

**TITLE 38, CHAPTER 5, ARTICLE 4
AND RELATED STATUTES**

**ARIZONA REVISED STATUTES
AS AMENDED 2011**

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
STATE OF ARIZONA**

**STATE OF ARIZONA
PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM**

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**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
TITLE 38, CHAPTER 5, ARTICLE 4
ARIZONA REVISED STATUTES AS AMENDED 2011**

38-841. Purpose; vested benefits

- A. Before the establishment of the Public Safety Personnel Retirement System, municipal firemen and policemen, employees of the Arizona highway patrol and other public safety personnel in the state of Arizona were covered under various local, municipal and state retirement programs. These heterogeneous programs provided for wide and significant differentials in employee contribution rates, benefit eligibility provisions, types of benefit protection and benefit formulas.
- B. In order to provide a uniform, consistent and equitable statewide program for public safety personnel who are regularly assigned hazardous duty in the employ of the state of Arizona or a political subdivision thereof, this retirement system was created effective as of July 1, 1968, as an amendment to and continuation of three prior systems. Groups of employees covered under the three prior systems as of June 30, 1968, and the assets and liabilities accumulated thereunder for such employees, are transferred with prior service credits to this retirement system as of the effective date, and both they and their employers shall be required to make stipulated contributions to support the system's benefit structure on a sound actuarial basis. Future employees in such groups shall commence participation in, and contributions to, the system immediately on commencement of covered employment.
- C. The provisions of this system shall not be construed to authorize the granting of any retirement benefits to persons who are retired as of the effective date of this article, except as described in sections 38-849 and 38-853.
- D. Additional eligible groups of public safety personnel will participate in the system pursuant to election by their employer for such coverage under an appropriate joinder agreement.
- E. The Public Safety Personnel Retirement System is a jural entity that may sue and be sued.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1973, Ch. 120, § 1; Laws 1983, Ch. 300, § 3. Amended by Laws 2010, Ch. 118.

38-842. Definitions

In this article, unless the context otherwise requires:

- 1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.
- 2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.
- 3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the board.
- 4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.
- 5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.
- 6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.
- 7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. For an employee who becomes a member of the system before January 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. For an employee who becomes a member of the

system on or after January 1, 2012, the considered period is the five consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.
9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.
10. "Certified peace officer" means a peace officer certified by the Arizona peace officers standards and training board.
11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.
12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and holiday pay paid to an employee by the employer on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for unused compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities, training, or fire, wildfire, emergency medical or emergency management activities. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.
13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.
14. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.
15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.
16. "Determination" means a written document that indicates to a participant and alternate payee whether a domestic relations order qualifies as a plan approved domestic relations order.
17. "Determination period" means the ninety-day period in which the system must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the system mails a notice of receipt to the participant and alternate payee.
18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under a plan approved domestic relations order.
20. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.
21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.
22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.
23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:
 - (a) Is under eighteen years of age.
 - (b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.
 - (c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.
24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:
 - (a) Municipal police officers who are certified peace officers.
 - (b) Municipal fire fighters.
 - (c) Paid full-time fire fighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 with three or more full-time fire fighters, but not including fire fighters employed by a fire district pursuant to a contract with a corporation.
 - (d) State highway patrol officers who are certified peace officers.
 - (e) State fire fighters.
 - (f) County sheriffs and deputies who are certified peace officers.
 - (g) Game and fish wardens who are certified peace officers.
 - (h) Police officers who are certified peace officers and fire fighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a fire fighter's sole duty shall be to perform fire fighting services, including services required by federal regulations.
 - (i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.
 - (j) Police officers who are certified peace officers and who are appointed by a community college district governing board.
 - (k) State attorney general investigators who are certified peace officers.
 - (l) County attorney investigators who are certified peace officers.
 - (m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.
 - (n) Fire fighters who are employed by an Indian reservation fire fighting agency.
 - (o) Department of liquor licenses and control investigators who are certified peace officers.
 - (p) Arizona department of agriculture officers who are certified peace officers.
 - (q) Arizona state parks board rangers and managers who are certified peace officers.
 - (r) County park rangers who are certified peace officers.
25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:
 - (a) An individual retirement account described in section 408(a) of the internal revenue code.

- (b) An individual retirement annuity described in section 408(b) of the internal revenue code.
 - (c) An annuity plan described in section 403(a) of the internal revenue code.
 - (d) A qualified trust described in section 401(a) of the internal revenue code.
 - (e) An annuity contract described in section 403(b) of the internal revenue code.
 - (f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.
26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:
- (a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's beneficiary or for a specified period of ten years or more.
 - (b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.
 - (c) The portion of any distribution that is not includable in gross income.
27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status or fire fighter certification and at the option of the local board, employee may include a person who is training to become a certified peace officer or fire fighter.
28. "Employers" means:
- (a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.
 - (b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.
 - (c) The state highway patrol covered under the state highway patrol retirement system.
 - (d) The state, or any political subdivision of this state, including towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.
 - (e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.
29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated
30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.
31. "Member" means any full-time employee who meets all of the following qualifications:
- (a) Who is either a paid municipal police officer, a paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace

- officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning retroactively to January 1, 2009, who is a police chief or a fire chief.
- (b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.
 - (c) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating work weeks, whose customary employment averages at least forty hours per week.
 - (d) Who is engaged to work for more than six months in a calendar year.
 - (e) Who, if economic conditions exist, is required to take furlough days or reduce the hours of the employee's normal work week below forty hours but not less than thirty hours per pay cycle, and maintain the employee's active member status within the system as long as the hour change does not extend beyond twelve consecutive months.
 - (f) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.
32. "Normal retirement date" means:
- (a) For an employee who becomes a member of the system before January 1, 2012, the first day of the calendar month immediately following the employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.
 - (b) For an employee who becomes a member of the system on or after January 1, 2012, the first day of the calendar month immediately following the employee's completion of twenty-five years of service if the employee is at least fifty two and one-half years of age.
33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.
34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.
35. "Participant" means a member who is subject to a domestic relations order.
36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.
37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.
38. "Personal representative" means the personal representative of a deceased alternate payee.
39. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.
40. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state fire fighters, eligible fire district fire fighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, fire fighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are

appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or fire fighters who are employed by an Indian reservation fire fighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

41. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension or, for an employee who becomes a member of the system on or after January 1, 2012, attains the age and service requirements for a normal retirement date. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.
42. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.
43. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer fire fighter, then only twenty-five per cent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid fire fighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.
44. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.
45. "System" means the Public Safety Personnel Retirement System established by this article.
46. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

Sec. 56. Termination of department of administration local board; transfer of personnel, records and equipment; transfer of retirement assets; study

- A. The department of administration Public Safety Personnel Retirement System local board is terminated. The department of administration shall transfer the records of employees who are

currently members of the Public Safety Personnel Retirement System to the department of public safety Public Safety Personnel Retirement System local board.

- B. All equipment, records, furnishings, vehicles and other property, all data and investigative findings and all appropriated and nonappropriated monies that remain unexpended and unencumbered on the effective date of this act that relate to the capitol police are transferred from the department of administration to the department of public safety. All equipment, records, furnishings, vehicles and other property that are transferred pursuant to this subsection shall not be upgraded at the time of transfer unless the legislature approves the upgrade.
- C. All personnel who are under the state personnel system and employed by the department of administration as capitol police officers and sergeants are transferred to the following department of public safety positions:
 - 1. Capitol police officers shall become department of public safety capitol police with an annual salary equivalent to the entry level salary of a department of public safety officer.
 - 2. Capitol police sergeants shall each become a department of public safety capitol police sergeant with an annual salary equivalent to the sergeant i classification in the department of public safety.
- D. All personnel who are under the state personnel system and employed by the department of administration as capitol police personnel and that are not officers and sergeants are transferred to the department of public safety to equivalent classifications or new classifications as approved by the law enforcement merit system council.
- E. The administrator of the Public Safety Personnel Retirement System shall transfer the assets in the Public Safety Personnel Retirement System department of administration account to the Public Safety Personnel Retirement System department of public safety account.

Sec. 61. Retroactivity

This act (sec. 56) applies retroactively to from and after June 30, 2011.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1971, Ch. 74, § 2; Laws 1971, Ch. 143, § 1, effective July 1, 1972; Laws 1971, Ch. 174, § 3; Laws 1972, Ch. 135, § 1; Laws 1973, Ch. 97, § 3; Laws 1974, Ch. 170, § 2; Laws 1977, Ch. 60, § 1; Laws 1977, Ch. 86, § 1; Laws 1980, Ch. 146, § 1; Laws 1982, Ch. 266, § 1; Laws 1983, Ch. 300, § 4; Laws 1986, Ch. 88, § 1; Laws 1988, Ch. 19, § 3, effective March 31, 1988; Laws 1988, Ch. 267, § 1; Laws 1989, Ch. 197, § 1; Laws 1990, Ch. 325, § 1; Laws 1990, Ch. 411, § 2; Laws 1991, Ch. 156, § 1; Laws 1992, Ch. 228, § 1; Laws 1992, Ch. 341, § 1; Laws 1994, Ch. 130, § 1; Laws 1995, Ch. 205, § 3; Laws 1995, Ch. 32, § 15; Laws 1996, Ch. 351, § 22; Laws 1997, Ch. 239, § 7; Laws 1997, Ch. 239, § 8, effective October 1, 1997; Laws 1999, Ch. 50, § 3; Laws 1999, Ch. 327, Ch. 21; Laws 2000, Ch. 329, § 1; Laws 2001, Ch. 353, § 2; Laws 2002, Ch. 335, § 2; Laws 2004, Ch. 325, § 1; Laws 2006, Ch. 264, § 6; Laws 2007, Ch. 87, § 3; Laws 2008, Ch. 227, § 1; Laws 2009, Ch. 35, § 10, effective September 30, 2009; Laws 2009, Ch. 6, § 15, effective November 24, 2009. Amended by Laws 2010, Ch. 118; Laws 2011, Ch. 357; Laws 2011, Ch. 347; Laws 2011, Ch. 27.

Sec. 33. Retroactivity

Section 38-842, paragraph 31, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 1993.

38-843. Contributions

- A. Each employer who participates in the system on behalf of a group of employees who were covered under a prior public retirement system, other than the federal social security act, shall transfer all securities and monies attributable to the taxes and contributions of the state other than the state contribution to social security, the employer and the employees for the covered group of employees under the other system, such transfer to be made to the fund subject to all existing liabilities and on or within sixty days following the employer's effective date. All monies and securities transferred to the fund shall be credited to the employer's account in the fund. A record of the market value and the cost value of such transferred contributions shall be maintained for actuarial and investment purposes.
- B. As determined by actuarial valuations reported to the employer and the local board by the board of trustees, each employer shall make level per cent of compensation contributions sufficient

under such actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005, a rolling period of at least twenty and not more than thirty years that is established by the board of trustees taking into account the recommendation of the system's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than eight per cent of compensation. For any employer whose actual contribution rate is less than eight per cent of compensation for fiscal year 2006-2007, that employer's contribution rate is not subject to the eight per cent minimum but, for fiscal year 2006-2007 and each year thereafter, shall be at least five per cent and not more than the employer's actual contribution rate. An employer shall have the option of paying a higher level per cent of compensation thereby reducing its unfunded past service liability. An employer shall also have the option of increasing its contributions in order to reduce the contributions required from its members under subsection C, except that if an employer elects this option the employer shall pay the same higher level percentage contribution for all members of the eligible group. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer shall make the contributions based on the compensation the employee would have received in the employee's job classification if the employee was in normal employment status. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the system or to pay expenses of the system and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The board shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or any other reason shall be applied to reduce the cost of the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the system's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred per cent funded, the board shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the system's actuary determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the board shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two per cent.

- C. Each member, throughout the member's period of service from the member's effective date of participation, shall contribute to the fund an amount equal to the amount prescribed in subsection E, except as provided in subsection B. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employee shall make the employee's contribution based on the compensation the employee would have received in the employee's job classification if the employee was in normal employment status. Contributions of members shall be required as a condition of employment and membership in the system and shall be made by payroll deductions. Every employee shall be deemed to consent to such deductions. Payment of an employee's compensation, less such payroll deductions, shall constitute a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration for the employee's services rendered during the period covered by the payment, except with respect to the benefits provided under the system.
- D. Each employer shall transfer to the board the employer and employee contributions provided for in subsections B and C within ten working days after each payroll date. Contributions transferred after that date shall include a penalty of ten per cent per annum, compounded annually, for each day the contributions are late, such penalty to be paid by the employer. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by action in a court of competent jurisdiction against an employer liable for the payments or, at the request of the board, may be deducted from any other monies, including excise revenue taxes, payable to such employer by any department or agency of this state.

- E. The amount contributed by a member pursuant to subsection C is:
1. Through June 30, 2011, 7.65 per cent of the member's compensation.
 2. For fiscal year 2011-2012, 8.65 per cent of the member's compensation.
 3. For fiscal year 2012-2013, 9.55 per cent of the member's compensation.
 4. For fiscal year 2013-2014, 10.35 per cent of the member's compensation.
 5. For fiscal year 2014-2015, 11.05 per cent of the member's compensation.
 6. For fiscal year 2015-2016 and each fiscal year thereafter, 11.65 per cent of the member's compensation or 33.3 per cent of the sum of the member's contribution rate from the preceding fiscal year and the aggregate computed employer contribution rate that is calculated pursuant to subsection B, whichever is lower, except that the member contribution rate shall not be less than 7.65 per cent of the member's compensation and the employer contribution rate shall not be less than the rate prescribed in subsection B.
- F. For fiscal year 2011-2012 and each fiscal year thereafter, the amount of the member's contribution that exceeds 7.65 per cent of the member's compensation shall not be used to reduce the employer's contributions that are calculated pursuant to subsection B.

Section 63. Board of trustees report on employer and employee costs

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

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 5; Laws 1971 Ch. 143, § 2 effective July 1 1972; Laws 1977, Ch. 86, § 2; Laws 1979, Ch. 91, § 3, effective April 20, 1979; Laws 1983, Ch. 300, § 5; Laws 1984, Ch. 206, § 1; Laws 1988, Ch. 267, § 2; Laws 1989, Ch. 310, § 7, effective Sept. 15, 1989, retroactively effective to July 1, 1989; Laws 1990, Ch. 325, § 2; Laws 1991, Ch. 155, § 1, retroactively effective to July 1, 1991; Laws 1997, Ch. 239, § 10; Laws 2000, Ch. 126, § 4; Laws 2002, Ch. 328, § 21; Laws 2005, Ch. 208, § 3; Laws 2006, Ch. 251, § 2, effective immediately. Amended by Laws 2010, Ch. 118; Laws 2011, Ch. 357, effective July 1, 2011.

38-843.01. Internal revenue code section 414(h) pickup of member contributions

Each employer shall pick up the contributions required of members on account of compensation paid after the effective date specified in the resolution of the board activating the provisions of this section. The picked up contributions shall be treated as employer contributions for the purpose of tax treatment under the United States internal revenue code. The specified effective date shall not be before the date the system receives notification from the internal revenue service that pursuant to section 414(h) of the internal revenue code the member contributions picked up shall not be included in gross income for income tax purposes until the time that the picked up contributions are distributed by refund or pension payments. The employers shall pick up the member contributions from monies established and available in a retirement deduction account, which monies would otherwise have been designated as member contributions and paid to the system. Member contributions picked up pursuant to this section shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before the effective date.

Added by Laws 1999, Ch. 50, § 4. Amended by Laws 1999, Ch. 327, § 22.

38-843.02. Internal revenue code qualification

The legislature intends that the system is a qualified pension plan under section 401 of the internal revenue code, as amended, or successor provisions of law, and that the trust is exempt from taxation under section 501 of the internal revenue code, as amended. The assets of the fund are held in trust for the exclusive benefit of the members and beneficiaries of the system. The board may adopt such additional provisions to the system as are necessary to fulfill this intent.

Added by Laws 2000, Ch. 126, § 5, retroactively effective to from and after June 30, 1968

38-843.03. Statutory construction

Because the system as enacted at a particular time is a unique amalgam of rights and obligations having a critical impact on the actuarial integrity of the system, the legislature intends that the system as enacted at a particular time be construed and applied as a coherent whole and without reference to any other provision of the system in effect at a different time.

Added by Laws 2000, Ch. 126, § 5, retroactively effective from and after June 30, 1968.

38-843.04. Compensation limitation; adjustments

- A. The annual compensation of each member taken into account for purposes of the system shall not exceed the following:
 - 1. Beginning January 1, 1996 through December 31, 2001, one hundred fifty thousand dollars.
 - 2. Beginning January 1, 2002, two hundred thousand dollars.
- B. If compensation under the system is determined on a period of time that contains fewer than twelve calendar months, the compensation limit for that period of time is equal to the dollar limit for the calendar year during which the period of time begins, multiplied by the fraction in which the numerator is the number of full months in that period of time and the denominator is twelve.
- C. The board shall adjust the annual compensation limits under this section at the same time and in the same manner as adjusted by the United States secretary of the treasury under section 401(a)(17)(B) of the internal revenue code. The adjustment under this subsection for a calendar year applies to annual compensation for the plan year that begins with or within the calendar year.

Added by Laws 2009, Ch. 35, § 11, effective September 30, 2009.

Sec. 26. Title 38, Chapter 5, Article 4, Arizona Revised Statutes, is amended by adding section 38-843.05 to read:

38-843.05 Retired members; return to work; employer contributions

- A. An employer shall pay contributions at an alternate contribution rate on behalf of a retired member who returns to work in any capacity in a position ordinarily filled by an employee of the employer of an eligible group. This section applies to a retired member who returns to work with another participating employer and a retired member who returns to work after sixty consecutive days with the same employer from which the member retired.
- B. The alternate contribution rate shall be equal to that portion of the total required contribution that is applied to the amortization of the unfunded actuarial accrued liability for the fiscal year beginning July 1, based on the system's actuary's calculation of the total required contribution for the preceding fiscal year ended on June 30. The alternate contribution rate shall be applied to the compensation, gross salary or contract fee of a retired member who meets the requirements of this section.
- C. The alternate contribution rate shall not be less than eight per cent in any fiscal year.
- D. All contributions made by the employer and allocated to the fund are irrevocable and shall be used as benefits under this article or to pay the expenses of the system. Payments made pursuant to this section by employers become delinquent after the due date prescribed in 38-843, subsection D, and thereafter shall be increased by interest from and after that date until payment is received by the system.
- E. An employer of a retired member shall submit any reports, data, paperwork or materials that are requested by the board and that are necessary to determine the compensation, gross salary or contract fee associated with a retired member who returns to work or to determine the function, use, efficacy or operation of the return to work program.

Sec. 58. Legislative intent; alternate contribution rate; ASRS employers; EORP, PSPRS and CORP employers

The legislature intends by this act:

- 1. To establish an alternate contribution rate in order to mitigate the potential actuarial

impact that a retired member who returns to work for an employer may have on the Arizona State Retirement System. Through the establishment of the alternate contribution rate the legislature intends to assure employers that the use of leased, contracted or retired employees and services will have a minimal, if any, actuarial impact on the Arizona State Retirement System.

2. To establish an alternate contribution rate in order to mitigate the potential actuarial impact that is caused by distorting the actuarial assumption relating to age related rates of retirement that a retired member who returns to work for an employer may have on the Elected Officials' Retirement Plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan.

Added by Laws 2011, Ch. 357, effective July 20, 2011.

38-844. Requirements for retirement benefits and disability pensions

- A. A member shall be eligible for a normal pension on retirement on or after the member's normal retirement date. Payment of a normal pension shall commence as of the first day of the month following the date of retirement, and the last payment shall be made as of the last day of the month in which the death of the retired member occurs.
- B. A member is eligible for an accidental disability pension if the member's employment is terminated by reason of accidental disability. A member is eligible for an ordinary disability pension if the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. A member shall file an application for a disability pension after the disabling incident or within one year after the date the member ceases to be an employee. Timely application for an accidental, catastrophic or ordinary disability pension is a prerequisite to receipt of the pension. Payment of an accidental, catastrophic or ordinary disability pension shall commence as of the first day of the month following the date of retirement or the expiration of a period during which the member is receiving sick leave payments or a temporary disability pension, whichever is later. The last payment shall be made as of the last day of the month in which the death of the retired member occurs, or if disability ceases before the member's normal retirement date, the first day of the month in which disability ceases.
- C. A member is eligible for a catastrophic disability pension if the member's employment is terminated by reason of catastrophic disability. If more than the allowable catastrophic disability pensions are approved by the local boards in a calendar year, from and after December 31 of the following calendar year a member of the system is not eligible to apply for a catastrophic disability pension. On or before January 31, the board of trustees shall report to the president of the senate and the speaker of the house of representatives the number of catastrophic disability pensions that were approved by the local boards in the preceding calendar year. For the purposes of this subsection, "allowable catastrophic disability pensions" means for calendar year 2004, ten, and for subsequent calendar years the number of allowable catastrophic disability pensions allowed in the prior calendar year minus the number of catastrophic disability pensions approved by the local boards in the prior calendar year plus four.
- D. Notwithstanding any other provision of this section, no member shall qualify for an accidental, catastrophic or ordinary disability pension if the local board determines that the member's disability results from the following:
 1. An injury suffered while engaged in a felonious criminal act or enterprise.
 2. Service in the armed forces of the United States that entitles the member to a veteran's disability pension.
 3. A physical or mental condition or injury that existed or occurred before the member's date of membership in the system.
- E. Accidental or ordinary disability shall be considered to have ceased and an accidental or ordinary disability pension terminates if the member:
 1. Has sufficiently recovered, in the opinion of the local board, based on a medical examination by a physician or clinic appointed by the local board, to be able to engage in a reasonable range of duties within the member's department and the member refuses an offer of employment by an employer in the system.
 2. Refuses to undergo any medical examination requested by the local board, provided that

a medical examination shall not be required more frequently than once in any calendar year.

- F. Sixty months after the award of a catastrophic disability pension, the local board shall reevaluate the member. If the member still qualifies for the catastrophic disability pension, the member is entitled to continue to receive the pension at the reduced amount prescribed in section 38-845, subsection E. A catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a physician or a clinic appointed by the local board. After the sixty month review, the catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a physician or a clinic appointed by the local board, except that the medical examination shall not be required more frequently than once in a calendar year. The medical review after the sixty month period does not apply after the date the catastrophic disability pensioner would have attained twenty-five years of service assuming the pensioner remained a member of the system. The local board shall also terminate a catastrophic disability pension if the member refuses to undergo any medical examination requested by the local board. A member whose catastrophic disability pension is terminated may apply for and if eligible is entitled to receive an accidental disability pension as provided in this section.
- G. Subsection E of this section does not apply after a disability pensioner's normal retirement date. The amount of a disability pension shall not be recomputed at a disability pensioner's normal retirement date.
- H. If accidental or ordinary disability ceases before a retired member attains the member's normal retirement date and the member is reemployed by an employer, the pension payable on the member's subsequent retirement shall be determined as provided in section 38-849, subsection D.
- I. A member shall be eligible for a temporary disability pension if the member's employment is terminated before the member's normal retirement date by reason of temporary disability. Payment of a temporary disability pension shall commence as of the first day of the month following the date of disability or the expiration of a period during which the member is receiving compensation and sick leave payments, whichever is later. The last payment shall be made as of the first day of the month in which either the death of the member occurs or the local board deems the member is no longer under temporary disability, whichever first occurs, provided that no more than twelve monthly temporary disability payments shall be made in total to the member.
- J. If on the expiration of a temporary disability pension the local board finds on application that the member has an accidental or ordinary disability, the member shall be eligible for an accidental or ordinary disability pension, as provided in this section.
- K. The system shall make payments pursuant to section 401(a)(9) of the internal revenue code and the regulations that are issued under that section. Notwithstanding any other provision of the system, beginning January 1, 1987 payment of benefits to a member shall commence no later than April 1 of the calendar year following the later of:
 - 1. The calendar year in which the member attains seventy and one-half years of age.
 - 2. The date the member terminates employment.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1971, Ch. 143, § 3, effective July 1, 1972; Laws 1980, Ch. 146, § 2; Laws 1983, Ch. 300, § 6; Laws 1988, Ch. 267, § 3; Laws 1994, Ch. 356, § 25; Laws 1996, Ch. 318, § 1, effective retroactively to July 1, 1995; Laws 1997, Ch. 239, § 11; Laws 2004, Ch. 91, § 1; Laws 2004, Ch. 325, § 2; Laws 2009, Ch. 35, § 12.

Sec. 11. Continuation of catastrophic disability pension

Any person who has been awarded a catastrophic disability pension pursuant to this act is entitled to continue to receive the pension as long as the person maintains eligibility as determined by the local board.

