

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

**ARIZONA REVISED STATUTES
AS AMENDED 2024**

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

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

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THIS IS NOT AN OFFICIAL VERSION OF THE ARIZONA REVISED STATUTES. IF THERE ARE ANY DIFFERENCES OR DISCREPANCIES BETWEEN THIS VERSION AND THE OFFICIAL VERSION COMPILED BY THE ARIZONA SECRETARY OF STATE, THE OFFICIAL VERSION WILL PREVAIL.

**PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM
TITLE 38, CHAPTER 5, ARTICLE 4
ARIZONA REVISED STATUTES AS AMENDED 2023**

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:

- (a) 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. In the computation under this subdivision, 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.
 - (b) On or after January 1, 2012 and before July 1, 2017, 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 subdivision, 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.
 - (c) On or after July 1, 2017, the considered period is the five consecutive years within the last fifteen completed years of credited service that yield the highest average. In the computation under this subdivision, 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 officer 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 for the employee's performance of services in an eligible group 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 firefighters.
 - (c) Paid full-time firefighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 or a joint powers authority pursuant to section 48-805.01 with three or more full-time firefighters, but not including firefighters employed by a fire district pursuant to a contract with a corporation.
 - (d) State highway patrol officers who are certified peace officers.
 - (e) State firefighters.
 - (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 firefighters 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 firefighter's sole duty shall be to perform firefighting 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) Firefighters who are employed by an Indian reservation firefighting 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.

- (s) Game rangers who are certified peace officers and who are employed by an Indian reservation.
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.
 - (g) A Roth individual retirement account that satisfies the requirements of section 408A of the internal revenue code.
 - (h) For distributions made after December 18, 2015, a simple retirement account as defined in section 408(p) of the internal revenue code.
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 may not be included in gross income.
 - (d) Any distribution made to satisfy the requirements of section 415 of the internal revenue code.
 - (e) Hardship distributions.
 - (f) Similar items designated by the commissioner of the United States internal revenue service in revenue rulings, notices and other guidance published in the internal revenue bulletin.
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 firefighter certification and at the option of the local board, employee may include a person who is training to become a certified peace officer or firefighter.
28. "Employers" means:
- (a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-973 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid firefighters.
 - (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, joint powers authorities, 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 under the system and from which benefits are paid.
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":
- (a) Means any full-time employee who meets all of the following qualifications:
 - (i) Who is either a paid municipal police officer, a paid firefighter, a law enforcement officer who is employed by this state including the director thereof, a state firefighter who is primarily assigned to firefighting duties, a firefighter 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 game ranger who is a certified peace officer and who is employed by an Indian reservation, a firefighter who is employed by an Indian reservation firefighting 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.
 - (ii) 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.
 - (iii) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating workweeks, whose customary employment averages at least forty hours per week.
 - (iv) Who is engaged to work for more than six months in a calendar year.
 - (v) Who, if economic conditions exist, is required to take furlough days or reduce the hours of the employee's normal workweek 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.
 - (vi) 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.
 - (b) Does not include an employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to article 4.1 of this chapter and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.
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 either twenty-five years of service or fifteen years of credited service if the employee is at least fifty-two and one-half years of age.
 - (c) For an employee who becomes a member of the system on or after July 1, 2017, the first day of the calendar month immediately following the employee's completion of fifteen years of credited service if the employee is at least fifty-five 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. "Physician" means a physician who is licensed pursuant to title 32, chapter 13 or 17.
40. "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.
41. "Plan year" or "fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.
42. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state firefighters, eligible fire district firefighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, firefighters 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, firefighters who are employed by an Indian reservation firefighting agency or game rangers who are certified peace officers and who are employed by an Indian reservation. 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.
43. "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 and before July 1, 2017, attains the age and service requirements for a normal retirement date or for an employee who becomes a member of the system on or after July 1, 2017 attains the age and credited 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.
44. "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.
45. "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 firefighter, then only twenty-five percent 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 firefighter 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.

46. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.
47. "System" means the Public Safety Personnel Retirement System established by this article.
48. "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.

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; Amended by Laws 2010, Ch. 200. Laws 2011, 357; Laws 2011, Ch. 347; Laws 2011, Ch. 27. Amended by Laws 2012, Ch. 66. Amended by Laws 2013, Ch. 203. Amended by Laws 2015, Ch. 64. Amended by Laws 2016, Ch. 2, § 3. Amended by Laws 2017, Ch. 266, § 1. Amended by Laws 2021, Ch. 23, § 3. Amended by Laws 2021, Ch. 120, § 1. Amended by Laws 2022, Ch. 73, § 9.

Sec. 61. Retroactivity

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

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.

Sec. 7. Retroactivity

Section 38-842, paragraph 25(g), Arizona Revised Statutes, as amended by this act, applies retroactively to from and after December 31, 2019.

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

- A. An employee who is hired on or after July 1, 2017 and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017 is eligible to participate in the system or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter, depending on the employee's election under this section. The employee's participation in either the system or the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter begins ninety days after the date the employee is hired. Unless the elections made under this section are made before the ninetieth day after the date of employment, the employee is automatically enrolled in the system for the remainder of the employee's employment. Any election made under this section is irrevocable and is the employee's election for the remainder of

the employee's employment. If an employee is subsequently rehired after a bona fide termination of employment from the employee's employer of not less than six months with no prearranged reemployment agreement with the employer or hired by a new employer, the employee may make a new election under this section before the ninetieth day after the date of hire. If the employee does not make a new election within that time frame, the employee's previous election will continue. The employee may make one of the following irrevocable elections:

1. To participate solely in the system.
 2. To participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter.
- B. An employee who makes an election to participate solely in the system or is automatically enrolled in the system pursuant to subsection A of this section and who is not covered by the federal old age and survivors insurance system is also enrolled in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter during any period that the employee is not covered by the federal old age and survivors insurance system through an employer under the system. If such employee is subsequently covered by the federal old age and survivors insurance system, the employee and the employer may not make any contributions on the employee's behalf to the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter that are described in section 38-867, subsection A, paragraph 1 or subsection B during the period the employee is covered by the federal old age and survivors insurance system. If at any later time the employee is not covered by the federal old age and survivors insurance system through an employer under the system, the employee and the employer shall again be required to contribute on behalf of the employee to the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter as required by section 38-867, subsection A, paragraph 1 and, if the employee made an irrevocable election to contribute more of the employee's gross pensionable compensation to the public safety personnel defined contribution retirement plan as provided in section 38-867, subsection B, such contributions shall be reestablished for the period the employee is not covered by the federal old age and survivors insurance system.
- C. If an employee in the employee's first ninety days of employment is determined to be eligible for an accidental or catastrophic disability pension pursuant to section 38-844, the employee shall be automatically enrolled in the system for the remainder of the employee's employment with any employer under the system commencing on the employee's date of disability and shall receive an accidental or catastrophic disability pension as prescribed in this article.
- D. If an employee in the employee's first ninety days of employment is killed in the line of duty or dies from injuries suffered in the line of duty, the employee shall be considered as having been enrolled in the system and the surviving spouse of the deceased employee is eligible for survivor benefits as prescribed in this article.
- E. If an employee who is hired on or after July 1, 2017 and who is an active or inactive member of the system or a participant in the Public Safety Personnel Defined Contribution Plan established pursuant to article 4.1 of this chapter is subsequently rehired by the employee's previous employer or another employer under the system, the employee's participation in either the system or the Public Safety Personnel Defined Contribution Plan, for which the employee had elected to participate, begins on the date the employee is rehired or hired by another employer.

Added by Laws 2016, Ch. 2, § 4. Amended by Laws 2017, Ch. 269, § 6. Amended by Laws 2018, Ch. 42, § 1. Amended by Laws, 2023, Ch. 48, § 1. Amended by Laws, 2023, Ch. 6, § 1.

38-842.02. Public safety employer risk pool

- A. The public safety employer risk pool is established for members hired on or after July 1, 2017 and consists of, for actuarial purposes in the system and to determine contribution rates pursuant to section 38-843, any employer of an eligible group that has on the effective date of this section two hundred fifty or fewer active members who were hired before July 1, 2017.
- B. If an employer has more than two hundred fifty active members who were hired before July 1, 2017 in any eligible group on the effective date of this section, the employer may not participate in the risk pool for any of the employer's eligible groups, except that:

1. Each state agency's eligibility for the risk pool is not affected by another state agency's ineligibility for the risk pool.
 2. For a county with multiple eligible groups in the system, the eligibility of each eligible group of a county for the risk pool is not affected by the ineligibility for the risk pool of another eligible group of that county.
- C. Any Indian tribe that has elected to participate in the system and that qualifies for the public safety employer risk pool pursuant to subsection A of this section may elect to opt out of the risk pool before January 1, 2019. The Indian tribe shall notify the administrator of the system in writing before January 1, 2019 of the Indian tribe's decision not to participate in the public safety employer risk pool. If an Indian tribe is a new employer in the system pursuant to subsection d of this section, the Indian tribe shall have ninety days after the date of participation to elect to opt out of the risk pool and to notify the administrator of the system in writing of the Indian tribe's decision not to participate in the public safety employer risk pool.
- D. This state or any political subdivision of this state, Indian tribe or public organization that becomes a new employer in the system and that has two hundred fifty or fewer employees, on the effective date of participation in the system pursuant to section 38-851, who are in an eligible group shall participate in the public safety employer risk pool unless subsection b or c of this section applies.
- E. If any individual employer in the public safety employer risk pool experiences a deviation in reported active member payroll of greater than twenty percent of the average of all participating employers in the risk pool in a twenty-four-month period, the system actuary shall prepare a financial impact report to determine whether the deviation creates an increased or decreased unfunded liability within the risk pool. If the deviation in reported active member payroll creates an increase to the unfunded liability within the risk pool, the responsible individual employer shall pay into the system, within sixty days after being notified of the amount due, one hundred percent of the cost of the increase in the unfunded liability. If the deviation in reported active member payroll creates a decrease to the unfunded liability within the risk pool, the system shall immediately credit the responsible individual employer one hundred percent of the cost of the decrease in the unfunded liability.

Added by Laws 2017, Ch. 235, § 1. Amended by Laws 2018, Ch. 42, § 2.

Sec. 15. Retroactivity

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

38-843. Contributions; employer account asset transfers

- A. Each employer that 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 this state other than this state's 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 contributions sufficient under such actuarial valuations to meet both the normal cost for members hired before July 1, 2017 plus the actuarially determined amount required to amortize the unfunded accrued liability on a level percent of compensation basis for all employees of the employer who are members of the system or participants as defined in section 38-865, paragraph 7, subdivision (a) item (i) over, beginning July 1, 2017, a closed period of not more than twenty years, except as provided in subsection M of this section, that is established by the board of trustees taking into account the recommendation of the system's actuary. An employer shall have the option of paying a higher level percent 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 of this section, 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. A county employer that elected to pay a higher level percentage contribution rate may eliminate that higher level percentage contribution rate amount for members who are hired on or after January 1, 2015. 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 percent funded, the board shall account for the excess valuation assets up to one hundred percent of the present value of all future benefits of the employer 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 percent.

- C. Each member who was hired before July 1, 2017, 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 of this section, except as provided in subsection B of this section. Each member who was hired on or after July 1, 2017, 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 H of this section. 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. A member may not, under any circumstance, borrow from, take a loan against or remove contributions from the member's account before the termination of membership in the plan or the receipt of a pension.
- D. Each employer shall transfer to the board the employer and employee contributions provided for in subsections B, C and H of this section within ten working days after each payroll date. Contributions transferred after that date shall include a penalty of ten percent 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 who was hired before July 1, 2017 pursuant to subsection C of this section is:
1. Through June 30, 2011, 7.65 percent of the member's compensation.
 2. For fiscal year 2011-2012, 8.65 percent of the member's compensation.
 3. For fiscal year 2012-2013, 9.55 percent of the member's compensation.
 4. For fiscal year 2013-2014, 10.35 percent of the member's compensation.
 5. For fiscal year 2014-2015, 11.05 percent of the member's compensation.
 6. For fiscal year 2015-2016 through fiscal year 2022-2023, 11.65 percent of the member's compensation or 33.3 percent 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 of this section, whichever is lower, except that the member contribution rate shall not be less than 7.65 percent of the member's compensation and the employer contribution rate shall not be less than the rate prescribed in subsection B of this section.
 7. For fiscal year 2023-2024 and each fiscal year thereafter, 7.65 percent of the member's compensation.
- F. From and after June 30, 2011 through June 30, 2023, the amount of the member's contribution that exceeds 7.65 percent of the member's compensation shall not be used to reduce the employer's contributions that are calculated pursuant to subsection B of this section until the employer's funded ratio as expressed as a percentage of the employer's actuarial value of assets to accrued actuarial liability as determined by actuarial valuations reported pursuant to subsection B of this section is at or above one hundred percent.
- G. From and after June 30, 2023, the amount of the member's contribution that exceeds 7.65 percent of the member's compensation collected pursuant to subsection E of this section and that was accumulated from and after June 30, 2011 through June 30, 2023 may be used in calculating the employer's contributions that are calculated pursuant to subsection B of this section.
- H. For members hired on or after July 1, 2017, the employer and member contributions are determined as follows:
1. For employers and members in the public safety employer risk pool:
 - (a) As determined by the system consolidated actuarial valuation reported to the board of trustees, each employer shall make contributions sufficient under such actuarial valuation to pay fifty percent of both the normal cost plus the actuarially determined amount required to amortize the total unfunded accrued liability within the risk pool for all employers attributable to all members in the risk pool. For each year that new unfunded liabilities are attributable to the public safety employer risk pool, a new amortization base representing the most recent annual gain or loss, smoothed over a period of not more than five years as determined by the board, shall be created on a level-dollar basis over a closed period equal to the average expected remaining service lives of all members of the risk pool but not more than ten years, as determined by the board.
 - (b) The remaining fifty percent of both the normal cost and actuarially determined amount required to amortize the total unfunded accrued liability within the public safety employer risk pool as determined in subdivision (a) of this paragraph shall be divided by the total number of members in the risk pool such that each member contributes an equal percentage of the member's compensation. Member contributions shall begin simultaneously with membership in the system and shall be made by payroll deduction.

2. For employers and members that are not in the public safety employer risk pool:
 - (a) As determined by actuarial valuations reported to the employer and the local board by the board of trustees, each employer shall make contributions sufficient under such actuarial valuations to pay fifty percent of both the normal cost plus the actuarially determined amount required to amortize the total unfunded accrued liability for each employer attributable only to those members hired on or after July 1, 2017. For each year that new unfunded liabilities are attributable to the employer's own members hired on or after July 1, 2017, a new amortization base representing the most recent annual gain or loss, smoothed over a period not more than five years as determined by the board, shall be created on a level-dollar basis over a closed period equal to the average expected remaining service lives of all members but not more than ten years, as determined by the board.
 - (b). The remaining fifty percent of both the normal cost and actuarially determined amount required to amortize the total unfunded accrued liability as determined pursuant to subdivision (a) of this paragraph shall be divided by the total number of the employer's members who were hired on or after July 1, 2017 such that each member contributes an equal percentage of the member's compensation. Member contributions shall begin simultaneously with membership in the system and shall be made by payroll deduction.
- I. In any fiscal year, an employer's contribution to the system in combination with member contributions may not be less than the actuarially determined normal cost for that fiscal year. The board may not suspend contributions to the system unless both of the following apply:
 1. The retirement system actuary, based on the annual valuation, determines the stabilization reserve of an employer's account is funded to one hundred percent of present value of all future benefits of the employer.
 2. The board determines that suspending, in whole or in part, the normal cost contributions as calculated under subsection B of this section would not be in conflict with its fiduciary responsibility.
- J. An employer may request that the board transfer excess assets of an employer's account that has no liabilities or beneficiaries to another account of the employer that is managed by the board. The board may authorize the transfer of assets if all of the following apply:
 1. The board verifies that the employer's liabilities have been reconciled with the administrator and there are no remaining or potential liabilities or beneficiaries of the employer's account.
 2. The board and the system bear no liability that the proposed transfer conforms with any other restrictions on the use or transfer of the assets of the proposed transfer.
 3. The transfer does not violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code.
- K. For the purposes of requesting a transfer of assets pursuant to this section, an employer must meet both of the following requirements:
 1. The governing body of the employer adopts a resolution requesting the transfer of assets in an open session where public comment is allowed.
 2. The employer submits a written request to the administrator of the board for the transfer of assets along with the adopted resolution.
- L. For a state employer that meets the requirements of subsection J of this section, the joint legislative budget committee may request from the administrator of the board confirmation that an employer's account meets the requirements to transfer the account assets. The legislature shall pass a bill directing the board to transfer the assets from the eligible employer account to another account of the employer. Before the legislature passes the bill, the joint legislative budget committee shall confirm with the administrator of the board that the assets are eligible for transfer to another employer account and discuss the matter in a scheduled public meeting.
- M. For the purposes of calculating unfunded liability amortization payments pursuant to subsection B of this section, an employer may make a one-time election to request that the board use a closed period of not more than thirty years if the employer meets both of the following requirements:

1. The governing body of the employer adopts a resolution requesting the longer amortization period and specifying the actuarial valuation date for which the new amortization period is to begin. The actuarial valuation date chosen must be the system's fiscal year end either immediately before or immediately after the date of the resolution.
 2. The employer submits a written request for the longer amortization period along with the adopted resolution to the administrator of the board.
- N. For the purposes of subsection M of this section, employer does not include this state or any state agency.
- O. Except as provided in subsection P of this section, if a member's employment is terminated with an employer by either party, the total liability under the system associated with the member's service with the employer remains with the employer.
- P. If an active or inactive member is reemployed in the same retirement plan under the system with a subsequent employer, assets equal to the actuarially accrued liability earned with the previous employer through the date of reemployment shall transfer to the subsequent employer and all benefit liabilities for the member are attributed to that employer. Actuarially accrued liability shall be computed using the actuarial methods and assumptions prescribed by the system's actuary and adopted by the board.

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; Amended by Laws 2011, Ch. 357, effective July 1, 2011. Amended by Laws 2013, Ch. 203. Amended by Laws 2014, Ch. 202. Amended by Laws 2016, Ch. 2, § 5. Amended by Laws 2017, Ch. 163, § 1, Ch. 269, § 7 and Ch. 235 § 2. Amended by Laws 2022, Ch. 221, § 1. Amended by Laws 2023, Ch. 102 § 1. Amended by Laws 2024, Ch. 116 § 2.

Sec. 2. Retroactivity

This act applies retroactively to from and after June 30, 2023.

Sec. 3. 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.

Sec. 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.

