority  
9 is necessary for a decision by the members of a local board at any meeting of  
10 the local board.

11 M. The local board shall adopt bylaws as it deems necessary. The  
12 local board shall elect a secretary who may, but need not, be a member of the  
13 local board. The secretary of the local board shall keep a record and  
14 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of  
15 this title and forward the minutes and all necessary communications to the  
16 board of trustees as prescribed by subsection G of this section.

17 N. The employer and not the board of trustees or plan shall pay the  
18 fees of the medical board and of the local board's legal counsel and all  
19 other expenses of the local board necessary for the administration of the  
20 plan at rates and in amounts as the local board approves.

21 O. The local board shall issue directions to the board of trustees  
22 concerning all benefits that are to be paid from the employer's account  
23 pursuant to the provisions of the fund. The local board shall keep on file,  
24 in the manner it deems convenient and proper, all reports from the board of  
25 trustees and the actuary.

26 P. The local board and the individual members of the local board are  
27 indemnified from the assets of the fund for any judgment against the local  
28 board or its members, including attorney fees and costs, arising from any  
29 act, or failure to act, made in good faith pursuant to the provisions of the  
30 plan.

31 Sec. 14. Title 38, chapter 5, article 6, Arizona Revised Statutes, is  
32 amended by adding section 38-895.02, to read:

33 38-895.02. Payment of pension

34 THE BOARD SHALL NOT MAKE A RETROACTIVE PAYMENT OF A PENSION TO A PERSON  
35 FOR A PERIOD OF MORE THAN NINETY DAYS BEFORE THE DATE OF THE PERSON'S  
36 APPLICATION FOR BENEFITS.

37 Sec. 15. Section 38-904, Arizona Revised Statutes, is amended to read:

38 38-904. Death benefits; amount

39 A. If an active or inactive member dies and no pension is payable on  
40 account of the member's death, an amount equal to two times the member's  
41 accumulated contributions to the retirement plan is payable to the person  
42 designated by the deceased member in writing and filed with the board. If  
43 the designated person or persons do not survive the deceased member OR IF THE  
44 DESIGNATED PERSON DOES NOT CLAIM THE BENEFIT, the payment is payable, AT THE  
45 ELECTION OF THE LOCAL BOARD, TO THE DESIGNATED PERSON'S NEAREST OF KIN AS

1 DETERMINED BY THE LOCAL BOARD OR to the estate of the deceased member. THE  
 2 BENEFICIARY OR PERSON WHO IS CLAIMING TO BE THE NEAREST OF KIN SHALL FILE A  
 3 WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND. For the purposes of this  
 4 subsection, "inactive member" means a person who previously made  
 5 contributions to the plan, who has not retired, who is not currently making  
 6 contributions to the plan and who has not withdrawn contributions from the  
 7 plan.

8 B. If the deceased retired or active member does not have an eligible  
 9 surviving spouse or the pension of the eligible surviving spouse is  
 10 terminated, each eligible child is entitled to a child's pension. A child's  
 11 pension terminates if the child is adopted. In the case of a disabled child,  
 12 the child's pension terminates if the child ceases to be under a disability  
 13 or ceases to be a dependent of the surviving spouse or guardian. The amount  
 14 of the pension of each eligible child is an equal share of the amount of the  
 15 surviving spouse's pension. The board shall pay the surviving minor or  
 16 disabled child's pension to the person who is the legally appointed guardian  
 17 or custodian of the eligible child.

18 Sec. 16. Section 38-909, Arizona Revised Statutes, is amended to read:  
 19 38-909. Redemption of prior service; calculation

20 A. Each present active member of the plan who has at least ten years  
 21 of credited service with the plan who had previous service in this state as  
 22 an employee with an employer now covered by the plan or who had previous  
 23 service with an agency of the United States government, a state of the United  
 24 States or a political subdivision of THIS STATE OR a state of the United  
 25 States as a full-time paid corrections officer or full-time paid certified  
 26 peace officer may elect to redeem up to sixty months of any part of the prior  
 27 service by paying into the plan any amounts required under subsection B if  
 28 the prior service is not on account with any other retirement system.

29 B. Any present active member who elects to redeem any part of the  
 30 prior service OR EMPLOYMENT for which the employee is deemed eligible by the  
 31 board under this section shall pay into the plan the amounts previously  
 32 withdrawn by the member, if any, as a refund of the member's accumulated  
 33 contributions plus accumulated interest as determined by the board and the  
 34 additional amount, if any, computed by the plan's actuary that is necessary  
 35 to equal the increase in the actuarial present value of projected benefits  
 36 resulting from the redemption calculated using the actuarial methods and  
 37 assumptions prescribed by the plan's actuary.