38-844.01. Vested rights to benefits

A member of the system does not have vested rights to benefits under the system, except as provided in section 38-854, until he files an application for benefits and is found eligible for those benefits as provided in this article. An eligible claimant's rights to benefits vest on the date of his application for those benefits or his last day of employment under the system, whichever occurs first.

Added by Laws 1983, Ch. 300, § 7.

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

- A. A deferred retirement option plan is established for those employees who become members of the system before January 1, 2012. The purpose of the deferred retirement option plan is to add flexibility to the system and to provide members who elect to participate in the deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.
- B. The board shall offer the deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the system.

Added by Laws 2000, Ch. 340, § 1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, § 3. Amended by Laws 2011, Ch. 357.

38-844.03. Eligibility; participation

- A. Any member who is eligible for a normal pension pursuant to section 38-844, subsection A, who becomes a member of the system before January 1, 2012 and who has at least twenty years of credited service is eligible to participate in the deferred retirement option plan. In addition, any member who is subject to section 38-858, subsection B is eligible to participate in the deferred retirement option plan retroactive to the member's twentieth year of credited service or on the day before the member began military service, whichever is later, if the member makes the election pursuant to this section on or before resuming employment with the member's employer.
- B. A member who elects to participate in the deferred retirement option plan shall voluntarily and irrevocably:
 - 1. Designate a period of participation that is not more than sixty consecutive months.
 - 2. Beginning on the date the member elects to participate in the deferred retirement option plan, cease to accrue benefits under any other provision of this article. The member's effective date of participation is the first day of the month following the date the member elects to participate.
 - 3. Have deferred retirement option plan benefits credited to a deferred retirement option plan participation account pursuant to section 38-844.05.
 - 4. Receive benefits from the system on termination of employment at the same time and in the same manner as otherwise prescribed in this article.
 - 5. Agree to terminate employment on completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
- C. If a member fails to terminate employment on completion of the designated deferred retirement option plan participation period:
 - 1. The member is not entitled to the interest accumulation on the deferred retirement option plan participation account.
 - 2. The deferred retirement option plan participation account shall not be credited with the monthly amount prescribed in section 38-844.05, subsection C, paragraph 1 and that amount shall not be paid directly to the member.
 - 3. The payment prescribed in section 38-844.08, subsection A, paragraph 1 shall not be paid until the member terminates employment and is payable at the same time as the pension amount is paid on retirement.
 - 4. The member does not acquire any further credited service in the system.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2001, Ch. 59, §1; Laws 2001, Ch. 349 §1; Laws 2005, Ch. 209, § 1, applies retroactively to December 31, 2002. Amended by Laws 2011, Ch. 357.

38-844.04. Termination of deferred retirement option plan participation

- A. A member may terminate participation in the deferred retirement option plan by voluntarily terminating employment at any time before the completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
- B. Participation in the deferred retirement option plan terminates on the first occurrence of any of the following:
 - 1. Completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
 - 2. Termination of employment. If termination of employment for cause is reversed, a member's participation in the deferred retirement option plan, minus any benefits previously distributed pursuant to this article, shall be reinstated for the duration of the original deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
 - 3. Death of the member.
 - 4. Approval of disability retirement benefits pursuant to section 38-844, subsection B.

Added by Laws 2000, Ch. 340, § 1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, § 4.

38-844.05. Deferred retirement option benefits and participation accounts

- A. A deferred retirement option plan participation account is an account established within the system on behalf of each deferred retirement option plan participant. All benefits accrued pursuant to this article shall be accounted for in the deferred retirement option plan participation account. A deferred retirement option plan participant does not have a claim on the assets of the system with respect to the member's deferred retirement option plan participation account and assets shall not be set aside for any deferred retirement option plan participant that are separate from all other system assets.
- B. All amounts credited to a member's deferred retirement option plan participation account are fully vested.
- C. A member's deferred retirement option plan participation account shall be credited with the following:
 - 1. An amount, credited monthly, that is computed in the same manner as a normal retirement benefit using the factors of credited service and average monthly benefit compensation in effect on the date of deferred retirement option plan participation.
 - 2. An amount, credited monthly, that represents interest at a rate equal to the assumed rate of return determined by the board, except that for a member who has less than twenty years of credited service on January 1, 2012 and who elects to participate in the deferred retirement option plan on or after January 1, 2012, the amount credited monthly is the amount that represents interest at a rate equal to the average annual return of the system over the period of years established by the board for use in the calculation of the actuarial value of assets for the previous year, but not to exceed the system's assumed investment rate of return but at least two per cent.
- D. The participant is not entitled to receive any amount prescribed by section 38-856, 38-856.02 or 38-857 during the deferred retirement option plan participation period.

Added by laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2011, Ch. 357.

38-844.06. Additional deferred retirement option plan provisions

- A. Except as provided by subsection B of this section, beginning on the day after the date the member elects to participate in the deferred retirement option plan, employee and employer contributions pursuant to section 38-843 cease with respect to that member.
- B. A member who has less than twenty years of credited service on January 1, 2012 and who elects

to participate in the deferred retirement option plan on or after January 1, 2012, shall make employee contributions to the system in the amount equal to the employee contributions calculated pursuant to section 38-843.

- C. A member who elects to participate in the deferred retirement option plan and who becomes disabled during the period of deferred retirement option plan participation is eligible to apply for disability retirement benefits. If the application for disability retirement benefits is approved by the local board:
 - 1. The disability retirement benefits shall be computed using the factors of credited service and average monthly benefit compensation in effect the day before the effective date of the member's deferred retirement option plan participation.
 - 2. All amounts in the member's deferred retirement option plan participation account shall be distributed pursuant to section 38-844.08.
- D. If a member dies during the period of the member's deferred retirement option plan participation, the designated beneficiary of the member is entitled to receive all amounts in the member's deferred retirement option plan participation account.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, §5; LAWS 2011, Ch. 357.

38-844.07. Designation of deferred retirement option plan beneficiaries

- A. A member who elects to participate in the deferred retirement option plan shall designate a beneficiary. A member's beneficiary designation applies to all distributions pursuant to the deferred retirement option plan.
- B. If a designated beneficiary predeceases a deferred retirement option plan participant who dies before designating a new beneficiary, all distributions pursuant to the deferred retirement option plan shall be made to the estate of the deferred retirement option plan participant.
- C. A member shall not make a beneficiary designation pursuant to this section that results in an abrogation of a member's community property obligations under the applicable laws of this state.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.08. Payment of deferred retirement option plan benefits

- A. On the simultaneous termination of deferred retirement option plan participation and employment, a member is entitled to receive both of the following:
 - 1. The monthly retirement allowance in the amount determined pursuant to section 38-845 that was credited monthly to the member's deferred retirement option plan participation account at the date of termination of deferred retirement option plan participation.
 - 2. All amounts credited to the member's deferred retirement option plan participation account on the effective date of termination of deferred retirement option plan participation.
- B. The form of payment shall be a lump sum distribution. If allowed by the internal revenue service, the participant may elect to transfer the lump sum distribution to an eligible retirement plan or individual retirement account.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.09. Internal revenue code compliance

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

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

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

- A. A member who meets the requirements for a normal pension, who becomes a member of the system before January 1, 2012 and who has twenty years of credited service shall receive a monthly amount that equals fifty per cent of the member's average monthly benefit compensation. If the member retires with other than twenty years of credited service, the foregoing amount shall be:
1. Reduced by four per cent for each year of credited service under twenty years, with pro rata reduction for any fractional year.
 2. Increased by a monthly amount equal to two per cent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year, except that if a member retires with twenty-five or more years of credited service the amount shall be increased by a monthly amount equal to two and one-half per cent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year. Notwithstanding the provisions of this subsection, the maximum amount payable as a normal pension shall be eighty per cent of the average monthly benefit compensation.
- B. A member who meets the requirements for an accidental disability pension shall receive a monthly amount which shall be computed in the same manner as a normal pension, using the member's average monthly benefit compensation before termination of employment and the member's actual credited service or twenty years of credited service, whichever is greater.
- C. A member who meets the requirements for an ordinary disability pension shall receive a monthly amount that is equal to a fraction times the member's normal pension that is computed according to subsection A or G if the member had twenty years of credited service. The fraction is the result obtained by dividing the member's actual years of credited service, not to exceed twenty years of credited service, by twenty.
- D. A member who meets the requirements for a temporary disability pension shall receive a monthly amount that is equal to one-twelfth of fifty per cent of the member's annual compensation received immediately prior to the date on which the member's disability was incurred.
- E. A member who meets the requirements for a catastrophic disability pension is entitled to receive a monthly amount computed as follows:
1. For the first sixty months, ninety per cent of the member's average monthly benefit compensation before termination of employment.
 2. After sixty months, sixty-two and one-half per cent of the member's average monthly benefit compensation before termination of employment or computed in the same manner as a normal pension using the member's average monthly benefit compensation before termination of employment and the member's actual credited service, whichever is greater.
- F. A member who was employed before September 15, 1989 by an employer participating in the system and who retires on or after November 1, 2001 is entitled to receive a tax equity benefit allowance consisting of a permanent increase of two per cent of the member's base benefit retroactive to the day of retirement.
- G. A member who meets the requirements for a normal pension, who becomes a member of the system on or after January 1, 2012 and who has twenty-five years of credited service shall receive a monthly amount that equals sixty-two and one-half per cent of the member's average monthly benefit compensation. If the member retires with other than twenty-five years of credited service, the foregoing amount shall be:
1. Reduced by four per cent for each year of credited service under twenty five years, with pro rata reduction for any fractional year.
 2. Increased by a monthly amount equal to two and one-half per cent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty-five years, with pro rata increase for any fractional year. Notwithstanding the provisions of this subsection, the maximum amount payable as a normal pension shall be eighty per cent of the average monthly benefit compensation.

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

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 6; Laws 1971, Ch. 74, § 3, effective April 16, 1971; Laws 1971, Ch. 143, § 4, effective July 1, 1972; Laws 1980, Ch. 146, § 3; Laws 1983, Ch. 300, § 8; Laws 1987, Ch. 339, § 1; Laws 1990, Ch. 325, § 3, retroactively effective to September 15, 1989; Laws 1991, Ch. 156, § 2; Laws 1992, Ch. 228, § 2; Laws 1992, Ch. 341, § 2; Laws 1993, Ch. 77, § 10; Laws 1995, Ch. 205, § 4; Laws 1995, Ch. 205, § 5, effective January 1, 1996; Laws 2000, Ch. 284, § 1; Laws 2002, Ch. 335, § 6; Laws 2004, Ch. 325, § 3; Laws 2011, Ch. 357.

38-845.01. Maximum annual pension; limitations; definition

- A. The maximum annual pension for a limitation year shall not exceed the following:
1. For limitation years beginning before 1995, the lesser of ninety thousand dollars, as indexed for inflation, or one hundred per cent of the member's average monthly benefit compensation.
 2. For limitation years beginning in 1995 and ending before 2002, ninety thousand dollars, as indexed for inflation.
 3. For limitation years ending in and after 2002, one hundred sixty thousand dollars, as indexed for inflation.
- B. The limitations prescribed in subsection A shall be determined under section 415 of the internal revenue code and the regulations that are then in effect under that section.
- C. Notwithstanding this section, the pension payable under this system may be reduced to the extent necessary, as determined by the system, to prevent disqualification of the system under section 415 of the internal revenue code, which imposes additional limitations on the pension payable to members who also may be participating in another tax qualified pension plan or other plan of this state. The system shall advise affected members of any additional limitation of their pension required by this section.
- D. For the purposes of this section, "limitation year" means the system's fiscal year.

Added by Laws 2009, Ch. 35, § 14.

38-845.02. Payment of pension

The board shall not make a retroactive payment of a pension to a person that is more than ninety days before the date of the person's application for benefits.

Added by Laws 2011, Ch. 347.

38-846. Death benefits

- A. The surviving spouse of a deceased retired member shall be paid a surviving spouse's pension if the spouse was married to the member for a period of at least two consecutive years at the time of the member's death. Payment of a surviving spouse's pension shall commence as of the last day of the month following the retired member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs.
- B. The surviving spouse of a deceased member shall be paid a surviving spouse's pension if the spouse was married to the member on the date of the member's death. Payment of a surviving spouse's pension commences as of the last day of the month following the member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs.
- C. The surviving spouse of a deceased retired member is entitled to receive a monthly amount equal to four-fifths of the monthly amount of pension that the decedent would have received immediately before death.
- D. The surviving spouse of a deceased member who was not killed in the line of duty or did not die from injuries suffered in the line of duty is entitled to receive a monthly amount calculated in the same manner as an accidental disability pension is calculated pursuant to section 38-845, subsection B. The surviving spouse of a deceased member who is killed in the line of duty or

dies from injuries suffered in the line of duty is entitled to receive a monthly amount equal to the deceased member's average monthly benefit compensation less any amount payable for an eligible child under this section. A member who was eligible for or receiving a temporary disability pension at the time of the member's death is not deemed to be retired for the purposes of this subsection. For the purposes of this subsection, "killed in the line of duty" means the decedent's death was the direct and proximate result of the performance of the decedent's public safety duties and does not include suicide.

- E. A surviving spouse shall file a written application with the system in order to receive a survivor benefit.
- F. If at least one eligible child is surviving at the death of a member or retired member, but no surviving spouse's pension then becomes payable, a guardian's or conservator's pension shall be payable to the person who is serving, or who is deemed by the local board to be serving, as the legally appointed guardian or custodian of the eligible child. If an eligible child of a member or retired member is surviving at the member's or retired member's death, the eligible child is entitled to receive a child's pension payable to the person who is serving or who is deemed by the local board to be serving as the legally appointed guardian or custodian of the eligible child. A child's pension or a guardian's or conservator's pension terminates if the child is adopted. In the case of a disabled child, the child's pension or the guardian's or conservator's pension terminates if the child ceases to be under a disability or ceases to be a dependent of the surviving spouse or guardian. The member may also direct by designation to the local board that the guardian or conservator pension or child's pension be paid to the trustee of a trust created for the benefit of the eligible child. A guardian's or conservator's pension shall also become payable if at least one eligible child is surviving when a surviving spouse's pension terminates. The guardian or conservator shall file a written application with the system in order to receive the guardian's or conservator's pension and child's pension.
- G. The board shall pay a guardian's or conservator's pension during the same period in which a pension is payable to at least one eligible child. The guardian, conservator or designated trustee is entitled to receive the same monthly amount as would have been payable to the decedent's surviving spouse had a surviving spouse's pension become payable on the decedent's death.
- H. Each eligible child is entitled to a monthly amount equal to one-tenth of the monthly amount of pension that the deceased member or retired member would have received immediately before death. The pension for a child of a deceased member shall be calculated in the same manner as an accidental disability is calculated pursuant to section 38-845, subsection B. A deceased member shall be assumed to be retired for reasons of accidental disability immediately before the member's death. If there are three or more children eligible for a child's pension, a maximum of two shares of the child's pension shall be payable, the aggregate of such shares to be apportioned in equal measure to each eligible child.
- I. If a member has accumulated contributions remaining in the system at the date of death of the last beneficiary, a lump sum refund of such accumulated contributions shall be payable to the person whom the member has designated as the member's refund beneficiary, or if the member's refund beneficiary is not then surviving, to the designated contingent refund beneficiary, or if the designated contingent refund beneficiary is not then surviving, to such person nearest of kin as selected by the local board. The amount of the lump sum refund shall be the remaining accumulated contributions. The beneficiary or person who is selected as nearest of kin shall file a written application in order to receive the refund.
- J. In calculating the right to and the amount of the surviving spouse's pension, the law in effect on the date of the death of the member or retired member controls, unless the law under which the member retired provides for a greater benefit amount for a surviving spouse.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 7; Laws 1971, Ch. 74, § 4, effective April 16, 1971; Laws 1973, Ch. 172, § 99; Laws 1980, Ch. 146, § 4; Laws 1981, Ch. 162, § 1, effective April 17, 1981; Laws 1982, Ch. 266, § 2; Laws 1983, Ch. 300, § 9; Laws 1984, Ch. 94, § 12; Laws 1987, Ch. 364, § 1; Laws 1991, Ch. 270, § 9, retroactively effective to June 21, 1991, Laws 1992, Ch. 149, § 1; Laws 1994, Ch. 356, § 26; Laws 1997, Ch. 239, § 12; Laws 1999, Ch. 50, § 5; Laws 2002, Ch. 335, § 7; Laws 2006, Ch. 264, § 7. Amended by Laws 2010, Ch. 118.

38-846.01. Deferred annuity; exception

- A. If any member who has at least ten years of credited service terminates employment for reasons other than retirement or disability, the member may elect to receive a deferred annuity, except that if the annuitant withdraws all or part of the annuitant's accumulated contributions in the system all rights in and to a deferred annuity shall be forfeited by the annuitant. A deferred annuity is a lifetime monthly payment actuarially equivalent to the annuitant's accumulated contributions in the system plus an equal amount paid by the employer and shall commence on application on or after the sixty-second birthday of the annuitant. The annuity is not a retirement benefit and annuitants are not entitled to receive any amount prescribed by section 38-845, subsection F, or section 38-846, 38-856, 38-856.02 or 38-857.
- B. This section does not apply to a member who becomes a member of the system on or after January 1, 2012. Such a person who attains a normal retirement date is eligible for retirement and a retirement benefit even if the member terminates employment with an employer before the age requirement for normal retirement if the member attains the service requirement for normal retirement.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 8; Laws 1983, Ch. 300, § 10; Laws 2009, Ch. 35, § 15; Laws 2011, Ch. 357.

Sec. 32. Applicability

Section 38-846.01, Arizona Revised Statutes, as amended by this act by Laws 2009, Ch. 35, § 15, applies to prospective members of the Public Safety Personnel Retirement System as well as members of the Public Safety Personnel Retirement System on the effective date of this act who have not already applied for and begun receiving benefits pursuant to section 38-846.01, Arizona Revised Statutes, in effect before the effective date of this act and section 38-856, Arizona Revised Statutes.

38-846.02. Termination of membership

- A. On termination of employment for any reason other than death or retirement, within twenty days after filing a completed application with the board, a member who becomes a member of the system before January 1, 2012 is entitled to receive the following amounts, less any benefit payments the member has received or any amount the member may owe to the system:
1. If the member has less than five years of credited service with the system, the member may withdraw the member's accumulated contributions from the system.
 2. If the member has five or more years of credited service with the system, the member may withdraw the member's accumulated contributions plus an amount equal to the amount determined as follows:
 - (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
 - (b) 6.0 to 6.9 years of credited service, forty per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
 - (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
 - (d) 8.0 to 8.9 years of credited service, seventy per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
 - (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
 - (f) 10.0 or more years of credited service, one hundred per cent of all member contributions deducted from the member's salary pursuant to section 38-843, subsection C.
- B. If a member who becomes a member of the system before January 1, 2012 has more than ten years of credited service with the system, leaves the monies prescribed in subsection A of this section on account with the system for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the

amount prescribed in subsection A of this section plus interest at a rate determined by the board for each year computed from and after the member's termination of employment.

- C. On termination of employment for any reason other than death or retirement, within twenty days after filing a completed application with the board, a member who becomes a member of the system on or after January 1, 2012 is entitled to receive a lump sum payment equal to the member's accumulated contribution plus interest at a rate determined by the board as of the date of termination, less any benefit payments the member has received as of the date of termination or any amount the member may owe to the system.
- D. If the amount prescribed in subsection A, B or C of this section includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the board. A member who withdraws the amount prescribed in subsection A, B or C of this section from the system or who elects a transfer pursuant to this section forfeits all rights to benefits under the system and rights to rehearing and appeal, except as provided in section 38-849.

Added by Laws 1983, Ch. 300, § 11. Amended by Laws 1994, Ch. 356, § 27; Laws 1999, Ch. 327, § 23; LAWS 2011, Ch. 357.

38-846.03. Reinstatement of surviving spouse's pension

- A. A surviving spouse whose pension was terminated by reason of remarriage is entitled to reinstatement of the surviving spouse's pension if the surviving spouse is otherwise qualified for a surviving spouse's pension and applies for reinstatement with the Public Safety Personnel Retirement System and no other person is currently receiving a guardian's or conservator's pension for an eligible child of the member or retired member. The level of pension payments shall be that amount which was received by the surviving spouse at the date the surviving spouse's pension was terminated, adjusted to reflect ad hoc and scheduled increases from the date of termination to the date of reinstatement.
- B. A surviving spouse who is receiving a guardian's or conservator's pension by reason of remarriage and who is otherwise eligible may apply for reinstatement of a surviving spouse's pension. If the surviving spouse's pension becomes payable the guardian's or conservator's pension is terminated.
- C. Reinstated surviving spouse's pensions are not retroactive. Payment of a reinstated surviving spouse's pension shall commence as of the first day of the month following receipt by the Public Safety Personnel Retirement System of a properly executed written application for reinstatement from the surviving spouse.

Added by Laws 1989, Ch. 310, § 8.

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

- A. A member who received a severance refund on termination of employment as provided in section 38-846.02, who is subsequently reemployed by an employer and who redeposits the amount withdrawn with interest as provided in section 38-849 or a member who redeems prior service pursuant to statute is subject to the benefits and duties in effect at the time of the member's most recent employment. This subsection does not apply if a court of competent jurisdiction orders reinstatement of benefits and duties under a prior law.
- B. A member who transfers credited service from one employer to another employer pursuant to section 38-853 retains the benefits and duties in effect at the time of the member's transfer.

Added by Laws 2011, Ch. 357.

38-847. Local boards

- A. The administration of the system and responsibility for making the provisions of the system

effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the University of Arizona, Arizona State University, Northern Arizona University, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one local board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system, or the head's designee from among the other members of the merit system, if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.
 2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.
 3. For fire districts organized pursuant to section 48-804, the secretary-treasurer as chairman, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the secretary-treasurer, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.
- B. On the taking effect of this system for an employer, the appointments and elections of local board members shall take place with one elective and appointive local board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.
- C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.
- D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:
1. To decide all questions of eligibility and service credits, and determine the amount, manner and time of payment of any benefits under the system.
 2. To prescribe procedures to be followed by claimants in filing applications for benefits.
 3. To make a determination as to the right of any claimant to a benefit and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter

within ninety days after the date the matter is presented to the local board for determination. If a local board fails to commence a hearing as provided in this paragraph, on a matter presented to the local board for determination, the relief demanded by the party petitioning the local board is deemed granted and approved by the local board. The granting and approval of this relief is considered final and binding unless a timely request for rehearing or appeal is made as provided in this article, unless the board of trustees determines that granting the relief requested would violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code. If the board of trustees determines that granting the requested relief would violate the internal revenue code or threaten to impair the system's status as a qualified plan, the board of trustees may refuse to grant the relief by issuing a written determination to the local board and the party petitioning the local board for relief. The decision by the board of trustees is subject to judicial review pursuant to Title 12, Chapter 7, Article 6.

4. To request and receive from the employers and from members such information as is necessary for the proper administration of the system and action on claims for benefits and to forward such information to the board of trustees.
 5. To distribute, in such manner as the local board determines to be appropriate, information explaining the system received from the board of trustees.
 6. To furnish the employer, the board of trustees and the legislature, on request, with such annual reports with respect to the administration of the system as are reasonable and appropriate.
 7. To receive and review the actuarial valuation of the system for its group of members.
 8. To receive and review reports of the financial condition and of the receipts and disbursements of the fund from the board of trustees.
 9. To appoint medical boards as provided in section 38-859.
 10. To sue and be sued to effectuate the duties and responsibilities set forth in this article.
- E. A local board shall have no power to add to, subtract from, modify or waive any of the terms of the system, change or add to any benefits provided by the system or waive or fail to apply any requirement of eligibility for membership or benefits under the system. Notwithstanding any limitations periods imposed in this article, including subsection D, paragraph 3 and subsections G and H of this section, if the board of trustees determines a local board decision violates the internal revenue code or threatens to impair the system's status as a qualified plan under the internal revenue code, the local board's decision is not final and binding and the board may refrain from implementing or complying with the local board decision.
- F. A local board, from time to time, shall establish and adopt such rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.
- G. Except as otherwise provided in this article, any action by a majority vote of the members of a local board that is not inconsistent with the provisions of the system and the internal revenue code shall be final, conclusive and binding on all persons affected by it unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty days after taking action, the local board shall submit to the board of trustees the minutes from the local board meeting that include the name of the member affected by its decision, a description of the action taken and an explanation of the reasons and documents supporting the local board's action. The board of trustees may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the system's status as a qualified plan under the internal revenue code.
- H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the system's status as a qualified plan under the internal revenue code, no limitation period for the board of trustees to seek a rehearing of a local

board decision applies. An application for a rehearing shall be filed in writing with a member of the local board or its secretary within sixty days after:

1. The applicant-claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the system pursuant to the local board's original action, whichever occurs first.
 2. The applicant-board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.
- I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.
 - J. Decisions of local boards are subject to judicial review pursuant to Title 12, Chapter 7, Article 6.
 - K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, the board of trustees, independent legal counsel or the actuary for the system.
 - L. Each member of a local board is entitled to one vote. A majority is necessary for a decision by the members of a local board at any meeting of the local board.
 - M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section.
 - N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the board of trustees or system at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board.
 - O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.
 - P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 9; Laws 1972, Ch. 163, § 40; Laws 1980, Ch. 146, § 5; Laws 1982, Ch. 4, § 1; Laws 1982, Ch. 111, § 1; Laws 1983, Ch. 300, § 12; Laws 1986, Ch. 88, § 2; Laws 1988, Ch. 19, § 4, effective March 31, 1988; Laws 1989, Ch. 197, § 2; Laws 1990, Ch. 411, § 3; Laws 1992, Ch. 340, § 1; Laws 1992, Ch. 341, § 2; Laws 1994, Ch. 130, § 2; Laws 1995, Ch. 205, § 6; Laws 1997, Ch. 1, § 427, effective October 1, 1997; Laws 1997, Ch. 239 § 13; Laws 1999, Ch. 327, § 24; Laws 2000, Ch. 329, § 2; Laws 2001, Ch. 353, § 3; Laws 2008, Ch. 59, § 1. Amended by Laws 2010, Ch. 118; Laws 2011, Ch. 347; Laws 2011, Ch. 27.