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; definition*

- 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, \$150,000.
 2. Except for members who are hired on or after July 1, 2017, beginning January 1, 2002, \$200,000. The board shall adjust the \$200,000 annual compensation limit under this paragraph 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 paragraph for a calendar year applies to annual compensation for that calendar year.
 3. For members who are hired on or after July 1, 2017, \$110,000. The board shall adjust the \$110,000 annual compensation limit under this paragraph as prescribed in subsection C of this section. Notwithstanding the adjustments made under subsection C of this section, the limit under this paragraph, as adjusted by the board, may not exceed the maximum compensation limit of section 401(a)(17) of the Internal Revenue Code, as adjusted by the United States Secretary of the Treasury.
- 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. Beginning in fiscal year 2020-2021, and every third fiscal year thereafter, the board shall adjust the annual compensation limit specified in subsection a, paragraph 3 of this section by the average change in the public safety wage index as determined in this subsection. The board shall annually publish the public safety wage index in January. The annual compensation limit adjustment under this subsection for a calendar year applies to the annual compensation for that calendar year. To determine the public safety wage index:
1. Employers represented in the public safety wage index shall provide the board pay scales for the month of July for the enforcement classifications of public safety officers annually in July.

* See Sec. 20 on page 118.

2. The board shall determine the weighted average of the change in the top of the pay scale for public safety officers of the employers represented in the public safety wage index. The average change shall be weighted by measuring each employer's total number of members divided by the total number of members of all employers represented in the public safety wage index.
- D. The board shall establish a public safety wage index that is composed of a group of employers that represents geographic diversity across this state and that represents:
 1. Seven large employers, each of which has one thousand or more total system members, composed of one state law enforcement agency, one county law enforcement agency, three municipal law enforcement agencies and two municipal fire agencies.
 2. Nine midsized employers, each of which has more than two hundred but fewer than one thousand total system members, composed of one state law enforcement agency, two county law enforcement agencies, four municipal law enforcement agencies, one municipal fire agency and one fire district.
 3. Ten small employers, each of which has two hundred or fewer total system members, composed of three municipal law enforcement agencies, four municipal fire agencies and three fire districts.
 - E. The board may not change the employers represented in the public safety wage index more frequently than every ten years, unless required to maintain the composition of employers as prescribed in subsection d of this section.
 - F. For the purposes of this section, "public safety officers" means the classification of police officers, sheriff's deputies, firefighters or wildlife managers or their equivalent enforcement classifications.

Added by Laws 2009, Ch. 35, § 11, effective September 30, 2009. Amended by Laws 2016, Ch. 2, § 6. Amended by Laws 2019, Ch. 36, § 8.

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, unless the retired member is required to participate in another state retirement system and the retired member returned to work before July 20, 2011. For the purposes of this subsection, "returns to work in any capacity" includes a retired member who returns to work and is ineligible for benefits pursuant to section 38-849, subsection E.
- B. The alternate contribution rate shall be equal to that portion of the individual employer's 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 percent 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 section 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 immediately notify the local board after the employment of a retired member and shall submit any reports, data, paperwork or materials that are requested by the board or the local board 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.

Added by Laws 2011, Ch. 357, effective July 20, 2011. Amended by Laws 2012, Ch. 362 and Ch. 136. Amended by Laws 2016, Ch. 323, § 1.

38-843.06. Required distributions

All distributions required under this article shall be determined and made pursuant to section 401(a)(9) of the internal revenue code and the regulations that are issued under that section by the United States secretary of the treasury.

Added by Laws 2017, Ch. 269, § 8.

38-843.07. Adjustment and refund; termination of the system

- A. If more than the correct amount of employer or member contributions is paid into the system by an employer through a mistake of fact, the board shall return those contributions to the employer if the employer requests return of the contributions within one year after the date of the overpayment. The board may not pay an employer earnings attributable to excess contributions but shall reduce the amount returned to an employer pursuant to this subsection by the amount of losses attributable to the excess contributions.
- B. On termination or partial termination of the system, the accrued benefit of each member is, as of the date of termination or partial termination, fully vested and nonforfeitable to the extent then funded.

Added by Laws 2017, Ch. 269, § 8.

Sec. 9. Retroactivity

- A. Section 38-843, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after August 5, 2016.
- B. Section 38-891, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after August 9, 2017.

Added by Laws 2024, Ch. 116, § 9.

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.

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, but not earlier than section 38-845.02 allows for retroactive payments. 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 designated physician or a physician working in a clinic that is 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 designated physician or a physician working in a clinic that is 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 designated physician or a physician working in a clinic that is 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 member shall be treated as if the member has 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. The pension payable on the member's subsequent retirement shall be determined as provided in section 38-845.
- 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 not 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 not later than April 1 of the calendar year following the later of:
 - 1. The calendar year in which the member attains seventy-two 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. Amended by Laws 2012, Ch. 136. Amended by Laws 2013, Ch. 203. Amended by Laws 2021, Ch. 23 § 4.

Laws 2004, Ch. 325 provides:

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.

Laws 2011, Ch. 357, § 55 (B)(1)(b) provides:

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.*

*See entire text of Ch. 357, § 55 on page 119.

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 for not more than sixty consecutive months in the deferred retirement option plan. In addition, any member who is subject to section 38-858, subsection C is eligible to participate for not more than sixty consecutive months 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. 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, who is at least fifty-one years of age and who has at least twenty-four and one-half years of credited service is eligible to participate for not more than eighty-four consecutive months in the deferred retirement option plan.
- 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 or eighty-four consecutive months, as applicable pursuant to subsection A of this section.
 - 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.

*Sec. 16A on page 116.

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. Amended by Laws 2019, Ch. 38, § 5. Amended by Laws 2022, Ch. 351, § 1.

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. For the first sixty months, an amount, credited monthly, that represents interest on the amount credited pursuant to paragraph 1 of this subsection at a rate equal to the assumed rate of return determined by the board
- D. Beginning on or before January 1, 2023, at the end of the first sixty-month period, for a member who extended the member's period of participation in the deferred retirement option plan past sixty months, the system shall transfer the accumulated balance of a member's deferred retirement option plan participation account to an account created for the member in a defined contribution plan. For the subsequent period of time in the deferred retirement option plan, up to twenty-four months, all deferred retirement option plan benefits that are accrued and credited monthly pursuant to subsection C, paragraph 1 of this section shall be deposited in the member's defined contribution plan account. A member may not withdraw the assets of the member's defined contribution plan account until the member terminates employment.
- E. The participant is not entitled to receive any amount prescribed by section 38-856.05 or 38-857 during the deferred retirement option plan participation period.

*See Sec. 15 and Sec. 16A on page 116 and Sec. 22 on page 119.

Added by laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2011, Ch. 357. Amended by Laws 2012, Ch. 348. Amended by Laws 2016, Ch. 2, § 7. Amended by Laws 2019, Ch. 38, § 6. Amended by Laws 2022, Ch. 351, § 2.

38-844.06. Additional deferred retirement option plan provisions*

- A. 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 elects to participate in the deferred retirement option plan and who develops a disability 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.
- C. If a member dies during the period of the member's deferred retirement option plan participation, **the** entire amount in the member's deferred retirement option plan participation account shall be transferred by the system's trustee directly to the trustee of the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter and deposited in an account established on behalf of the deceased member. On deposit of the monies in the account, the monies shall be made immediately available to the member's beneficiary to either withdraw all or any portion of the monies or directly transfer all or any portion of the monies to an eligible retirement plan in accordance with section 401(a)(31) of the Internal Revenue Code.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, §5; Laws 2011, Ch. 357. Amended by Laws 2014, Ch. 215. Amended by Laws 2019, Ch. 38, § 7. Amended by Laws 2021, Ch. 120, § 2, applies retroactively from and after December 31, 2019.

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 amounts in the member's deferred retirement option plan participation account.
- B. If a designated beneficiary predeceases a deferred retirement option plan participant who dies before designating a new beneficiary, the beneficiary of the participant's deferred retirement option plan participation account shall be the following persons in the following order of priority:
 - 1. The participant's surviving spouse.
 - 2. The participant's natural or adopted children in equal shares.
 - 3. The participant's estate.
- 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. 38-844.07

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2021, Ch. 120, § 3, applies retroactively from and after December 31, 2019.

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 all of the following:

*See Sec. 15 and Sec. 16A on page 116.

*See Sec. 15 and Sec. 16A on page 116.

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 that is directly deposited in an account created for the member in the Public Safety Personnel Defined Contribution Retirement Plan established by article 4.1 of this chapter. On deposit of the lump sum payment, the member shall immediately be able to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by section 401(a)(31) of the Internal Revenue Code.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2012, Ch. 348. Amended by Laws 2015, Ch. 64. Amended by Laws 2017, Ch. 269 § 9. Amended by Laws 2019, Ch. 38, § 8.

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.

38-844.10. Deferred retirement option plan; employer; extension approval

Notwithstanding the age and service requirements prescribed in section 38-844.03, an employer may approve, for a member of the Public Safety Personnel Retirement System who is participating in the deferred retirement option plan on the effective date of this section, an extension of the member's period of participation for up to an additional twenty-four months.

Added by Laws 2022, Ch. 351, § 3.

Sec. 4. Delayed repeal

Section 38-844.10, Arizona Revised Statutes, as added by this act, is repealed from and after December 31, 2027.

Sec. 5. Public Safety Personnel Retirement System board of trustees; recommendations

On or before December 31, 2022, the Public Safety Personnel Retirement System board of trustees shall report to the Governor, President of the Senate and the Speaker of the House of Representatives recommendations from stakeholders regarding measures that can improve retention for members of the Public Safety Personnel Retirement System who were hired on or after January 1, 2012 and before July 1, 2017 and measures that can improve retention and recruitment for members who were hired on or after July 1, 2017.

Sec. 6. Deferred retirement option plan; transfer and deposit requirements; interest

Notwithstanding the transfer and deposit requirements in section 38-844.05, subsection D, Arizona Revised Statutes, as added by this act, beginning on the effective date of this act until the system transfers the balance of a member's deferred retirement option plan participation account to an account in a defined contribution plan pursuant to section 34 38-844.05, subsection D, Arizona Revised Statutes, as added by this act, the member's participation account shall continue to accrue benefits but will receive zero percent interest for that period of time.

Sec. 7. 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.

38-845. Amount of retirement benefit

- 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 percent 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 percent 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 percent 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 percent 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.
- 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. Notwithstanding any other provision of this section, the accidental disability pension for a member shall be a monthly amount that equals not less than fifty percent of the member's average monthly benefit compensation.
- 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, G or H of this section 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 the member's required credited service for the applicable normal retirement date.
- 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 percent 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 percent of the member's average monthly benefit compensation before termination of employment.
 2. After sixty months, sixty-two and one-half percent 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 percent 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 before July 1, 2017 and who has twenty-five years of credited service shall receive a monthly amount that equals sixty-two and one-half percent of the member's average monthly benefit compensation. If the member has at least fifteen years of credited service, but less than twenty-five years of service, the monthly amount shall be equal to the member's average monthly benefit compensation multiplied by the number of whole and fractional years of credited service multiplied by the appropriate percentage specified in subsection H of this section. If the member has twenty-five years of service and retires with other than twenty-five years of credited service, the foregoing amount shall be:
1. Reduced by four percent 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 percent 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.
- H. A member who becomes a member of the system on or after July 1, 2017 and who retires on or after the member's normal retirement date shall receive a monthly amount equal to the member's average monthly benefit compensation multiplied by the number of whole and fractional years of credited service multiplied by the following:
1. 1.50 percent if the member has at least fifteen years of credited service but less than seventeen years of credited service.
 2. 1.75 percent if the member has at least seventeen years of credited service but less than nineteen years of credited service.
 3. 2.00 percent if the member has at least nineteen years of credited service but less than twenty-two years of credited service.
 4. 2.25 percent if the member has at least twenty-two years of credited service but less than twenty-five years of credited service.
 5. 2.50 percent if the member has at least twenty-five years of credited service.
- I. Notwithstanding subsections A, G and H of this section, the maximum amount payable as a normal pension is eighty percent of the average monthly benefit compensation.

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. Amended by Laws 2015, Ch. 64. Amended by Laws 2016, Ch. 2, § 8. Amended by Laws 2017, Ch. 266, § 2. Amended by Laws 2021, Ch. 330, § 2, effective from and after June 30, 2022.

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 one hundred eighty days before the date of the person's application for benefits.

Added by Laws 2011, Ch. 347. Amended by Laws 2013, Ch. 203.

38-845.03. Early retirement

Members who are hired on or after July 1, 2017 and who have earned at least fifteen years of credited service may retire at fifty-two and one-half years of age and will receive an actuarially equivalent retirement benefit to the benefit amount prescribed in section 38-845, subsection H.

Added by Laws 2016, Ch. 2, § 9.

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. For actuarial valuation purposes, the actuarial present value of the amount computed under this subsection for a surviving spouse of a deceased member who is killed in the line of duty or who dies from injuries suffered in the line of duty, plus any amount payable for an eligible child under this section, shall be deposited directly into the employer account and charged against the investment earnings of the fund before those earnings are distributed to each employer.
- 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 until the eligible child reaches eighteen years of age, at which time the eligible child's pension shall be paid directly to the eligible child if the person remains eligible to receive the pension and is not subject to a guardianship or conservatorship due to disability or incapacity. The pension of a child with a disability who is eighteen years of age or older and who is subject to a guardianship or conservatorship due to disability or incapacity shall continue to be paid to the guardian or conservator if the child remains eligible for the pension payment. A child's pension or a guardian's or conservator's pension terminates if the child is adopted. In the case of a child with a disability, 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 to the local board 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 or if the surviving designated beneficiary does not apply for the benefit within twelve months from the date of the member's death, at the election of the local board to the person's nearest of kin as determined by the local board or to the estate of the deceased member. The amount of the lump sum refund shall be the remaining accumulated contributions. The beneficiary or person who is claiming to be the 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. Amended by Laws 2012, Ch. 136. Amended by Laws 2013, Ch. 203. Amended by Laws 2014, Ch. 215. Amended by Laws 2014, Ch. 274.

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, 38-856.05 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. For a member who is hired on or after January 1, 2012 and before July 1, 2017, a member 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. For a member who is hired on or after July 1, 2017, a member 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 credited service

requirement for normal retirement. Once a member described in this subsection reaches the normal retirement age, the member may receive payments made under section 38-845.

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. Amended by Laws 2016, Ch. 2, § 10. Amended by Laws 2017, Ch. 269 § 10.

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 percent 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 percent 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 percent 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 percent 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 percent 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 percent 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. 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 section 38-846.06 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; Amended by Laws 2010, Ch. 200. Amended by Laws 2011, Ch. 357. Amended by Laws 2015, Ch. 54. Amended by Laws 2017, Ch. 269, § 11. Amended by Laws 2021, Ch. 120, § 4, applies retroactively from and after December 31, 2019.

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 may have redeposited 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 following times for the specified situations:
 - 1. At the time of the member's reemployment if the member is reemployed by an employer other than the same employer.
 - 2. At the time of the member's reemployment if the member is reemployed by the same employer at least ninety days after the date of termination.
 - 3. At the time of the member's most recent termination if the member is reemployed by the same employer in any capacity within ninety days after the date of termination.
- B. Subsection A of this section does not apply if a court of competent jurisdiction orders reinstatement of benefits and duties under a prior law.
- C. If a member was initially employed on or after July 1, 2017, regardless of whether the member received a severance refund or redeposits the amount withdrawn with interest, the member shall return to the system as irrevocably elected pursuant to section 38-842.01.
- D. 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. Amended by Laws 2017, Ch. 269, § 12. Amended by Laws 2018, Ch. 42, § 3.

38-846.05. Retiree pool account; transfers; funding

- A. The retiree pool account is established in the fund for the purpose of sharing the actuarial liability attributable to uncontrollable costs for the employers of members who are hired on or after July 1, 2017 and who are determined eligible for a normal retirement benefit pursuant to section 38-844 or for an accidental, ordinary or catastrophic disability pension pursuant to section 38-844 and for survivors of members who are hired on or after July 1, 2017 and who are determined eligible for a death benefit pursuant to section 38-846.
- B. For members who are determined eligible for a normal retirement benefit pursuant to section 38-844, an amount equal to the actuarial present value of future benefit payments, calculated as of the member's retirement date, shall be transferred from the employer's account to the retiree pool account.

- C. For a member who is determined eligible for an accidental, ordinary or catastrophic disability pension pursuant to section 38-844 and who has not reached the member's normal retirement date, an amount equal to the actuarial present value of future benefit payments already accrued, calculated as of the date of disability retirement, shall be transferred from the employer's account to the retiree pool account. If a member who is determined eligible for an accidental, ordinary or catastrophic disability pension has reached the member's normal retirement date, the amount transferred to the retiree pool account is calculated in the same manner as a normal retirement pursuant to subsection b of this section.
- D. For a survivor of a deceased member determined eligible for a death benefit pursuant to section 38-846, if the member was not retired and had not reached the member's normal retirement date, an amount equal to the actuarial present value of future survivor benefit payments already accrued, calculated as of the survivor's retirement date, shall be transferred from the employer's account to the retiree pool account. If the deceased member had reached the member's normal retirement date, an amount equal to the actuarial present value of future survivor benefit payments, plus any amount payable, calculated as of the survivor's retirement date, shall be transferred from the employer's account to the retiree pool account.
- E. The retiree pool account shall remain one hundred percent funded. In any fiscal year that the retiree account is not one hundred percent funded as of June 30, the amount necessary to adjust the retiree pool account up or down to one hundred percent funded shall be transferred from or to the investment earnings of the fund before those earnings are distributed to each employer's account.

Added by Laws 2017, Ch. 235, § 3.

38-846.06. Eligible rollover distributions; direct rollovers

- A. Notwithstanding any other provision of this article, a member or the member's surviving spouse beneficiary who is entitled to receive an eligible rollover distribution may elect to directly roll over all or part of that distribution to an eligible retirement plan.
- B. A member's beneficiary who is not the member's spouse may elect to directly roll over all or part of an eligible rollover distribution from the system on the death of the member under the same terms and conditions as apply to a member or the member's surviving spouse beneficiary pursuant to this section, except that a nonspouse beneficiary may elect to make a direct rollover only to an eligible retirement plan as defined in section 38-842, paragraph 25, subdivision (a) or (b).
- C. If a member or the member's beneficiary elects to have an eligible rollover distribution paid directly to an eligible retirement plan, that 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.
- D. All rollovers made pursuant to this section are subject to the direct rollover requirements under section 401(a)(31) of the Internal Revenue Code, the rollover notice requirements under section 402(f) of the Internal Revenue Code and the mandatory withholding requirements under section 3405(c) of the Internal Revenue Code. The period for providing the rollover notice as required under section 402(f) of the Internal Revenue Code is not less than thirty days and not more than one hundred eighty days before the date of distribution.