38 C. The discount rate used by the actuary for the redemption  
 39 calculation pursuant to subsection B is an amount equal to the lesser of the  
 40 assumed rate of return that is prescribed by the board or an amount equal to  
 41 the yield on a ten year treasury note as of March 1 that is published by the  
 42 federal reserve board plus two per cent. This discount rate is effective  
 43 beginning in the next fiscal year and shall be recalculated each year.

44 D. A member electing to redeem service pursuant to this section may  
 45 pay for service being redeemed in the form of a lump sum payment to the plan,

1 a trustee-to-trustee transfer or a direct rollover of an eligible  
2 distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or  
3 (vi) of the internal revenue code or a rollover of an eligible distribution  
4 from an individual retirement account or annuity described in section 408(a)  
5 or (b) of the internal revenue code.

6 Sec. 17. Section 38-910, Arizona Revised Statutes, is amended to read:

7 38-910. Domestic relations orders; procedures; payments

8 A. Notwithstanding any other law, in a judicial proceeding for  
9 annulment, dissolution of marriage or legal separation that provides for the  
10 distribution of community property, or in any judicial proceeding to amend or  
11 enforce such a property distribution, a court in this state may issue a  
12 domestic relations order that provides that all or any part of a  
13 participant's benefit or refund in the plan that would otherwise be payable  
14 to that participant shall instead be paid by the plan to an alternate payee.

15 B. A domestic relations order is not effective against the plan unless  
16 the domestic relations order is approved by the plan and qualifies as a plan  
17 approved domestic relations order. To qualify as a plan approved domestic  
18 relations order, a domestic relations order shall comply with any policies or  
19 procedures adopted pursuant to subsection K and shall also meet all of the  
20 following requirements:

21 1. The domestic relations order shall state the name and the last  
22 known mailing address of the participant and the name and last known mailing  
23 address of the alternate payee that is covered by the domestic relations  
24 order.

25 2. The domestic relations order shall clearly state the amount or  
26 percentage of the participant's benefits that is payable by the plan to the  
27 alternate payee or the precise manner in which the amount or percentage is to  
28 be determined.

29 3. The domestic relations order shall state the number of payments or  
30 periods to which the domestic relations order applies, if applicable.

31 4. The domestic relations order shall state that the domestic  
32 relations order applies to the plan.

33 5. The domestic relations order shall not require the plan to provide  
34 any type or form of benefit or any option not otherwise provided by this  
35 article.

36 6. The domestic relations order shall not require the plan to provide  
37 increased benefits determined on the basis of actuarial value.

38 7. The domestic relations order shall not require the payment of  
39 benefits to an alternate payee if the benefits are required to be paid to  
40 another alternate payee under a separate plan approved domestic relations  
41 order.

42 8. THE DOMESTIC RELATIONS ORDER SHALL HAVE BEEN ISSUED BY A COURT OF  
43 COMPETENT JURISDICTION OF A STATE, TERRITORY OR POSSESSION OF THE UNITED  
44 STATES.

1 C. On receipt by the plan of a certified copy of a domestic relations  
2 order and a written request for a determination that the domestic relations  
3 order is a plan approved domestic relations order, the plan shall promptly  
4 issue a written notice of receipt stating that the domestic relations order  
5 and request were received to the participant and alternate payee at the  
6 addresses on file, if any.