38-848. Board of trustees; powers and duties; independent trust fund; administrator; agents and employees

- A. The board of trustees shall consist of seven members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be five years to expire on the third Monday in January of the appropriate year. Members are eligible to receive compensation in an amount of fifty dollars a day, but not to exceed one thousand dollars in any one fiscal year, and are eligible for reimbursement of expenses pursuant to chapter 4, article 2 of this title. The board consists of the following members appointed by the governor pursuant to section 38-211:
 1. Two elected members from a local board to represent the employees.
 2. One member to represent this state as an employer of public safety personnel. This member shall have the qualifications prescribed in subsection R of this section.

3. One member to represent the cities as employers of public safety personnel.
 4. An elected county or state official or a judge of the superior court, court of appeals or supreme court.
 5. Two public members. These members shall have the qualifications prescribed in subsection R of this section.
- B. All monies in the fund shall be deposited and held in a Public Safety Personnel Retirement System depository. Monies in the fund shall be disbursed from the depository separate and apart from all monies or funds of this state and the agencies, instrumentalities and subdivisions of this state, except that the board may commingle the assets of the fund and the assets of all other plans entrusted to its management in one or more group trusts, subject to the crediting of receipts and earnings and charging of payments to the appropriate employer, system or plan. The monies shall be secured by the depository in which they are deposited and held to the same extent and in the same manner as required by the general depository law of this state. For purposes of making the decision to invest in securities owned by the fund or any plan administered by the board, the fund and assets of the plans are subject to the sole management of the board for the purpose of this article except that, on the board's election to invest in a particular security or make a particular investment, the assets comprising the security or investment may be chosen and managed by third parties approved by the board. The board may invest in portfolios of securities chosen and managed by a third party. The board's decision to invest in securities such as mutual funds, commingled investment funds, exchange traded funds, private equity or venture capital limited partnerships, real estate limited partnerships or limited liability companies and real estate investment trusts whose assets are chosen and managed by third parties does not constitute an improper delegation of the board's investment authority.
- C. All contributions under this system and other retirement plans that the board administers shall be forwarded to the board and shall be held, invested and reinvested by the board as provided in this article. All property and monies of the fund and other retirement plans that the board administers, including income from investments and from all other sources, shall be retained for the exclusive benefit of members, as provided in the system and other retirement plans that the board administers, and shall be used to pay benefits to members or their beneficiaries or to pay expenses of operation and administration of the system and fund and other retirement plans that the board administers.
- D. The board shall have the full power in its sole discretion to invest and reinvest, alter and change the monies accumulated under the system and other retirement plans that the board administers as provided in this article. In addition to its power to make investments managed by others, the board may delegate the authority the board deems necessary and prudent to investment management pursuant to section 38-848.03, as well as to the administrator, employed by the board pursuant to subsection K, paragraph 6 of this section, and any assistant administrators to invest the monies of the system and other retirement plans that the board administers if the administrator, investment management and any assistant administrators follow the investment policies that are promulgated by the board. The board may commingle securities and monies of the fund, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan and other plans or monies entrusted to its care, subject to the crediting of receipts and earnings and charging of payments to the account of the appropriate employer, system or plan. In making every investment, the board shall exercise the judgment and care under the circumstances then prevailing which persons of ordinary prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income from their funds as well as the probable safety of their capital, provided:
1. That not more than eighty per cent of the combined assets of the system or other plans that the board manages shall be invested at any given time in corporate stocks, based on cost value of such stocks irrespective of capital appreciation.
 2. That no more than five per cent of the combined assets of the system or other plans that the board manages shall be invested in corporate stock issued by any one corporation, other than corporate stock issued by corporations chartered by the United States government or corporate stock issued by a bank or insurance company.
 3. That not more than five per cent of the voting stock of any one corporation shall be

- owned by the system and other plans that the board administers, except that this limitation does not apply to membership interests in limited liability companies.
4. That corporate stocks and exchange traded funds eligible for purchase shall be restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks and membership interests in limited liability companies, are either:
 - (a) Listed or approved on issuance for listing on an exchange registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through 78ll).
 - (b) Designated or approved on notice of issuance for designation on the national market system of a national securities association registered under the securities exchange act of 1934, as amended (15 United States Code sections 78a through 78ll).
 - (c) Listed or approved on issuance for listing on an exchange registered under the laws of this state or any other state.
 - (d) Listed or approved on issuance for listing on an exchange of a foreign country with which the United States is maintaining diplomatic relations at the time of purchase, except that no more than twenty per cent of the combined assets of the system and other plans that the board manages shall be invested in foreign securities, based on the cost value of the stocks irrespective of capital appreciation.
 - (e) An exchange traded fund that is recommended by the chief investment officer of the system, that is registered under the investment company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and that is both traded on a public exchange and based on a publicly recognized index.
 - E. Notwithstanding any other law, the board shall not be required to invest in any type of investment that is dictated or required by any entity of the federal government and that is intended to fund economic development projects, public works or social programs, but may consider such economically targeted investments pursuant to its fiduciary responsibility. The board, on behalf of the system and all other plans or trusts the board administers, may invest in, lend monies to or guarantee the repayment of monies by a limited liability company, limited partnership, joint venture, partnership, limited liability partnership or trust in which the system and plans or trusts have a financial interest, whether the entity is closely held or publicly traded and that, in turn, may be engaged in any lawful activity, including venture capital, private equity, the ownership, development, management, improvement or operation of real property and any improvements or businesses on real property or the lending of monies.
 - F. Conference call meetings of the board that are held for investment purposes only are not subject to chapter 3, article 3.1 of this title, except that the board shall maintain minutes of these conference call meetings and make them available for public inspection within twenty-four hours after the meeting. The board shall review the minutes of each conference call meeting and shall ratify all legal actions taken during each conference call meeting at the next scheduled meeting of the board.
 - G. The board shall not be held liable for the exercise of more than ordinary care and prudence in the selection of investments and performance of its duties under the system and shall not be limited to so-called "legal investments for trustees", but all monies of the system and other plans that the board administers shall be invested subject to all of the conditions, limitations and restrictions imposed by law.
 - H. Except as provided in subsection D of this section, the board may:
 1. Invest and reinvest the principal and income of all assets that the board manages without distinction between principal and income.
 2. Sell, exchange, convey, transfer or otherwise dispose of any investments made on behalf of the system or other plans the board administers in the name of the system or plans by private contract or at public auction.
 3. Also:
 - (a) Vote on any stocks, bonds or other securities.
 - (b) Give general or special proxies or powers of attorney with or without power of substitution.

- (c) Exercise any conversion privileges, subscription rights or other options and make any payments incidental to the exercise of the conversion privileges, subscription rights or other options.
 - (d) Consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities, delegate discretionary powers and pay any assessments or charges in connection therewith.
 - (e) Generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other investments held in or owned by the system or other plans whose assets the board administers.
4. Make, execute, acknowledge and deliver any other instruments that may be necessary or appropriate to carry out the powers granted in this section.
 5. Register any investment held by the system or other plans whose assets the board administers in the name of the system or plan or in the name of a nominee or trust.
 6. At the expense of the system or other plans that the board administers, enter into an agreement with any bank or banks for the safekeeping and handling of securities and other investments coming into the possession of the board. The agreement shall be entered into under terms and conditions that secure the proper safeguarding, inventory, withdrawal and handling of the securities and other investments. No access to and no deposit or withdrawal of the securities from any place of deposit selected by the board shall be permitted or made except as the terms of the agreement may provide.
 7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or appointed representative to protect the fund or the assets of other plans that the board administers. The board is not responsible for the actions or omissions of the local boards under this system but may seek review or rehearing of actions or omissions of local boards. The board does not have a duty to review actions of the local boards but may do so in its discretion in order to protect the fund. No limitations period precludes the board or administrator from contesting, or requires the board or administrator to implement or comply with, a local board decision that violates the internal revenue code or that threatens to impair the tax qualified status of the system or any plan administered by the board or administrator.
 8. Empower the fund administrator to take actions on behalf of the board that are necessary for the protection and administration of the fund or the assets of other plans that the board administers pursuant to the guidelines of the board.
 9. Do all acts, whether or not expressly authorized, that may be deemed necessary or proper for the protection of the investments held in the fund or owned by other plans or trusts that the board administers.
 10. Settle threatened or actual litigation against any system or plan that the board administers.
- I. Investment expenses and operation and administrative expenses of the board shall be accounted for separately and allocated against investment income.
 - J. The board, as soon as possible within a period of six months following the close of any fiscal year, shall transmit to the governor and the legislature a comprehensive annual financial report on the operation of the system and other plans that the board administers containing, among other things:
 1. A balance sheet.
 2. A statement of income and expenditures for the year.
 3. A report on an actuarial valuation of its assets and liabilities.
 4. A list of investments owned.
 5. The total rate of return, yield on cost, and per cent of cost to market value of the fund and the assets of other plans that the board administers.
 6. Any other statistical and financial data that may be necessary for the proper understanding of the financial condition of the system and other plans that the board administers and the results of their operations. A synopsis of the annual report shall be published for the information of members of the system, the Elected Officials' Retirement Plan or the Corrections Officer Retirement Plan.
 - K. The board shall:

1. Maintain the accounts of the system and other plans that the board administers and issue statements to each employer annually and to each member who may request it.
 2. Report the results of the actuarial valuations to the local boards and employers.
 3. Contract on a fee basis with an independent investment counsel to advise the board in the investment management of the fund and assets of other plans that the board administers and with an independent auditing firm to audit the board's accounting.
 4. Permit the auditor general to make an annual audit and the results shall be transmitted to the governor and the legislature.
 5. Contract on a fee basis with an actuary who shall make actuarial valuations of the system and other plans that the board administers, be the technical adviser of the board on matters regarding the operation of the funds created by the provisions of the system, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan and the fire fighter and peace officer cancer insurance policy program and perform other duties required in connection therewith. The actuary must be a member of a nationally recognized association or society of actuaries.
 6. Employ, as administrator, a person, state department or other body to serve at the pleasure of the board.
 7. Establish procedures and guidelines for contracts with actuaries, auditors, investment counsel and legal counsel and for safeguarding of securities.
- L. The administrator, under the direction of the board, shall:
1. Administer this article.
 2. Invest the funds of the system and other plans that the board administers as the board deems necessary and prudent as provided in subsections D and H of this section and subject to the investment policies and fund objectives promulgated by the board.
 3. Establish and maintain an adequate system of accounts and records for the system and other plans that the board administers, which shall be integrated with the accounts, records and procedures of the employers so that the system and other plans that the board administers operates most effectively and at minimum expense and that duplication of records and accounts is avoided.
 4. In accordance with the board's governance policy and personnel rules and procedures and the budget adopted by the board, hire such employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more assistant administrators to manage the system's operations, investments and legal affairs.
 5. Be responsible for income, the collection of the income and the accuracy of all expenditures.
 6. Recommend to the board annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.
 7. Perform additional duties and powers prescribed by the board and delegated to the administrator.
- M. The system is an independent trust fund and the board, the administrator, the assistant administrators and all persons employed by them are not under the jurisdiction of the department of administration or any other agency, department or instrumentality of this state or subject to section 38-611 or Title 41, Chapter 4 or 6. The salaries of the administrator, assistant administrators and other employees of the board are the sole determination of the board. Contracts for goods and services approved by the board are not subject to Title 41, Chapter 23. As an independent trust fund whose assets are separate and apart from all other funds of this state, the system and the board are not subject to the restrictions prescribed in section 35-154 or article IX, sections 5 and 8, Constitution of Arizona.
- N. The attorney general or an attorney approved by the attorney general and paid by the fund shall be the attorney for the board and shall represent the board in any legal proceeding or forum that the board deems appropriate. The board, administrator, assistant administrators and employees of the board are not personally liable for any acts done in their official capacity in good faith reliance on the written opinions of the board's attorney.
- O. At least once in each five-year period after the effective date, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and

beneficiaries of the system and other plans that the board administers and shall make a special valuation of the assets and liabilities of the monies of the system and plans. Taking into account the results of the investigation and special valuation, the board shall adopt for the system and other plans that the board administers those mortality, service and other tables deemed necessary.

- P. On the basis of the tables the board adopts, the actuary shall make a valuation of the assets and liabilities of the funds of the system and other plans that the board administers not less frequently than every year. By November 1 of each year the board shall provide a preliminary report and by December 15 of each year provide a final report to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.
- Q. Neither the board nor any member or employee of the board shall directly or indirectly, for himself or as an agent, in any manner use the monies or deposits of the fund except to make current and necessary payments, nor shall the board or any member or employee become an endorser or surety or in any manner an obligor for monies loaned by or borrowed from the fund or the assets of any other plans that the board administers.
- R. The members of the board who are appointed pursuant to subsection A, paragraphs 2 and 5 of this section shall have at least ten years' substantial experience as any one or a combination of the following:
 - 1. A portfolio manager acting in a fiduciary capacity.
 - 2. A securities analyst.
 - 3. An employee or principal of a trust institution, investment organization or endowment fund acting either in a management or an investment related capacity.
 - 4. A chartered financial analyst in good standing as determined by the association for investment management and research.
 - 5. A professor at the university level teaching economics or investment related subjects.
 - 6. An economist.
 - 7. Any other professional engaged in the field of public or private finances.
- S. Financial or commercial information that is provided to the board, employees of the board and attorneys of the board in connection with investments in which the board has invested or investments the board has considered for investment is confidential, proprietary and not a public record if the information is information that would customarily not be released to the public by the person or entity from whom the information was obtained.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 10; Laws 1971, Ch. 174, § 4; Laws 1972, Ch. 163, § 41; Laws 1974, Ch. 170, § 3; Laws 1979, Ch. 80, § 1; Laws 1980, Ch. 146, § 7; Laws 1981, Ch. 162, § 2, effective April 17, 1981; Laws 1982 Ch. 141, § 2, effective April 16, 1982; Laws 1983, Ch. 150, § 2, effective April 19, 1983; Laws 1983, Ch. 300, Sec. 14; Laws 1984, Ch. 6, § 36, effective March 9, 1984; Laws 1985, Ch. 250, § 1; Laws 1986, Ch. 415, § 17; Laws 1987, Ch. 75, § 3; Laws 1987, Ch. 180, § 1, effective. April 27, 1987, retroactively effective to July 1, 1968; Laws 1995, Ch. 223, § 2; Laws 1997, Ch. 210, § 25, effective March 1, 1998; Laws 1997, Ch. 239, § 14; Laws 1998, Ch. 113, § 30; Laws 1999, Ch. 262, § 21; Laws 2005, Ch. 319, § 1; Laws 2005, Ch. 331, § 7; Laws 2006, Ch. 264, § 8; Laws 2008, Ch. 125, § 2, effective April 29, 2008. Amended by Laws 2010, Ch. 200, § 53, effective April 28, 2010. Amended by Laws, 2010, Ch. 118.

Laws 2010, Ch. 200, § 53 provides: Notwithstanding section 38-848, A.R.S., as amended by this act, all persons serving as members of the board of trustees on the effective date of this act may continue to serve until the expiration date of their normal terms. The term of the new public member who is appointed by the governor pursuant to this act expires on the third Monday in January, 2013. The term of the new member who is an elected member from a local board and who is appointed by the governor to this act expires on the third Monday in January, 2016. The governor shall make all subsequent appointments as prescribed by statute. The board of trustees established by section 38-848, A.R.S., shall not use former members of the board as special advisors to assist the board in fulfilling its statutorily prescribed duties.

38-848.01. Qualified governmental excess benefit arrangement; definitions

- A. The board may establish a qualified governmental excess benefit arrangement for the sole purpose of enabling the board to continue to apply the same formula for determining benefits payable to all employees covered by the system whose benefits under the system are limited by

- section 415 of the internal revenue code.
- B. The board shall administer the qualified governmental excess benefit arrangement. The board has full discretionary fiduciary authority to determine all questions arising in connection with the arrangement, including its interpretation and any factual questions arising under the arrangement.
 - C. All members and retired members of the system are eligible to participate in the qualified governmental excess benefit arrangement if their benefits under the system would exceed the limitations imposed by section 415 of the internal revenue code.
 - D. On or after the effective date of the qualified governmental excess benefit arrangement, the employer shall pay to each eligible member of the system who retires on or after the effective date and to each retired member who retired before the effective date and that member's beneficiary, if required, a supplemental pension benefit equal to the amount by which the benefit that would have been payable under the system, without regard to any provisions in the system incorporating the limitation on benefits imposed by section 415 of the internal revenue code, exceeds the benefit actually payable taking into account the limitation imposed on the system by section 415 of the internal revenue code. The board shall compute and pay the supplemental pension benefits under the same terms and conditions and to the same person as the benefits payable to or on account of a retired member under the system.
 - E. The employer shall not fund benefits payable under the qualified governmental excess benefit arrangement. The employer shall pay benefits payable under the qualified governmental excess benefit arrangement out of the general assets of the employer. For administrative purposes, the employer may establish a grantor trust for the benefit of eligible members. The employer shall be treated as grantor of the trust for purposes of section 677 of the internal revenue code. The rights of any person to receive benefits under the qualified governmental excess benefit arrangement are limited to those of a general creditor of the employer.
 - F. The terms and conditions contained in the system, other than those relating to the benefit limitation imposed by section 415 of the internal revenue code, apply, unless the terms and conditions are inconsistent with the purpose of the qualified governmental excess benefit arrangement.
 - G. For the purposes of this section:
 - 1. "Internal revenue code" has the same meaning prescribed in section 42-1001.
 - 2. "Qualified governmental excess benefit arrangement" means a portion of the system if:
 - (a) The portion is maintained solely to provide to members of the system that part of a member's annual benefit that is otherwise payable under the terms of the system and that exceeds the limitations imposed by section 415 of the internal revenue code.
 - (b) Under that portion, a direct or indirect election to defer compensation is not provided at any time to the member.
 - (c) Excess benefits are not paid from a trust that is a part of the system unless the trust is maintained solely for the purpose of providing excess benefits.

Added by Laws 1997, Ch. 239, § 15. Amended by Laws 1998, Ch. 1, § 112, effective January 1, 1999.

38-848.03. Appointed investment management

- A. The board may appoint investment management. Investment management shall have:
 - 1. The highest professional and fiduciary recommendations.
 - 2. Not less than three years' experience at handling institutional investments of at least two hundred fifty million dollars. This paragraph is satisfied if investment management, the individual retained by investment management or individual employees in a firm of investment managers meet this requirement.
 - 3. Had responsibility for investment decision making as an insurance company investment fund, an investment division of a bank, a mutual fund, an investment organization or institution, a pension fund or an investment adviser who is designated as a chartered financial analyst by the chartered financial analyst institute.
- B. A bank serving as investment management does not have a conflict of interest because it is also a depository in which any monies administered by the board are deposited.
- C. The board shall appoint investment management for a term of one year and may appoint the

investment management to succeeding terms. The board may remove investment management for not complying with this article or for failure to comply with or adhere to the board's investment goals, objectives or policies.

- D. Investment management appointed by the board:
 - 1. May purchase and sell in the name of the system and other plans that the board administers any of the securities and investments held by the system or plans.
 - 2. Subject to any restrictions imposed by the board, is responsible for making all investment decisions relating to the investments the board has assigned investment management to manage.
- E. Investment management shall not directly or indirectly:
 - 1. Except for the fees agreed to be paid by the board to investment management or as otherwise agreed by the board, have any interest in the investments being managed by investment management for the board.
 - 2. Borrow monies, funds or deposits of the system or other plans that the board administers or use these monies in any manner except as directed under this article.
 - 3. Be an endorser, surety or obligor on investments made under this article.
- F. Subject to the limitations in this article, the board may authorize the administrator, chief investment officer and other in-house investment professionals employed by the board to make discretionary investments for the system and other plans or trusts that the board administers that do not exceed fifty per cent of the assets of the system and other plans or trusts measured at cost.
- G. To exercise the responsibilities prescribed in this article, the board may enter into contracts that may be interpreted and enforced under the laws of a jurisdiction other than this state and that are not subject to section 35-214 or 38-511 or Title 41, Chapter 23.

Sec. 4. Emergency

This Act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

Added by Laws 2008, Ch. 125, § 3, effective April 29, 2008.

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

- A. If a member is convicted of, or discharged because of, theft, embezzlement, fraud or misappropriation of an employer's property or property under the control of the employer, the member shall be subject to restitution and fines imposed by a court of competent jurisdiction. The court may order the restitution or fines to be paid from any payments otherwise payable to the member from the retirement system.
- B. A person who knowingly makes any false statement or who falsifies or permits to be falsified any record of the system with an intent to defraud the system is guilty of a class 5 felony. If any change or error in the records results in any member or beneficiary receiving from the system more or less than the member or beneficiary would have been entitled to receive had the records been correct, the local board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If a member is convicted of a crime specified in this subsection, section 13-713 applies.
- C. If a member who received a severance refund on termination of employment, as provided in section 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, if the former member's reemployment with the same employer occurred within two years after the former member's termination date, and, within ninety days after reemployment the former member signs a written election consenting to reimburse the fund within one year, the former member shall be required to redeposit the amount withdrawn at the time of the former member's separation from service, with interest thereon at the

rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. On satisfaction of this obligation the member's prior service credits shall be reinstated.

- D. If a retired member becomes employed in any capacity by the employer from which the member retired before sixty consecutive days after the member's date of retirement, the system shall not make pension payments to the retired member during the period of reemployment. If a retired member is reemployed by an employer, no employee contributions shall be made on the retired member's account, nor any service credited, during the period of the reemployment. Notwithstanding this subsection, if a retired member subsequently becomes employed in the same position by the employer from which the member retired, the system shall not make pension payments to the retired member during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. If a member who retired under disability is reemployed by an employer as an employee, that member shall be treated as if the member had been on an uncompensated leave of absence during the period of the member's disability retirement and shall be a contributing member of the system. Within ten days after a retired member is reemployed by the employer from which the member retired, the employer shall advise the board in writing as to whether the retired member has been reemployed in the same position from which the member retired. The board shall review all reemployment determinations. If the board is not provided the necessary information to make a reemployment determination, the board shall suspend pension payments until information is received and a determination is made that the reemployment meets the requirements of this subsection. For the purposes of this subsection, "same position" means the member is in a position where the member performs substantially similar duties that were performed and exercises substantially similar authority that was exercised by the retired member before retirement.
- E. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the board's written request is subject to civil suit by the system in the superior court in Maricopa county. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the system a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this subsection in an amount equal to all amounts awarded to the system, plus interest at the rate prescribed by section 44-1201, subsection A, until all amounts owed are paid to the system.
- F. Notwithstanding any other provision of this article, the board may offset against any benefits otherwise payable by the system to an active or retired member or survivor any court ordered amounts awarded to the board and system and assessed against the member or survivor.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 11; Laws 1971, Ch. 74, § 5, effective April 16, 1971; Laws 1978, Ch. 201, § 693, effective October 1, 1978; Laws 1980, Ch. 146, § 8; Laws 1983, Ch. 300, § 15; Laws 1985, Ch. 250, § 2; Laws 1986, Ch. 415, § 19; Laws 1997, Ch. 239, § 16; Laws 1999, Ch. 327, § 25; Laws 2000, Ch. 307, § 1; Laws 2004, Ch. 325, § 4; Laws 2006, Ch. 264, § 9; Laws 2009, Ch. 35, § 16, effective September 30, 2009. Amended by Laws, 2010, Ch. 118; Laws 2011, Ch. 347; Laws 2011, Ch. 27.