Added by Laws 2021, Ch. 120, § 5, applies retroactively from and after December 31, 2019.

38-847. Local boards

- A. To the extent outlined in this section, 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 firefighting 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 chairperson, 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 the members employed by the appropriate employer and three citizens appointed by the Governor. Each state agency local board shall elect a chairperson.
 3. For fire districts, the chairperson of the fire district governing board or the chairperson's designee, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the chairperson of the fire district governing board, 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.
 4. For joint powers authorities organized pursuant to section 48-805.01, the joint powers authority board chairperson or a designee approved by the governing body, two members elected by secret ballot by members employed by the joint powers authority and two citizens, one of whom is a resident of one of the partner entities and one of whom has experience in personnel administration but who is not required to be a resident of a partner entity.
- 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 allow to be violated any of the provisions of law applicable to the system. Within one hundred eighty days after appointment or election, each board member shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.
- 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 for membership and disability and in the line of duty death benefits under the system.
 2. To prescribe procedures to be followed by claimants in filing applications for disability and in the line of duty death benefits.

3. To make a determination as to the right of any claimant to a disability and in the line of duty death benefit, to issue opinions on questions of whether benefits are consistent with and allowable under the system and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Except as otherwise required by law, 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.
 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 eligibility for membership and disability and in the line of duty death 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 may not 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 disability and in the line of duty death 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 shall establish and adopt such rules as it deems necessary for its administration and to adjudicate claims and disputes. At a minimum, the board's rules shall incorporate the Model Uniform Rules for Local Board Procedure that are issued by the Board of Trustees. 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. Not 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 all documents submitted to the local board for the action taken, including the reports of a medical board. The board of trustees may require additional records from the local board or the employer or may require that the local board conduct a rehearing on the matter. 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 may apply for or the board of trustees may require 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, any limitation period for the board of trustees to require a rehearing of a local board decision does not apply. 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 email or 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, a medical board, 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. Within one hundred eighty days after election, the local board's secretary shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties.
- 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. Each local board shall hire an independent legal counsel who is not an employee of or contracted with the employer or any employee organization and owes its duty of loyalty only to the local board in connection with its representation of the local board. The independent legal counsel may not represent a member of the plan before any local board or any judicial appeal of a local board decision. The local board's independent legal counsel shall review the Model Uniform Rules for Local Board Procedure that are issued by the board of trustees.
- 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.
- Q. A local board shall submit to the board of trustees the names of the members of the local board and the local board's secretary and independent legal counsel and shall submit any changes to those positions within ten days after the change.
- R. An employer and a local board shall submit any reports, data, paperwork or other materials that are requested by the board of trustees for any reason, including local board action or inaction or to investigate a complaint regarding a local board. If the board of trustees or its designee through an audit or investigation finds that the local board is not in compliance with statute or the Model Uniform Rules for Local Board Procedure, the board of trustees shall notify the local board of the noncompliance and the local board shall have sixty days to take corrective action. If the local board fails to take adequate corrective action, the board of trustees may act on behalf of the local board

until the matter is resolved. The board of trustees or its designee shall work with the local boardmembers to take the appropriate corrective actions, including appointing any vacant or noncompliant local board member positions, if necessary, to bring the local board and its membership, policies and procedures into compliance.

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. Amended by Laws 2012, Ch. 136 § 7. Amended by Laws 2013, Ch. 203 and Ch. 216. Amended by Laws 2016, Ch. 323, § 2. Amended by Laws 2021, Ch. 34, § 2, effective from and after December 31, 2021. Amended by Laws 2021, Ch. 251, § 1.

38-847.01. Membership in retirement plan; eligibility

- A. Each employee of an eligible group shall participate in the plan on proper determination of eligibility for membership by the local board pursuant to section 38-847, subsection D.
- B. The employer shall provide to the local board all necessary information to render a decision on the employee's eligibility for membership. The information shall include:
 - 1. The date the employee was hired or appointed to the position.
 - 2. The employee's position title.
 - 3. A description of the essential functions for the position.
- C. An employee receiving a pension from the plan is not subject to this section, but is subject to section 38-849.

Added by Laws 2013, Ch. 216.

38-847.02. Voluntary local board consolidation; membership; duties

- A. A local board may enter into an intergovernmental agreement with other local boards to consolidate the boards for the respective employers.
- B. The consolidated local board shall work with the board of trustees to ensure that the new board is duly empaneled consistent with the representation outlined in section 38-847, subsection A and that all appointments or elections for local board members are completed in a timely manner. The consolidated local board shall submit to the board of trustees the names of the members of the consolidated local board and the consolidated local board's secretary and independent legal counsel and shall submit any changes to those positions within ten days after the change.
- C. The consolidated local board shall decide eligibility for membership and disability and in the line of duty death benefits and have all of the duties and responsibilities of a local board pursuant to this article.
- D. Within one hundred eighty days after appointment or election, all consolidated local board members and the local board's secretary shall complete local board training as prescribed by the board of trustees, including open meeting laws, ethics, legal review and fiduciary responsibilities and duties. The local board's independent legal counsel shall review the model uniform rules for local board procedure that are issued by the board of trustees.
- E. The local board's independent legal counsel may not be employed by or contracted with the employer or any employee organizations. The independent legal counsel may not represent a member of the plan before any local board or any judicial appeal of a local board decision.

Added by Laws 2021, Ch. 34, § 3, effective from and after December 31, 2021.

38-847.03. Uniform medical review; administrator; disability decisions; definitions

- A. Within ten days after a local board receives an application for disability benefits or in the line of duty death benefits, the local board secretary shall submit the application to the administrator.
- B. After a local board has made a determination on the application, or the application is deemed granted pursuant to section 38-847, subsection D, paragraph 3 or section 38-893, subsection D, paragraph 2 for disability benefits or in the line of duty death benefits, the administrator or the administrator's designee shall review the findings. The administrator may contract with medical professionals to review applications under this section.
- C. The board of trustees or the administrator may require additional records from the local board or the employer or may require that the local board conduct a rehearing on the matter.
- D. If the board of trustees disagrees with the decision of the local board after a rehearing requested pursuant to subsection C of this section, the decision is subject to judicial review pursuant to title 12, chapter 7, article 6.
- E. For the purposes of this section:
 - 1. "Administrator" means the administrator appointed by the board pursuant to section 38-848.
 - 2. "Local board" means a local board formed under section 38-847, 38-847.02, 38-893 or 38-893.01.

Added by Laws 2021, Ch. 34, § 3, effective from and after December 31, 2021.

38-847.04. Board of trustees; determination of retirement benefits; definitions

- A. Each employer, within ten days after receiving a completed retirement application from a member, shall submit the retirement application to the board. The board or its designee shall decide all questions of eligibility for service credits and retirement benefits and will determine the amount, manner and time of payment of the retirement benefits. If the board or its designee finds discrepancies in the information received, the board or its designee shall contact the employer and applicant and resolve the discrepancies before the start date of the benefits.
- B. For the purposes of this section, "employer" and "member" have the same meanings prescribed in section 38-842 or 38-881.

Added by Laws 2021, Ch. 34, § 3, effective from and after December 31, 2021.

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

- A. The board of trustees shall consist of nine 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. The board shall select a chairperson from among its members each calendar year. Members are eligible to receive compensation in an amount of \$50 a day, but not to exceed \$1,000 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 as follows:
 - 1. Two members representing law enforcement, one of whom is appointed by the president of the senate and one of whom is appointed by the Governor. A statewide association representing law enforcement in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.
 - 2. Two members representing firefighters, one of whom is appointed by the speaker of the House of Representatives and one of whom is appointed by the Governor. A statewide association representing firefighters in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. At least one of the members appointed under this paragraph shall be an elected local board member.

*See Sec. 19 on page 116.

3. Three members representing cities and towns in this state, one of whom is appointed by the president of the senate, one of whom is appointed by the speaker of the House of Representatives and one of whom is appointed by the Governor. An association representing cities and towns in this state shall forward nominations to the appointing elected officials, providing at least three nominees for each position. These nominees shall represent taxpayers or employers and may not be members of the system.
 4. One member who represents counties in this state and who is appointed by the Governor. An association representing county supervisors in this state shall forward nominations to the Governor, providing at least three nominees for the position. These nominees shall represent taxpayers or employers and may not be members of the system.
 5. One member who is appointed by the Governor from a list of three nominees forwarded by the board. The board shall select the nominees to forward to the Governor from a list of at least five nominees received from the advisory committee.
- B. Each appointment made pursuant to subsection A of this section shall be chosen from the list of nominees provided to the appointing elected official. For any appointment made by the Governor pursuant to subsection A of this section, before appointment by the Governor, a prospective member of the board shall submit a full set of fingerprints to the Governor to obtain a state and federal criminal records check pursuant to section 41-1750 and public law 92-544. The Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation. A board member may be reappointed. Notwithstanding section 38-295, a board member may be removed from office only for cause by the appointing power or because the board member has vacated the member's seat on the board. A board member who is removed for cause shall be provided written notice and an opportunity for a response. The appointing power may remove a board member based on written findings that specify the reason for removal. Any Vacancy that occurs other than by expiration of a term shall be filled for the balance of the term. All vacancies shall be filled in the same manner as the initial appointment. A board member vacates the office if the member either:
1. Is absent without excuse from three consecutive regular meetings of the board.
 2. Resigns, dies or becomes unable to perform board member duties.
- C. The members of the board who are appointed pursuant to subsection A of this section and who are not members of the system shall be independent, qualified professionals who are responsible for the performance of fiduciary duties and other responsibilities required to preserve and protect the fund and 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. A senior executive 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 chartered financial analyst institute.
 5. A current or former professor or instructor at the college or university level in the field of economics, finance, actuarial science, accounting or pension-related subjects.
 6. An economist.
 7. Any other senior executive engaged in the field of public or private finances or with experience with public pension systems.
 8. A senior executive in insurance, banking, underwriting, auditing, human resources or risk management.
- D. 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 or trust administered by the board,

the fund and assets of the plans and the plans' trusts 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 is not an improper delegation of the board's investment authority.

- E. 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.
- F. 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 and trusts 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 M, paragraph 6 of this section, and any deputy or assistant administrators to invest the monies of the system and other retirement plans and trusts that the board administers if the administrator, investment management and deputy or any assistant administrators follow the investment policies that are adopted 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 that 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, if:
 - 1. Not more than eighty percent of the combined assets of the system or other plans that the board manages is invested at any given time in corporate stocks, based on the cost value of the stocks irrespective of capital appreciation.
 - 2. Not more than five percent of the combined assets of the system or other plans that the board manages is 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. Not more than five percent of the voting stock of any one corporation is 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. Corporate stocks and exchange traded funds eligible for direct purchase are restricted to stocks and exchange traded funds that, except for bank stocks, insurance stocks, stocks acquired for coinvestment in connection with the system's or the plans' or trusts' commingled investments and interests in limited liability companies and mutual funds, are any of the following:
 - (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 78pp).
 - (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 78pp).

- (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 not more than twenty percent of the combined assets of the system and other plans that the board manages is 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.
- G. Notwithstanding any other law, the board is not 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.
- H. 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.
- I. The board is not 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 is not 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.
- J. Except as provided in subsection F 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. Access to and deposit or withdrawal of the securities from any place of deposit selected by the board is not allowed and may not be made except as the terms of the agreement provide.
 7. Appear before local boards and the courts of this state and political subdivisions of this state through counsel or an 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 require a review or rehearing of actions or omissions of local boards. A limitation period does not prohibit the board or administrator from contesting or require 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.
- K. Investment expenses and operation and administrative expenses of the board shall be accounted for separately and allocated against investment income.
- L. 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 that contains, 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, percentage 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.
 7. An analysis of the long-term level percent of employer contributions and compensation structure and whether the funding methodology is sufficient to pay one hundred percent of the unfunded accrued liability under the Elected Officials' Retirement Plan.
 8. An estimate of the aggregate employer contribution rate for the Public Safety Personnel Retirement System for the next ten fiscal years and an estimate of the aggregate employer contribution rate for the Corrections Officer Retirement Plan for the next ten fiscal years.
 9. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the Public Safety Personnel Retirement System:
 - (a) Department of Liquor Licenses and Control.
 - (b) Department of Public Safety.
 - (c) Northern Arizona University.
 - (d) University of Arizona.
 - (e) Arizona State University.
 - (f) Arizona Game and Fish Department.
 - (g) Department of Law
 - (h) Department of Emergency and Military Affairs.

- (i) Arizona State Parks Board.
 - 10. An estimate of the employer contribution rates for the next ten fiscal years for each of the following employers within the Corrections Officer Retirement Plan:
 - (a) State Department of Corrections.
 - (b) Department of Public Safety.
 - (c) The judiciary.
 - (d) Department of Juvenile Corrections.
 - 11. An estimate of the aggregate fees paid for private equity investments and other alternative investments, including management fees and performance fees and carried interest.
- M. 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 requests a statement.
 - 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. Allow the auditor general to make an annual audit and transmit the results 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 Public Safety 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.
 - 8. Issue a request for proposals every five years for an external auditor. The board is not required to change its auditor after issuing the request for proposals.
 - 9. Develop a policy regarding routine stress testing of the retirement systems and plans administered by the board at the employer level and system level. The stress test shall use industry standards, such as the inclusion of assumptions regarding investment returns, inflation, population growth, payroll growth and employer contributions. For the purposes of this paragraph, "stress test" means an assessment of the risk exposure of the retirement system or plan, including scenario analysis, simulation analysis and sensitivity analysis.
- N. The administrator, under the direction of the board, shall:
- 1. Administer this article.
 - 2. Be responsible for the recruitment, hiring and day-to-day management of employees.
 - 3. Invest the monies of the system and other plans that the board administers as the board deems necessary and prudent as provided in subsections F and J of this section and subject to the investment policies and fund objectives adopted by the board.
 - 4. 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 operate most effectively and at minimum expense and that duplication of records and accounts is avoided.
 - 5. In accordance with the board's governance policy and procedures and the budget adopted by the board, hire employees and services the administrator deems necessary and prescribe their duties, including the hiring of one or more deputy or assistant administrators to manage the system's operations, investments and legal affairs.
 - 6. Be responsible for income, the collection of the income and the accuracy of all expenditures.
 - 7. Recommend to the board annual contracts for the system's actuary, auditor, investment counsel, legal counsel and safeguarding of securities.

8. Perform additional duties and powers prescribed by the board and delegated to the administrator.
- O. The system is an independent trust fund and the board is not subject to Title 41, Chapter 6. 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 monies 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. Loans, guarantees, investment management agreements and investment contracts that are entered into by the board are contracts memorializing obligations or interests in securities that the board has concluded, after thorough due diligence, do not involve investments in Sudan or Iran or otherwise provide support to terrorists or in any way facilitate illegal immigration into the united states. These contracts do not involve the procurement, supply or provision of goods, equipment, labor, materials or services that would require the warranties required by Section 41-4401.
- P. All trust funds administered by the board are exempt from Title 44, Chapter 3. The board shall adopt policies for monies presumed to be abandoned, including requirements for the notification of the presumed owner and for distributing the monies if the owner establishes an entitlement in the monies. Monies in the retirement plans and system administered by the board are presumed to be abandoned two years after any of the following, whichever occurs first:
 1. The date of the distribution or attempted distribution of the monies.
 2. The date of the required distribution as stated in the plan or trust agreement that governs the plan.
 3. If determinable by the holder, the date specified in the income tax laws of the United States by which distribution of the monies must begin in order to avoid a tax penalty.
- Q. The board, the administrator, the deputy or assistant administrators and all persons employed by them are subject to Title 41, Chapter 4, Article 4. The administrator, deputy or assistant administrators and other employees of the board are entitled to receive compensation pursuant to section 38-611.
- R. In consultation with the director of the department of administration, the board may enter into employment agreements and establish the terms of those agreements with persons holding any of the following system positions:
 1. Administrator.
 2. Deputy or Assistant Administrator.
 3. Chief Investment Officer.
 4. Deputy Chief Investment Officer.
 5. Fiduciary or Investment Counsel.
- S. The attorney general or an attorney approved by the attorney general and paid by the fund is the attorney for the board and shall represent the board in any legal proceeding or forum that the board deems appropriate. The board, administrator, deputy or 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.
- T. 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.
- U. 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 at least every year. By November 1 of each year the board shall provide a preliminary report and by December 1 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.
- V. Neither the board nor any member or employee of the board shall directly or indirectly, for the board, the member or the employee 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.

- W. 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.
- X. A person who is a dealer as defined in section 44-1801 and who is involved in securities or investments related to the board's investments is not eligible to serve on the board.
- Y. The Public Safety Personnel Retirement System advisory committee is established and shall serve as a liaison between the board and the members and employers of the system. The President of the Senate and the Speaker of the House of Representatives shall each appoint to the committee one member. The remaining members of the committee shall be appointed by the chairperson of the board from names submitted to the chairperson by associations representing law enforcement, firefighters, state government, counties, cities and towns and tribal governments. The committee shall select a chairperson from among its members each calendar year. The committee members appointed by the chairperson of the board shall consist of the following ten members:
 1. A member who is a law enforcement officer.
 2. A member who is a firefighter.
 3. A member of the Elected Officials' Retirement Plan.
 4. A member of the Corrections Officer Retirement Plan.
 5. A retiree from the Public Safety Personnel Retirement System.
 6. A representative from a city or town in this state.
 7. A representative from a county in this state.
 8. A representative from a fire district in this state.
 9. A representative from a state employer.
 10. A representative from a tribal government located in this state.

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. Amended by Laws 2012, Ch. 321 § 99 and Ch. 63 § 1. Amended by Laws 2013, Ch. 203 and Ch. 217. Amended by Laws 2014, Ch. 14. Amended by Laws 2014, Ch. 190. Amended by Laws 2016, Ch. 2, § 11, Ch. 121 § 6 and Ch. 178, § 8. Amended by Laws 2017, Ch. 327, § 20. Amended by Laws 2018, Ch. 42, § 4 and Ch. 279, §22. Amended by Laws 2019, Ch. 36, § 9. Amended by Laws 2021, Ch. 34, § 4, effective from and after December 31, 2021. Amended by Laws 2021, Ch. 251, § 2. Amended by Laws 2021, Ch. 405, § 15. Amended by Laws 2022, Ch. 72, § 2 and Ch. 73, § 11. Amended by Laws 2024, Ch. 116, § 3.

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.

Sec. 1. Repeal
 Section 38-848, Arizona Revised Statutes, as amended by Laws 2021, chapter 405, section 15, is repealed.

Added by Laws 2022, Ch. 72, § 1.