7 D. The plan has a determination period to issue a written  
8 determination indicating whether a domestic relations order qualifies as a  
9 plan approved domestic relations order. If the participant is receiving  
10 benefits during the determination period, and if the plan can determine the  
11 amount of the benefits that currently would be payable to the alternate payee  
12 if the domestic relations order were a plan approved domestic relations  
13 order, the plan shall hold the segregated funds and shall pay the remaining  
14 portion of the benefits to the participant. If the plan determines the  
15 domestic relations order is a plan approved domestic relations order, the  
16 plan shall pay the participant and alternate payee pursuant to the plan  
17 approved domestic relations order in the month following the month in which  
18 the determination was issued, or in the month following the month in which a  
19 benefit is payable under the plan approved domestic relations order,  
20 whichever is later. If the plan determines the domestic relations order  
21 fails to qualify as a plan approved domestic relations order, the plan shall  
22 specify in its determination how the domestic relations order is deficient  
23 and how it may be amended to qualify as a plan approved domestic relations  
24 order. If the participant is currently receiving benefits, and if the plan  
25 can determine the amount of segregated funds that would be payable to the  
26 alternate payee if the domestic relations order were a plan approved domestic  
27 relations order, the plan shall hold the segregated funds during the cure  
28 period to allow the parties to submit a certified copy of an amended domestic  
29 relations order and a written request for a determination that the amended  
30 domestic relations order is a plan approved domestic relations order. During  
31 the cure period, the plan shall pay the participant's portion to the  
32 participant. At the end of the cure period, if the issue of whether an  
33 amended domestic relations order qualifies as a plan approved domestic  
34 relations order remains undetermined or if an amended domestic relations  
35 order is determined not to be a plan approved domestic relations order, the  
36 plan shall pay the segregated funds and the participant's portion to the  
37 participant. The participant shall hold the segregated funds in trust for  
38 the alternate payee as provided in subsection J. If an amended domestic  
39 relations order that is submitted after the expiration of the cure period is  
40 determined to be a plan approved domestic relations order, the plan shall  
41 make payments to an alternate payee under the plan approved domestic  
42 relations order only prospectively. A determination by the plan that a  
43 domestic relations order is not a plan approved domestic relations order does  
44 not prohibit a participant or alternate payee from submitting an amended  
45 domestic relations order to the plan.

1 E. Each participant and alternate payee is responsible for maintaining  
2 a current mailing address on file with the plan. The plan has no duty to  
3 attempt to locate any participant or alternate payee. The plan has no duty  
4 to provide a notice of receipt or determination or pay benefits by means  
5 other than mailing the notice or payments to the participant or alternate  
6 payee at the last known address that is on file with the plan. If the  
7 address of an alternate payee is unknown to the plan, but benefits are  
8 payable to the alternate payee pursuant to a plan approved domestic relations  
9 order, the plan shall either:

10 1. Hold the alternate payee's portion until such a time as the  
11 alternate payee provides the plan with a current address. Once the plan is  
12 notified of the alternate payee's current address, the plan shall  
13 prospectively pay the alternate payee's portion to the alternate payee.

14 2. Pay the alternate payee's portion to the participant, who shall  
15 hold the alternate payee's portion in trust as provided in subsection J,  
16 until such a time as the alternate payee is located. At that time the  
17 participant shall pay the alternate payee's portion directly to the alternate  
18 payee.

19 F. If the address of a participant is unknown to the plan, but  
20 benefits are payable to the participant pursuant to a plan approved domestic  
21 relations order, the plan shall hold the participant's portion until the  
22 participant provides the plan with a current address.

23 G. If the alternate payee identified in a plan approved domestic  
24 relations order predeceases the participant and the plan approved domestic  
25 relations order does not otherwise provide for the disposition of the  
26 alternate payee's interest the plan shall pay the alternate payee's portion  
27 to the personal representative of the deceased alternate payee pursuant to  
28 this subsection. The personal representative is responsible for maintaining  
29 a current mailing address on file with the plan. The plan has no duty to  
30 attempt to locate any personal representative. The plan is not responsible  
31 for making benefit payments to a personal representative until the personal  
32 representative has both:

33 1. Persuaded the plan that the personal representative is authorized  
34 to receive payments designated for the deceased alternate payee.

35 2. Provided the plan with an address to which the payments should be  
36 sent.

37 H. If, within thirty days after the date the plan verifies an  
38 alternate payee's death, a personal representative does not make demand on  
39 the plan for the alternate payee's portion, the plan shall either:

40 1. Hold the alternate payee's portion until the time a personal  
41 representative makes a proper demand for payment of the alternate payee's  
42 portion.

43 2. Remit the alternate payee's portion to the participant, who shall  
44 hold the amounts in trust for the estate of the alternate payee until the  
45 personal representative is identified. At that time the participant shall

1 pay the alternate payee's portion paid by the plan to the participant to the  
2 personal representative.

3 Thereafter, the plan shall prospectively pay the alternate payee's portion to  
4 the personal representative.

5 I. Amounts held or paid pursuant to this section shall not accrue  
6 interest unless otherwise prescribed by this article.

7 J. The plan is not liable to the participant, the alternate payee, any  
8 personal representative of the estate of an alternate payee or any other  
9 person for any amount paid, withheld or disbursed by the plan pursuant to  
10 this section. If one or more payments are made by the plan to a person not  
11 otherwise entitled to receive the payments, the recipient of the payment is  
12 designated a constructive trustee for the payment received and, together with  
13 the marital community, if any, is the sole party against whom an action may  
14 be brought to recover the payment.

15 K. The plan may adopt policies and procedures that govern the  
16 implementation of this section.