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

- A. Nothing contained in the system shall be construed as a contract of employment between an employer and any employee, or as a right of any employee to be continued in the employment of an employer, or as a limitation of the rights of an employer to discharge any of its employees, with or without cause.
- B. No employee shall have any right to, or interest in, any assets of the fund on termination of his employment or otherwise, except as provided from time to time under the system, and then only

to the extent of the benefits payable to such employee out of the assets of the fund. All payments of benefits as provided for in the system shall be made solely out of the assets of the fund, and the employers, the board and any member of the board are not liable for payment of benefits in any manner.

- C. Benefits, employee contributions or employer contributions, including interest, earnings and all other credits, payable under this system shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit, contribution, earning or credit, under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any such right hereunder shall be void. The fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to such rights hereunder. This subsection does not preclude arrangements for the withholding of taxes from benefit payments, arrangements for the recovery of benefit overpayments, arrangements for the transfer of benefit rights to another plan or arrangements for direct deposit of benefit payments in an account in a bank, savings and loan association or credit union if the arrangement is not part of an arrangement constituting an assignment or alienation.
- D. The employers, the board of trustees, the board of trustees' administrator, assistant administrators and employees and any member of a local board do not guarantee the fund in any manner against loss or depreciation, and none of them shall be liable for any act or failure to act, that is made in good faith pursuant to the provisions of the system. The employers shall not be responsible for any act or failure to act of a local board or any of its members or for any act or failure to act of the board of trustees. A local board and the individual members of a local board shall not be responsible for any act or failure to act of any employer or the board of trustees.
- E. The board, in its discretion, may make payment to a person entitled to any payment under the system who is under a legal disability in any one or more of the following ways:
 - 1. Directly to such person.
 - 2. To his legal guardian or conservator.
 - 3. To his spouse or to any other person charged with his support to be expended for his benefit.
- F. If, through misstatement or computation error, benefits are underpaid or overpaid, there is no liability for any more than the correct benefit sums under the system. Overpayments may be deducted from future payments under the system, and underpayments may be added to future payments under the system. A member or other benefit recipient may elect to repay in a lump sum any overpayment in lieu of receiving reduced benefits under the system.
- G. Nothing in this section exempts employee benefits of any kind from a writ of attachment, a writ of execution, a writ of garnishment and orders of assignment issued by a court of record which are the result of a judgment taken for arrearages for child support or for a child support debt or restitution or fines imposed in accordance with section 38-849, subsection A.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1972, Ch. 51, § 28; Laws 1983, Ch. 300, § 16; Laws 1989, Ch. 267, § 14; Laws 2004, Ch. 325, § 5; Laws 2006, Ch. 264, § 10.

38-851. Participation of new employers

- A. This state, any municipality, county or other political subdivision of the state, any Indian tribe or any public or quasi-public organization created wholly or partly by, or deriving its powers from, the legislature, may request to become a participating employer in the system on behalf of a designated eligible employee group. Such a request shall be made by the state departmental director or after a proper resolution has been adopted by the governing body of the political subdivision, Indian tribe or public organization, and after such resolution has been approved by any other party or officer required by law to approve the resolution. A certified copy of such resolution shall be filed with the board. This state or the political subdivision, Indian tribe or public organization shall be considered as a participating employer on proper execution of a joinder agreement in which the employer unconditionally accepts the provisions of the system and binds the employer's designated eligible employees to those provisions. All members of an eligible group shall be designated for membership, unless written consent to the contrary is obtained from

- the board. A member shall be qualified for participation in order to obtain written consent to the contrary from the board.
- B. The effective date of participation in the system by this state or a political subdivision, Indian tribe or public organization shall be the July 1 next succeeding the approval of its participation, unless the board consents to another date, as shall be specifically stipulated in the joinder agreement.
 - C. The new employer shall designate the departments, groups or other classifications of public safety employees that are eligible to participate in the system and shall agree to make contributions each year that are sufficient to meet both the normal cost on a level cost method attributable to inclusion of its employees and the prescribed interest on the past service cost for its employees.
 - D. This state or any political subdivision, Indian tribe or public organization that is contemplating participation in the system shall request a preliminary actuarial survey to determine the estimated cost of participation, the benefits to be derived and such other information as may be deemed appropriate. The cost of such a survey shall be paid by this state or the political subdivision, Indian tribe or public organization requesting it.
 - E. As a condition to participation in the system an Indian tribe employer, by resolution of the governing body, shall:
 1. Agree that all disputes involving interpretation of state statutes involving the system, and any amendments to such statutes, will be resolved through the court system of this state.
 2. Agree to be bound by state statutes and laws that regulate and interpret the provisions of the system, including eligibility to membership in the system, service credits and the rights of any claimant to benefits and the amount of such benefits.
 3. Agree to meet any requirement that the board may prescribe to ensure timely payment of member and employer contributions and any other amounts due from the employer to the system.
 4. Include in the joinder agreement any other provision deemed necessary by the board for the administration or enforcement of the agreement.
 - F. Assets under any existing public employee defined benefit retirement program, except a military retirement program, necessary to equal the actuarial present value of projected benefits to the extent funded on a market value basis as of the most recent actuarial valuation attributable to the employer's designated employee group, calculated using the actuarial methods and assumptions adopted by the existing public employee retirement program, shall be transferred from such program to this fund no later than sixty days after the employer's effective date. That portion of the transferred assets that is attributable to employee contributions, including interest credits thereon, shall be properly allocated to each affected employee of the employer and credited to the employee's initial accumulated contributions, in accordance with a schedule furnished by the employer to the board.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1983, Ch. 300, § 17; Laws 1986, Ch. 88, § 3; Laws 1988, Ch. 250, § 1; Laws 1992, Ch. 341, § 4; Laws 1997, Ch. 239, § 17; Laws 2001, Ch. 280 § 6 and Ch. 380, § 11; Laws 2006, Ch. 264, § 11.

38-852. Taxation of benefits; exemption of contributions and securities

The employer contributions and the securities in the several funds provided for in this article shall be exempt from state, county and municipal taxes. Employee and employer contributions that are withdrawn from the system after December 31, 1974 by a public officer or employee from the accounts of the system and not received as benefits therefrom and benefits, annuities and pensions received by a public officer or employee from the system after December 31, 1988 shall be subject to tax pursuant to Title 43.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1975, Ch. 48, § 5. Laws 1989, Ch. 312, § 9, effective retroactive to taxable years beginning from and after December 31, 1988; Laws 1991, Ch. 155, § 2, retroactively effective to January 1, 1991.

38-852.01. Benefits not to be reduced by social security payments

From and after the effective date of this section, all benefits now or hereafter received pursuant to this article or prior retirement systems shall not be reduced because of any payment received as benefits under the federal old age and survivors insurance system.

Added by Laws 1973, Ch. 87, § 1, effective May 1, 1973.

38-853. Transfer of credited service

- A. A member who terminates employment with an employer and accepts, within two years, a position with the same or another employer participating in the system shall have the member's credited service transferred to the member's record with the new employer provided the member leaves the member's accumulated contributions on deposit with the fund. The termination of employment shall not constitute a break in service. However, the period not employed shall not be considered as service.
- B. The new employer's account shall be credited with the member's accumulated contributions plus the amount, if any, necessary to equal the increase in the actuarial present value of projected benefits to the extent funded on a market value basis as of the most recent actuarial valuation resulting from the transfer as calculated by the system's actuary using the actuarial methods and assumptions adopted by the board.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1971, Ch. 74, § 6, effective April 16, 1971; Laws 1971, Ch. 143, § 5, effective July 1, 1972; Laws 1987, Ch. 87, § 1; Laws 1997, Ch. 239, § 18; Laws 2006, Ch. 264, § 12.

38-853.01. Redemption of prior service

- A. Each present active member of the system who has at least ten years of service with the system may elect to redeem up to sixty months of any part of the following prior service or employment by paying into the system any amounts required under subsection B if the prior service or employment is not on account with any other retirement system:
 - 1. Prior service in this state as an employee with an employer now covered by the system or prior service with an agency of the United States government, a state of the United States or a political subdivision of this state or of a state of the United States as a full-time paid firefighter or full-time paid certified peace officer.
 - 2. Subject to any limitations prescribed by federal law, prior employment as an employee of a corporation that contracted with an employer now covered by the system to provide firefighting services on behalf of that employer as a full-time paid firefighter or that provided firefighting services for a political subdivision of this state.
- B. Any present active member who elects to redeem any part of the prior service or employment for which the employee is deemed eligible by the board under this section shall pay into the system the amounts previously withdrawn by the member, if any, as a refund of the member's accumulated contributions plus accumulated interest as determined by the board and the additional amount, if any, computed by the system's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the system's actuary.
- C. A member electing to redeem service pursuant to this section may pay for service being redeemed in the form of a lump sum payment to the system, a trustee-to-trustee transfer or a direct rollover of an eligible distribution from a plan described in section 402(c)(8)(B)(iii), (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible distribution from an individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code. Amended by Laws 2010, Ch. 118.

Sec. 3. Amendment or execution of joinder agreement

If an employer in the Public Safety Personnel Retirement System elects to include its fire fighters who have prior service working as a fire fighter for a corporation that contracted with an employer to provide fire fighting services as part of its eligible group, the employer shall amend the joinder agreement with the board of the Public Safety Personnel Retirement System or execute a joinder agreement if the employer entered the system on July 1, 1968.

Added by Laws 1980, Ch. 85, § 1, effective April 21, 1980. Amended by Laws 1983, Ch. 300, § 18; Laws 1987, Ch. 128, § 1, effective April 21, 1987; Laws 2002, Ch. 13, § 1; Laws 2002, Ch. 271, § 1; Laws

2009, Ch. 35, § 17, effective September 30, 2009. Amended by Laws 2011, Ch. 357.

38-854. Guarantees from prior systems

- A. An employee covered under the prior systems set forth in sections 9-912 to 9-934, inclusive, and in sections 9-951 to 9-971, inclusive, or prior statutes amended thereby and antecedent thereto, and covered under such prior systems on June 30, 1968, and who becomes a member of this system shall nevertheless retain the right to elect, prior to retirement, benefits under this system or to elect benefits under the employee's prior system for which the employee's service and age make the employee eligible, provided that an employee shall elect in writing at the time benefits are claimed the system under which the employee elects to have the employee's eligibility for benefits and the amount thereof determined. Such election shall be irrevocable on retirement and shall be filed with the employee's local board.
- B. An employee of the state highway patrol who was a member of the state highway patrol retirement system on June 30, 1968 and who became a member on July 1, 1968 and who qualifies for a pension under the system, shall have the employee's pension determined in an actuarial equivalent form of payment such that the system's benefits shall not be less than the amount payable during this period under the preexisting system. Any such employee shall nevertheless retain rights to elect to receive any benefit for which the employee's service and age make the employee eligible, including but not limited to the following:
 - 1. The employee shall be entitled to a pension if the employee's employment terminates after attainment of age sixty and completion of at least twenty years of service in an amount equal to fifty per cent of the employee's average monthly compensation.
 - 2. The employee shall be entitled to a separation benefit in the form of a deferred vested pension if the employee's employment terminates after completion of at least twenty years of service, provided that the employee leaves the employee's accumulated contributions on deposit with the fund.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 12; Laws 1971, Ch. 74, § 7, effective April 16, 1971; Laws 1973, Ch. 97, § 4; Laws 1995, Ch. 32, § 16; Laws 2008, Ch. 277, § 2.

38-855. Transfer outside the public safety personnel retirement system

A member who changes employment or transfers or is assigned to a position in which such member is no longer eligible to be a member of this system, because of a change in duties or otherwise, with the same or another public employer of this state maintaining a retirement program for public officers or employees authorized by law may have all credited service transferred to the retirement system or program applicable to the new position. If the member does not transfer credited service as provided in this section within two years after the change in employment or transfer, the member shall request a refund of member contributions or shall have the credited service transferred pursuant to this section. Any transfer of credited service pursuant to this section to a state retirement system or plan shall be made pursuant to article 7 of this chapter and must be approved by the board.

Added as § 38-857 by Laws 1977, Ch. 60, § 2. Amended by Laws 1981, Ch. 1, § 19, effective January 23, 1981; renumbered as § 38-855 by Laws 1983, Ch. 300, § 20; Laws 1988, Ch. 250, § 2; Laws 1989, Ch. 310, § 9; Laws 1997, Ch. 239, § 19.

38-856. Benefit increases

- A. Effective July 1 of each year, each retired member or survivor of a retired member is entitled to receive a permanent increase in the base benefit equal to the amount determined pursuant to this section if either:
 - 1. The retired member or the survivor of a retired member was receiving benefits on or before July 31 of the two previous years.
 - 2. The retired member or survivor of a retired member was fifty-five years of age or older on July 1 of the current year and was receiving benefits on or before July 31 of the previous year.
- B. The monthly amount of a permanent increase provided by subsection A is determined as follows:
 - 1. Determine the excess investment earnings on the net assets of the fund.
 - 2. Determine the excess investment earnings account balance.

3. Determine the actuarial present value, as of June 30 of the preceding calendar year, of a five dollar per month increase in the amount of each pension eligible for an increase.
 4. Add the amounts determined in paragraphs 1 and 2 of this subsection then divide by the amount determined in paragraph 3 of this subsection.
 5. From the quotient obtained in paragraph 4 of this subsection, drop any fraction.
 6. Multiply the number obtained in paragraph 5 of this subsection by five dollars.
- C. The excess investment earnings on the net assets of the fund are equal to the total assets of the fund less any amount allocated to the excess investment earnings account multiplied by one-half of the positive difference, if any, between the total return of the system and nine per cent. The excess investment earnings on the net assets of the fund are zero if the total return of the system is less than or equal to nine per cent.
 - D. As used in this section, total return and the net assets of the fund are the amounts published in the annual report of the system for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase.
 - E. All excess investment earnings on the net assets of the fund are available for benefit increases as provided in this section. Any excess investment earnings on the net assets of the fund from any year which are not used for benefit adjustments for that year are available for future benefit increases in the following years. Earnings on the excess investment earnings account balance at the rate of the total return as published in the annual report of the system shall be added each year to the excess investment earnings account and shall be available for future benefit increases.
 - F. The maximum benefit increase under this section is limited to the equivalent of four per cent of the average normal benefit being received on the preceding June 30.

Sec. 62. EORP; PSPRS; CORP; transfers to the excess investment earning account prohibited; retroactivity

- A. Notwithstanding section 38-818, Arizona Revised Statutes, from and after May 31, 2011 and each year thereafter, no excess investment earnings shall be transferred to the excess investment earnings on pensions in payment status account.
- B. Notwithstanding section 38-856, Arizona Revised Statutes, from and after May 31, 2011, and each year thereafter, no excess investment earnings on the net assets of the fund shall be transferred to the excess investment earnings account.
- C. Notwithstanding section 38-905, Arizona Revised Statutes, from and after May 31, 2011 and each year thereafter, no excess investment earning on the net assets of the fund shall be transferred to the excess investment earnings account.
- D. This section is effective retroactively to from and after May 31, 2011.

Added by Laws 1986, Ch. 284, § 1. Amended by Laws 1988, Ch. 331, § 2; Laws 1989, Ch. 310, § 10; Laws 1991, Ch. 156, § 3; Laws 1994, Ch. 356, § 28; Laws 1998, Ch. 264, § 2; Laws 1999, Ch. 50, § 6, retroactively effective to July 1, 1999. Amended by Laws 2011, Ch. 357.

38-856.01. Lump sum payment of benefit increases

Notwithstanding any provision of this article, the board, at the request of a retired member, a survivor or the retired member's or survivor's guardian or conservator, may pay any increase in retirement benefits pursuant to this article in a lump sum payment based on the actuarial present value of the increase in the retirement benefits if the payment of the increase in retirement benefits would result in ineligibility for, reduction of or elimination of social service programs provided to the retired member or survivor by this state, a political subdivision of this state or the federal government. Lump sum payments made pursuant to this section are eligible for a direct rollover distribution.

Added by Laws, 1992, Ch. 43, § 2, effective April 27, 1992. Amended by Laws 2009, Ch. 35, § 18, effective September 30, 2009.

38-856.02. Future benefit increases for retirees and survivors

- A. Effective July 1, 2013 and each July 1 thereafter, each retired member or survivor of a retired member is entitled to receive a permanent increase in the base benefit equal to the amount

- determined pursuant to this section if benefit increase monies are available.
- B. The retired member or survivor of a retired member is eligible to receive an increase as follows:
1. If the retired member became a member of the system before January 1, 2012:
 - (a) The retired member or the survivor of a retired member was receiving benefits on or before July 31 of the two previous years.
 - (b) The retired member or survivor of a retired member was fifty-five years of age or older on July 1 of the current year and was receiving benefits on or before July 31 of the previous year.
 2. If the retired member became a member of the system on or after January 1, 2012:
 - (a) The retired member or survivor of a retired member was fifty-five years of age or older on July 1 of the current year and is receiving benefits.
 - (b) The retired member was under fifty-five years of age on July 1 of the current year, was receiving an accidental disability or a catastrophic disability retirement benefit and was receiving benefits on or before July 31 of the two previous years.
 - (c) A survivor was under fifty-five years of age on July 1 of the current year, is the survivor of a member who was killed in the line of duty and was receiving benefits on or before July 31 of the two previous years.
- C. Subject to subsection D, the maximum benefit increase under this section is limited to the following:
1. If the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is sixty per cent or more but less than sixty-five per cent and the total return is more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase, two per cent of the average normal benefit calculated as of the preceding June 30.
 2. If the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is sixty-five per cent or more but less than seventy per cent and the total return is more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase, two and one-half per cent of the average normal benefit calculated as of the preceding June 30.
 3. If the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is seventy per cent or more but less than seventy-five per cent and the total return is more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase, three per cent of the average normal benefit calculated as of the preceding June 30.
 4. If the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is seventy-five per cent or more but less than eighty per cent and the total return is more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase, three and one-half per cent of the average normal benefit calculated as of the preceding June 30.
 5. If the ratio of the actuarial value of assets to the actuarial accrued liability of the fund is eighty per cent or more and the total return is more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase, four per cent of the average normal benefit calculated as of the preceding June 30.
- D. A permanent increase in benefits is available only if the fund attains a total return of more than ten and one-half per cent for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase. The amount of monies available to fully fund the present value of the appropriate percentage increase allowed by subsection C in any year is one hundred per cent of the earnings of the fund that exceed ten and one-half per cent of the total return of the fund for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase. If one hundred per cent of the earnings of the fund that exceed ten and one-half per cent of the total return is insufficient to fully fund the present value of the appropriate percentage increase allowed by subsection C, the percentage increase is limited to that percentage the present value of which can be fully funded by the benefit increase monies available.
- E. Any earnings in excess of the amount necessary to fully pay the amount prescribed in subsection C are not available for future benefit increases in the following years and revert back to the appropriate employer accounts.

- F. For the purposes of this section:
 - 1. Total return is the amount published in the annual report of the system for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase.
 - 2. The ratio of the actuarial value of assets to the actuarial accrued liability of the fund is the number determined by the administrator for the fiscal year ending June 30 of the calendar year preceding the July 1 of the increase.
- G. This section does not apply if monies are available pursuant to section 38-856 for benefit increases for retired members or survivors of the system.

Added by laws 2011, Ch. 357.

38-856.03. Ad hoc increase in retirement benefits; analysis by the joint legislative budget committee

From and after December 31, 2015, the legislature may enact permanent one-time increases in retirement benefits for eligible retirees and survivors of the system after an analysis of the effect of the increase on the system by the joint legislative budget committee. The joint legislative budget committee shall analyze the effect of the permanent benefit increase considering the funded status of the system, the length of time since the last benefit increase, the increase in the cost of living since the last increase, the current economic condition of this state, recent investment performance of the system, the overall view of the economy and market and the total cost of the benefit increase to the system.

Added by Laws 2011, Ch. 357.

38-857. Group health and accident coverage for retired members; payment

- A. Upon notification, the board shall pay part of the single coverage premium of any group health and accident insurance for each retired member or survivor of the system who receives a pension and who has elected to participate in the coverage provided by section 38-651.01 or 38-782 or any other health and accident insurance coverage provided or administered by a participating employer of the system. The board shall pay up to:
 - 1. One hundred fifty dollars per month for each retired member or survivor of the system who is not eligible for medicare.
 - 2. One hundred dollars per month for each retired member or survivor of the system who is eligible for medicare.
- B. Upon notification, the board shall pay from assets of the fund part of the family coverage premium of any group health and accident insurance each month for a benefit recipient who elects family coverage and otherwise qualifies for payment pursuant to subsection A of this section. The board shall pay up to:
 - 1. Two hundred sixty dollars per month if the retired member or survivor of the system and one or more dependents are not eligible for medicare.
 - 2. One hundred seventy dollars per month if the retired member or survivor of the system and one or more dependents are eligible for medicare.
 - 3. Two hundred fifteen dollars per month if either:
 - (a) The retired member or survivor of the system is not eligible for medicare and one or more dependents are eligible for medicare.
 - (b) The retired member or survivor of the system is eligible for medicare and one or more dependents are not eligible for medicare.
- C. The board shall not pay from assets of the fund more than the amount prescribed in this section for a benefit recipient as a member or survivor of the system.
- D. A retired member or survivor of the system may elect to purchase individual health care coverage and receive a payment pursuant to this section through the retired member's former employer if that former employer assumes the administrative functions associated with the payment, including verification that the payment is used to pay for health insurance coverage if the payment is made to the retired member or survivor of the system. This provision does not apply to a retired member or survivor of the system who is reemployed and who participates in health care coverage provided by the member's or survivor's new employer.

Added by Laws 1988, Ch. 331, § 3. Amended by Laws 1989, Ch. 310, § 11; Laws 1990, Ch. 235, § 5; Laws 1992, Ch. 228, § 3; Laws 1994, Ch. 207, § 5; Laws 1995, Ch. 32, § 17; Laws 1997, Ch. 239, § 20; Laws 2001, Ch. 376, § 3; Laws 2001, Ch. 383, § 3; Laws 2003, Ch. 247, § 3; Laws 2004, Ch. 325, § 6; Laws 2005, Ch. 297, § 3, effective May 20, 2005; Laws 2007, Ch. 253, § 3; Laws 2007, Ch. 253, § 4, effective June 20, 2007. Amended by Laws 2011, Ch. 347.

38-858. Credit for military service

- A. A member of the system who has at least ten years of service with the system may receive credited service for periods of active military service performed before employment with the member's current employer if:
1. The member was honorably separated from the military service.
 2. The period of military service for which the member receives credited service does not exceed sixty months.
 3. The period of military service for which the member receives credited service is not on account with any other retirement system, except as provided by 10 United States Code section 12736 or except if the member is not yet eligible for a military retirement benefit.
 4. The member pays the cost to purchase the prior active military service. The cost is the amount necessary to equal the increase in the actuarial present value of projected benefits resulting from the additional credited service.
 5. The amount of benefits purchased pursuant to this subsection is subject to limits established by section 415 of the internal revenue code.
- B. An active member of the system who volunteers or is ordered to perform military service may receive credited service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act (38 United States Code part III, chapter 43). The member's employer shall make employer contributions and the member shall make the member contributions pursuant to subsection C of this section if the member meets the following requirements:
1. Was an active member of the system on the day before the member began military service.
 2. Entered into and served in the armed forces of the United States or is a member of the national guard.
 3. Complies with the notice and return to work provisions of 38 United States Code section 4312.
- C. Contributions made pursuant to subsection B of this section shall be for the period of time beginning on the date the member began military service and ending on the later of one of the following dates:
1. The date the member is separated from military service.
 2. The date the member is released from service related hospitalization or two years after initiation of service related hospitalization, whichever date is earlier.
 3. The date the member dies as a result of or during military service.
- D. Notwithstanding any other law, on payment of the contributions made pursuant to subsection B of this section, the member shall be credited with service for retirement purposes for the period of military service of not more than sixty months. The member shall submit a copy of the military discharge certificate (DD-256A) and a copy of the military service record (DD-214) or its equivalent with the member's application when applying for credited service corresponding to the period of military service.
- E. The employer and the member shall make contributions pursuant to subsection B of this section as follows:
1. Contributions shall be based on the compensation that the member would have received but for the period that the member was ordered into active military service.
 2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into military service, contributions shall be based on the member's average rate of compensation during the twelve-month period immediately preceding the period of military service.
 3. If a member has been employed less than twelve months before being ordered into military service, contributions shall be based on the member's compensation being

- earned immediately preceding the period of military service.
4. The member has up to three times the length of military service, not to exceed sixty months, to make the member contributions. Once the member has made the member contributions or on receipt of the member's death certificate, the employer shall make the employer contributions in a lump sum. Death benefits shall be calculated as prescribed by law.
 5. If the member's employer pays military differential wage pay to members serving in the military, contributions shall be paid to the system pursuant to section 38-843 for any military differential wage pay paid to the member while performing military service.
- F. In computing the length of total credited service of a member for the purpose of determining retirement benefits or eligibility, the period of military service, as prescribed by this section, shall be included.
 - G. If a member performs military service due to a presidential call-up, not to exceed forty-eight months, the employer shall make the employer and member contributions computed pursuant to subsection E of this section on the member's return and in compliance with subsection B of this section.
 - H. In addition to, but not in duplication of, the provisions of subsection B of this section, beginning December 12, 1994 contributions, benefits and credited service provided pursuant to this section shall be provided pursuant to section 414(u) of the internal revenue code, and this section shall be interpreted in a manner consistent with that internal revenue code section.