Sec. 10. Repeal

Section 38-848, Arizona Revised Statutes, as amended by Laws 2021, chapter 405, section 15, is repealed.

Added by Laws 2022, Ch. 73, § 10.

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.

38-848.02. Board of trustees; report on employer and employee costs; posting funding ratio

- A. On or before December 1 of each year, the board of trustees shall provide to the legislature and the joint legislative budget committee and shall 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.

- B. The board of trustees shall post on its website for each plan the board administers each employer's funding ratio.

Added as Laws 2011, Ch. 357, § 63. Renumbered as § 38-848.02. Amended by Laws 2017, Ch. 163, § 2. Amended by Laws 2018, Ch. 279, § 23. Amended by Laws 2019, Ch. 36, § 10. Amended by Laws 2021, Ch. 405, § 16. Amended by Laws 2022, Ch. 73, § 13.

Sec. 12. Repeal

Section 38-848.02, Arizona Revised Statutes, as amended by Laws 2021, chapter 405, section 16 is repealed.

Added as Laws 2022, Ch. 73, § 12.

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.

Added by Laws 2008, Ch. 125 § 3, eff. April 29, 2008. Amended by Laws 2010, Ch. 118, § 9. Amended by Laws 2010, Ch. 200, § 44, eff. April 28, 2010.

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.

38-848.04. Board fiduciary obligations and duties; enforcement; definitions

- A. The board and any other fiduciary of the system shall discharge their duties:
1. Solely in the interest of the members and beneficiaries.
 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses in administering the plans and systems administered by the board.
 3. With the care, skill and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
 4. Impartially, taking into account any differing interests of members and beneficiaries.
 5. Incurring only costs that are appropriate and reasonable.
 6. Pursuant to a good-faith interpretation of the law governing the retirement plans and systems administered by the board.
- B. In investing and managing assets of the retirement plans and systems administered by the board, a trustee with authority to invest and manage assets:
1. Shall consider at least the following:
 - (a) the general economic conditions.
 - (b) the possible effect of inflation or deflation.
 - (c) the role that each investment or course of action plays within the overall portfolio of the retirement plans and systems administered by the board or appropriate grouping of plans or systems.
 - (d) the expected total return from income and the appreciation of capital.
 - (e) the needs for liquidity, regularity of income and preservation or appreciation of capital.
 - (f) for defined benefit plans, the adequacy of funding for the plan based on reasonable actuarial factors.
 2. Shall diversify the investments of the retirement plans and systems administered by the board or appropriate grouping of plans or systems unless the trustee reasonably determines that, because of special circumstances, it is clearly prudent not to do so.
 3. Shall make a reasonable effort to verify facts relevant to the investment and management of assets of a retirement plan or system.
 4. May invest in any kind of property or type of investment consistent with this article.
 5. May consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits.
- C. A trustee with authority to invest and manage assets of a retirement plan or system shall adopt a statement of investment objectives and policies for each retirement plan and system administered by the board or appropriate grouping of plans or systems. The statement must include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority and information on the types of reports to be used to evaluate investment performance. At least annually, the trustee shall review the statement and change or reaffirm it.
- D. In evaluating the performance of a trustee or any other fiduciary of the plan or system:
1. Compliance with this section must be determined in light of the facts and circumstances existing at the time of the trustee's or fiduciary's decision or action and not by hindsight.
 2. The trustee's investment and management decisions must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the retirement plans and systems administered by the board or appropriate grouping of plans or systems.
- E. An employer, member, beneficiary or fiduciary may maintain an action in which the court may award reasonable attorney fees and costs to either party:
1. To enjoin an act, practice or omission that violates this section.
 2. For appropriate equitable relief to redress the violation of or to enforce this section.

- F. For the purposes of this section:
1. "Fiduciary" means a person who does any of the following:
 - (a) exercises any discretionary authority to manage a retirement plan or system administered by the board.
 - (b) exercises any authority to invest or manage assets of a retirement plan or system administered by the board.
 - (c) provides investment advice for a fee or other direct or indirect compensation with respect to assets of the system or has any authority or responsibility to do so.
 - (d) serves as a trustee or member of the board.
 2. "Trustee" means a person who has ultimate authority to manage a retirement system or plan or to invest or manage its assets.

Sec. 13. Repeal
 Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04, Arizona Revised Statutes, are repealed.

Added by Laws 2016, Ch. 2, § 12.

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

- 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 allows 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 pursuant to section 38-846.02 becomes reemployed with the same employer within two years after the former member's termination date, the member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:
 1. The member files with the system a written application for reinstatement of forfeited credited service within ninety days after again becoming an employee.
 2. The retirement fund is paid the total amount previously withdrawn pursuant to section 38-846.02 plus compound interest from the date of withdrawal to the date of repayment. Interest shall be computed at the rate of nine percent for each year compounded each year from the date of withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.
 3. The required payment is completed within one year after returning to employee status.
- D. 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, a present active member of the system who forfeited credited service, received a severance refund pursuant to section 38-846.02 and becomes reemployed with the same employer two years or more after the member's termination date or becomes reemployed with another employer may elect to redeem any part of that forfeited credited service by paying into the system any amounts required pursuant to this subsection. A present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the board shall pay into the system the amounts previously paid or transferred

to the member as a severance refund plus an amount that is 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. On satisfaction of this obligation the member's prior service credits shall be reinstated.

- E. If a retired member becomes reemployed in any capacity by the employer from which the member retired before six months after the date of retirement or in the same position at any time following retirement:
1. The following apply:
 - (a) Within ten days after the retired member is reemployed, the local board shall advise the system in writing of the retired member's reemployment.
 - (b) The system shall not make pension payments to the retired member during the period of reemployment.
 - (c) Employee contributions shall not be made on the retired member's account, nor shall any service be credited 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. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.
 - (d) Any pension payments received by the retired member, who retired on or after July 1, 2009, during the period of reemployment are considered overpayments pursuant to section 38-850, unless subsection B of this section applies. If the board determines in the board's sole discretion, for a member who retired on or after July 1, 2009, that the retired member's reemployment during the six-month period and the failure of the employer or the local board to suspend the member's pension were not intentional to circumvent the requirements of this subsection, the pension payments received by the retired member after the retired member's reemployment are subject to repayment up to only the amount received between the date of the member's reemployment and the expiration of the six-month period.
 2. The retired member who retired on or after July 1, 2009 and who is reemployed terminates employment, may be subsequently reemployed with the employer from which the member retired and resume receiving pension payments after a period of six months, less the period of time the retired member was not reemployed after retirement with the employer from which the member retired, if at least sixty days of the six months are consecutive.
 3. Paragraph 1, subdivisions (a), (b) and (d) of this subsection do not apply if any of the following occurs:
 - (a) The retired member becomes reemployed after sixty consecutive days from the member's retirement date as a result of participating in an open competitive new hire process except if the retired member is hired for the same position or if the retired member has a prearranged reemployment agreement with the employer.
 - (b) The retired member is hired as a fire inspector or arson investigator.
 - (c) The retired member who is receiving an accidental disability, ordinary disability, catastrophic disability or temporary disability pension accepts a job reassignment as an accommodation in accordance with the Americans with Disabilities Act of 1990 due to a disability that is directly related to the retired member being awarded an accidental disability, ordinary disability, catastrophic disability or temporary disability benefit.
- F. If a retired member is assigned voluntary duties acting as a limited authority peace officer, pursuant to the Arizona peace officer standards and training board rules, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall not pay the alternate contribution rate pursuant to section 38-843.05.

- G. If after six months after the date of retirement a retired member becomes reemployed by the employer from which the member retired in a position other than the same position from which the member retired, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.
- H. At any time following retirement, if the retired member becomes employed by an employer, other than the employer from which the member retired, in a position ordinarily filled by an employee of an eligible group, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05.
- I. If a member who retired under an accidental or ordinary disability becomes reemployed as an employee of an eligible group, section 38-844 applies and a determination shall be made by the local board as to whether subsection E, F, G or H of this section applies.
- J. The local board shall review all reemployment determinations and voluntary assignments as described in subsection F of this section. If the local board or the system is not provided the necessary information required by the system to make a reemployment determination, the local board and the system shall suspend pension payments until information is received and a determination is made regarding whether the reemployment meets the requirements of subsection E, F, G, H or I of this section.
- K. 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.
- L. 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.
- M. Notwithstanding any other provision of this article, a member who retires having met all of the qualifications for retirement and who subsequently becomes an elected official, by election or appointment, is not considered reemployed by the same employer.
- N. For the purposes of this section, "same position" means a position in which the member performs substantially similar duties that were performed and exercises substantially similar authority that was exercised by the retired member before retirement.

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. Amended by Laws 2012, Ch. 136. Amended by Laws 2013, Ch. 203. Amended by Laws 2014, Ch. 215. Amended by Laws 2016, Ch. 323, § 3. Amended by Laws 2017, Ch. 269, § 13. Amended by Laws 2019, Ch. 36, § 11. Amended by Laws 2019, Ch. 302, § 3. Amended by Laws 2021, Ch. 23 § 5. Amended by Laws 2022, Ch. 24, § 1.

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, deputy or 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 are not 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 are not 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. This section does not exempt 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 that 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. Amended by Laws 2018, Ch. 42, § 5.

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 there from 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. 38-852

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 member who terminates employment with an employer and accepts, a position with the same or another employer participating in the system, after completing an application that is acceptable to the board, 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.

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. Amended by Laws 2012, Ch. 136 § 9. Amended by Laws 2017, Ch. 269, § 14.

38-853.01. Redemption of prior service; calculation*

- A. Except as provided in subsection B of this section, an active member of the system who has at least five 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 C of this section 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 full-time paid certified peace officer or full-time paid corrections officer engaged in law enforcement duties.
 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. An active member who became a member of the system before January 1, 2012 may redeem any amount of eligible prior service as specified in subsection A of this section without having to have accrued any minimum amount of credited service.

*See Sec. 16A on page 116.

- C. An 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.
- D. 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. Amended by Laws 2014, Ch. 190. Amended by Laws 2016, Ch. 90, § 4. Amended by Laws 2019, Ch. 38, § 9.

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 firefighting 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. Amended by Laws 2012, Ch. 348 § 5 and Ch. 136 § 10.

38-853.02 Purchase of service; payment

A member who purchases service pursuant to this article or section 38-922 or 38-924 shall make payments directly to the system in whole or in part by any one or a combination of the following methods:

1. In lump sum payments.
2. Through an arrangement with the system that the payments be made in installment payments over a period of time.
3. Subject to the limitations prescribed in sections 401(a)(31) and 402(c) of the internal revenue code, accepting a direct transfer of any eligible rollover distribution or a contribution by a member of an eligible rollover distribution from one or more:
 - (a) Retirement programs that are qualified under section 401(a) or 403(a) of the internal revenue code.
 - (b) Annuity contracts described in section 403(b) of the internal revenue code.
 - (c) Eligible deferred compensation plans described in section 457(b) of the internal revenue code that are 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.
4. Subject to the limitations prescribed in section 408(d)(3)(a)(ii) of the internal revenue code, accepting from a member a rollover contribution of that portion of a distribution from an individual retirement account or individual retirement annuity described in section 408(a) or 408(b) of the internal revenue code that is eligible to be rolled over and would otherwise be includable as gross income.

Added by Laws 2012, Ch. 348 § 6. Amended by Laws 2013, Ch. 203.

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.

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.

38-856.05. Cost-of-living adjustment; members hired on or before June 30, 2017*

- A. For members hired on or before June 30, 2017, each retired member or survivor of a retired member is eligible to receive a compounding cost-of-living adjustment in the base benefit as provided in this section. The first payment under this section shall be made immediately following the first year the cost-of-living adjustment specified in subsection c of this section is paid. The cost-of-living adjustment shall be made on July 1 each year thereafter.
- B. A retired member or a survivor of a retired member shall receive annually a cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, with the immediately preceding year as the base year for making the determination, not to exceed annually two percent of the retired member's or survivor's base benefit.
- C. In the first year of a member's retirement, the cost-of-living adjustment specified in subsection B of this section shall be prorated based on the date of retirement.
- D. The system actuary shall include the projected cost of providing the cost-of-living adjustment specified in subsection B of this section in the calculation of normal cost and accrued liability.

Added by Laws 2016, Ch. 2, § 14.

38-856.06. Cost-of-living adjustment; members hired on or after July 1, 2017; definition

- A. For members who are hired on or after July 1, 2017, each eligible retired member or survivor of a retired member may receive a compounding cost-of-living adjustment in the base benefit as provided in this section.
- B. A retired member or survivor of a retired member is eligible to receive a cost-of-living adjustment under this section beginning the earlier of the first calendar year after the seventh anniversary of the retired member's retirement or when the retired member is or would have been sixty years of age.
- C. A cost-of-living adjustment shall be paid on July 1 each year that the funded ratio for members who are hired on or after July 1, 2017 is seventy percent or more, as reported in the most recent actuarial valuation.
- D. An eligible retired member or survivor of a retired member shall receive annually a cost-of-living adjustment in the base benefit based on the average annual percentage change in the metropolitan Phoenix-Mesa consumer price index published by the United States Department of Labor, Bureau of Labor Statistics, with the immediately preceding year as the base year for making the determination, not to exceed annually the following:
 - 1. Two percent of the retired member's or survivor's base benefit if the funded ratio for members who are hired on or after July 1, 2017 is ninety percent or more, as reported in the most recent actuarial valuation.
 - 2. One and one-half percent of the retired member's or survivor's base benefit if the funded ratio for members who are hired on or after July 1, 2017 is eighty percent or more but less than ninety percent, as reported in the most recent actuarial valuation.
 - 3. One percent of the retired member's or survivor's base benefit if the funded ratio for members who are hired on or after July 1, 2017 is seventy percent or more but less than eighty percent, as reported in the most recent actuarial valuation.
- E. The system actuary shall include the projected cost of providing the cost-of-living adjustment specified in subsection d of this section in the calculation of normal cost and accrued liability.
- F. For the purposes of this section, "funded ratio" means the ratio of the market value of assets to the actual accrued liabilities.

*See Sec. 22 on page 119.

Added by Laws 2016, Ch. 2, § 14.

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

- A. On notification, the board shall pay from the assets of the separate account established pursuant to subsection G of this section 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 retiree health and accident insurance coverage provided or administered by a participating employer of the system or a tax-exempt welfare benefit trust described in section 501(c)(9) of the internal revenue code that provides for the payment of sickness, accident, hospitalization and medical expenses and is designed for the benefit of public safety personnel in this state. 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. On notification, the board shall pay from assets of the separate account established pursuant to subsection G of this section 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.
- E. This section does not apply to a retired member of the system who becomes a member on or after September 13, 2013 and who is reemployed and participates in health care coverage provided by the member's new employer.
- F. This section does not apply to a survivor of the system whose deceased spouse becomes a member on or after September 13, 2013 and who is reemployed and participates in health care coverage provided by the survivor's new employer.
- G. The board shall establish a separate account that consists of the benefits provided in this section. The board shall deposit the benefits provided by this section in the account. The board shall not use or divert any part of the corpus or income of the account for any purpose other than the provision of benefits pursuant to this section unless the liabilities to provide the benefits pursuant to this section are satisfied. If the liabilities to provide the benefits described in this section are satisfied, the board shall return any amount remaining in the account to the employer.
- H. Payment of the benefits provided by this section is subject to the following conditions:
 - 1. The payment of the benefits is subordinate to the payment of retirement benefits payable by the system.
 - 2. The total of the contributions for the benefits and actual contributions for life insurance protection, if any, shall not exceed twenty-five percent of the total actual employer and employee contributions to the system, minus the contributions to fund past service credits, after the day the account is established.

3. The contributions by the employer to the account shall be reasonable and ascertainable.
- I. If a member who is eligible for benefits under this section forfeits the member's interest in the account before the termination of the plan, an amount equal to the amount of the forfeiture shall be applied as soon as possible to reduce employer contributions to fund the benefits provided by this section.

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 2010, Ch. 200, § 52, eff. April 28, 2010. Amended by Laws 2011, Ch. 347. Amended by Laws 2013, Ch. 203. Amended by Laws 2015, Ch. 64. Amended by Laws 2017, Ch. 269, § 15.

Sec. 2. Retroactivity

Section 38-857, subsections G and H, Arizona Revised Statutes, as added by Laws 2013, Chapter 203, Section 11, applies retroactively to from and after September 29, 1988.

38-858. Credit for military service*

- A. Except as provided in subsection B of this section, a member of the system who has at least five 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. A member who became a member of the system before January 1, 2012 may receive credited service for eligible prior active military service as specified in subsection A of this section without having to have accrued any minimum amount of credited service in the system.
- C. 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 of 1994 (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 D 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 any military reserve unit of any branch of 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.
- D. Contributions made pursuant to subsection C 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.

*See Sec. 16A on page 116.

- E. Notwithstanding any other law, on payment of the contributions made pursuant to subsection C 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.
- F. The employer and the member shall make contributions pursuant to subsection C 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.
- G. 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.
- H. 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 F of this section on the member's return and in compliance with subsection C of this section.
- I. In addition to, but not in duplication of, the provisions of subsection C 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.
- J. For plan years beginning after December 31, 2008, a member who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code is not considered having a severance from employment during that qualified military service. Any payments by the employer to the member during the qualified military service shall be considered compensation to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.
- K. For deaths occurring from and after December 31, 2006, in the case of a member who dies while performing qualified military service as defined in section 414(u)(5) of the internal revenue code, the survivors of the member are entitled to any benefits, other than benefit accruals relating to the period of qualified military service, provided under the system as though the member resumed and then terminated employment on account of death.

Added by Laws 2009, Ch. 35, § 20, effective September 30, 2009. Amended by Laws 2011, Ch. 357. Amended by Laws 2015, Ch. 64. Amended by Laws 2016, Ch. 90, §5. Amended by Laws 2019, Ch. 36, § 12. Amended by Laws 2019, Ch. 38, § 10.

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.
 6. For the purposes of section 38-846, determine through appropriate medical evidence the proximate cause of death for members who are killed in the line of duty if the death occurs more than one year after the date of injury.
- B. For the purpose of determining a disability, the medical board shall be composed of a designated physician or physicians working in 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 physicians working in 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 designated physician or a physician working in a clinic that is 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 designated physician or physicians working in a clinic that is employed by the local board may employ occupational specialists to assist the designated physician or physicians working in a clinic in rendering an opinion.
 - D. All employees shall undergo medical examinations before a designated physician or a physician working in a clinic that is 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 be conducted by a physician and 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. Amended by Laws 2012, Ch. 136 § 11. Amended by Laws 2013, Ch. 203.

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. The value of a participant's benefit shall be the value on the earliest date of service of the petition for annulment, dissolution of marriage or legal separation.
- 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 of this section 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.
 8. The domestic relations order shall have been issued by a court of competent jurisdiction of a state, territory or possession of the United States.
- 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 of this section. 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 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 of this section, until 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. Amended by Laws 2012, Ch. 136 § 12. Amended by Laws 2023, Ch. 34, § 3.

38-861. Future benefit increases; payment; cost calculation; definition

- A. Any future benefit increase adopted by the legislature or any participating employer for any member of the system shall be fully paid in the year of enactment of the benefit and may not be amortized over any period of years. A benefit for members hired before July 1, 2017 shall be paid by the employer and the cost of the benefit for members hired on or after July 1, 2017 shall be split equally between the employer and the member.
- B. The plan actuary shall calculate the cost of the benefit increase using all of the following:
 - 1. A discount rate equal to the ten-year treasury constant maturity rate for the fiscal year in which the benefit is enacted.
 - 2. An expected rate of return on assets equal to the ten-year treasury constant maturity rate for the fiscal year in which the benefit is enacted.
 - 3. A mortality table based on the most recent proposal from the retirement plans experience committee of the society of actuaries that is not older than the rp-2014 mortality table.
 - 4. All other actuarial assumptions approved by the board for the most recent fiscal year valuation.
- C. For the purposes of this section, "future benefit increase" includes any benefit increase that leads to a change in the present value of future benefits or a change to accrued liabilities.

Added by Laws 2016, Ch. 2, § 14. Amended by Laws 2017, Ch. 235, § 4.

Sec. 5. 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 2017, Ch. 235 § 5, eff. May 1, 2017.

38-862. Discount rate; service purchase; transfer of service credits*

- A. Beginning July 1, 2017, the discount rate specified in subsection B of this section applies to service purchases or transfers of service credits to the system pursuant to the following sections:
 - 1. Section 38-849, subsection D.
 - 2. Section 38-853.01, subsection C.
 - 3. Section 38-858, subsection A or B.
 - 4. Sections 38-921, 38-922, 38-923 and 38-924.
- B. For members enrolled in the system:
 - 1. Before July 1, 2017, the discount rate is the assumed rate of return that is prescribed by the board.
 - 2. On or after July 1, 2017, the discount rate is an amount equal to the lesser of the assumed rate of return that is prescribed by the board or an amount equal to the yield on a ten-year treasury note as of March 1 that is published by the Federal Reserve Board plus two percent. The discount rate is effective beginning in the next fiscal year, and the board shall recalculate the rate each year.

Added by Laws 2016, Ch. 90, § 6. Amended by Laws 2019, Ch. 38, § 11.

38-863. Employer disclosure; funding ratio

An employer shall disclose the employer's funding ratio for each of the employer's eligible groups under the system on the employer's public website.

Added by Laws 2017, Ch. 163, § 3.

* See Sec. 15 and Sec. 16B on page 116.

38-863.01 Pension funding policies, employers

- A. Each governing body of an employer shall annually:
 - 1. Adopt a pension funding policy for the system for employees who were hired before July 1, 2017. The pension funding policy shall include funding objectives that address at least the following:
 - (a) How to maintain stability of the governing body's contributions to the system.
 - (b) How and when the governing body's funding requirements of the system will be met.
 - (c) Defining the governing body's funded ratio target under the system and the timeline for reaching the targeted funded ratio.
 - 2. Formally accept the employer's share of the assets and liabilities under the system based on the system's actuarial valuation report.
- B. The governing body shall post the pension funding policy on the governing body's public website and transmit the pension funding policy to the board.

Added by Laws 2018, Ch. 112, § 1. Amended by Laws 2021, Ch. 251, § 3.

38-863.02 Pension funding policies; board; employers' pension funding policies; posting; popular annual financial report

- A. The board shall annually review and adopt a pension funding policy for each defined benefit retirement plan and system administered by the board that analyzes and reviews the methods to ensure systematic funding of all retirement benefit payments for the members of each defined benefit retirement plan and system and that outlines the strategy to achieve financial solvency of each plan and system.
- B. The board shall annually consolidate the pension funding policies of employers adopted pursuant to section 38-863.01 and post the document on the system's public website.
- C. On or before June 30 of each year, the board shall submit a popular annual financial report to the Governor, the President of the Senate and the Speaker of the House of Representatives and post to the system's public website that includes the following:
 - 1. For each retirement system and plan that is administered by the board:
 - (a) Funding status.
 - (b) Aggregate contribution rates.
 - (c) Demographic updates.
 - 2. For the aggregate of the systems and plans administered by the board:
 - (a) Investment returns.
 - (b) An analysis of the system's aggregate experience over the previous year.
 - (c) Major policy and governance changes.
 - (d) Future trends and objectives.

Added by Laws 2021, Ch. 251, § 4

TITLE 38, CHAPTER 5, ARTICLE 4.1
PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT PLAN
(38-865 THROUGH 38-869)

38-865. Definitions

In this article, unless the context otherwise requires:

1. "Annuity account" means an account that is established for each participant to record the deposit of participant contributions, employer contributions and interest, dividends or other accumulations credited on behalf of the participant.
2. "Board" means the board of trustees of the Public Safety Personnel Retirement System established by section 38-848.
3. "Compensation":
 - (a) for participants as defined in paragraph 7, subdivision (a) of this section and section 38-865.01, has the same meaning prescribed in section 38-842.
 - (b) for participants as defined in paragraph 7, subdivision (b) of this section, means salary as defined in section 38-881.
4. "Defined contribution plan" means the public safety personnel defined contribution retirement plan established pursuant to this article.
5. "Employer" has the same meaning prescribed in section 38-842 or 38-881, as applicable.
6. "Employer contribution" means an amount deposited by an employer, from the employer's own monies, in the participant's annuity account on a periodic basis coinciding with the participant's regular pay period.
7. "Participant" means:
 - (a) A member as defined in section 38-842, paragraph 31, subdivision (a), excluding subdivision (a), item (vi), who is one of the following:
 - (i) An employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the defined contribution plan established pursuant to this article and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.
 - (ii) An employee who is hired on or after July 1, 2017, who is not covered by the federal old age and survivors insurance system and who makes the irrevocable election to participate in the system or is enrolled in the system pursuant to section 38-842.01, subsection A.
 - (b) A member as defined in section 38-881, paragraph 27, subdivision (a) who is one of the following:
 - (i) An employee who is hired on or after July 1, 2018 who is not in a designated position as defined in section 38-881, paragraph 13, subdivision (g) and who was not an active, an inactive or a retired member of the Corrections Officer Retirement Plan or a member of the Corrections Officer Retirement Plan with a disability on June 30, 2018.
 - (ii) An employee who is hired on or after July 1, 2018, who is in a designated position as defined in section 38-881, paragraph 13, subdivision (g), who makes the irrevocable election pursuant to section 38-881.01 to participate solely in the defined contribution plan established pursuant to this article and who was not an active, an inactive or a retired member of the Corrections Officer Retirement Plan or a member of the Corrections Officer Retirement Plan with a disability on June 30, 2018.
8. "Pensionable compensation" means the amount of the participant's annual compensation that does not exceed the limitation specified in section 38-843.04 or 38-895.01, as applicable.
9. "System" means the Public Safety Personnel Retirement System established by article 4 of this chapter.

Added by Laws 2016, Ch. 2, § 15. Amended by Laws 2017, Ch. 163, § 4. Amended by Laws 2018, Ch. 42, § 6.

38-865.01. Definition of participant*

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

Added by Laws 2016, Ch. 2, § 15. Amended by Laws 2018, Ch. 42, § 7.

38-866. Defined contribution plan design; purpose; powers and duties of the board; administration; annual report

- A. The board shall establish, design and administer a defined contribution plan to provide for the retirement of specified participants beginning July 1, 2017.
- B. The purpose of this article is to provide a defined contribution plan that is fully funded on a current basis from employer and participant contributions.
- C. The legislature intends that the defined contribution plan for participants under this article be designed to be a qualified governmental plan under section 401(a) of the internal revenue code, as amended, or successor provisions of law, and be exempt from taxation under section 501 of the internal revenue code. The board may adopt any additional provision to the defined contribution plan that is necessary to fulfill this intent. Consistent with this intent, the board may submit to the internal revenue service a request for a determination letter that the defined contribution plan is a plan qualified under section 401(a) of the internal revenue code and a private letter ruling that all participant contributions that are picked up by the employer as provided in section 38-867 shall be treated as employer contributions pursuant to section 414(h) of the internal revenue code.
- D. The board shall:
 - 1. Enter into a contract with a provider or providers to provide retirement plan investments, plan administration and services to participants in the defined contribution plan. The plan shall provide for appropriate long-term retirement-oriented investments and shall include both fixed and variable deferred annuity options. The board shall consider all of the following when determining a company with which to contract:
 - (a) the financial stability of the company and the ability of the company to provide the contracted rights and benefits to the participants.
 - (b) the cost of the investments, plan administration and services to the participants.
 - (c) the experience of the company in providing defined contribution retirement plans in lieu of defined benefit plan participation to public employees.
 - (d) the experience of the company in paying retirement income to public employees.
 - (e) the experience of the company in providing plan education, counseling and advice to participants in public employee retirement plans that are offered in lieu of state defined benefit plan participation.
 - 2. Require under a contract that a provider provide education, counseling and objective participant-specific plan advice to participants. Any participant-specific advice and counseling shall be administered by a federally registered investment advisor. The federally registered investment advisor shall act as a fiduciary to participants and is required to act in the participant's best interest.
 - 3. Require under the contract that the defined contribution plan include not less than five and not more than twenty-five predetermined investment portfolio options to participants. The predetermined investment portfolio options shall include options that reflect different risk profiles and options that automatically reallocate and rebalance contributions as a participant ages. In addition, the defined contribution plan may allow participants to construct investment portfolios using some or all of the investment options comprising the predetermined investment portfolio options.
 - 4. Require under a contract that the defined contribution retirement plan offer participants a menu of lifetime annuity options, either fixed or variable or a combination of both.

* See Sec. 22 on page 119.

- E. The board may:
 1. Employ other services it deems necessary, including legal services, for the operation and administration of the defined contribution plan.
 2. Perform all acts, whether or not expressly authorized, that it deems necessary and proper for the operation and protection of the plan.
- F. The board shall adopt policies regarding the defined contribution plan, including the administration of the participant and employer contributions, investment options, termination of participation in the defined contribution plan, administration of the payout options under the defined contribution plan and administration of the participant distributions.
- G. The board shall participate in a competitive bid process at least once every five years to contract with a private person or any qualified company or companies to administer the defined contribution plan established pursuant to this article.
- H. Any contract for a third-party administrator of the defined contribution plan shall include competitive fees and provisions requiring quarterly meetings with the system, annual updates to the board on the status of the defined contribution plan and quarterly statements to each participant. On or before December 1 of each year, the board shall report the status of the defined contribution plan to the Governor, the President of the Senate, the speaker of the House of Representatives and the joint legislative budget committee.

Added by Laws 2016, Ch. 2, § 15. Amended by Laws 2017, Ch. 269, § 16. Amended by Laws 2018, Ch. 279, § 24. Amended by Laws 2019, Ch. 36, § 13. Added by Laws 2021, Ch. 405, § 17. Amended by Laws 2022, Ch. 73, § 15.

Sec. 14. Repeal

Section 38-866, Arizona Revised Statutes, as amended by Laws 2021, chapter 405, section 17, is repealed.

Added by Laws 2022, Ch. 73, § 14.

38-867. Contributions; member; employer; pick-up

- A. Each participant in the defined contribution plan shall contribute the following percentage of the participant's gross pensionable compensation by salary reduction that shall be deposited in the participant's annuity account:
 1. For a participant as defined in section 38-865, paragraph 7, subdivision (a), Item (ii), three percent.
 2. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i), nine percent.
 3. For a participant as defined in section 38-865, paragraph 7, subdivision (b), seven percent.
- B. A participant as defined in section 38-865 may make a onetime irrevocable election, before the participant is eligible to participate in any qualified plan of the employer, to contribute more than the percentage of the participant's gross pensionable compensation specified in this section, up to the amount allowable under section 415(c) of the internal revenue code. A participant as defined in section 38-865, paragraph 7, subdivision (b) may make a one-time irrevocable election, before the participant is eligible to participate in any qualified plan of the employer, to contribute less than the percentage of the participant's gross pensionable compensation specified in this section but may not elect to contribute less than five percent of the participant's gross pensionable compensation. The election made pursuant to this subsection shall be the participant's contribution rate for the remainder of the participant's employment.
- C. Although designated as employee contributions, all participant contributions made to the defined contribution 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 participant's compensation. A participant in the defined contribution plan may not choose to receive the contributed amounts directly instead of the employer paying the amounts to the defined contribution plan. All participant 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 the participant's gross income for federal and state income

- tax purposes and are includable in the gross income of the participant or the participant's beneficiaries only in the taxable year in which they are distributed.
- D. Each employer shall annually make a contribution equal to the following percentages of each participant's gross pensionable compensation:
 - 1. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (ii) three percent.
 - 2. For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i) nine percent.
 - 3. For a participant as defined in section 38-865, paragraph 7, subdivision (b), five percent.
 - E. The pro rata share of the amount paid in subsection d of this section shall be paid on each date that a participant contribution is made and shall be credited to the participant's annuity account.
 - F. Each participant as defined in section 38-865, paragraph 7, subdivision (a), item (i) and subdivision (b) and each employer shall contribute:
 - 1. To the Public Safety Personnel Defined Contribution Retirement Plan Disability Program established by article 4.2 of this chapter.
 - 2. For participants who make an election pursuant to section 38-869, an equal amount for the group health benefits plan payments as specified in section 38-869 as determined by actuarial valuations reported by the board to the employer and local board, which shall be deposited in a separate account established pursuant to section 38-869.
 - G. A participant's contributions and earnings on those contributions are immediately vested.
 - H. A participant as defined in section 38-865, paragraph 7, subdivision (a) or section 38-865.01 is fully vested in the defined contribution plan after ten years of service, with employer contributions vesting at a rate of ten percent per year. If a participant described in this subsection dies or is determined to be eligible for an accidental or catastrophic disability pension pursuant to section 38-844 before completing ten years of service, the employer contributions are immediately fully vested.
 - I. A participant as defined in section 38-865, paragraph 7, subdivision (b) is fully vested in the defined contribution plan after three years of service, with the employer contributions vesting at the following rates:
 - 1. Twenty-five percent after the first year of service.
 - 2. Fifty percent after the second year of service.
 - 3. One hundred percent after the third year of service.
 - J. If a participant as defined in section 38-865, paragraph 7, subdivision (b) dies or is determined to be eligible for an accidental or total and permanent disability pension pursuant to section 38-886 before completing three years of service, the employer contributions are immediately fully vested.

Added by Laws 2016, Ch. 2, § 15. Amended by Laws 2017, Ch. 163, § 5. Amended by Laws 2017, Ch. 269, § 17. Amended by Laws 2018, Ch. 42, § 8. Amended by Laws 2021, Ch. 330, § 3, effective from and after June 30, 2022. Amended by Laws, Ch. 48, § 2. Amended by Laws 2024, Ch. 116, § 4.

38-867.01. Rollover distribution from the system; definition

- A. A lump sum distribution made pursuant to section 38-844.08, subsection B or section 38-885.01, subsection J shall be deposited in a separate rollover account for the participant as defined in subsection C, paragraph 2, subdivision (a) or (b) of this section and made immediately available for the participant to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by section 401(a)(31) of the internal revenue code.
- B. A participant as defined in subsection C, paragraph 2, subdivision (c) of this section may make a rollover contribution from a qualified plan or an IRA that shall be deposited in a separate rollover account for the participant and made immediately available for the participant to either withdraw all or any portion of the lump sum deposit or directly transfer all or any portion of the lump sum deposit to an eligible retirement plan as required by section 401(a)(31) of the internal revenue code.
- C. For the purposes of this section:
 - 1. "IRA" means an individual retirement account or an individual retirement annuity described in sections 408(a) or 408(b) of the internal revenue code.

2. "Participant" means any of the following:
 - (a) A member as defined in section 38-842, paragraph 31, excluding subdivision (a), item (vi), who is hired before January 1, 2012 and who has elected to enter the deferred retirement option plan established by section 21 38-844.02.
 - (b) A member as defined in section 38-881 who has elected to enter the reverse deferred retirement option plan established by section 38-885.01.
 - (c) An individual who has made a rollover contribution pursuant to subsection b of this section and who is either:
 - (i) A current employee of an employer as defined in section 38-842 or section 38-881.
 - (ii) Currently receiving or entitled to receive a pension from the Public Safety Personnel Retirement System or the Corrections Officer Retirement Plan.
 - (iii) A former employee who was an active participant, as defined in section 38-865 or 38-865.01, in the defined contribution plan who has an annuity account balance or a separate rollover account balance.
3. "Qualified plan" means an eligible deferred compensation plan under 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, a tax-qualified retirement plan described in section 401(a) or 403(a) of the internal revenue code or an annuity contract described in section 403(b) of the internal revenue code.
4. "Separate rollover account" means a fully vested and nonforfeitable separate account maintained under the defined contribution plan for the benefit of a participant who has made a rollover contribution to the plan as authorized by subsection a or b of this section.

Added by Laws 2017, Ch. 269, § 18. Amended by Laws 2018, Ch. 42, § 9.

38-867.02. Trustee-to-trustee transfers from system; definitions

- A. A trustee-to-trustee transfer made pursuant to section 38-844.06, subsection C shall be deposited in a separate transfer account established on behalf of the participant and made immediately available for the participant's beneficiary to either withdraw all or any portion of the deposited monies or directly transfer all or any portion of the monies to an eligible retirement plan in accordance with section 401(a)(31) of the internal revenue code.
- B. For the purposes of this section:
 1. "Beneficiary" means the person designated as the beneficiary of a participant's deferred retirement option plan participation account pursuant to section 38-844.07.
 2. "Participant" means a member as defined in section 38-842, paragraph 31, subdivision (a), item (vi), who has both:
 - (a) Elected to enter into the deferred retirement option plan established by section 38-844.02.
 - (b) Died while a participant in the deferred retirement option plan.
 3. "Separate transfer account" means a fully vested and nonforfeitable separate account under the defined contribution plan established by the trustee in accordance with subsection A of this section.

Added by Laws 2021, Ch. 120, § 6, applies retroactively from and after December 31, 2019.

38-868. Contributions; member; employer; applicability of article*

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

*See Sec. 22 on page 119.