Added by Laws 2009, Ch. 35, § 20, effective September 30, 2009. Amended by Laws 2011, Ch. 357.

38-859. Medical boards; purposes; composition; medical examinations

- A. The purposes of a medical board are to:
 1. Identify a physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D.
 2. Evaluate a member's eligibility for an accidental disability pension.
 3. Evaluate a member's eligibility for an ordinary disability pension.
 4. Evaluate a member's eligibility for a temporary disability pension.
 5. Evaluate a member's eligibility for a catastrophic disability pension.
- B. For the purpose of determining a disability, the medical board shall be composed of a designated physician or a clinic other than the employer's regular employee or contractee. Employees employed after October 1, 1992 shall undergo a medical examination for the purpose of identifying a physical or mental condition or injury that existed or occurred prior to a member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D, and for this purpose, the medical board shall be composed of a designated physician or a clinic that may be the employer's regular employee or contractee.
- C. A finding of accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a physician or clinic appointed by the local board pursuant to section 38-847, subsection D, paragraph 9 that established the disability. The local board shall resolve material conflicts in medical evidence. If required, the local board may employ other physicians or clinics to report on special cases. With the approval of the local board, a physician or clinic employed by the local board may employ occupational specialists to assist the physician or clinic in rendering an opinion.
- D. All employees shall undergo medical examinations before a physician or clinic appointed by the local board pursuant to and for the reasons prescribed in this article. An employee who fails to comply with this subsection waives all rights to disability benefits under this article.
- E. The examining physician or clinic shall report the results of examinations to the local board, and the secretary of the local board shall preserve the report as a permanent record. Medical examinations conducted pursuant to this article shall not be conducted or utilized for the purposes of hiring, advancement, discharge, job training or other terms, conditions and privileges of employment unrelated to the receipt of or qualification for pension benefits or service credits under the system.
- F. This section does not affect or impair the right of an employer to prescribe medical or physical

standards for employees or prospective employees.

Added by Laws 1992, Ch. 340, § 2; Laws 2004, Ch. 325, § 7.

38-860. Domestic relations orders; procedures; payments

- A. Notwithstanding any other law, in a judicial proceeding for annulment, dissolution of marriage or legal separation that provides for the distribution of community property, or in any judicial proceeding to amend or enforce such a property distribution, a court in this state may issue a domestic relations order that provides that all or any part of a participant's benefit or refund in the system that would otherwise be payable to that participant shall instead be paid by the system to an alternate payee.
- B. A domestic relations order is not effective against the system unless the domestic relations order is approved by the system and qualifies as a plan approved domestic relations order. To qualify as a plan approved domestic relations order, a domestic relations order shall comply with any policies or procedures adopted pursuant to subsection K and shall also meet all of the following requirements:
1. The domestic relations order shall state the name and the last known mailing address of the participant and the name and last known mailing address of the alternate payee that is covered by the domestic relations order.
 2. The domestic relations order shall clearly state the amount or percentage of the participant's benefits that is payable by the system to the alternate payee or the precise manner in which the amount or percentage is to be determined.
 3. The domestic relations order shall state the number of payments or periods to which the domestic relations order applies, if applicable.
 4. The domestic relations order shall state that the domestic relations order applies to the system.
 5. The domestic relations order shall not require the system to provide any type or form of benefit or any option not otherwise provided by this article.
 6. The domestic relations order shall not require the system to provide increased benefits determined on the basis of actuarial value.
 7. The domestic relations order shall not require the payment of benefits to an alternate payee if the benefits are required to be paid to another alternate payee under a separate plan approved domestic relations order.
- C. On receipt by the system of a certified copy of a domestic relations order and a written request for a determination that the domestic relations order is a plan approved domestic relations order, the system shall promptly issue a written notice of receipt stating that the domestic relations order and request were received to the participant and alternate payee at the addresses on file, if any.
- D. The system has a determination period to issue a written determination indicating whether a domestic relations order qualifies as a plan approved domestic relations order. If the participant is receiving benefits during the determination period, and if the system can determine the amount of the benefits that currently would be payable to the alternate payee if the domestic relations order were a plan approved domestic relations order, the system shall hold the segregated funds and shall pay the remaining portion of the benefits to the participant. If the system determines the domestic relations order is a plan approved domestic relations order, the system shall pay the participant and alternate payee pursuant to the plan approved domestic relations order in the month following the month in which the determination was issued, or in the month following the month in which a benefit is payable under the plan approved domestic relations order, whichever is later. If the system determines the domestic relations order fails to qualify as a plan approved domestic relations order, the system shall specify in its determination how the domestic relations order is deficient and how it may be amended to qualify as a plan approved domestic relations order. If the participant is currently receiving benefits, and if the system can determine the amount of segregated funds that would be payable to the alternate payee if the domestic relations order were a plan approved domestic relations order, the system shall hold the segregated funds during the cure period to allow the parties to submit a certified copy of an amended domestic relations order and a written request for a determination that the amended domestic relations order is a plan approved domestic relations order. During the cure period, the system shall pay

the participant's portion to the participant. At the end of the cure period, if the issue of whether an amended domestic relations order qualifies as a plan approved domestic relations order remains undetermined or if an amended domestic relations order is determined not to be a plan approved domestic relations order, the system shall pay the segregated funds and the participant's portion to the participant. The participant shall hold the segregated funds in trust for the alternate payee as provided in subsection J. If an amended domestic relations order that is submitted after the expiration of the cure period is determined to be a plan approved domestic relations order, the system shall make payments to an alternate payee under the plan approved domestic relations order only prospectively. A determination by the system that a domestic relations order is not a plan approved domestic relations order does not prohibit a participant or alternate payee from submitting an amended domestic relations order to the system.

- E. Each participant and alternate payee is responsible for maintaining a current mailing address on file with the system. The system has no duty to attempt to locate any participant or alternate payee. The system has no duty to provide a notice of receipt or determination or pay benefits by means other than mailing the notice or payments to the participant or alternate payee at the last known address that is on file with the system. If the address of an alternate payee is unknown to the system, but benefits are payable to the alternate payee pursuant to a plan approved domestic relations order, the system shall either:
 - 1. Hold the alternate payee's portion until such a time as the alternate payee provides the system with a current address. Once the system is notified of the alternate payee's current address, the system shall prospectively pay the alternate payee's portion to the alternate payee.
 - 2. Pay the alternate payee's portion to the participant, who shall hold the alternate payee's portion in trust as provided in subsection J, until such a time as the alternate payee is located. At that time the participant shall pay the alternate payee's portion directly to the alternate payee.
 - F. If the address of a participant is unknown to the system, but benefits are payable to the participant pursuant to a plan approved domestic relations order, the system shall hold the participant's portion until the participant provides the system with a current address.
 - G. If the alternate payee identified in a plan approved domestic relations order predeceases the participant and the plan approved domestic relations order does not otherwise provide for the disposition of the alternate payee's interest the system shall pay the alternate payee's portion to the personal representative of the deceased alternate payee pursuant to this subsection. The personal representative is responsible for maintaining a current mailing address on file with the system. The system has no duty to attempt to locate any personal representative. The system is not responsible for making benefit payments to a personal representative until the personal representative has both:
 - 1. Persuaded the system that the personal representative is authorized to receive payments designated for the deceased alternate payee.
 - 2. Provided the system with an address to which the payments should be sent.
 - H. If, within thirty days after the date the system verifies an alternate payee's death, a personal representative does not make demand on the system for the alternate payee's portion, the system shall either:
 - 1. Hold the alternate payee's portion until the time a personal representative makes a proper demand for payment of the alternate payee's portion.
 - 2. Remit the alternate payee's portion to the participant, who shall hold the amounts in trust for the estate of the alternate payee until the personal representative is identified. At that time the participant shall pay the alternate payee's portion paid by the system to the participant to the personal representative.
- Thereafter, the plan shall prospectively pay the alternate payee's portion to the personal representative.
- I. Amounts held or paid pursuant to this section shall not accrue interest unless otherwise prescribed by this article.
 - J. The system is not liable to the participant, the alternate payee, any personal representative of the estate of an alternate payee or any other person for any amount paid, withheld or disbursed by the system pursuant to this section. If one or more payments are made by the system to a person not otherwise entitled to receive the payments, the recipient of the payment is designated

a constructive trustee for the payment received and, together with the marital community, if any, is the sole party against whom an action may be brought to recover the payment.

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

Added by Laws 2007, Ch. 87, § 4. Amended by Laws 2010, Ch. 231.

RELATED STATUTES

9-934. Inapplicability of article

- A. Effective from and after June 30, 1968, this article shall be amended, and employees employed after June 30, 1968, shall be covered by the provisions of the public safety retirement personnel system in those cities which have established a pension system under the provisions of this article prior to the effective date of this section, subject to the right of election provided for in section 38-854.
- B. All funds accumulated and all liabilities for benefits created by authority of Title 9, Chapter 8, Article 2, sections 9-911 to 9-934, inclusive, through June 30, 1968, shall be transferred to the fund maintained under the Public Safety Personnel Retirement System on July 1, 1968, and accounted for by each employer. Each employee employed after June 30, 1968, shall be covered by the provisions of the Public Safety Personnel Retirement System which continues and amends this section.

Added by Laws 1968, Ch. 84, § 1, effective July 1, 1968. Amended by Laws 1970, Ch. 211, § 1.

9-967.01. Paid fire fighters who are also volunteers; eligibility for pension benefits

Any person who is a paid member of a fire department and an active member of the Public Safety Personnel Retirement System is not eligible to receive pension benefits under this article from that same department.

Added by Laws 1981, Ch. 280, § 14.

9-972. Inapplicability of article

- A. Effective from and after June 30, 1968, this article shall be amended as to all full-time paid firemen, and employees other than volunteer firemen employed after June 30, 1968, shall be covered by the Public Safety Personnel Retirement System in those cities that have established a pension system under this article before July 1, 1968, subject to the right of election provided for in section 38-854. However, those employers presently participating under sections 9-912 through 9-971 shall not come under the social security act as to their employees.
- B. Notwithstanding any provision of law to the contrary, effective from and after June 30, 1968, this article shall apply only to volunteer firemen and all amounts accumulated under this article for full-time paid firemen, as determined by actuarial procedures prescribed by the board of trustees of Public Safety Personnel Retirement System, shall be transferred to the fund maintained under the Public Safety Personnel Retirement System, and accounted for by each employer. Each full-time paid fireman employed after June 30, 1968, shall be covered by the Public Safety Personnel Retirement System, which continues and amends this fund in regard to full-time paid employees.

Added by Laws 1968, Ch. 84, § 2, effective July 1, 1970. Amended by Laws 1970, Ch. 211, § 2.

13-713. Forfeiture of public retirement system benefits; definition

- A. Notwithstanding any other law, if a member of a state retirement system or plan is convicted of or pleads no contest to an offense that is a class 1, 2, 3, 4 or 5 felony and that was committed in the course of the member's employment as a public official or for a public employer, the court shall order the person's membership terminated and the person shall forfeit all rights and benefits earned under the state retirement system or plan. A member who forfeits all rights and benefits earned pursuant to this section is entitled to receive, in a lump sum amount, the member's contribution to the state retirement system or plan plus interest as determined by the board of that state retirement system or plan, less any benefits received by the member.

- B. An order forfeiting a member's benefits on conviction of an offense listed in subsection A shall not be stayed on the filing of any appeal of the conviction. While an appeal of the conviction is being adjudicated and until a final judgment is issued, for a member who is not receiving benefits, the member and the member's employer are required to continue making contributions to the retirement system or plan and for a member who is receiving benefits, the retirement system or plan shall suspend payments to the member and hold the assets in trust. If the conviction is reversed on final judgment, no rights or benefits shall be forfeited and the member's membership shall be reinstated.
- C. Notwithstanding subsection A, the court may award to a spouse, dependent or former spouse of a member who is subject to subsection A some or all of the amount that was forfeited under subsection A. The award under this subsection shall not require the board of the state retirement system or plan to provide any type, form or time of payment of severance, survivor or retirement benefits or any severance, survivor or retirement benefit option that is not provided by the laws governing the state retirement system or plan from which the award is being made. In determining whether to make an award under this subsection, the judge shall consider the totality of circumstances, including:
 1. The role, if any, of the person's spouse, dependent or former spouse in connection with the illegal conduct for which the person was convicted.
 2. The degree of knowledge, if any, possessed by the person's spouse, dependent or former spouse in connection with the illegal conduct for which the person was convicted.
 3. The community property nature of the benefits involved.
 4. The extent to which the person's spouse, dependent or former spouse was relying on the forfeited benefits.
- D. Notwithstanding subsection H, the court shall order that a person who is subject to forfeiture under this section is ineligible for future membership in any state retirement system or plan.
- E. The court shall provide a copy of the order of forfeiture to the state retirement system or plan to which it applies.
- F. This section does not apply to a member whose most recent retirement occurs before the effective date of this section, unless the member has resumed making contributions to the state retirement system or plan.
- G. Notwithstanding subsection A, a court shall not order the forfeiture of rights and benefits earned under the state retirement system or plan that accrued before the effective date of this section or for a felony committed before the effective date of this section.
- H. This section applies only to the state retirement system or plan in which the person was a contributing member at the time the offense was committed.
- I. For the purposes of this section, "state retirement system or plan" means the Arizona State Retirement System established by Title 38, Chapter 5, Article 2, the Elected Officials' Retirement Plan established by Title 38, Chapter 5, Article 3, the Public Safety Personnel Retirement System established by Title 38, Chapter 5, Article 4 and the Corrections Officer Retirement Plan established by Title 38, Chapter 5, Article 6.

Added by Laws 2011, Ch. 357.

20-224. Premium tax

- A. On or before March 1 of each year each authorized domestic insurer, each other insurer and each formerly authorized insurer referred to in section 20-206, subsection B shall file with the director a report in a form prescribed by the director showing total direct premium income including policy membership and other fees and all other considerations for insurance from all classes of business whether designated as a premium or otherwise received by it during the preceding calendar year on account of policies and contracts covering property, subjects or risks located, resident or to be performed in this state, after deducting from such total direct premium income applicable cancellations, returned premiums, the amount of reduction in or refund of premiums allowed to industrial life policyholders for payment of premiums direct to an office of the insurer and all policy dividends, refunds, savings coupons and other similar returns paid or credited to policyholders within this state and not reapplied as premiums for new, additional or extended insurance. No deduction shall be made of the cash surrender values of policies or

contracts. Considerations received on annuity contracts, as well as the unabsorbed portion of any premium deposit, shall not be included in total direct premium income, and neither shall be subject to tax. The report shall separately indicate the total direct fire insurance premium income received from property located in the incorporated cities and towns certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company.

- B. Coincident with the filing of such tax report each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax of 2.0 per cent of such net premiums, except that the tax on fire insurance premiums on property located in an incorporated city or town certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company is .66 per cent, the tax on all other fire insurance premiums is 2.2 per cent and the tax on health care service and disability insurance premiums is as prescribed under sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to subsection E of this section shall be deducted from the tax payable pursuant to this subsection. Each insurer shall reflect the cost savings attributable to the lower tax in fire insurance premiums charged on property located in an incorporated city or town certified by the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company. No insurer shall be liable to the state or to any other person, or shall be subject to regulatory action, relating to the calculation or submittal of fire insurance premium taxes based in good faith upon the state fire marshal's certification.
- C. Eighty-five per cent of the tax paid under this section by an insurer on account of premiums received for fire insurance shall be separately specified in the report and shall be apportioned in the manner provided by sections 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of a municipality or fire district that has no volunteer fire fighters or pension obligations to volunteer fire fighters shall be appropriated to the account of the municipality or fire district in the Public Safety Personnel Retirement System and all of the tax so allocated to a fund of a municipality or fire district that has both full-time paid fire fighters and volunteer fire fighters or pension obligations to full-time paid fire fighters or volunteer fire fighters shall be appropriated to the account of the municipality or fire district in the Public Safety Personnel Retirement System where it shall be reallocated by actuarial procedures proportionately to the municipality or fire district for the account of the full-time paid fire fighters and to the municipality or fire district for the account of the volunteer fire fighters. A municipality or fire district shall provide to the Public Safety Personnel Retirement System all information that the system deems necessary to perform the reallocation prescribed by this section. A full accounting of such reallocation shall be forwarded to the municipality or fire district and their local boards.
- D. This section shall not apply to title insurance, and such insurers shall be taxed as provided in section 20-1566.
- E. Any insurer that paid or is required to pay a tax of two thousand dollars or more on net premiums received during the preceding calendar year, pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before the fifteenth day of each month from March through August a report for that month, on a form prescribed by the director, accompanied by a payment in an amount equal to fifteen per cent of the amount paid or required to be paid during the preceding calendar year pursuant to subsection B of this section and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The payments are due and payable on or before the fifteenth day of each month and shall be made to the director for deposit, pursuant to sections 35-146 and 35-147.
- F. Except for the tax paid on fire insurance premiums pursuant to subsections B and C of this section, an insurer may claim a premium tax credit if the insurer qualifies for a credit pursuant to section 20-224.03, 20-224.04, 20-224.06 or 20-224.07.
- G. On receipt of a properly documented claim, a refund shall be provided to an insurer from available funds for the excess amount of any fire insurance premium improperly paid by the insurer. The insurer shall reflect the refund in the fire insurance premiums charged on the property that was charged the excessive amount.

Amended by Laws 1976, Ch. 150, § 3; Laws 1983, Ch. 4, § 1, effective February 11, 1983, retroactively applicable to January 1, 1983; Laws 1985, Ch. 360, § 2, effective January 1, 1986; Laws 1985, Ch. 360, § 3, effective February 1, 1986; Laws 1988, Ch. 271, § 5, effective July 1, 1988; Laws 1989, 2nd S.S. Ch. 1, § 1; Laws 1990, Ch. 279, § 1; Laws 1999, Ch. 185, § 1; Laws 2000, Ch. 193, § 128; Laws 2002, Ch. 214, § 3, effective May 15, 2002; Laws 2009, Ch. 135, § 2, effective September 30, 2009; Laws 2009, Ch. 168, § 1, effective September 30, 2009. Amended by Laws 2010, Ch. 118.

20-224.01. Additional premium tax

- A. Coincident with the filing of the tax report as required in section 20-224, each insurer shall pay to the director, for deposit, pursuant to sections 35-146 and 35-147, a tax of .4312 per cent of such net premiums received from all insurance carried for or on vehicles as defined in section 28-101, in addition to other applicable taxes.
- B. The tax of .4312 per cent of such net premiums received by the director and paid by an insurer on account of premiums received for insurance on certain vehicles as defined in section 28-101 shall be separately specified in the insurer's report required in section 20-224 and is appropriated to the Public Safety Personnel Retirement System and shall be transferred by the state treasurer to the board of trustees of the Public Safety Personnel Retirement System for deposit in the highway patrol account. If the tax received is greater than the amount necessary to fund the highway patrol account, beginning in the 1991-1992 fiscal year the state treasurer shall deposit the excess in the Arizona highway patrol fund established in section 41-1752 in any amount required by legislative appropriation.
- C. An insurer shall report and pay the taxes required by this section in the manner prescribed by section 20-224. An insurer who fails to pay the tax on or before the prescribed payment dates is subject to a civil penalty determined pursuant to section 20-225.
- D. An insurer shall not claim a premium tax credit pursuant to section 20-224.03 or 20-224.04 for the premium taxes paid pursuant to this section.

Added by Laws 1959, Ch. 145, § 3. Amended by Laws 1968, Ch. 84, § 4; Laws 1973, Ch. 135, § 2; Laws 1973, Ch. 146, § 3, effective July 1, 1974; Laws 1974, Ch. 136, § 2, 3. Amended by Laws 1985, Ch. 360, § 4, effective January 1, 1986; Laws 1985, Ch. 360, § 5, effective February 1, 1986; Laws 1991, Ch. 265, § 1; Laws 1999, Ch. 185, § 2; Laws 2000, Ch. 193, § 129.

20-227. Disposition of tax proceeds

The purpose of the taxes provided by this title is to assist in defraying the cost of state government and to lessen the tax burden upon tangible property. All taxes collected under this title shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund and shall be used, together with the revenue from other sources, to pay appropriations for the maintenance of state government, except as provided in subsection C of section 20-224 (firemen's relief and pension fund) and in section 20-224.01 (highway patrol account of the Public Safety Personnel Retirement System) and other applicable statutes.

Added by Laws 1959, Ch. 145, § 4. Amended by Laws 1968, Ch. 84, § 5; Laws 2000, Ch. 193, § 130.

23-392. Overtime compensation for certain law enforcement or probation officer activities; option; definitions

- A. Any person engaged in law enforcement activities shall be compensated for each hour worked in excess of forty hours in one work week at the option of such employer at the following rates:
 - 1. One and one-half times the regular rate at which such person is employed or one and one-half hours of compensatory time off for each hour worked if by the person's job classification overtime compensation is mandated by federal law.
 - 2. If by the person's job classification federal law does not mandate overtime compensation, the person shall receive the regular rate of pay or compensatory leave on an hour for hour basis.
- B. Any person engaged in probation officer activities shall be compensated for each hour worked in excess of eighty hours in a two week work period at the option of such employer at the following rates:

1. One and one-half times the regular rate at which such person is employed or one and one-half hours of compensatory time off for each hour worked if by the person's job classification overtime compensation is mandated by federal law.
 2. If by the person's job classification federal law does not mandate overtime compensation, the person shall receive the regular rate of pay or compensatory leave on an hour for hour basis.
- C. Paid leave may be considered hours worked for the purpose of calculating overtime.
- D. The director of the department of public safety may establish alternate work periods, in accordance with federal law, for the purpose of determining overtime compensation for those employees of the air rescue section of the department of public safety.
- E. Notwithstanding subsection C of this section, an alternate work period established by the director of the department of public safety for the purpose of determining overtime compensation shall not exceed twenty-eight days or one hundred sixty hours.
- F. For the purposes of this section:
1. "Person engaged in law enforcement activities":
 - (a) Means:
 - (i) A law enforcement officer as defined by section 38-1001.
 - (ii) A peace officer as defined by section 41-1701.
 - (iii) Any security personnel responsible for controlling or maintaining custody of inmates in correctional institutions maintained by this state or a county, city or town.
 - (b) Does not include any such person employed in a bona fide executive or administrative capacity as defined by the employer.
 2. "Person engaged in probation officer activities":
 - (a) Means a probation officer or surveillance officer who is appointed pursuant to section 8-203, 12-251 or 12-259.
 - (b) Does not include any such person employed in a bona fide executive or administrative capacity as defined by the employer.

Amended by Laws 2006, Ch. 151, § 1, effective immediately. Amended by Laws 2011, Ch. 27.

ARTICLE 7. SUDAN INVESTMENTS AND BUSINESS OPERATIONS

35-391. Definitions

In this Article, unless the context otherwise requires:

1. "Active business operations" means all business operations that are not inactive business operations.
2. "Business operations" means engaging in commerce in any form in Sudan, including acquiring, developing, maintaining, owning, selling, possessing, leasing or operating equipment, facilities, personnel, products, services, personal property, real property or any other apparatus of business or commerce.
3. "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of such entities or business associations, that exists for profit-making purposes.
4. "Complicit" means taking actions during any preceding twenty-month period that have supported or promoted the genocidal campaign in Darfur, including preventing Darfur's victimized population from communicating with each other, encouraging Sudanese citizens to speak out against an internationally approved security force for Darfur, actively working to deny, cover up or alter the record on human rights abuses in Darfur or other similar actions.
5. "Direct holdings" means all publicly traded equity securities held directly by the public fund in which the public fund owns all shares or interests.
6. "Government of Sudan" means the government in Khartoum, Sudan, which is led by the National Congress Party, formerly known as the National Islamic Front, or any successor

government formed on or after October 13, 2006, including the Coalition National Unity government agreed on in the comprehensive peace agreement for Sudan, but does not include the regional government of southern Sudan.