- B. Beginning July 1, 2017, a participant as defined in section 38-865.01 in the defined contribution plan shall contribute three percent of the participant's gross pensionable compensation by salary reduction that shall be deposited in the participant's annuity account.
- C. Each employer of a participant as defined in section 38-865.01 shall annually make a contribution equal to the following percentages of the participant's gross pensionable compensation:
 1. For a participant that is hired in 2012, for fiscal years 2017-2018 through 2023-2024, four percent and three percent for each fiscal year thereafter.
 2. For a participant that is hired in 2013, for fiscal years 2017-2018 through 2022-2023, four percent and three percent for each fiscal year thereafter.
 3. For a participant that is hired in 2014, for fiscal years 2017-2018 through 2021-2022, four percent and three percent for each fiscal year thereafter.
 4. For a participant that is hired in 2015, for fiscal years 2017-2018 through 2020-2021, four percent and three percent for each fiscal year thereafter.
 5. For a participant that is hired in 2016, for fiscal years 2017-2018 through 2019-2020, four percent and three percent for each fiscal year thereafter.
 6. For a participant that is hired on or after January 1, 2017 and before July 1, 2017, for fiscal year 2017-2018, four percent and three percent for each fiscal year thereafter.
- D. If a participant as defined in section 38-865.01 is subsequently covered by the federal old age and survivors insurance system, the participant and the participant's employer may not make any contributions on the participant's behalf pursuant to this section during the period the participant is covered by the federal old age and survivors insurance system. If at a later time the participant is not covered by the federal old age and survivors insurance system through an employer under the system, the participant and the participant's employer shall again be required to contribute on behalf of the employee pursuant to this section.
- E. All of the provisions of this article apply to a participant as defined in section 38-865.01.
- F. For a participant as defined in section 38-865.01, an employer may choose to pay a portion of the participant's contributions under this section in an amount of not more than the difference between the contribution rate specified under section 38-843 for employees hired on or after January 1, 2012 and before July 1, 2017 and for any employee hired before January 1, 2012.

Added by Laws 2016, Ch. 2, § 15. Amended by Laws 2018, Ch. 42, § 10.

38-868.01 Credit for military time

- A. An active member of the defined contribution system who volunteers or is ordered to perform military service may receive years of service for not more than sixty months of military service as provided by the uniformed services employment and reemployment rights act of 1994 (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 b of this section if the member meets the following requirements:
 1. Was an active member of the defined contribution system on the day before the member began military service.
 2. Entered into and served in the armed forces of the United States or any military reserve unit of any branch of 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.
- B. Contributions made pursuant to subsection a of this section are 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.

- C. 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 vesting 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 service corresponding to the period of military service.
- D. The employer and the member shall make contributions pursuant to subsection A of this section as follows:
 - 1. Contributions are based on the compensation that the member would have received but for the period that the member was ordered into or volunteered for military service.
 - 2. If the employer cannot reasonably determine the member's rate of compensation for the period that the member was ordered into or volunteered for military service, contributions are 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 or volunteering for military service, contributions are 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 are paid to the defined contribution system pursuant to section 38-843 for any military differential wage pay paid to the member while performing military service.
- E. In computing the length of total credited service of a member for the purpose of determining vesting pursuant to section 38-867 or disability pursuant to article 4.2 of this chapter, the period of military service, as prescribed by this section, is included.
- F. 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 D of this section on the member's return and in compliance with subsection A of this section.
- G. In addition to, but not in duplication of, the provisions of subsection A of this section, beginning July 1, 2017, contributions, benefits and credited service provided pursuant to this section are 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.
- H. For plan years beginning after July 1, 2017, a member who does not currently perform services for an employer by reason of qualified military service as defined in section 414(u)(5) of the internal revenue code is not considered having a severance from employment during that qualified military service. Any payments by the employer to the member during the qualified military service shall be considered compensation to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the employer rather than entering qualified military service.
- I. For deaths occurring from and after July 1, 2017, in the case of a member who dies while performing qualified military service as defined in section 414(u)(5) of the internal revenue code, the survivors of the member are entitled to any benefits, other than benefit accruals relating to the period of qualified military service, provided under the defined contribution system as though the member resumed and then terminated employment on account of death.

Added by Laws 2019, Ch. 36, § 14.

Sec. 21. Retroactivity

Section 38-868.01, Arizona Revised Statutes, as added by this act, applies retroactively to from and after June 30, 2017.

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

- A. The board shall establish, design and administer a group health benefits plan to provide group health benefits as prescribed in sections 38-857 and 38-906 for retired participants who make an election pursuant to this section. Monies collected pursuant to section 38-867, subsection F, paragraph 2 shall be deposited in a separate account solely to pay for group health benefits provided under this section and the amounts shall be held by the board in trust for the purpose of providing the group health benefits.
- B. The purpose of this section is to provide a group health benefits plan that is fully funded on a current basis from employer and participant contributions. The board shall subject the account to actuarial analysis and manage the account in an actuarially sound manner.
- C. Contributions made to the account are nonrefundable and are separate assets for the purposes of funding the group health benefits plan.
- D. The legislature intends that the group health benefits plan for participants constitutes the exercise by the board of an essential governmental function as provided in section 115(1) of the internal revenue code, as amended, or successor provisions of law and that the trust created pursuant to this section is exempt from federal and state income tax. Notwithstanding subsection A of this section, if the board dissolves the trust created pursuant to this section, any remaining assets shall be returned to the employers that have contributed to the trust in such amounts as the board determines. The board may adopt any additional provisions to the group health benefits plan that are necessary to fulfill this intent.
- E. For ninety days after the effective date of this section, existing participants shall have the opportunity to participate in the group health benefits plan by opting in through an irrevocable election to pay the required costs of the group health benefits plan through payroll deduction. For ninety days after employment, participants who are hired after the effective date of this section may participate in the group health benefits plan by making an irrevocable election to pay the required costs of the group health benefits plan through payroll deduction. If a participant fails to make an irrevocable election within the ninety-day period specified in this subsection, the participant shall be excluded from receiving any benefits specified in this section during the participant's retirement and may not again have an election to participate if the participant is ever reemployed in a position in which the participant may again participate in the defined contribution plan.
- F. Each participant who makes an election pursuant to subsection E of this section and the participant's employer shall pay an equal amount for costs, as actuarially determined, for the group health benefits plan pursuant to section 38-867.
- G. Each employer shall transfer to the board the employer and participant contributions paid pursuant to section 38-867, subsection F, paragraph 2 within ten working days after each payroll date. Contributions transferred after that date shall include a penalty to be paid by the employer of ten percent per year, compounded annually, for each day the contributions are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by an action in a court of competent jurisdiction against an employer that is 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 an employer by any department or agency of this state.
- H. Notwithstanding any other law, the board may authorize the system to administer the group health benefits plan, to pay costs from the account to the system for administrative expenses and to allocate costs on a pro rata basis consistent with subsection f of this section.
- I. The group health benefits plan established pursuant to this section shall provide a retired participant who has made an election pursuant to this section payments prescribed in section 38-857, subsection A or B, or section 38-906, subsection A or B, as applicable, if the retired participant both:
 - 1. Meets the requirements of the normal retirement date as defined in section 38-842, paragraph 32, subdivision (c) or section 38-881, paragraph 28, subdivision (c), as applicable.
 - 2. Has elected either:
 - (a) To participate in the group health and accident coverage provided by section 38-651.01 or 38-782 or any other retiree health and accident insurance coverage provided or administered by a participating employer.

(b) To purchase individual health care coverage and receive a payment pursuant to this section through the retired participant'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 participant.

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

Added by Laws 2021, Ch. 330, § 4, effective from and after June 30, 2022. Amended by Laws 2024, Ch. 116, § 5.

**TITLE 38, CHAPTER 5, ARTICLE 4.2
PUBLIC SAFETY PERSONNEL DEFINED CONTRIBUTION RETIREMENT
PLAN DISABILITY PROGRAM
(38-870 THROUGH 38-870.08)**

38-870. Definitions

In this article, unless the context otherwise requires:

1. "Assets" means the accumulated resources of the disability program.
2. "Board" means the board of trustees established by section 38-848.
3. "Compensation":
 - (a) For a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i) has the same meaning prescribed in section 38-842.
 - (b) For a participant as defined in section 38-865, paragraph 7, subdivision (b), means salary defined in section 38-881.
4. "Disability program" or "program" means the public safety personnel defined contribution retirement plan disability program established by this article.
5. "Local Board" has the same meaning prescribed in section 38-842 or 38-881, as applicable.
6. "Participant" means a participant who is in the public safety personnel defined contribution retirement plan and who is a participant as defined in section 38-865, paragraph 7, subdivision (a), item (i) or subdivision (b).
7. "Pensionable compensation" has the same meaning prescribed in section 38-865.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016. Amended by Laws 2017, Ch. 163, § 6. Amended by Laws 2017, Ch. 269, § 19.

38-870.01. Disability program; administration; power and duties of the board; hearing

- A. The public safety personnel defined contribution retirement plan disability program is established for participants in the public safety personnel defined contribution retirement plan who either have elected to participate solely in the defined contribution plan established pursuant to article 4.1 of this chapter or are participants as defined in section 38-865, paragraph 7, subdivision (b). The board shall administer the disability program.
- B. The board may delegate authority to administer the program as it deems necessary and prudent to the administrator employed pursuant to section 38-848.
- C. The board, in the administration, management and operation of the program, 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 program 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.
- D. The board, in the administration, management and operation of the program, may:
 1. Employ services as it deems necessary.
 2. Either keep invested monies separate or commingle invested monies as it deems appropriate.
 3. Do all acts, whether expressly authorized, that may be deemed necessary or proper for the protection of the fund.
 4. Determine the rights, benefits or obligations of any person under this article and afford any person dissatisfied with a determination of the person's rights, benefits or obligations under this article with a hearing on the determination.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016. Amended by Laws 2017, Ch. 163, § 7.

38-870.02. Disability program trust fund

- A. The disability program trust fund is established for the purpose of paying benefits under and costs of administering the disability program. The trust fund shall be administered by the board.
- B. The disability program trust fund consists of all monies paid into the trust fund pursuant to this article, whether in the form of cash, securities or other assets, and all monies received from any other source. Except as provided in subsection c, paragraph 1 of this section, the disability program trust fund is exempt from title 44, chapter 3.
- C. Abandoned monies shall revert to the disability program trust fund under the following conditions:
 - 1. Monies in the trust fund are presumed abandoned if the system has taken the required action described in this subsection to identify and locate the apparent owner and the apparent owner as defined in section 44-301 has not communicated in writing with the system and has not otherwise indicated an interest in the monies for the three-year period following the required beginning date of distributions.
 - 2. Before monies are presumed abandoned, the system shall attempt to contact the apparent owner in writing. If this notice is returned by the postal authority as undeliverable, each year for three years from the date that distributions should have begun, the system shall make a good faith attempt to locate the apparent owner, including contacting any known beneficiary on record with the system, searching public databases to identify the address of the apparent owner or using the services of a third-party address verification service. If the good faith attempt to locate the apparent owner fails, monies are presumed abandoned pursuant to this subsection.
 - 3. At the time monies are presumed abandoned pursuant to this subsection, any other property right accrued or accruing to the apparent owner as a result of the interest in those monies, and not previously presumed abandoned, is also presumed abandoned.
 - 4. Interest ceases to accrue on the monies on the date the monies are presumed abandoned.
- D. The custody, management and investment of the disability program trust fund are as prescribed by this article and article 4 of this chapter.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016.

38-870.03. Eligibility

All participants are subject to this article and shall participate in the disability program.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016.

38-870.04. Employer and participant contributions

- A. Beginning July 1, 2017, employers shall contribute the percentage of the gross pensionable compensation of all of the participants under their employment so that the total employer contributions equals the amount that the board determines is necessary to pay one-half of all benefits under and costs of administering the disability program.
- B. Beginning July 1, 2017, a participant shall contribute a percentage of the participant's gross pensionable compensation equal to the employer contribution for the participant required pursuant to subsection a of this section.
- C. The employer shall pay the participant contributions required of participants on account of gross pensionable compensation earned. All employer and participant contributions shall be paid to the board. The board shall allocate the contributions to the disability program trust fund and shall place the contributions in the disability program's depository.
- D. Each employer shall certify on each payroll the amount to be contributed to the disability program and shall remit that amount to the board.

- E. The department of administration and the treasurer of each county and participating city and town shall transfer to the board the contributions provided for in subsections A and B of this section within ten working days after each payroll date. Contributions transferred after these dates shall include a penalty equal to ten percent per annum, compounded annually, for each day that the contributions are late. Delinquent payments due under this subsection, together with interest charges as provided in this subsection and court costs, may be recovered by action in a court of competent jurisdiction against the person or persons responsible for the payments or, at the request of the board, may be deducted from any other monies, including excise revenue taxes, payable to a political subdivision by any department or agency of this state.
- F. If more than the correct amount of contributions required is paid by an employer, proper adjustment shall be made in connection with subsequent payments. The board shall return excess contributions to the employer if the employer requests return of the contributions within one year after the date of overpayment.
- G. Participant contributions are not refundable.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016. Amended by Laws 2023, Ch. 6, § 2.

38-870.05. Contribution rate

- A. Employer contributions shall be a percentage of gross pensionable compensation for each participant, as the system actuary determines pursuant to this section. The actuary shall make this determination in an annual valuation performed as of June 30. The valuation as of June 30 of a calendar year shall determine the percentage to be applied to compensation for the fiscal year beginning July 1 of the following calendar year. The actuary shall determine the total employer contribution using an actuarial cost method consistent with generally accepted actuarial standards. The total employer contributions shall be equal to the employer normal cost plus the amount required to amortize the past service funding requirement over a period consistent with generally accepted actuarial standards.
- B. All contributions made by the employer and allocated to the disability program trust fund established by section 38-870.02 are irrevocable and shall be used as benefits under this article or to pay expenses of the disability program.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016.

38-870.06. Disability program benefit

- A. The local board shall follow the same procedures and method as prescribed in section 38-844, for a participant who is employed by an employer as defined in section 38-842, and section 38-886, for a participant who is employed by an employer as defined in section 38-881, to determine eligibility for and continuation of a disability benefit and in computing the amount available to the participant. A participant is not eligible for a disability benefit under this article for an ordinary disability as defined in sections 38-842.
- B. A participant, as defined in section 38-865, paragraph 7, subdivision (a), item (i), who meets the requirements for a disability pension as prescribed in section 38-844, except for an ordinary disability, shall receive a monthly disability benefit equal to a monthly disability pension that would be provided to a Public Safety Personnel Retirement System member who is hired on or after July 1, 2017, reduced by an amount equal to the monthly annuitized value of the participant's annuity account under article 4.1 of this chapter that does not include a cost-of-living adjustment, as determined by the board. A participant, as defined in section 38-865, paragraph 7, subdivision (b), who meets the requirements for a disability pension as prescribed in section 38-886, except for an ordinary disability, shall receive a monthly disability benefit equal to a monthly disability pension that would be provided to a Corrections Officer Retirement Plan member who is hired on or after July 1, 2018, reduced by an amount equal to the monthly annuitized value of the participant's annuity account under article 4.1 of this chapter that does not include a cost-of-living adjustment, as determined by the board. In determining the monthly annuitized offset value of the participant's annuity account under article 4.1 of this chapter to be used in reducing the disability benefit paid pursuant to this section, the board shall instruct its actuary to calculate the monthly payment that would be paid to the participant assuming the participant had elected a straight life annuity

commencing on the participant's date of disability, using the mortality and interest factors then used by the actuary in determining the valuation of the Public Safety Personnel Retirement System or the Corrections Officer Retirement Plan, as applicable.

Added by Laws 2016, Ch. 2, § 15, effective August 6, 2016. Amended by Laws 2017, Ch. 163, § 8. Amended by Laws 2017, Ch. 269, § 20.

38-870.07 Death benefits; survivor or eligible child

- A. If a participant, as defined in section 38-865, paragraph 7, subdivision (a), item (i), is killed in the line of duty or dies from injuries suffered in the line of duty, the local board shall follow the same procedures and methods as prescribed in section 38-846 to determine eligibility for and the continuation of a death benefit to a surviving spouse or any eligible child.
- B. A surviving spouse or eligible child of a participant as specified in subsection A of this section who meets the requirements for a death benefit as prescribed in section 38-846 shall receive a monthly death benefit equal to a monthly death pension that would be provided to a Public Safety Personnel Retirement System member who is hired on or after July 1, 2017, reduced by an amount equal to the monthly annuitized value of the participant's annuity account under article 4.1 of this chapter that does not include a cost-of-living adjustment, as determined by the board. In determining the monthly annuitized offset value of the participant's annuity account under article 4.1 of this chapter to be used in reducing the death benefit paid pursuant to this section, the board shall instruct its actuary to calculate the monthly payment that would be paid to the surviving spouse or eligible child assuming the participant had elected a straight life annuity commencing on the participant's date of death, using the mortality and interest factors then used by the actuary in determining the valuation of the Public Safety Personnel Retirement System.

Added by Laws 2017, Ch. 269, § 21.

38-870.08 Death benefits; surviving spouse; eligible child

- A. If a participant, as defined in section 38-865, paragraph 7, subdivision (b), is killed in the line of duty or dies from injuries suffered in the line of duty, the local board shall follow the same procedures and methods as prescribed in section 38-888 to determine eligibility for and the continuation of a death benefit to a surviving spouse or any eligible child.
- B. A surviving spouse or eligible child of a participant as specified in subsection A of this section who meets the requirements for a death benefit as prescribed in section 38-888 shall receive a monthly death benefit equal to a monthly death pension that would be provided to a Corrections Officers Retirement Plan member who is hired on or after July 1, 2018, reduced by an amount equal to the monthly annuitized value of the participant's annuity account under article 4.1 of this chapter that does not include a cost-of-living adjustment, as determined by the board. In determining the monthly annuitized offset value of the participant's annuity account under article 4.1 of this chapter to be used in reducing the death benefit paid pursuant to this section, the board shall instruct its actuary to calculate the monthly payment that would be paid to the surviving spouse or eligible child assuming the participant had elected a straight life annuity commencing on the participant's date of death, using the mortality and interest factors then used by the actuary in determining the valuation of the Corrections Officers Retirement Plan.

Added by Laws 2017, Ch. 163, § 9.

**TITLE 38, CHAPTER 5, ARTICLE 5.1
PSPRS DEFERRED COMPENSATION PLAN
(38-875 THROUGH 38-878)**

38-875. 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.
2. "Deferred compensation plan" means an eligible Deferred Compensation plan as defined in section 457(b) of the internal revenue code.
3. "Employer" means any entity that participates as an employer in a retirement system or plan that is administered by the board.
4. "Participant" means any individual who is employed by an employer and who is enrolled in one of the retirement systems or plans administered by the board.