7. "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for that purpose.
8. "Indirect holdings" means all publicly traded equity securities held in an account or fund, including a mutual fund, managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors who are not subject to this Article.
9. "Marginalized populations of Sudan" includes the portion of the population in the Darfur region that has been genocidally victimized, the portion of the population of southern Sudan victimized by Sudan's north-south civil war, the Beja, Rashidiya and other similarly underserved groups of eastern Sudan, the Nubian and other similarly underserved groups in Sudan's Abyei, southern Blue Nile and Nuba mountain regions and the Amri, Hamadab, Manasir and other similarly underserved groups of northern Sudan.
10. "Military equipment" means weapons, arms, military supplies and equipment that readily may be used for military purposes, including radar systems or military-grade transport vehicles or supplies or services sold or provided directly or indirectly to any force actively participating in armed conflict in Sudan.
11. "Mineral extraction activities" includes exploring, extracting, processing, transporting or wholesale selling or trading of elemental minerals or associated metal alloys or ores, including gold, copper, chromium, chromite, diamonds, iron, iron ore, silver, tungsten, uranium and zinc, and facilitating those activities, including by providing supplies or services in support of those activities.
12. "Oil-related activities" includes owning rights to oil blocks, exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading of oil, constructing, maintaining or operating a pipeline, refinery or other oil field infrastructure and facilitating those activities, including by providing supplies or services in support of those activities, except that the retail sale of gasoline and related consumer products is not an oil-related activity.
13. "Power production activities" means any business operation that involves a project commissioned by the National Electricity Corporation of Sudan or other similar government of Sudan entity and whose purpose is to facilitate power generation and delivery, including establishing power-generating plants or hydroelectric dams, selling or installing components for the project, providing service contracts related to the installation or maintenance of the project or facilitating those activities, including by providing supplies or services in support of those activities.
14. "Public fund" means the Arizona State Retirement System established by Title 38, Chapter 5, Article 2, the Elected Officials' Retirement Plan established by Title 38, Chapter 5, Article 3, the Public Safety Personnel Retirement System established by Title 38, Chapter 5, Article 4, the Corrections Officer Retirement Plan established by Title 38, Chapter 5, Article 6 and the state treasurer investments authorized by Section 35-314.02.
15. "Scrutinized" means any business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, government of Sudan-commissioned consortiums or projects or companies involved in government of Sudan-commissioned consortiums or projects and any of the following applies:
 - (a) A material portion of the company's revenues or assets are attributed to Sudan and involve oil-related activities or mineral extraction activities, less than seventy-five per cent of the company's revenues or assets attributed to Sudan involve contracts with or provision of oil-related or mineral extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government and the company has failed to take substantial action. The public fund has sole discretion to determine what is a material portion of revenues or assets.

- (b) A material portion of the company's revenues or assets are attributed to Sudan and involve power production activities, less than seventy-five per cent of the company's power production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan and the company has failed to take substantial action. The public fund has sole discretion to determine what is a material portion of revenues or assets.
 - (c) The company is complicit in the Darfur genocide.
 - (d) The company supplies military equipment in Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict such as through post-sale tracking of that equipment by the company, certification from a reputable and objective third party that the equipment is not being used by a party participating in armed conflict in Sudan or sale of that equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization. a social development company that is not complicit in the Darfur genocide shall not be considered to be a scrutinized company.
16. "Social development company" means a company whose primary purpose in Sudan is to provide humanitarian goods or services, including medicine or medical equipment, agricultural supplies or infrastructure, educational opportunities, journalism-related activities, information or information materials, spiritual-related activities, services of a purely clerical or reporting nature, food, clothing or general consumer goods that are unrelated to oil-related activities, mineral extraction activities or power production activities.
17. "Substantial action" means adopting, publicizing and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations, and undertaking significant humanitarian efforts in conjunction with an international organization, the government of Sudan, the regional government of southern Sudan or a nonprofit entity and evaluated and certified by an independent third party to be substantial in relationship to the company's Sudan business operations and of benefit to one or more marginalized populations of Sudan or, through engagement with the government of Sudan, materially improving conditions for the genocidally victimized population in Darfur.

Added by Laws 2008, Ch. 1, § 1.

35-391.01. Identification of companies

- A. Within one hundred eighty days after the effective date of this Article, the public fund shall make reasonable efforts to identify all scrutinized companies in which the public fund has direct holdings. Such efforts shall include the following:
 - 1. Reviewing and relying, as appropriate in the public fund's judgment, on publicly available information regarding companies with business operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations and government entities.
 - 2. Contacting asset managers contracted by the public fund that invest in companies with business operations in Sudan.
 - 3. Contacting other institutional investors that have divested from or engaged with companies that have business operations in Sudan.
- B. Before the first meeting of the public fund following the one hundred eighty-day period, the public fund shall assemble all identified scrutinized companies into a scrutinized companies list.
- C. The public fund shall update the scrutinized companies list on an annual basis based on information from those entities listed in subsection A.

Added as § 35-392 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.01.

35-391.02. Required actions

- A. The public fund shall adhere to the following procedures for companies on the scrutinized

companies list on an annual basis:

1. The public fund shall make reasonable efforts to determine the companies on the scrutinized companies list in which the public fund owns direct holdings.
 2. For each company identified pursuant to paragraph 1 with only inactive business operations, the public fund shall send a written notice informing the company of this Article and encouraging it to continue to refrain from initiating active business operations in Sudan until it is able to avoid scrutinized business operations. The public fund shall continue such correspondence on an annual basis.
 3. For each company newly identified pursuant to paragraph 1 with active business operations, the public fund shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the public fund. The notice shall offer the company the opportunity to clarify its Sudan-related activities and shall encourage the company, within one hundred eighty days, to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by the public fund.
 4. If, within one hundred eighty days following the public fund's first engagement with a company pursuant to paragraph 3, that company ceases scrutinized business operations, the company shall be removed from the scrutinized companies list and this Section shall cease to apply to it unless it resumes scrutinized business operations. If, within one hundred eighty days after the public fund's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company is subject to paragraph 2.
 5. If, after one hundred eighty days following the public fund's first engagement with a company pursuant to paragraph 3, the company continues to have scrutinized active business operations, and only while that company continues to have scrutinized active business operations, the public fund shall sell, redeem, divest or withdraw all publicly traded securities of the company according to the following schedule:
 - (a) At least fifty per cent of assets shall be removed from the public fund's assets under management within twelve months after the company's most recent appearance on the scrutinized companies list.
 - (b) One hundred per cent of assets shall be removed from the public fund's assets under management within eighteen months after the company's most recent appearance on the scrutinized companies list.
 - (c) If a company that ceased scrutinized active business operations following engagement pursuant to paragraph 3 resumes such operations, subdivision (a) shall immediately apply, and the public fund shall send a written notice to the company. The company shall also be immediately reintroduced onto the scrutinized companies list.
 6. The public fund shall not acquire securities of companies on the scrutinized companies list that have active business operations, except as provided in paragraphs 7 and 8.
 7. A company that the United States government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Sudan shall not be subject to divestment or investment prohibition pursuant to paragraphs 5 and 6.
 8. Notwithstanding any other law, paragraphs 5 and 6 do not apply to indirect holdings in actively or passively managed investment funds or direct holdings in passively managed investment funds. The public fund shall annually submit letters to the managers of such investment funds containing companies with scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively or passively managed fund devoid of such companies. If the manager creates a similar fund, the use of which would not require increased fees on the part of the public fund, the public fund shall replace all applicable investments with investments in the similar fund in an expedited time frame consistent with prudent investing standards.
- B. For the purposes of this section, private equity funds shall be deemed to be actively managed investment funds.

Added as § 35-393 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.02.

35-391.03. Reporting

- A. The public fund shall submit a publicly available report to the United States Attorney General, the Senate financial institutions, insurance and retirement committee and the House of Representatives public institutions and retirement committee, or their successor committees, and the central procurement officer of this state that includes the scrutinized companies list within thirty days after the list is first created.
- B. On or before January 31 of each year, the public fund shall submit a publicly available report to the United States Attorney General, the Senate financial institutions, insurance and retirement committee and the House of Representatives public institutions and retirement committee, or their successor committees, and the central procurement officer of this state that includes all of the following:
 - 1. A summary of correspondence with companies engaged by the public fund pursuant to Section 35-393, subsection A, paragraphs 2 and 3.
 - 2. All investments sold, redeemed, divested or withdrawn in compliance with Section 35-393, paragraph 5.
 - 3. All prohibited investments under Section 35-393, subsection A, paragraph 6.
 - 4. Any progress made under Section 35-393, subsection A, paragraph 8.
 - 5. All investment costs associated with compliance with Section 35-393.

Added as § 35-394 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.03.

35-391.04. Other legal obligations; immunity

- A. With respect to actions taken in compliance with this Article, including all good faith determinations regarding companies as required by this Article, a public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios.
- B. With respect to all actions taken in good faith compliance with this article, a public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are immune from any liability.
- C. A public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are indemnified from the state general fund and held harmless by this state from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including costs and attorney fees, and against all liability, losses and damages of any nature that the public fund, board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund may at any time sustain by reason of any decision to restrict, reduce or eliminate investments made in good faith compliance with this article.

Added as § 35-395 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.04.

35-391.05. Reinvestment in certain companies with scrutinized active business operations

Notwithstanding any other law, the public fund may cease divesting from certain scrutinized companies pursuant to Section 35-393, subsection A, paragraph 5 or reinvest in certain scrutinized companies from which it divested pursuant to Section 35-393, subsection A, paragraph 5 if a preponderance of the evidence shows that the value of the assets of the affected account of the public fund becomes equal to or less than ninety-nine and three-quarters per cent of the hypothetical value of the assets of the affected account of the public fund assuming no divestment for any company had occurred under Section 35-393, subsection A, paragraph 5. For any cessation of divestment, reinvestment or subsequent ongoing investment authorized by this section, the public fund shall provide a written report to the Senate financial institutions, insurance and retirement committee and the House of Representatives public institutions and

retirement committee, or their successor committees, in advance of initial reinvestment, updated annually thereafter as applicable, setting forth the reasons and justification, supported by a preponderance of the evidence, for its decisions to cease divestment, reinvest or remain invested in companies with scrutinized active business operations. This Section has no application to reinvestment in companies on the ground that they have ceased to have scrutinized active business operations.

Added as § 35-396 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.05.

35-391.06. Prohibition on government contracts

- A. This state and political subdivisions of this state shall ensure that each contract entered into by this state or a political subdivision of this state for the procurement of goods or services includes a clause that requires the contractor to certify to the contracting officer that the contractor does not have scrutinized business operations in Sudan.
- B. If this state or a political subdivision of this state determines that the contractor has submitted a false certification under subsection A of this section, the state or political subdivision may impose remedies as provided by law. On the determination of a false certification under subsection A of this Section, this state or a political subdivision of this state may terminate a covered contract.
- C. This state or a political subdivision of this state shall notify the central procurement officer of this state of any contractor that has submitted a false certification under subsection A of this Section.
- D. Based on information reported in Section 35-394, subsection A, the central procurement officer of this state shall compile and make available, on an annual basis, a list of parties excluded from Arizona procurement.
- E. Based on information reported in Section 35-394, subsection A, the central procurement officer of this state may suspend a contractor from eligibility for state or political subdivision contracts on the notification from the state or political subdivision of a false certification under subsection A of this section. The suspension period shall not exceed three years.
- F. This section does not limit the use of other remedies available to this state or a political subdivision of this state or any other official of this state on the basis of a false certification under subsection A of this Section.
- G. The governor may waive the requirement of subsection A of this section on a case-by-case basis if the governor determines and certifies in writing to the central procurement officer of this state that it is in the state's best interest to do so.
- H. Within one year after the effective date of this section, the central procurement officer of this state shall provide a written report to the Senate financial institutions, insurance and retirement committee and the House of Representatives public institutions and retirement committee, or their successor committees, and the governor on the actions taken under this Section.

Added as § 35-397 by Laws 2008, Ch. 1, § 1. Renumbered as § 35-391.06.

Sec. 2. Delayed repeal; condition; notice

- A. Title 35, Chapter 2, Article 7, Arizona Revised Statutes, as added by this Act, is repealed on the earliest date that any of the following occurs:
 - 1. The United States Congress or the President of the United States declares that the Darfur genocide has been halted.
 - 2. The United States revokes all sanctions imposed against the government of Sudan.
 - 3. The United States Congress or the President of the United States declares that the government of Sudan has honored its commitments to abide by the United Nations Security Council Resolution 1769 (2007), cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance and allow for the safe and voluntary return of refugees and internally displaced persons.
 - 4. The United States Congress or the President of the United States, through legislation or executive order, declares that divestment of the type provided for in this act interferes with conduct of United States foreign policy.
 - 5. July 1, 2013.
- B. The director of the Arizona State Retirement System shall notify in writing the director of the

Arizona legislative council of this date.

Sec. 3. Legislative findings and declarations

The legislature finds and declares that:

1. On July 23, 2004, the United States Congress declared that "atrocities unfolding in Darfur, Sudan are genocide".
2. On September 9, 2004, Secretary of State Colin I. Powell told the United States Senate foreign relations committee that "genocide has occurred and may still be occurring in Darfur" and "the government of Sudan and Janjaweed bear responsibility".
3. On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's findings and stated, "at this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide".
4. On September 26, 2006, the United States House of Representatives stated that "an estimated 300,000 to 400,000 people have been killed by the government of Sudan and its Janjaweed allies since the [Darfur] crisis began in 2003, more than 2,000,000 people have been displaced from their homes, and more than 250,000 people from Darfur remain in refugee camps in Chad".
5. The Darfur crisis represents the first time the United States government has labeled ongoing atrocities a genocide, imposing sanctions against the government of Sudan since 1997.
6. Since 1993, the United States Secretary of State has determined that the government of Sudan has repeatedly provided support for acts of international terrorism thereby restricting United States assistance, defense exports and sales and financial and other transactions with the government of Sudan.
7. According to the former chairperson of the United States Securities and Exchange Commission, "the fact that a foreign company is doing material business with a country, government, or entity on [the United States Treasury Department's office of foreign assets control's] sanctions list is, in the Sec staff's view, substantially likely to be significant to a reasonable investor's decision about whether to invest in a company".
8. A 2006 United States House of Representatives report states that "a company's association with sponsors of terrorism and human rights abuses, no matter how large or small, can have a materially adverse result on a public company's operations, financial condition, earnings, and stock prices, all of which can negatively affect the value of an investment".
9. On December 31, 2007, President George W. Bush signed the Sudan Accountability and Divestment Act of 2007, effectively authorizing state and local governments to divest from companies that support the Sudanese government at the expense of marginalized populations in Sudan.
10. The current Sudan divestment movement encompasses nearly one hundred universities, cities, states and private pension plans, with companies facing widespread divestment presenting further material risk to remaining investors.
11. It is the desire of the legislature, with respect to investment resources in its control and to the extent reasonable, with due consideration for, among other things, return on investment, on behalf of itself and its investment beneficiaries not to support businesses, governments or countries that support the practice of genocide.
12. The divestment of public funds from certain companies is a measure that should be employed sparingly and judiciously, and a congressional and presidential declaration of genocide satisfies this high threshold.

Amended by Laws 2008, Ch. 1, §§ 1, 2, & 3.

Sections 35-319, 38-716 and 38-848.02, Arizona Revised Statutes, are repealed.

ARTICLE 8. TERRORISM COUNTRY DIVESTMENTS

35-392. State treasurer and retirement system divestments; policy notices

- A. The state board of investment, the Arizona State Retirement System and the board of the Public Safety Personnel Retirement System shall each adopt a policy, and submit a copy of the policy to the president of the Senate and the speaker of the House of Representatives, regarding the countries identified as those countries currently designated by the United States Department of State as state sponsors of terrorism. The policy shall include:
1. The procedure to identify United States companies that are in violation of section 6(j) of the Export Administration Act.
 2. The process for communicating with the companies and appropriate federal officials, including this state's congressional delegation, in regard to its findings pursuant to this section.
 3. The process for divestment from the companies that are identified pursuant to paragraph 1.
- B. The state treasurer, the Arizona State Retirement System and the board of the Public Safety Personnel Retirement System shall divest from those companies, based on public information, identified pursuant to subsection A, paragraph 1.
- C. The state treasurer, the Arizona State Retirement System and the board shall notify the governor, the president of the Senate, the speaker of the House of Representatives, the director of the Department of Administration and each other of any divestments and the reasons for the divestments.
- D. Within fourteen days after receipt of the notice pursuant to subsection C, the director of the Department of Administration shall send notice to the company indicating that this state and its political subdivisions are prohibited from purchasing any product or service from the company until the company is no longer identified pursuant to subsection A, paragraph 1.
- E. The prohibition in subsection D does not apply to any existing contract but does apply to any renewal of a contract.
- F. This Section applies to all affiliated companies and subsidiaries of the company.

Added as § 35-391 by Laws 2008, Ch. 201, § 2. Renumbered as § 35-392.

Sec. 3. State board of investment and retirement systems; divestment policy; submission

On or before January 31, 2009, the state board of investment, the Arizona State Retirement System and the board of the Public Safety personnel Retirement System shall submit a copy of the policy adopted pursuant to section 35-391, Arizona Revised Statutes, as added by this act, to the president of the senate and the speaker of the house of representatives.

Amended by Laws 2008, Ch. 201, §§ 2 and 3.

ARTICLE 9. IRAN INVESTMENTS

35-393. Definitions

In this Article, unless the context otherwise requires:

1. "Active business operations" means all business operations that are not inactive business operations.
2. "Business operations" means investing, with actual knowledge on or after August 5, 1996, in Iran's petroleum sector which directly and significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran. The retail sale of gasoline and related consumer products is not considered to directly or significantly contribute to the enhancement of Iran's ability to develop petroleum resources.
3. "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries or parent companies or affiliates of such entities or business

- associations, that exists for the purpose of making a profit.
4. "Direct holdings" means all publicly traded equity securities of a company that are held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.
 5. "Government of Iran" means the government of Iran and its instrumentalities and companies owned or controlled by the government of Iran.
 6. "Inactive business operations" means the continued holding or renewal of rights to property previously operated for the purpose of generating revenues but not presently deployed for such a purpose.
 7. "Indirect holdings" means all investments held in an account or fund, including a mutual fund, a real estate fund, a private equity fund or a commingled fund, managed by one or more persons who are not employed by the public fund, in which the public fund owns shares or interests together with other investors who are not subject to this article.
 8. "Iran" means the Islamic Republic of Iran.
 9. "List" means the scrutinized companies with activities in the Iran petroleum energy sector list that is prescribed by this article.
 10. "Petroleum resources" means petroleum or natural gas.
 11. "Public fund" means the Arizona State Retirement System established by Title 38, Chapter 5, Article 2, the Elected Officials' Retirement Plan established by Title 38, Chapter 5, Article 3, the Public Safety Personnel Retirement System established by Title 38, Chapter 5, Article 4, the Corrections Officer Retirement Plan established by Title 38, Chapter 5, Article 6 or the state treasurer investments authorized by Section 35-314.02.
 12. "Scrutinized" means any active business operations, if those business operations are subject to sanctions under Public Law 104-172, the Iran Sanctions Act of 1996, and involve investments of a material portion of the company's revenues or assets and the company has failed to take substantial action specific to Iran. The public fund has sole discretion to determine what is a material portion of revenues or assets.
 13. "Substantial action specific to Iran" means adopting, publicizing and implementing a formal plan to cease scrutinized business operations within one year and to refrain from any such new business operations.

Added as § 35-391 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.

35-393.01. Identification of scrutinized companies

- A. Within one hundred eighty days after the effective date of this article, the public fund shall make reasonable efforts to identify all scrutinized companies in which the public fund has direct holdings. Such efforts shall include reviewing and relying, as appropriate in the public fund's judgment, on publicly available information regarding companies with business operations in Iran, including information provided by nonprofit organizations, research firms, international organizations and government entities.
- B. Before the first meeting of the public fund's governing body following the one hundred eighty day period prescribed in subsection A, the public fund shall assemble all identified scrutinized companies into a scrutinized companies with activities in the Iran petroleum energy sector list.
- C. The public fund shall update the list on an annual basis based on information from those entities listed in subsection A.

Added as § 35-392 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.01.

35-393.02. Required actions

- A. The public fund shall adhere to the following procedures for companies on the scrutinized companies with activities in the Iran petroleum energy sector list on an annual basis:
 1. The public fund shall make reasonable efforts to determine the companies on the list in which the public fund owns direct holdings.
 2. For each company identified pursuant to paragraph 1 with only inactive business operations, the public fund shall send a written notice informing the company of this article and encouraging it to continue to refrain from initiating active business operations

- in Iran until it is able to avoid scrutinized business operations. The public fund shall continue such correspondence on an annual basis.
3. For each company newly identified pursuant to paragraph 1 with active business operations, the public fund shall send a written notice informing the company of its scrutinized company status and that it may become subject to divestment by the public fund. The notice shall offer the company the opportunity to clarify its Iran-related activities and shall encourage the company, within one hundred eighty days, to either cease its scrutinized business operations or convert such operations to inactive business operations in order to avoid qualifying for divestment by the public fund.
 4. If, within one hundred eighty days following the public fund's first engagement with a company pursuant to paragraph 3, that company ceases scrutinized business operations, the company shall be removed from the list and this section shall cease to apply to it unless it resumes scrutinized business operations. If, within one hundred eighty days after the public fund's first engagement, the company converts its scrutinized active business operations to inactive business operations, the company shall be subject to paragraph 2.
 5. If, after one hundred eighty days following the public fund's first engagement with a company pursuant to paragraph 3, the company continues to have scrutinized active business operations, and only while such company continues to have scrutinized active business operations, the public fund shall sell, redeem, divest or withdraw all publicly traded securities of the company according to the following schedule:
 - (a) at least fifty per cent of assets shall be removed from the public fund's assets under management within twelve months after the company's most recent appearance on the list.
 - (b) one hundred per cent of assets shall be removed from the public fund's assets under management within eighteen months after the company's most recent appearance on the list.
 - (c) if a company that ceased scrutinized active business operations following engagement pursuant to paragraph 3 resumes such operations, subdivision (a) shall immediately apply, and the public fund shall send a written notice to the company. The company shall also be immediately reintroduced onto the list.
 6. The public fund shall not acquire securities of companies on the scrutinized companies with activities in the Iran petroleum energy sector list that have active business operations, except as provided in paragraphs 7 and 8.
 7. A company for whom the United States president exercises his waiver authority or the united states government affirmatively declares to be excluded from its present or any future federal sanctions regime relating to Iran shall not be subject to divestment or investment prohibition pursuant to paragraphs 5 and 6.
 8. Notwithstanding any other law, paragraphs 5 and 6 do not apply to indirect holdings in actively or passively managed investment funds or direct holdings in passively managed investment funds. The public fund shall annually submit letters to the managers of such investment funds containing companies with scrutinized active business operations requesting that they consider removing such companies from the fund or create a similar actively or passively managed fund devoid of such companies. If the manager creates a similar fund, the use of which would not require increased fees on the part of the public fund, the public fund shall replace all applicable investments with investments in the similar fund in a reasonable time frame consistent with prudent investing standards.
- B. For the purposes of this section, private funds shall be deemed to be indirect holdings in actively managed investment funds.

Added as § 35-393 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.02.

35-393.03. Reporting

- A. The public fund shall submit a publicly available report to the United States Attorney General, the Senate and the House of Representatives committees that are responsible for retirement issues, the governor and the central procurement officer of this state that includes the scrutinized

companies with activities in the Iran petroleum energy sector list within thirty days after the list is first created.

- B. On or before January 31 of each year, the public fund shall submit a publicly available report to the United States Attorney General, the Senate and the House of Representatives committees that are responsible for retirement issues, the governor and the central procurement officer of this state that includes all of the following:
1. A summary of correspondence with companies engaged by the public fund pursuant to Section 35-393, subsection A, paragraphs 2 and 3.
 2. All investments sold, redeemed, divested or withdrawn pursuant to Section 35-393, subsection A, paragraph 5.
 3. All prohibited investments pursuant to Section 35-393, subsection A, paragraph 6.
 4. Any progress made pursuant to Section 35-393, subsection A, paragraph 8.
 5. All investment costs associated with compliance with Section 35-393.