38-876. Deferred compensation plan; administration

- A. The board shall establish, design and administer a deferred compensation plan in which a participant may participate.
- B. The board, in the administration, management and operation of the deferred compensation plan, may:
 1. Employ services as it deems necessary, including legal services, for the operation and administration of the deferred compensation plan.
 2. Administer the deferred compensation plan through contracts with multiple vendors.
 3. Perform all acts that it deems necessary and proper for the operation and protection of the deferred compensation plan.

38-877. Voluntary participation; authorization; payroll salary deductions; employer contributions

- A. A participant may participate in the deferred compensation plan established pursuant to this article. A participant in the deferred compensation plan shall authorize the participant's employer in writing to make reductions or deductions in the participant's remuneration as provided in an executed deferred compensation agreement.
- B. Each employer shall initiate payroll salary reductions or deductions for the deferred compensation plan as directed by their employees who are participating in the deferred compensation plan.
- C. An employer may make contributions to the deferred compensation plan as selected by the employer and allowed by law.

38-878. Effect of participation

- A. Any benefits provided pursuant to this article are in addition to any other benefits provided for the participants and are supplemental to any other retirement plan under which such participants participate.
- B. Any income deferred under the deferred compensation plan are included as regular compensation for the purpose of computing the retirement and pension benefits earned by an employee participating in the deferred compensation plan and in any other plan maintained by the employee's employer, unless specifically excluded under the other plan or the state laws governing such other plan.

Added by Laws 2019, Ch. 36, § 15.

**TITLE 38, CHAPTER 4, ARTICLE 3.
PUBLIC SAFETY CANCER INSURANCE
(38-641 THROUGH 38-645)**

Sec. 2. Heading change

The article heading of title 38, chapter 4, article 3, Arizona Revised Statutes, is changed from "FIREFIGHTER, PEACE OFFICER AND CORRECTIONS OFFICER CANCER INSURANCE" to "PUBLIC SAFETY CANCER INSURANCE".

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 firefighters, peace officers, corrections officers, detention officers or other members as defined in section 38-881 and that participates in the Public Safety Personnel Retirement System established by Chapter 5, Article 4 of this title or the Corrections Officer Retirement Plan established by Chapter 5, Article 6 of this title.
3. "Peace officer" means a certified peace officer as defined in section 38-842.
4. "Program" means the Public Safety 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, effective September 19, 2007, retroactively effective to July 1, 2007; Amended by Laws 2010, Ch. 200, § 6, effective April 28, 2010; Amended by Laws 2014, Ch.190 § 3. Amended by Laws 2016, Ch. 178, § 3.

38-642. Public safety cancer insurance policy program

- A. Except as provided in subsection D of this section, the board shall establish and administer a public safety cancer insurance policy program for participating employers that employ firefighters 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. Except as provided in subsection D of this section, participating employers that employ firefighters 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 public safety 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. The board shall administer a public safety cancer insurance policy program for employers and their employees who are corrections officers, detention officers or other members as defined in section 38-881 and who join the program. The state department of corrections, the department of juvenile corrections, the department of public safety or a county, city or town may establish a voluntary cancer insurance policy program for employees who are corrections officers, detention officers or other members as defined in section 38-881. The state department of corrections, the department of juvenile corrections, the department of public safety or a county, city or town that, in its discretion, establishes a program shall collect the payments for the program and submit the monies to the board on behalf of the employees who voluntarily enroll in the program and make payments for the cancer insurance. If a county, city or town establishes a voluntary cancer insurance policy program,

the county, city or town is not required to make payments for the cancer insurance. If the state department of corrections, the department of juvenile corrections or the department of public safety establishes a voluntary cancer insurance policy program, the department shall not make payments for the cancer insurance. The board may adopt policies that establish criteria for participation in the program pursuant to this subsection.

- E. 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 firefighter, peace officer, corrections officer detention officer or any other member as defined in section 38-881 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.
- F. Employers that fail to pay the amount required by subsection E of this section by August 31 shall pay a fifteen percent 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.
- G. 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; Amended by Laws 2004, Ch. 177, § 1; Amended by Laws 2007, Ch. 147, § 3, effective September 19, 2007, retroactively effective to July 1, 2007; Amended by Laws 2010, Ch. 200, § 7, effective April 28, 2010; Amended by Laws 2014, Ch. 190, § 4; Amended by Laws 2016, Ch. 178, § 4.

38-643. Public safety cancer insurance policy program account

- A. The public safety 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 percent 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. If no monies are deposited in the account in a given year, the board may use up to five percent of the monies deposited in the account in the most recent year in which there was a deposit to pay the costs of administering the program.
- 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 the legislature's intent that the program's income and coverage are not subject to federal income tax.
- F. To the extent required to exclude coverage under the program as gross income of participants, employers required to participate in the program shall pay the premiums for the cost of the program and include the premium amount as wages of the firefighters and peace officers participating in the program subject to federal and state income and employment taxes.

- G. 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, 1996, Ch. 283, § 2, effective July 1, 1997; Amended by Laws 2000, Ch. 39 § 3; Amended by Laws 2007, Ch. 147, § 4, effective September 19, 2007, retroactively effective to July 1, 2007; Amended by Laws 2010, Ch. 200, § 8, effective April 28, 2010; Amended by Laws 2013, Ch. 203, § 1; Amended by Laws 2014, Ch. 190, § 5; Amended by Laws 2016, Ch. 178, § 5. Amended by Laws 2016, Ch. 178, § 5. Amended by Laws 2022, Ch. 73, § 1.

38-644. Eligibility

- A. Except as provided in subsections B, C and D of this section, 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 or the Corrections Officer Retirement Plan or a participant in the Public Safety Personnel Defined Contribution Retirement Plan.
 2. Be one of the following:
 - (a) A firefighter who is or was regularly assigned to hazardous duty of the type normally expected of a firefighter.
 - (b) A peace officer.
 - (c) A corrections officer employed by the state department of corrections or the department of juvenile corrections, a detention officer employed by a county, city or town or any other member as defined in section 38-881 if the department, county, city town or participating employer as defined in section 38-881 has voluntarily established a program and the corrections officer detention officer or other member as defined in section 38-881 voluntarily enrolled in the program and made the payments pursuant to section 38-642, subsection D.
 3. Have cancer that was first diagnosed after the person's date of membership in the Public Safety Personnel Retirement System or Corrections Officer Retirement Plan or date of participation in the Public Safety Personnel Defined Contribution Retirement Plan.
- 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 the total of:
1. Either:
 - (a) Five months for each year of credited service accumulated toward retirement under the Public Safety Personnel Retirement System or the Corrections Officer Retirement Plan.
 - (b) For five months for each year of service under the Public Safety Personnel Defined Contribution Retirement Plan.
 2. Plus actual time spent in the Deferred Retirement Option Plan pursuant to section 38-844.03 or the Reverse Deferred Retirement Option Plan pursuant to section 38-885.01.
- D. A person whose eligibility to receive benefits under subsection C of this section 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 or the Corrections Officer Retirement Plan or the person's participation in the Public Safety Personnel Defined Contribution Retirement Plan.

Added by Laws 1996, Ch. 283, § 2, effective July 1, 1997; Amended by Laws 2000, Ch. 39, § 4; Laws 2001, Ch. 13, § 1; Amended by Laws 2004, Ch. 177, § 2; Amended by Laws 2007, Ch. 147, § 5, effective September 19, 2007, retroactively to July 1, 2007; Amended by Laws 2010, Ch. 200, § 9, effective April 28, 2010; Amended by Laws 2014, Ch. 190, § 6. Amended by Laws 2016, Ch. 178, § 6. Amended by Laws 2017, Ch. 269, § 1. Amended by Laws 2019, Ch. 36, § 1.

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 public safety cancer insurance policy program account.
- C. Coverage under the public safety 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 public safety 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 public safety 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; Amended by Laws 2007, Ch. 147, § 6, effective September 19, 2007, retroactively effective to July 1, 2007; Amended by Laws 2010, Ch. 200, § 10, effective April 28, 2010; Amended by Laws 2014, Ch. 190, § 7; Amended by Laws 2016, Ch. 178, § 7.

**TITLE 38, CHAPTER 5, ARTICLE 7.
TRANSFERS TO ANOTHER RETIREMENT SYSTEM OR PLAN
(38-921 THROUGH 38-924)**

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

- 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 governing the retirement system or plan from which the service credits are being transferred mutually agrees with the 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 of the retirement system or plan to which the member is contributing or has contributed.
- 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 as § 38-951 by Laws 1989, Ch.310, § 16. Renumbered as § 38-921. Amended by Laws 1995, Ch. 32, § 19, eff. March 30, 1995. Amended by Laws 2001, Ch. 123 §1. Amended by Laws 2010, Ch. 200, § 74, eff. April 28, 2010. Amended by Laws 2022, Ch. 145, § 23.

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 governing the retirement system or plan from which the service credits are being transferred and the board governing the retirement system or plan to which the service credits are being transferred approve 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 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 governing the retirement system or plan from which the service credits are being transferred and the board governing the retirement system or plan to which the service credits are being transferred approve 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 of the retirement system or plan to which the member is contributing.
- C. An active or inactive member of a retirement system or plan of a municipality of this state or of the elected officials' 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 governing the retirement system or plan from which the service credits are being transferred and the board governing the retirement system or plan to which the service credits are being transferred approve 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 of the retirement system or plan to which the member is contributing.
- D. 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 by Laws 2006, Ch. 264, § 22. Amended by Laws 2010, Ch. 200, § 75, effective April 28, 2010.
 Amended by Laws 2013, Ch. 111, § 6.

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.

**TITLE 38, CHAPTER 5, ARTICLE 7.1
ARIZONA EMPLOYERS' PENSION PREFUNDING PLAN
(38-931 THROUGH 38-940)**

38-931. Definitions

In this article, unless the context otherwise requires:

1. "Administering and investing":
 - (a) means administering, managing, operating, investing and distributing the prefunding plan and its assets, including accepting, depositing, holding, investing, reinvesting and transferring the assets of the prefunding plan.
 - (b) includes employing legal services.
2. "Board" means the board of trustees of the system.
3. "Defined benefit pension" means the elected officials' retirement plan established by article 3 of this chapter, the Public Safety Personnel Retirement System established by article 4 of this chapter and the Corrections Officer Retirement Plan established by article 6 of this chapter.
4. "Employer" means an employer as defined in section 38-801, 38-842 or 38-881.
5. "Participating employer" means an employer that is authorized and has elected to participate in the prefunding plan and whose governing body has entered into a contract with the board as provided in this article.
6. "Prefunding plan" means the Arizona employers' pension prefunding plan established by this article.
7. "Required pension contributions" means an employer's unfunded liability and future required contributions under the applicable defined benefit pension, whether pertaining to a single year or multiple years.
8. "System" means the Public Safety Personnel Retirement System.
9. "Tax-exempt status of the prefunding plan's income" means that the prefunding plan's income is excluded from gross income for the purposes of the assessment of federal income tax under section 115 of the internal revenue code, intergovernmental immunity or similar grounds.
10. "Trustee" has the same meaning prescribed in section 38-848.04.

Added by Laws 2020, Ch. 79 § 3.

38-932. Arizona employers' pension prefunding plan

- A. The Arizona employers' pension prefunding plan is established as a special trust fund for the purpose of allowing participating employers that provide a defined benefit pension plan to their employees to prefund the employer's required pension contributions.
- B. The prefunding plan and the assets held in the prefunding plan are separate and apart from:
 1. The public safety personnel retirement fund and any other fund, program or plan administered by the board.
 2. Any pension prefunding plan investment accounts established pursuant to section 35-314.04 or any other section of title 35 and any pension prefunding plan monies in such accounts.
- C. The prefunding plan is an integral part of this state and of the political subdivisions of this state, performs an essential governmental function and is an entity with the power to sue and be sued. The prefunding plan is intended to be structured and administered in a manner that results in the tax-exempt status of the prefunding plan's income.

Added by Laws 2020, Ch. 79 § 3.

38-933. Administration and investment by the board; investment options; administrative costs

- A. The board shall have the sole and exclusive control of the administration and investment of the prefunding plan.

- B. The board shall administer and invest the prefunding plan as provided in this article. Notwithstanding any other provision of this title, the board shall offer each participating employer investment options for monies in the prefunding plan consisting of cost-effective, diversified investment portfolios in publicly traded investment options that do not exceed the risk and return profiles established by the board, consistent with the board's fiduciary duty.
- C. Except as otherwise specified in this article, the provisions of article 4 of this chapter pertaining to the administration and investment of the system, including delegation of authority to the administrator and others persons, supplement this article.
- D. The board may keep assets of the prefunding plan separate or commingle the assets of the prefunding plan in one or more group trusts, subject to the crediting of assets, receipts and earnings and charging of payments to the appropriate employer.
- E. All assets of and income earned on the prefunding plan shall be credited to the prefunding plan.
- F. Each participating employer shall pay the reasonable administrative costs as determined by the board in its sole and absolute discretion for the administration and investment of the prefunding plan. The board shall deposit in the prefunding plan all monies received by the board for those administrative costs.

Added by Laws 2020, Ch. 79 § 3.

38-934. Board authorization of employer participation; employer election

- A. The board, pursuant to the terms and conditions set by the board, may authorize an employer to participate in the prefunding plan.
- B. An employer authorized by the board may elect to participate in the prefunding plan if all of the following occur:
 1. The governing body of the employer adopts a resolution requesting to participate in the prefunding plan.
 2. The employer submits a written request to participate in the prefunding plan with the resolution to the administrator of the board.
 3. The governing body of the employer enters into a contract with the board setting forth the terms and conditions of that employer's participation in the prefunding plan, including reflecting or incorporating the requirements of this article and addressing funding and expenditures and actuarial, accounting, reporting and investment considerations.

Added by Laws 2020, Ch. 79 § 3.

38-935. Transfer of monies by employer

- A. The board may authorize a participating employer to transfer monies into the prefunding plan. A transfer of monies into the prefunding plan shall comply with all of the following:
 1. The transfer satisfies the terms of the contract between the governing body of the participating employer and the board.
 2. The transfer satisfies the requirements under the applicable governmental accounting standards.
 3. The transfer does not jeopardize the tax-exempt status of the prefunding plan's income.
- B. Except as otherwise provided in this section and sections 38-936 and 38-937, monies transferred by a participating employer to the prefunding plan pursuant to subsection a of this section are irrevocable and may not be refused by the board or refunded or returned to the participating employer making the transfer.

Added by Laws 2020, Ch. 79 § 3.

38-936. Transfer of assets out of the prefunding plan; requirements

- A. The board may authorize a participating employer to transfer assets out of the prefunding plan if the asset transfer complies with subsection b of this section and all of the following:
 1. The transfer satisfies the terms of the contract between the governing body of the participating employer and the board.

2. The transfer satisfies the requirements under the applicable governmental accounting standards.
 3. The transfer does not jeopardize the tax-exempt status of the prefunding plan's income.
- B. Except as otherwise provided in section 38-937:
1. The prefunding plan assets shall be used exclusively for the purpose of paying required pension contributions and the administrative costs associated with the prefunding plan and may not be used for any other purpose.
 2. A transfer of assets out of the prefunding plan shall be made solely for the purpose of transferring assets to the system to discharge the participating employer's required pension contributions to the applicable defined benefit pension.
- C. The prefunding plan assets and any transfer of assets out of the prefunding plan are not subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws or other process of law and are not unassignable.
- D. Except for a participating employer to the extent expressly provided in subsection a of this section, an employee, member, beneficiary or other individual or person does not have any right, title or interest in the prefunding plan or any prefunding plan assets.

Added by Laws 2020, Ch. 79 § 3.

38-937. Termination of employer's participation; prefunding plan termination

- A. The board may terminate the participation of a participating employer in the prefunding plan if any of the following applies:
1. The board determines that all obligations of a participating employer to pay required pension contributions in accordance with the terms of the applicable defined pension plan of the participating employer have been satisfied in full by payment or by defeasance with no remaining risk regarding the amounts to be paid or the value of the assets held in the prefunding plan.
 2. A participating employer elects to cease to participate in the prefunding plan.
 3. The board finds that the participating employer has failed to satisfy the terms and conditions required by this article, by board rules or by the contract between the governing body of the participating employer and the board.
 4. The prefunding plan is terminated by the board or the prefunding plan otherwise terminates.
- B. If the board terminates the participation of a participating employer in the prefunding plan as described in subsection a, paragraph 1, 2 or 3 of this section, any assets attributable to that participating employer's transfers into the prefunding plan, including any earnings on such assets, after the payment of any obligation of that participating employer owed to the prefunding plan for reasonable administrative costs, shall be transferred to the system to pay the participating employer's required pension contributions under the applicable defined benefit pension. Any remaining monies in excess of the amount necessary to satisfy the participating employer's required pension contributions shall be transferred to the participating employer only if both of the following apply:
1. The transfer does not jeopardize the tax-exempt status of the prefunding plan's income.
 2. The transfer complies with the requirements under the applicable governmental accounting standards.
- C. If the prefunding plan is terminated as described in subsection a, paragraph 4 of this section, the assets attributable to a participating employer's transfers into the prefunding plan, including any earnings on such assets, after the payment of any obligation of that participating employer owed to the prefunding plan for reasonable administrative costs, shall be transferred to the system to pay the participating employer's required pension contributions. Any remaining monies in excess of the amount necessary to satisfy the participating employer's required pension contributions shall be transferred to the participating employer if the transfer complies with subsection b, paragraphs 1 and 2 of this section.

Added by Laws 2020, Ch. 79 § 3.

38-938. Annual financial statements; audit

The board shall cause the annual financial statements of the prefunding plan to be prepared in accordance with the applicable governmental accounting standards and an audit to be conducted of those financial statements by a qualified independent certified accounting firm for each fiscal year in accordance with the applicable governmental auditing standards.

Added by Laws 2020, Ch. 79 § 3. Amended by Laws 2023, Ch. 6 § 5.

38-939. Nontaxable status of prefunding plan; intent

- A. Assets transferred into or out of or held in the prefunding plan and investment income on assets in the prefunding plan are exempt from state, county and municipal taxes.
- B. The legislature intends that the prefunding plan's income not be subject to federal income tax. The board may adopt additional rules, policies and procedures as the board deems necessary or appropriate to fulfill the legislature's intent that the prefunding plan's income not be subject to federal income tax.
- C. If the board receives notification from the United States internal revenue service that this article or any portion of this article will jeopardize the tax-exempt status of the prefunding plan's income, the portion of this article that will cause the disqualification does not apply.

Added by Laws 2020, Ch. 79 § 3.