Added as § 35-394 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.03.

35-393.04. Other legal obligations; immunity

- A. With respect to actions taken in compliance with this Article, including all good faith determinations regarding companies as required by this Article, a public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios.
- B. With respect to all actions taken in good faith compliance with this Article, a public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are immune from any liability.
- C. A public fund, its board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund are indemnified from the state general fund and held harmless by this state from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including costs and attorney fees, and against all liability, losses and damages of any nature that the public fund, board of directors and individual board members, agents, attorneys, trustees, officers, employees, custodians, fiduciaries, research firms and investment managers under contract with the public fund may at any time sustain by reason of any decision to restrict, reduce or eliminate investments made in good faith compliance with this article.

Added as § 35-395 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.04.

35-393.05. Reinvestment in certain companies with scrutinized active business operations

Notwithstanding any other law, the public fund may cease divesting from certain scrutinized companies pursuant to Section 35-393 or reinvest in certain scrutinized companies from which it divested pursuant to Section 35-393 if a preponderance of the evidence shows that the value of the assets of the affected account of the public fund becomes equal to or less than ninety-nine and one-half per cent of the hypothetical value of the assets of the affected account of the public fund assuming no divestment for any company had occurred under Section 35-393. For any cessation of divestment, reinvestment or subsequent ongoing investment authorized by this section, the public fund shall provide a written report to the governor, the senate and the house of representatives committees that are responsible for retirement issues, in advance of initial reinvestment, updated annually thereafter as applicable, setting forth the reasons and justification, supported by a preponderance of the evidence, for its decisions to cease divestment, reinvest or remain invested in companies with scrutinized active business operations. This section has no application to reinvestment in companies on the ground that they have ceased to have scrutinized active business operations.

Added as § 35-396 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.05.

35-393.06. Prohibition on government contracts

- A. Within thirty days after receipt of a report required by Section 35-394, the central procurement officer of this state shall send a notice to the scrutinized company indicating that this state and its political subdivisions are prohibited from purchasing any product or service from a scrutinized company until the company is no longer on the scrutinized companies with activities in the Iran petroleum energy sector list. This prohibition does not apply to any existing contract but does apply to any new contract or renewal of a contract.
- B. This state and political subdivisions of this state shall ensure that each contract entered into by the state or political subdivision of this state for the procurement of goods or services includes a clause that requires the contractor to certify to the contracting officer that the contractor does not have scrutinized business operations in Iran.
- C. If this state or political subdivision of this state determines that the contractor has submitted a false certification under subsection B of this Section, the state or political subdivision may impose remedies as provided by law. On the determination of a false certification under subsection B of this Section, this state or political subdivision of this state may terminate a covered contract.
- D. This state or political subdivision of this state shall notify the central procurement officer of this state of any contractor that has submitted a false certification under subsection B of this Section.
- E. Based on information reported in Section 35-394, the central procurement officer of this state shall compile and make available, on an annual basis, a list of parties with activities in the Iran petroleum energy sector excluded from Arizona procurement.
- F. Based on information reported in Section 35-394, the central procurement officer of this state may suspend a contractor from eligibility for state or political subdivision contracts upon the notification from the state or political subdivision of a false certification under subsection B of this section. The suspension period shall not exceed three years.
- G. This Section does not limit the use of other remedies available to this state or a political subdivision of this state or any other official of this state the basis of a false certification under subsection B of this section.
- H. The governor may waive the requirements of subsection A or B of this Section on a case-by-case basis if the governor determines and certifies in writing to the central procurement officer of this state that it is in the state's best interest to do so.
- I. Within one year after the effective date of this Section, the central procurement officer of this state shall provide a written report to the Governor, the Senate and the House of Representatives committees that are responsible for retirement issues on the actions taken under this section.
- J. This Section applies to all affiliated companies and subsidiaries of the company.

Added as § 35-397 by Laws 2008, Ch. 235, § 1, effective May 23, 2008. Renumbered as § 35-393.06.

Sec. 3. Delayed repeal; condition; notice

- A. Title 35, chapter 2, article 7, Arizona Revised Statutes, as added by this act, is repealed as of the earliest date that any of the following occurs:
 - 1. The United States Congress or President of the United States affirmatively and unambiguously states, by means including legislation, executive order or written certification from the President to Congress, that the government of Iran has ceased to pursue the capabilities to develop nuclear weapons and support international terrorism.
 - 2. The United States revokes all sanctions imposed against the government of Iran.
 - 3. The United States Congress or President of the United States affirmatively and unambiguously states, by means including legislation, executive order or written certification from the President to Congress, that divestment of the type provided for in this act interferes with the conduct of United States foreign policy.
 - 4. Public Law 104-172, the Iran Sanctions Act of 1996, and its amendments are repealed.
 - 5. July 1, 2013.
- B. The director of the Arizona State Retirement System shall notify in writing the director of the Arizona legislative council of this date.

Sec. 4. Emergency

This Act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

Amended by Laws 2008, Ch. 235, § 3.

FIRE FIGHTER AND PEACE OFFICER CANCER INSURANCE (38-641 THROUGH 38-645)

38-641. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the board of trustees of the Public Safety Personnel Retirement System established by section 38-848, including its authorized employees, administrators, attorneys and agents.
2. "Employer" means this state or any political subdivision of this state, including cities, towns, fire districts and Indian tribes, that employs fire fighters or peace officers and that participates in the Public Safety Personnel Retirement System established by chapter 5, article 4 of this title.
3. "Peace officer" means a certified peace officer as defined in section 38-842.
4. "Program" means the fire fighter and peace officer cancer insurance policy program established by this article.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997; Amended by Laws 2000, Ch. 39, § 1; Laws 2007, Ch. 147, § 2.

38-642. Fire fighter and peace officer cancer insurance policy program

- A. The board shall establish and administer a fire fighter and peace officer cancer insurance policy program for participating employers that employ fire fighters or peace officers. For the purposes of the internal revenue code, the program is an integral part of a political subdivision of this state.
- B. Participating employers that employ fire fighters or peace officers shall participate in the program.
- C. The board shall contract for a group cancer insurance policy to provide coverage as prescribed by section 38-645 or may self-insure the program by establishing an insurance policy that is of its own design and that is underwritten by the assets of the fire fighter and peace officer cancer insurance policy program account established by section 38-643. When procuring, establishing or administering any cancer insurance policy provided pursuant to this article the board is exempt from the requirements of Title 41, Chapter 23.
- D. On or before July 31 of each year, the board shall notify each employer required to participate in the program of the total amount payable to the board to pay for the costs of the program. The amount charged to each employer shall not exceed one hundred eighty dollars for each employee of the employer who is a fire fighter or peace officer on record with the board as of June 30 of that year. Each employer shall pay this amount to the board on or before August 31 of each year.
- E. Employers that fail to pay the amount required by subsection D of this section by August 31 shall pay a fifteen per cent late charge to the board on all delinquent amounts accrued monthly. If the amount due and the late charge are not paid within thirty days, the board may recover the amounts due from the employer by either:
 1. Filing an action in a court of competent jurisdiction to recover the amount due.
 2. Requesting a deduction of any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.
- F. If the board self-insures the program the board and the program are exempt from Title 20 and any rules adopted pursuant to Title 20.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997. Amended by Laws 2000, Ch. 39, § 2; Laws 2004, Ch. 177, § 1; Laws 2007, Ch. 147, § 3.

38-643. Fire fighter and peace officer cancer insurance policy program account

- A. The fire fighter and peace officer cancer insurance policy program account is established and shall be under the exclusive control of the board. The board shall deposit monies collected pursuant to section 38-642 in the account to pay the cost of providing a group cancer insurance policy under the program and the cost of administering the program.
- B. The board may use up to ten per cent of the monies deposited in the account each year ending July 31 to pay the costs of administering the program, except that board attorney fees and court costs relating to the program shall be paid out of the account and are not subject to this limitation.
- C. The board shall cause an independent audit of the account to be performed at the end of each fiscal year and shall report the results of the audit to each employer within six months following the end of the fiscal year.
- D. The employer contributions and securities in the account and investment earnings on monies in the account are exempt from state, county and municipal taxes.
- E. The program is a welfare benefit plan or trust intended to pay expenses incurred in the treatment of cancer as provided in the policy of insurance secured or established by the board pursuant to section 38-642. The legislature intends that the program's income be excluded as gross income for the purposes of the assessment of federal income tax under section 115 of the internal revenue code and that coverage under the program be excluded as gross income to the employees or retirees under section 106 of the internal revenue code. The board may adopt additional program provisions as are necessary to fulfill its intent that the program's income and premiums are not subject to federal income tax.
- F. Employers, the board of trustees and any member of a local board do not guarantee the account in any manner against loss or depreciation and are not liable for any act or failure to act made in good faith pursuant to this article, including determinations on program claims.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997. Amended by Laws 2000, Ch. 39, § 3; Laws 2007, Ch. 147, § 4.

38-644. Eligibility

- A. Except as provided in subsections B, C and D, to qualify for covered benefits under the program, a person must satisfy all of the following criteria:
 - 1. Be an active or retired member of the Public Safety Personnel Retirement System.
 - 2. Be a firefighter who is or was regularly assigned to hazardous duty of the type normally expected of a firefighter or be a peace officer.
 - 3. Have cancer that was first diagnosed after the person's date of membership in the Public Safety Personnel Retirement System.
- B. Persons who terminate employment with a participating employer are not eligible for benefits under the program unless the person has made a valid claim for payment of expenses under the program before termination of employment.
- C. On retirement, persons who were either receiving benefits under the program before retirement or who are diagnosed with cancer subsequent to retirement remain eligible for coverage under the program for five months for each year of credited service accumulated toward retirement under the Public Safety Personnel Retirement System.
- D. A person whose eligibility to receive benefits under subsection C is expiring may continue to remain eligible for coverage under the program if the person makes an election with the board and pays to the board the cost of the premium as determined by the board at the time determined by the board.
- E. A person is not eligible for benefits under the program if there is any evidence that the cancer that forms the basis for a benefit claim under the program existed before the person's membership in the Public Safety Personnel Retirement System.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997. Amended by Laws 2000, Ch. 39, § 4; Laws 2001, Ch. 13, § 1; Laws 2004, Ch. 177, § 2; Laws 2007, Ch. 147, § 5.

38-645. Coverage

- A. Coverage provided under the program shall provide benefits to eligible persons to pay for expenses that are designated by the board and that are incurred in the treatment of cancer, including treatments by clinics or providers outside of the United States.
- B. The board may provide for additional coverage or exclusions under the program based on available monies in the fire fighter and peace officer cancer insurance policy program account.
- C. Coverage under the fire fighter and peace officer cancer insurance policy program may be canceled, changed or terminated by the board at any time without notice. If the program is terminated, the board shall refund monies in the fire fighter and peace officer cancer insurance policy program account on a pro rata basis to employers, excluding monies held in reserve for benefits as determined by the board.
- D. If the program is self-insured, benefits are limited to the assets in the fire fighter and peace officer cancer insurance policy program account and those benefits may be reduced or eliminated at any time.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997. Amended by Laws 2000, Ch. 39, § 5; Laws 2007, Ch. 147, § 6; Laws 2007, Ch. 147, § 7, retroactive to June 30, 2007.

38-651.01. Group health and accident coverage for retired public employees and elected officials and their dependents

- A. The department of administration shall, by rule, adopt standards to establish group health and accident coverage for former employees who worked for the state of Arizona and who opt upon retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona, or disabled, and receiving either income from a retirement program of this state or long-term disability income benefits pursuant to section 38-651.03 or chapter 5, article 2.1 of this title and their dependents and to establish eligibility for retired or disabled state employees to participate in the coverage. The department of administration may adopt rules which provide that if a retired or disabled insured dies before an insured surviving dependent, the insured surviving dependent is entitled to extended coverage at group rates if the insured surviving dependent elects to continue in the coverage within six months of the retired or disabled insured's death and the insured surviving dependent agrees to pay the cost of the premium for group health and accident insurance. Upon notification of the retired or disabled insured's death, the department of administration shall immediately notify an insured surviving dependent of the provisions of this section. The department of administration may enter into agreements with disabled former state employees and their dependents who elect to obtain the coverage provided by this section. The agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage. The department of administration may adopt rules which provide that upon the death of a state employee who at the time of death was eligible for normal retirement pursuant to section 38-781.07 under the Arizona state retirement plan, the insured surviving spouse and eligible dependent children are entitled to continue coverage under group rates provided that the deceased insured state employee, spouse and dependent children were insured at the time of the employee's death. The insured surviving spouse shall be charged an amount sufficient to pay the full premium for the coverage.
- B. The department of administration may, by rule, adopt standards to establish group health and accident coverage for former elected officials of this state or its political subdivisions and their dependents and to establish eligibility for former elected officials to participate in the coverage. Qualifications for eligibility shall include that the former elected official has at least five years of credited service in the Elected Officials' Retirement Plan pursuant to chapter 5 of this title, had been covered under a group health or group health and accident plan while serving as an elected official and had been serving as an elected official on or after January 1, 1983. The department of administration may adopt rules which provide that upon the death of an elected official or insured former elected official, the insured surviving spouse is entitled to coverage at group rates provided that the deceased insured former elected official met or would have met the qualifications for eligibility pursuant to this subsection or that the deceased elected official would

have met the qualifications for eligibility had the deceased not been in office at the time of death. Except as provided in subsection J of this section, the insured former elected official or the insured surviving spouse shall be charged amounts which are sufficient to pay for the premium and state administrative expense of providing the coverage. Notwithstanding subsection J of this section, the standards shall provide that all or any portion of the former state employees or former elected officials or their dependents shall be grouped with officers and employees of the state and its departments and agencies or their dependents as necessary to obtain health and accident coverage at favorable rates.

- C. The state retirement system board may enter into agreements with retired and disabled state employee members of the system and plan who elect to obtain the coverage provided pursuant to subsection A of this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing the coverage.
- D. Retired state employee or disabled state employee members of the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan or the optional retirement programs authorized pursuant to section 15-1628 who opt upon retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for the state of Arizona and their dependents and who are receiving benefits from the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan or the optional retirement programs authorized pursuant to section 15-1628 may participate in group health and accident coverage provided pursuant to this section. The department of administration shall adopt rules which are necessary for the implementation of this subsection.
- E. The board of trustees of the Public Safety Personnel Retirement System may enter into agreements with retired state employee members and their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain such coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing the coverage.
- F. The board of trustees of the Public Safety Personnel Retirement System may enter into agreements with retired judges and retired elected officials and their dependents who elect to obtain the coverage provided pursuant to this section. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and state administrative expense of providing the coverage.
- G. The board of trustees of the Public Safety Personnel Retirement System may contract with an insurance carrier and adopt standards to establish a group health and accident insurance coverage program for retired members of the Public Safety Personnel Retirement System, their dependents and their spouses. Any members or spouses who elect to obtain the group health and accident coverage provided under this subsection shall agree to a deduction from their monthly retirement benefits of an amount sufficient to pay for the premium not covered under retirement benefits and administrative expense of providing the coverage.
- H. A county board of supervisors may enter into agreements to establish group health and accident coverage for retired or disabled county employees and their dependents who elect to obtain the coverage provided pursuant to section 11-263, subsection B. The agreements may include provision for the deduction from the retirement benefits of participants of a retirement program of this state who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing for the coverage.
- I. Nonmedicare eligible retirees who live in this state, who enroll in a qualifying plan under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option to enroll with a qualified health maintenance organization offered through their provider under the same premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:
 - 1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance

- organization.
2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the retiree.
 3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the retiree to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the retiree living outside the area of the qualifying health maintenance organization.
- J. Public funds shall not be expended to pay all or any part of the premium of the insurance pursuant to this section except for monies authorized to be paid for any insured from the retirement plan which the insured is receiving benefits.

Added by Laws 1976, Ch. 117, § 1. Amended by Laws 1977, Ch. 163, § 2, effective June 6, 1977; Laws 1979, Ch. 96, § 1; Laws 1980, Ch. 153, § 2; Laws 1981, Ch. 271, § 2, effective April 27, 1981; Laws 1983, Ch. 98, § 106; Laws 1983, Ch. 300, § 1; Laws 1984, Ch. 246, § 2; Laws 1986, Ch. 234, § 1, effective April 29, 1986; Laws 1987, Ch. 282, § 1, effective August 17, 1987; Laws 1988, Ch. 331, § 1; Laws 1989, Ch. 310, § 1; Laws 1990, Chapter 235, § 1; Laws 1994, Ch. 25, § 1; Laws 1994, Ch. 356, § 3; Laws 1995, Ch. 134, § 1, effective April 17, 1995; Laws 1997, Ch. 291, § 3, effective July 1, 1998; Laws 1999, Ch. 300, § 12.

38-1103. Health insurance payments for spouse or dependents of law enforcement officer killed in the line of duty; definition

- A. Notwithstanding any other law, the surviving spouse of a deceased law enforcement officer is entitled to receive payments for health insurance premiums from public monies of the employer of the law enforcement officer for the first year after the death of the law enforcement officer if:
1. The law enforcement officer was killed in the line of duty or died from injuries suffered in the line of duty.
 2. The law enforcement officer was enrolled in the employer's health insurance plan at the time of death.
 3. The surviving spouse is entitled to continue to participate in the employer's health insurance plan.
- B. This section applies to the dependents of the deceased law enforcement officer if the dependents were enrolled in the employer's health insurance plan at the time of the law enforcement officer's death.
- C. Payments shall be reduced for monies paid for health insurance premiums for the surviving spouse or dependents of the surviving spouse from the retirement plan from which the surviving spouse is receiving benefits.
- D. For the purposes of this section, "law enforcement officer" means:
1. A peace officer who is certified by the Arizona peace officers standards and training board.
 2. A detention officer or corrections officer who is employed by this state or a political subdivision of this state.
 3. A probation officer or surveillance officer who is employed by this state or a political subdivision of this state.

Added by Laws 2010, Ch. 148, effective April 26, 2010.

38-782. Group health and accident coverage for retired public employees and elected officials and their dependents

- A. The board shall establish group health and accident coverage for eligible retired and disabled members and their dependents. Eligible retired and disabled members are those members who are receiving retirement benefits from ASRS or long-term disability benefits pursuant to section 38-651.03 or article 2.1 of this chapter and who elect not to obtain health and accident insurance through their former employer. If an insured retired or disabled member dies before the insured

member's dependent beneficiary or an insured surviving dependent, the dependent beneficiary or insured surviving dependent is entitled to coverage at group rates if the dependent beneficiary or surviving dependent elects to continue in the coverage within six months of the insured member's death and the dependent beneficiary or surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the insured member's death, the board shall immediately notify a dependent beneficiary of an insured surviving dependent of the provisions of this section.

- B. Retired members of the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who are receiving benefits from the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and who are not covered by section 38-651.01 may participate in group health and accident coverage provided pursuant to this section. On the death of an insured member of the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan or the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628, the insured surviving dependent is entitled to coverage at group rates. Except as provided in subsection H of this section, the surviving dependent shall be charged amounts that are sufficient to pay for the premium and administrative expense of providing the coverage.
- C. The board may enter into agreements with retired and disabled members of ASRS who elect to obtain the coverage provided pursuant to subsection A of this section. Those agreements may include provision for the deduction from the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under retirement benefits and the administrative expense of providing the coverage.
- D. The board of trustees of the Public Safety Personnel Retirement System may enter into agreements with retired members of the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan, the Corrections Officer Retirement Plan and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the deduction of the retirement benefits of the members who elect to obtain the coverage of amounts sufficient to pay for the premium not covered under their retirement benefits and the administrative expense of providing the coverage.
- E. The board may enter into agreements with retired members of the optional retirement programs authorized pursuant to sections 15-1451 and 15-1628 and their dependents who elect to obtain the coverage provided pursuant to this section. Those agreements may include provisions for the payment of amounts sufficient to pay for the premium and administrative expense of providing the coverage.
- F. If an insured member receiving long-term disability benefits pursuant to article 2.1 of this chapter becomes ineligible for the long-term disability benefits, the member and the covered dependents of the member may continue to participate in the group health and accident coverage provided pursuant to this section subject to the following conditions:
 - 1. Participation in the coverage is limited to twelve months from the date the member ceases eligibility for benefits under article 2.1 of this chapter or the member commences employment, whichever occurs first.
 - 2. The member shall pay the full premium cost of the coverage selected, and the member is not eligible for benefits pursuant to section 38-783.
 - 3. If a member who participates in the coverage dies during the twelve month period provided by this subsection, covered dependents of the member may continue coverage after the death of the member through the end of the twelve month period. Covered dependents of the member who continue coverage pursuant to this paragraph shall pay the full premium cost of the coverage selected and are not eligible for benefits pursuant to section 38-783.
- G. Retired or disabled members who are not eligible for medicare, who live in this state, who enroll in a qualifying health maintenance organization under this section and who reside outside the area of a qualifying health maintenance organization shall be offered the option of enrolling with a qualified health maintenance organization offered through their provider under the same

premiums as if they lived within the area boundaries of the qualified health maintenance organization provided that:

1. All medical services are rendered and received at an office designated by the qualifying health maintenance organization or at a facility referred by the health maintenance organization.
 2. All nonemergency or nonurgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization are the responsibility of and at the expense of the member.
 3. All emergency or urgent travel, ambulatory and other expenses from the residence area of the member to the designated office of the qualifying health maintenance organization or the facility referred by the health maintenance organization shall be paid pursuant to any agreement between the health maintenance organization and the member living outside the area of the qualifying health maintenance organization.
- H. Public monies shall not be spent to pay all or any part of the insurance premium pursuant to this Section except for monies authorized to be paid for any insured from the retirement plan from which the insured is receiving benefits.

Added by Laws 1995, Ch. 32, § 14, effective March 30, 1995. Amended by Laws 1995, Ch. 134, § 13; Laws 1997, Ch. 291, § 4, effective July 1, 1998; Laws 1998, Ch. 236, § 3; Laws 1999, Ch. 300, § 15; Laws 2001, Ch. 136, § 18.

38-803. Powers and duties of the board

- A. The board, in the administration, management and operation of the plan and fund, shall:
1. Account for the operation, administration and investment expenses and allocate them against investment income.
 2. Contract on a fee basis with an actuary to make an actuarial valuation of the plan based on the valuation method and valuation assumptions recommended by the actuary and approved by the board. The actuary shall be a member of the American academy of actuaries.
 3. Contract on a fee basis with an independent auditing firm to make an annual audit of the accounting records of the fund and file a copy of the audit with the auditor general.
 4. Invest the monies in the fund as provided in article 4 of this chapter.
 5. Within a period of six months after the close of each fiscal year, submit a detailed report of the operation and the investment performance of the plan to the governor, the legislature and the members of the plan.
 6. By November 1 of each year provide a preliminary report and by December 15 of each year provide a final report to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.
- B. The board, in the administration, management and operation of the plan and fund, may:
1. Employ services as it deems necessary.
 2. Either keep invested monies separate or commingle invested monies as it deems appropriate.
 3. Delegate authority as it deems necessary and prudent to the administrator employed pursuant to section 38-848, subsection K, paragraph 6.
 4. Do all acts, whether expressly authorized, which may be deemed necessary or proper for the protection of the fund.

Added by Laws 1985, Ch. 309, § 4. Amended by Laws 1997, Ch. 210, § 24, effective March 1, 1998; Laws 2005, Ch. 331, § 6. Amended by Laws 2008, Ch. 125, § 1, effective April 29, 2008.

38-921. Transfer of retirement service credits from one retirement system or plan to another retirement system or plan in this state

- A. An active or inactive member of a state retirement system or plan, including the retirement system provided for in article 2 of this chapter, the Elected Officials' Retirement Plan provided for in article 3 of this chapter, the Public Safety Personnel Retirement System provided for in article 4

of this chapter or the Corrections Officer Retirement Plan provided for in article 6 of this chapter may transfer service credits from one system or plan to the member's current or former system or plan pursuant to section 38-922 if all of the following conditions are met:

1. The board or board of trustees governing the retirement system or plan from which the service credits are being transferred mutually agrees with the board or board of trustees governing the retirement system or plan to which the service credits are being transferred regarding the terms of the transfer.
 2. The transfer does not cause either the retirement system or plan to which the transfer is made or the retirement system or plan from which the transfer is made to incur any unfunded accrued liabilities as a result of the transfer.
 3. The member initiates the transfer by making written application to the governing board or board of trustees of the retirement system or plan to which the member is contributing.
- B. For the purposes of this section:
1. "Active member" means a member who satisfies the eligibility criteria of the state retirement system or plan and who is currently making member contributions to or receiving credited service from the state retirement system or plan.
 2. "Inactive member" means a member of the state retirement system or plan who previously made contributions to the state retirement system or plan and who satisfies each of the following:
 - (a) Has not retired.
 - (b) Is not eligible for active membership in the state retirement system or plan.
 - (c) Is not currently making contributions to the state retirement system or plan.
 - (d) Has not withdrawn contributions from the state retirement system or plan.

Added by Laws 1989, Ch.310, § 16; Laws 1995, Ch. 32, § 19; Amended by Laws 2001, Ch. 123 §1.

38-922. Transfer or redemption of service credits

- A. Service credits qualified in accordance with section 38-730 or 38-921 may be transferred or redeemed in accordance with this section.
- B. In the case of a member whose contributions remain on deposit with the prior retirement system or plan, the following shall be calculated:
1. The prior system or plan shall calculate the amount equal to the actuarial present value of a member's projected benefits to the extent funded on a market value basis as of the most recent actuarial valuation under the prior system or plan as calculated by that system's or plan's actuary using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements based on the transferring member's service credits at the time of transfer. If a system's or plan's market value is greater than one hundred per cent, the system or plan shall use a one hundred per cent market value.
 2. The system or plan to which the member is transferring shall calculate the increase in the actuarial present value of the projected benefits provided as a result of the transfer of the member's service credits. This calculation shall be performed by that system's or plan's actuary using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements based on the transferring member's service credits at the time of transfer.
- C. In the event a member decides to transfer:
1. If the amount calculated in subsection B, paragraph 2 is greater than the amount calculated in subsection B, paragraph 1:
 - (a) The prior system or plan shall transfer to the present system or plan the greater of the amount calculated in subsection B, paragraph 1 or the member's accumulated contribution account balance.
 - (b) If the amount transferred is less than the amount calculated under subsection B, paragraph 2, the transferring member shall elect either to pay the difference or to accept a reduced transfer of service credits. If the member elects to pay the difference, the amount paid shall be added to the member's accumulated contribution account balance. If the member elects to accept a reduced transfer of service credits, the amount of service credits transferred

shall be equal to the amount of service credits used in making the calculation under subsection B, paragraph 1 multiplied by the ratio of the amount calculated under subsection B, paragraph 1 to the amount calculated under subsection B, paragraph 2.

2. If the amount calculated in subsection B, paragraph 2 is less than or equal to the amount calculated in subsection B, paragraph 1, the prior system or plan shall transfer to the present system or plan the greater of the amount calculated in subsection B, paragraph 2 or the member's accumulated contribution account balance.
- D. In the case of an applicant who has withdrawn the applicant's member contributions from another prior system or plan of this state, the applicant shall pay into the new system or plan to which the applicant is transferring an amount equal to the increase in the actuarial present value of the projected benefits provided by the service credits being redeemed and this amount shall be included in the member's current accumulated contribution account balance. This calculation shall be performed by the actuary of the system or plan to which the service credits are being transferred using the same actuarial method and assumptions used in calculating that system's or plan's funding requirements.
 - E. Service credits shall not be applied to the applicant's account until such time as complete payment is made to the retirement system or plan to which the applicant is transferring. On completion of the transfer provided for in this article, the member's rights in the retirement system or plan from which the member is transferring are extinguished.
 - F. A member electing to transfer to or redeem service with the Public Safety Personnel Retirement System, the Elected Officials' Retirement Plan or the Corrections Officer Retirement Plan pursuant to this section may pay for the service being transferred or redeemed in the form of a lump sum payment to the system or plan, a trustee-to-trustee transfer or a direct rollover of an eligible distribution from a plan described in section 402(c)(8)(B) (iii), (iv), (v) or (vi) of the internal revenue code or a rollover of an eligible distribution from an individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

Added as § 38-952 by Laws 1989, Ch. 310, § 16. Renumbered as § 38-922; Amended by Laws 1991, Ch. 270, § 10; Laws 2009, Ch. 35, § 31, effective September 30, 2009. Amended by Laws 2011, Ch. 277.

38-923. Transfer of service credits between municipal retirement systems and special retirement plans; definitions

- A. An active or inactive member of a retirement system or plan of a municipality of this state or the Public Safety Personnel Retirement System who becomes a member of one or the other of these retirement systems or plans may transfer service credits from the member's prior retirement system or plan to the member's current retirement system or plan pursuant to section 38-924 if all of the following conditions are met:
 1. The board or board governing the retirement system or plan from which the service credits are being transferred mutually agrees with the board or board governing the retirement system or plan to which the service credits are being transferred regarding the terms of the transfer.
 2. The transfer does not cause either the retirement system or plan to which the transfer is made or the retirement system or plan from which the transfer is made to incur any unfunded accrued liabilities as a result of the transfer.
 3. The member initiates the transfer by making written application to the governing board or board of the retirement system or plan to which the member is contributing.
- B. An active or inactive member of a retirement system or plan of a municipality of this state or the Corrections Officer Retirement Plan who becomes a member of one or the other of these retirement systems or plans may transfer service credits from the member's prior retirement system or plan to the member's current retirement system or plan pursuant to Section 38-924 if all of the following conditions are met:
 1. The board or board governing the retirement system or plan from which the service credits are being transferred mutually agrees with the board or board governing the retirement system or plan to which the service credits are being transferred regarding the terms of the transfer.
 2. The transfer does not cause either the retirement system or plan to which the transfer is

- made or the retirement system or plan from which the transfer is made to incur any unfunded accrued liabilities as a result of the transfer.
3. The member initiates the transfer by making written application to the governing board or board of the retirement system or plan to which the member is contributing.
- C. For the purposes of this section:
1. "Active member" means a member who satisfies the eligibility criteria of the retirement system or plan and who is currently making member contributions to or receiving credited service from the retirement system or plan.
 2. "Inactive member" means a member of the retirement system or plan who previously made contributions to the retirement system or plan and who satisfies each of the following:
 - (a) has not retired.
 - (b) is not eligible for active membership in the retirement system or plan.
 - (c) is not currently making contributions to the retirement system or plan.
 - (d) has not withdrawn contributions from the retirement system or plan.
 3. "Municipality" means a city in this state with a population of more than five hundred thousand persons.

Added Laws 2006, Ch. 264, § 22.

38-924. Transfer of service credits

- A. Service credits qualified pursuant to section 38-923 may be transferred pursuant to this section.
- B. In the case of a member whose contributions remain on deposit with the prior retirement system or plan, the following shall occur:
 1. The prior system or plan shall determine the amount of the member's accumulated contribution account balance under the prior system or plan plus accumulated interest as determined by the governing body of the system or plan.
 2. The system or plan to which the member is transferring shall calculate any increase in the actuarial present value of the projected benefits provided as a result of the transfer of the member's service credits. The actuary of the system or plan to which the service credits are being transferred shall perform this calculation using the actuarial method and assumptions recommended by the actuary and adopted by the governing body of the retirement system or plan.
- C. If a member decides to transfer:
 1. The prior system or plan shall transfer to the present system or plan the amount determined pursuant to subsection B, paragraph 1 of this section. if the amount calculated in subsection B, paragraph 2 of this section is greater than the amount determined in subsection B, paragraph 1 of this section, the transferring member shall either elect to pay the difference in order to receive all service credits earned under the prior system or plan or to accept a reduced transfer of service credits. if the member elects to pay the difference, the amount paid shall be added to the member's accumulated contribution account balance. if the member elects to accept a reduced transfer of service credits, the amount of service credits transferred shall be equal to the amount of service credits earned under the prior system or plan corresponding to the amount determined under subsection B, paragraph 1 of this section multiplied by the ratio of the amount calculated under subsection B, paragraph 1 of this section to the amount calculated under subsection B, paragraph 2 of this section.
 2. If the amount calculated in subsection B, paragraph 2 of this section is less than or equal to the amount determined in subsection B, paragraph 1 of this section, the current system or plan shall credit the member with service credits under the current system or plan equal to the service credit earned under the prior system or plan corresponding to the amount determined under subsection B, paragraph 1 of this section.
- D. The retirement system or plan shall not apply service credits to the applicant's account until such time as complete payment is made to the retirement system or plan to which the applicant is transferring. On completion of the transfer provided for in this article, the member's rights in the retirement system or plan from which the member is transferring are extinguished.

Added by Laws 2006, Ch. 264, § 22.

ARTICLE 8. SUPPLEMENTAL DEFINED CONTRIBUTION PLANS

38-951. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the Arizona State Retirement System board established by section 38-713.
2. "Eligible group" means any of the following:
 - (a) The Arizona State Retirement System established by article 2 of this chapter.
 - (b) The Elected Officials' Retirement Plan established by article 3 of this chapter.
 - (c) The Public Safety Personnel Retirement System established by article 4 of this chapter.
 - (d) The Corrections Officer Retirement Plan established by article 6 of this chapter.
 - (e) An optional retirement program established pursuant to section 15-1451 or 15-1628.
3. "Employer" means an agency or department of this state or an agency or department of a political subdivision of this state that has employees in an eligible group.
4. "Board of Trustees" means the board established by section 38-848.
5. "Plan" means a supplemental defined contribution plan authorized by this article.

Added by Laws 2001, Ch. 280 § 9 and Ch. 390, § 15.

38-952. Supplemental defined contribution plans establishment administration

- A. The board, employer or board of trustees of an eligible group may establish, administer, manage and operate a supplemental defined contribution plan. The board may establish a single supplemental defined contribution plan for all contributing members of the retirement system and plans it administers.
- B. If a board, employer or board of trustees establishes a supplemental defined contribution plan:
 1. The board may delegate authority to implement the plan to its director appointed pursuant to section 38-715.
 2. The employer may delegate authority to implement the plan to its internal benefits administrator or designee.
 3. The board may delegate authority to implement the plan to the administrator employed pursuant to section 38-848, subsection K, paragraph 6.
 4. The board or board of trustees may:
 - (a) Employ services it deems necessary, including legal services, for the operation and administration of the plan.
 - (b) Administer the plan through contracts with multiple vendors.
 - (c) Perform all acts, whether or not expressly authorized, that it deems necessary and proper for the operation and protection of the plan.
 - (d) For the purposes of this Article, enter into intergovernmental agreements pursuant to Title 11, Chapter 7, Article 3.
- C. A supplemental defined contribution plan shall be designed to be a qualified governmental plan under section 401(a) of the internal revenue code. The legislature intends that a supplemental defined contribution plan is a qualified plan under section 401 of the internal revenue code, as amended, or successor provisions of law, and that a plan is exempt from taxation under section 501 of the internal revenue code. The board, employer or board of trustees may adopt any additional provisions to a plan that are necessary to fulfill this intent.
- D. Although designated as employee contributions, all employee contributions made to a plan shall be picked up and paid by the employer in lieu of contributions by the employee. The contributions picked up by an employer may be made through a reduction in the employee's compensation or an offset against future compensation increases, or a combination of both. An employee participating in a plan does not have the option of choosing to receive the contributed amounts directly instead of the employer paying the amounts to the plan. It is intended that all employee

contributions that are picked up by the employer as provided in this subsection shall be treated as employer contributions under section 414(h) of the internal revenue code, shall be excluded from employees' gross income for federal and state income tax purposes and are includable in the gross income of the employees or their beneficiaries only in the taxable year in which they are distributed. The specified effective date of the pickup pursuant to this subsection shall not be before the date the plan receives notification from the internal revenue service that all employee contributions that are picked up by the employer as provided in this subsection shall be treated as employer contributions pursuant to section 414(h) of the internal revenue code. Until notification is received, any employee contributions made under section 38-953 are made with after-tax contributions.

Added by Laws 2001, Ch. 280, § 9 and Ch. 380, § 15. Amended by Laws 2003, Ch. 250, § 1

38-953. Supplemental option

- A. A supplemental defined contribution plan is in addition to and does not replace an employee's existing state defined benefit retirement plan.
- B. Except as provided in subsection C, any contributing member of an eligible group that establishes a supplemental defined contribution plan as authorized by this article may participate in the supplemental defined contribution plan. Participation in any plan established by an eligible group authorizes the member's employer to make reductions or deductions in the member's compensation. The employer shall submit any reports required by the plan. Any compensation deferred under the plan shall be included as regular compensation or compensation for the purpose of computing the retirement and pension benefits earned by any employee participating in the plan.
- C. If the Arizona State Retirement System establishes a supplemental defined contribution plan and an employer member of the Arizona State Retirement System elects to participate in the supplemental defined contribution plan, any employee member of the employer who meets the eligibility requirements that are prescribed by the board for participation in the supplemental defined contribution plan and that are selected by the member's employer may participate in the supplemental defined contribution plan.
- D. An employee shall make an election to participate in a supplemental defined contribution plan within two years after the employee first meets the eligibility requirements to participate in the plan. An election to participate in a plan is irrevocable and continues for the remainder of the employee's employment with the employer.
- E. If an employee elects to participate in a plan pursuant to this section, the employee shall contribute a prescribed amount of the employee's gross compensation which shall be a percentage of the employee's gross compensation, a fixed dollar amount, an amount prescribed in the plan or some other definitive amount that may not be modified or revoked by the employee. As the plan prescribes, an employer may annually increase or decrease the employee contributions in increments of one per cent up to the maximum allowed by law or the employee may make a one-time irrevocable election of the employee's contribution amount. An employee is not required to contribute under this subsection in order to qualify for an employer match under subsection F or G. The employer match may accrue from any program established by the employer.
- F. An employer may elect to match the contributions made by the employee to the supplemental defined contribution plan at a rate determined by the employer. The employer shall pay this amount to the supplemental defined contribution plan in which the employee participates.
- G. An employer may elect to match the contributions made by the employee to any other program established by the employer under the internal revenue code, including any plan established under internal revenue code section 401(a), 403(b) or 457, at a rate determined by the employer. The employee shall determine whether the employer pays the matching contribution to the 401(a), 403(b), or 457 plan in which the employee participates, to the supplemental defined contribution plan in which the employee participates or to any other plan established by the employer.
- H. The rate of the employer match under subsection F or G shall be determined at the beginning of that employer's budget cycle and shall terminate at the end of that budget cycle. If an employer

elects to match under subsection F or G, the employer shall make the contributions.
Added by Laws 2001, Ch. 280, § 9 Ch. 380, § 15. Amended by Laws 2003, Ch. 250, § 2; Laws 2007, Ch. 98, § 1.

38-954. Vesting

- A. Employee contributions and earnings on employee contributions are immediately vested.
- B. Employer matching contributions, if any, and the earnings on employer matching contributions are vested and the employee is entitled to receive employer matching contributions and earnings on those contributions as follows:
 - 1. If the employee has less than one year of credited service in an eligible group, zero per cent.
 - 2. If the employee has at least one year but less than two years of credited service in an eligible group, twenty per cent.
 - 3. If the employee has at least two years but less than three years of credited service in an eligible group, forty per cent.
 - 4. If the employee has at least three years but less than four years of credited service in an eligible group, sixty per cent.
 - 5. If the employee has at least four years but less than five years of credited service in an eligible group, eighty per cent.
 - 6. If the employee has at least five years of credited service in an eligible group, one hundred per cent.
- C. All nonvested employer contributions and earnings on those contributions may be used, to pay for the administrative costs of the plan.

Added by Laws 2001, Ch. 280, § 9 and Ch. 380, § 15.

Sec. 10. Termination of the tax deferred annuity and deferred compensation pilot program

This act terminates the pilot program option for legislative employees and state elected officials to elect to participate in a tax deferred annuity and deferred compensation program pursuant to Title 38, Chapter 5, Article 5, Arizona Revised Statutes, in lieu of participation in the Arizona State Retirement System pursuant to Title 38, Chapter 5, Article 2, Arizona Revised Statutes. All legislative employees and state elected officials who elected on or before the effective date of this act to participate in a deferred tax annuity and deferred compensation program in lieu of participation in the Arizona State Retirement System shall continue to participate in that option pursuant to the irrevocable election made by the employee or state elected official and the employer shall continue to pay an amount equal to five per cent of the employee's or state elected official's base salary directly to the program in lieu of employer contributions to a public retirement system.

Laws 2001, Ch. 280, § 11 and Ch. 380, § 17 provides:

Sec. 11. Termination of the defined contribution retirement plan option pilot program

This act terminates the pilot program option for certain exempt state officers or employees and state elected officials who are subject to term limits to elect to participate in a defined contribution retirement plan option in lieu of participation in their respective state defined benefit retirement plans. All exempt state officers or employees and state elected officials who are subject to term limits and who elected on or before the effective date of this act to participate in the defined contribution retirement plan option established by laws 1999, chapter 329, section 6 shall continue to participate in that option pursuant to the irrevocable election made by the exempt state officer or employee or state elected official who is subject to term limits and the employer shall continue to contribute to each participating state elected official's or exempt state officer's or employee's account an amount equal to two and sixty-six hundredths per cent of the state elected official's or exempt state officer's or employee's gross salary.

Sec. 54. Severability

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

Sec. 55. Legislative findings

- A. The legislature recognizes that in order to have a sound public retirement system that benefits this state, taxpayers and members of the retirement systems, the public retirement systems must be funded with contributions and investment earnings based on actuarial methods and assumptions that meet generally accepted actuarial standards. Article XXIX, Constitution of Arizona. The legislature finds that the current structures of the Elected Officials' Retirement Plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan do not achieve this goal. Since rights to benefits have not vested because application and eligibility for benefits have not occurred, the legislature intends to modify and amend these various retirement programs in order to protect the best interests of the members and beneficiaries.
- B. The legislature further finds:
1. Members of the:
 - (a) Elected Officials' Retirement Plan who entered the plan on or after July 18, 2000 agreed to the benefit and vesting terms prescribed in section 38-810.02, subsection B, Arizona Revised Statutes, as a material condition of their contract with this state.
 - (b) Public Safety Personnel Retirement System who entered the system on or after July 27, 1983 agreed to the benefit and vesting terms prescribed in section 38-844.01, Arizona Revised Statutes, as a material condition of their contract with this state.
 - (c) Corrections Officer Retirement Plan who entered the plan on or after July 1, 1986 agreed to the legislative reservation terms prescribed in section 38-903, Arizona Revised Statutes, and members who entered the plan on or after July 18, 2000 agreed to the benefit and vesting terms prescribed in section 38-900.01, subsection B, Arizona Revised Statutes, as a material condition of their contract with this state.
 2. That the current structures of the Elected Officials' Retirement Plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan do not lead to the goal of attaining one hundred per cent funded status and jeopardizes the future payment of benefits to current and future retirees of these three retirement programs.
 3. That the current structure of the Public Safety Personnel Retirement System and the Elected Officials' Retirement Plan that requires a fixed employee contribution rate requires a contribution rate from employees that is insufficient in relation to the cost associated with the benefits required by the plan design and therefore places a greater financial burden on employers. By moving to an increased shared cost structure, public safety and corrections employees will bear increased responsibility for the fiscal health of the funds and, as the funds improve their funded status and approach fully funded or overfunded status, the employees will realize decreased contribution costs that would be lower than currently required.
 4. That the current method of funding benefit increases to retirees of the elected officials retirement plan, the Public Safety Personnel Retirement System and the corrections officers retirement plan is flawed and makes it highly unlikely that these funds will achieve their actuarially assumed earning rates during positive and negative investment environments and invariably leads to greater investment risk on the part of the funds' trustees. It is fundamentally unsound to provide a benefit increase during periods when the funded status of the retirement programs is less than sixty per cent. Changing the manner of funding these benefit increases is intended to improve the funded status of the Elected Officials' Retirement Plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan and is in the best interests of the members and beneficiaries of these retirement programs in that it will preserve future benefits for plan participants.
 5. It is necessary to change the future plan and system structures for nonvested members to take into consideration the increased life expectancy of members and future employees and make the reforms necessary to preserve the funded status of the retirement programs in future years.

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

Sec. 56. Defined contribution and retirement study committee; delayed repeal

- A. The defined contribution and retirement study committee is established consisting of:
 1. The five members of the state board of investment established by section 35-311, Arizona Revised Statutes. The chairperson of the state board of investment is the chairperson of the study committee.
 2. Three members of the senate who are appointed by the president of the senate, not more than two of whom are members of the same political party.
 3. Three members of the house of representatives who are appointed by the speaker of the house of representatives, not more than two of whom are members of the same political party.
 4. One member of the board of trustees of the Public Safety Personnel Retirement System who is appointed by the board of trustees of the Public Safety Personnel Retirement System.
 5. One member of the Arizona State Retirement System board who is appointed by the Arizona State Retirement System board.
- B. The committee shall study:
 1. The feasibility and cost of transferring existing members of a public retirement system or plan to a new defined contribution plan as well as providing for a defined contribution plan for newly hired public employees. The committee shall examine public and private defined contribution plans in other states, including their plan designs, and the federal tax issues that affect a defined contribution retirement plan.
 2. All the existing supplemental retirement plans in the Public Safety Personnel Retirement System and the Arizona State Retirement System, the advantages and disadvantages of these supplemental retirement plans and the feasibility of merging these supplemental retirement plans to achieve maximum effectiveness and minimization of costs to members and employers.
 3. The definitions of compensation, average yearly salary and salary as used by the Arizona State Retirement System, the Elected Officials' Retirement Plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan to ascertain the actuarial effect of these definitions on the respective retirement systems and plans, particularly the ability and actuality of "spiking" compensation.
 4. In regards to the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan, the advantages and disadvantages of the local board system, the advantages and disadvantages of the agent multiple-employer public retirement system model and the feasibility of establishing a single employer public retirement system model.
 5. In regards to the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan, the procedures, determinations and granting of accidental and ordinary disability retirements to members, the effect of the local boards in providing adequate cost controls for these disability retirements, the establishment of another medical disability tier that provides for those members who cannot perform a reasonable range of duties within the member's job classification or department but who are not totally disabled and the elimination of the local boards in making such determinations and replacing the determinations of granting medical disabilities with a single determination board in the administrative offices of the Public Safety Personnel Retirement System.
- C. The committee may use the services of consultants, actuaries and attorneys in performing the committee's duties. Contracts for services approved by the committee are exempt from Title 41, Chapter 23, Arizona Revised Statutes.
- D. The committee shall meet at least twice on or before December 31, 2011 and shall provide an interim report to the speaker of the house of representatives, the president of the senate and the governor on or before December 31, 2011. On or before December 31, 2012, the committee shall submit a written report of its findings and recommendations to the speaker of the house of

representatives, the president of the senate and the governor. The committee shall provide copies of these reports to the secretary of state.

E. This section is repealed from and after September 30, 2013.

Sec. 61. Appropriation; state treasurer; defined contribution and retirement study committee; purpose; exemption; reversion

- A. The sum of \$50,000 is appropriated from the Arizona State Retirement System administration account in fiscal year 2011-2012 to the state treasurer for the purpose of implementing the duties of the defined contribution and retirement study committee that is established by this act. The Arizona State Retirement System board shall allocate the appropriation from the administration account as described in section 38-721, subsection C, Arizona Revised Statutes.
- B. Notwithstanding any other law, the sum of \$50,000 is appropriated from the Public Safety Personnel Retirement System in fiscal year 2011-2012 to the state treasurer for the purpose of implementing the duties of the defined contribution and retirement study committee that is established by this act. The administrator of the Public Safety Personnel Retirement System shall allocate the appropriation from the respective funds administered by the board of trustees of the Public Safety Personnel Retirement System.
- C. The appropriations made in subsections A and B of this section are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.
- D. All monies remaining unexpended and unencumbered on September 30, 2013 from the appropriations made by this section revert respectively to the Arizona State Retirement System administrative account and the Public Safety Personnel Retirement System.

Added by Laws 2011, Ch. 357

41-3016.18. Elected officials' retirement plan; public safety personnel retirement system; corrections officer retirement plan; termination July 1, 2016

- A. The Public Safety Personnel Retirement System board of trustees terminates on July 1, 2016.
- B. Title 38, Chapter 5, Article 3 is repealed on January 1, 2017.
- C. Title 38, Chapter 5, Article 4 is repealed on January 1, 2017.
- D. Title 38, Chapter 5, Article 6 is repealed on January 1, 2017.

Added by Laws 1996, Ch. 18, § 2; Amended by Laws 2006, Ch. 125, § 1, 2, and 3; effective retroactively to July 1, 2006.

Constitution of Arizona, Article XXIX Public Retirement Systems

Section 1.

- A. Public retirement systems shall be funded with contributions and investment earnings using actuarial methods and assumptions that are consistent with generally accepted actuarial methods.
- B. The assets of public retirement systems, including investment earnings and contributions, are separate and independent trust funds and shall be invested, administered and distributed as determined by law solely in the interests of the members and beneficiaries of the public retirement systems.
- C. Membership in a public retirement system is a contractual relationship that is subject to article II, 25, and public retirement system benefits shall not be diminished or impaired.