38-940. Board rules; procedures; discretionary fiduciary duty

- A. The board may adopt rules, policies and procedures regarding the prefunding plan, including administering and investing the assets transferred into the prefunding plan by participating employers, investment options and termination of employer's participation in the prefunding plan, as the board deems necessary to implement this article. The board, in administering and investing the prefunding plan, may employ services, including legal services, and do all acts, whether expressly authorized, that it deems necessary or appropriate for defending, protecting or advancing the prefunding plan.
- B. The board has full discretionary fiduciary authority to determine all questions arising in connection with administering and investing the prefunding plan, including its interpretation and any factual questions arising under the prefunding plan. Any determination, authorization, approval, request, requirement or other action, election or decision, including the setting of terms and conditions, in connection with the prefunding plan by the board pursuant to this article is subject to, and shall be made in, the sole and absolute discretion of the board. The board, individual trustees, the administrator, deputy or assistant administrators and employees of the board do not guarantee the prefunding plan in any manner against loss or depreciation, are not personally liable for any act or failure to act made in their official capacity in good faith and are indemnified from the assets of the prefunding plan for any judgment against any of them, including attorney fees, costs and expenses reasonably incurred in the defense of any claim arising from any act or failure to act made in good faith. The board may appear before and maintain an action in political subdivisions of this state, courts and other forums, in each case through a representative or counsel appointed by the board, as the board deems necessary or appropriate, to defend, protect, advance or otherwise assert the interests of the prefunding plan, the board, a trustee or member of the board, the administrator, deputy or assistant administrators, employees of the board and participating employers.
- C. A trustee or member of the board is, in discharging duties with respect to or in connection with the prefunding plan or the system, entitled to rely on, among other things, information, opinions, reports or statements, including financial statements and other financial data, prepared or presented by any of the following:

1. The administrator, one or more deputy or assistant administrators or employees of the system whom the trustee or member of the board reasonably believes are reliable and competent in the matters presented.
 2. Legal counsel, public accountants or other persons as to matters the trustee or member of the board reasonably believes are within the person's professional or expert competence.
 3. A committee of the board of which the trustee or member of the board is not a member if the trustee or member of the board reasonably believes the committee merits confidence.
- D. A trustee or member of the board is not liable for any action taken as a trustee or member of the board or any failure to take any action if the duties of the trustee or member of the board were performed in compliance with section 38-848.04. In any legal proceeding or other forum, a trustee or member of the board has all of the defenses and presumptions ordinarily available to a trustee or member of the board. A trustee or member of the board is presumed in all cases to have acted, failed to act or otherwise discharged such duties in accordance with section 38-848.04 and any other applicable law. The burden is on the party challenging the act, failure to act or other discharge of duties of or by a trustee or member of the board to establish by clear and convincing evidence facts rebutting the presumption.

Added by Laws 2020, Ch. 79 § 3.

Sec. 4. 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.

**TITLE 38, CHAPTER 5, ARTICLE 8.
DEFINED CONTRIBUTION PLANS
(38-951 THROUGH 38-954)**

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.
 - (f) The Elected Officials' Defined Contribution Retirement System established pursuant to Article 3.1 of this chapter.
 - (g) The Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Article 4.1 of this chapter.
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. "Plan" means a defined contribution plan authorized by this article.

Added by Laws 2001, Ch. 280 § 9 and Ch. 390, § 15. Amended by Laws 2013, Ch. 216. Amended by Laws 2024, Ch. 116, § 7.

38-952. Supplemental defined contribution plan; establishment; administration

- A. The board or employer of an eligible group may establish, administer, manage and operate a supplemental defined contribution plan. The board of trustees established by section 38-848 may establish a single supplemental defined contribution plan for all contributing members of the retirement system and plans it administers.
- B. If a board or employer establishes a supplemental defined contribution plan:
 1. The Arizona state retirement system 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 of trustees may delegate authority to implement the plan to the administrator employed pursuant to section 38-848, subsection M, paragraph 6.
 4. The board or employer 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 or employer 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. Amended by Laws 2016, Ch. 2, § 17.

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 or defined contribution retirement plan.
- B. Except as provided in subsection C of this section, 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 percent 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 of this section. 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 of this section 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 of this section, 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. Amended by Laws 2024, Ch. 116, § 8.

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.

**TITLE 35, CHAPTER 2, 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.

**TITLE 35, CHAPTER 2, ARTICLE 9.
ISRAEL BOYCOTT DIVESTMENTS**

35-393. Definitions

In this article, unless the context otherwise requires:

1. "Boycott" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - (a) Based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
 - (b) In a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
2. "Company" means an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate, that engages in for-profit activity and that has ten or more full-time employees.
3. "Direct holdings" means all publicly traded securities of a company that are held directly by the state treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
4. "Indirect holdings" means all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the state treasurer or a retirement system, if the state treasurer or retirement system owns shares or interests either:
 - (a) Together with other investors that are not subject to this section.
 - (b) That are held in an index fund.
5. "Public entity":
 - (a) Means this state, a political subdivision of this state or an agency, board, commission or department of this state or a political subdivision of this state.
 - (b) Includes the universities under the jurisdiction of the Arizona Board of Regents and community college districts as defined in section 15-1401.
6. "Public fund" means the state treasurer or a retirement system.
7. "Restricted companies" means companies that boycott Israel.
8. "Retirement system" means a retirement plan or system that is established by or pursuant to title 38.

Added by Laws 2016, Ch. 46, § 1. Amended by Laws 2019, Ch. 94, § 1. Amended by Laws 2022, Ch. 39, § 1.

35-393.01. Contracting; procurement; investment; prohibitions

- A. A public entity may not enter into a contract with a value of \$100,000 or more with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods or services from Israel.
- B. A public entity may not adopt a procurement, investment or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

Added by Laws 2016, Ch. 46, § 1. Amended by Laws 2019, Ch. 94, § 2.

35-393.02. Investment; restricted companies list; notice; immunity; exception

- A. On or before April 1 of each year, each public fund shall prepare a list of restricted companies and shall provide a copy of the list on request.
- B. In preparing the list of restricted companies, the public fund may consider at least the following:
 1. Publicly available information, including information provided by nonprofit organizations, research firms and government entities.

2. Information prepared by an independent research firm Retained by the public fund.
 3. A statement by a company that it is participating in a boycott of Israel or that it has taken a boycott action at the request of, in compliance with or in furtherance of calls for a boycott of Israel.
- C. The public fund shall notify each company that is included on the list of restricted companies that the company is subject to divestment by the state treasurer, the retirement systems and each public entity.
- D. If a company that receives notice pursuant to subsection C of this section submits a written certification to the public fund that it has ceased its boycott of Israel and will not engage in a boycott of Israel for the period of time that the state treasurer or a retirement system invests in the company, the public fund shall remove the company from the restricted list.
- E. Each public fund and each public entity shall:
1. Sell, redeem, divest or withdraw all direct holdings of a restricted company from the assets under its management in an orderly and fiducially responsible manner within three months after the lists of restricted companies are prepared pursuant to subsection A of this section. On or before August 1 of each year, the state treasurer, each retirement system and each public entity shall post on their websites a list of investments that are sold, redeemed, divested or withdrawn pursuant to this paragraph.
 2. Not acquire securities of a restricted company as part of its direct holdings.
 3. Request that managers of its indirect holdings consider selling, redeeming, divesting or withdrawing holdings of a restricted company from the assets under its management.
- F. With respect to any action performed pursuant to this section, the state treasurer, each retirement system, each public entity and any person acting on behalf of the state treasurer, the retirement system or the public entity:
1. Are exempt from any conflicting statutory or common law obligation or fiduciary duties with respect to choice of asset managers, investment funds or investments.
 2. Are subject to Title 12, chapter 7, article 2 regarding immunity for acts and omissions.
 3. Are indemnified and held harmless by this state from claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including attorney fees, and against all liability, losses and damages because of a decision to sell, redeem, divest or withdraw holdings of a restricted company made pursuant to this section.
- G. This section does not apply to investments that are made by the state treasurer pursuant to section 35-314.01.

Added by Laws 2016, Ch. 46, § 1. Amended by Laws 2022, Ch. 39, § 2.

35-393.03. Applicability; severability

- A. This article does not apply to a boycott prohibited by 50 United States Code section 4842 or a regulation issued pursuant to that section.
- B. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

Added by Laws 2016, Ch. 46, § 1. Amended by Laws 2019, Ch. 94, § 3.

Sec. 2. Legislative findings

- A. Boycotts and related tactics have become a tool of economic warfare that threaten the sovereignty and security of key allies and trade partners of the United States.
- B. The state of Israel is the most prominent target of such boycott activity, beginning with the Arab League Boycott adopted in 1945, even before Israel's declaration of independence as the reestablished national state of the Jewish people.
- C. Companies that refuse to deal with United States trade partners such as Israel, or entities that do business with or in such countries, make discriminatory decisions on the basis of national origin that impair those companies' commercial soundness.

- D. It is the public policy of the United States, as enshrined in several federal acts, including 50 United States Code section 4607, to oppose such boycotts, and Congress has concluded as a matter of national trade policy that cooperation with Israel materially benefits United States companies and improves American competitiveness.
- E. Israel in particular is known for its dynamic and innovative approach in many business sectors, and a company's decision to discriminate against Israel, Israeli entities or entities that do business with Israel or in Israel is an unsound business practice making the company an unduly risky contracting partner or vehicle for investment.
- F. This state seeks to implement Congress's announced policy of "examining a company's promotion or compliance with unsanctioned boycotts, divestment from, or sanctions against Israel as part of its consideration in awarding grants and contracts and supports the divestment of State assets from companies that support or promote actions to boycott, divest from, or sanction Israel."

Added by Laws 2016, Ch. 46, § 1.

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.

9-958. Election to transfer excess assets from fire fighters' relief and pension fund; public safety personnel retirement system; alternate pension and benefit plan

- A. Notwithstanding any other law, if a fire district that is organized pursuant to section 48-803 and that has at least five full-time firefighters, excluding firefighters employed by the fire district pursuant to a contract with a corporation, elects to provide coverage to its full-time firefighters under the Public Safety Personnel Retirement System pursuant to section 38-851, the amount of monies accumulated pursuant to this article that is in excess of the amount necessary to provide benefits for volunteer firefighters may be transferred to the Public Safety Personnel Retirement Fund for the purposes of paying any past, present or future service costs of the district attributable to the full-time firefighters who are included in the Public Safety Personnel Retirement System either at the time the fire district executes the joinder agreement with the system or thereafter. Before transferring any monies to the Public Safety Personnel Retirement Fund, the fire district board shall determine by actuarial procedures prescribed by the manager of the fire fighters' relief and pension fund the amount necessary to fully fund any benefits accrued for volunteer firefighters as of the date or dates of the proposed transfer of monies authorized by this subsection.
- B. Excess monies in the fire fighters' relief and pension fund that a fire district elects to transfer to the Public Safety Personnel Retirement Fund pursuant to subsection A of this section may be transferred in a lump sum at the time the fire district executes its joinder agreement with the Public Safety Personnel Retirement System or may be transferred in installments or in any other manner allowed by the fund manager of the Public Safety Personnel Retirement System.
- C. If a fire district has monies in the fire fighters' relief and pension fund in excess of the amount necessary to provide benefits for volunteer firefighters and the fire district has not made an election to cover its full-time firefighters under the Public Safety Personnel Retirement System pursuant to section 38-851 and subsection A of this section, that fire district may apply the excess monies to an alternate pension and benefit plan established pursuant to article 4 of this chapter by that district for the benefit of either its part-time or full-time firefighters, or both. The amounts that may be transferred to the alternate pension and benefit plan shall be determined in the same manner as set forth in subsection A of this section.
- D. Notwithstanding any other law, a city or town that maintains a fire fighters' relief and pension fund for past or present volunteer firefighters, or both, or past or present part-time firefighters, or both, may elect to transfer excess monies from the fund to the Public Safety Personnel Retirement System to be applied to any past or present unfunded liability. Before transferring any monies to the Public Safety Personnel Retirement System, the city or town shall determine by actuarial procedures prescribed by the fire fighters' relief and pension fund board of trustees the amount necessary to fully fund any benefits accrued for part-time or volunteer firefighters as of the date or dates of the proposed transfer of monies authorized by this subsection.

Added by Laws 2017, Ch. 272, § 1. Amended by Laws 2019, Ch. 186, § 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; reports

- 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 office of 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 the tax report each insurer shall pay to the director for deposit, pursuant to sections 35-146 and 35-147, a tax on such net premiums at the following rates:
 - 1. For fire insurance:
 - (a) on property located in a city or town certified by the office of the state fire marshal pursuant to section 9-951, subsection B, as procuring the services of a private fire company, .66 percent.
 - (b) on all other property, 2.2 percent.
 - 2. For disability insurance, 2.0 percent.
 - 3. For health care service plans, the rates prescribed under sections 20-837, 20-1010 and 20-1060.
 - 4. For other insurance:
 - (a) for premiums received in calendar year 2016, 1.95 percent.
 - (b) for premiums received in calendar year 2017, 1.90 percent.
 - (c) for premiums received in calendar year 2018, 1.85 percent.
 - (d) for premiums received in calendar year 2019, 1.80 percent.
 - (e) for premiums received in calendar year 2020, 1.75 percent.
 - (f) for premiums received in calendar year 2021 and for each subsequent calendar year, 1.70 percent.

- C. Any payments of tax pursuant to subsection F of this section shall be deducted from the tax payable pursuant to subsection B of this section. 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 office of 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 on the office of the state fire marshal's certification.
- D. Eighty-five percent 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 firefighters or pension obligations to volunteer firefighters 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 firefighters and volunteer firefighters or pension obligations to full-time paid firefighters or volunteer firefighters 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 firefighters and to the municipality or fire district for the account of the volunteer firefighters. 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 the reallocation shall be forwarded to the municipality or fire district and its local boards.
- E. This section does not apply to title insurance title insurers shall be taxed as provided in section 20-1566.
- F. Any insurer that paid or is required to pay a tax of \$50,000 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 percent 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.
- G. Except for the tax paid on fire insurance premiums pursuant to subsections B and D 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.
- H. 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.
- I. On or before September 30 of each year, the director of the department of insurance and financial institutions shall report to the directors of the joint legislative budget committee and the Governor's office of strategic planning and budgeting on the amount of insurance premium tax credits established by sections 20-224.03, 20-224.04, 20-224.05, 20-224.06 and 20-224.07 that were used during the previous fiscal year.
- J. For the purposes of:
 - 1. Subsection B of this section, fire insurance is one hundred percent of fire lines, forty percent of commercial multiple peril nonliability lines, thirty-five percent of homeowners' multiple peril lines, twenty-five percent of farm owners' multiple peril lines and twenty percent of allied lines.
 - 2. Section 20-416, fire insurance is eighty-five percent of fire and allied lines.
- K. From and after December 31, 2017, the director may require that reports and payments under this section be submitted electronically. If the director requires electronic submission, the director shall include on the department's official website a list of one or more acceptable third-party services through which an insurer must submit reports and payments.

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. Amended by Laws 2016, Ch. 358, § 1. Amended by Laws 2017, Ch. 153, § 1 and Ch. 258, § 12. Amended by Laws 2020, Ch. 37, § 29.

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. Subject to subsection B of this section, any person engaged in law enforcement activities shall be compensated for each hour worked in excess of forty hours in one work week, unless otherwise agreed to by the employer and the person engaged in law enforcement activities, at the option of the employer at the following rates:
 - 1. One and one-half times the regular rate at which the 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. If an employee and employer have an agreement pursuant to subsection A of this section regarding the employee's alternate work period and the employee becomes employed in a new position with the employer, the employee may terminate the existing alternate work period agreement.
- C. Subsection A of this section does not preempt agreements that supplant, revise or otherwise alter the provisions of this section, including preexisting agreements between the employer and the law enforcement officer or the law enforcement officer's lawful representative association.
- D. 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 the employer at the following rates:
 - 1. One and one-half times the regular rate at which the 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.
- E. Paid leave may be considered hours worked for the purpose of calculating overtime.
- F. 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.
- G. Notwithstanding subsection E 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.
- H. 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.
 - (iv) Any law enforcement personnel under section 41-1714 responsible for directly assisting law enforcement officers in the performance of law enforcement activities.
 - (b) Does not include any 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 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. Amended by Laws 2012, Ch. 144 § 1. Amended by Laws 2013, Ch. 200.

35-311. State board of investment; membership; powers and duties

- A. The state board of investment is established consisting of the state treasurer, the director of the department of administration or the director of the department of administration's designee, the director of the department of insurance and financial institutions or the director of the department of insurance and financial institutions' designee and two individuals appointed by the state treasurer, one of whom has verifiable expertise in investment management and one of whom represents a public entity with current deposits in a local government investment pool. The state treasurer is chairperson of the board. The board shall keep an accurate record of its proceedings. A certified copy of the record is prima facie evidence of the matters appearing in the record in any court. A meeting of the board may be called at any time by the chairperson or a majority of the board members.

- B. The state board of investment shall:
 1. Hold regular monthly meetings.
 2. Review investments of treasury monies.
 3. Serve as trustee of the permanent state land funds and manage the assets of the funds consistent with the requirements of article X, section 7, Constitution of Arizona.
 4. Serve as trustee of any endowments established pursuant to section 35-314.03.
 5. Serve as trustee of the AZ529, Arizona's education savings plan established by title 15, chapter 14, article 7.
 6. Serve as trustee of any pension prefunding plan investment accounts established pursuant to section 35-314.04.
- C. The state treasurer shall furnish to the board of investment at its regular monthly meeting a report of the performance of current investments and a report of the current investments as of the close of business of the preceding month. The state treasurer shall make these reports available for inspection by the public during normal working hours at the office of the state treasurer for a period of time of not less than two years after the date of the report.
- D. The board of investment may order the state treasurer to sell any of the securities, and any order shall specifically describe the securities and fix the time period during which they are to be sold. Securities so ordered to be sold shall be sold for cash by the state treasurer at the current market price. The state treasurer and the members of the board are not accountable for any loss occasioned by sales of securities at prices lower than their book value. Any loss shall be charged against earnings received from interest or capital gains on the applicable treasury monies.
- E. The board may establish standards in addition to those established by section 35-317, subsection A for the qualification of agents acting pursuant to section 35-317, subsection B.

Added by Laws 1987, Ch. 184, § 1. Amended by Laws 1996, Ch. 64, § 2; Amended by Laws 1997, Ch. 151, § 1; Amended by Laws 1998, Ch. 69, § 6; Amended by Laws 1999, Ch. 74, § 2; Amended by Laws 2004, Ch. 188, § 35, eff. Jan. 1, 2006; Amended by Laws 2008, Ch. 136, § 1; Amended by Laws 2019, Ch. 252, § 44, eff. July 1, 2020. Amended by Laws 2020, Ch. 79, § 1. Amended by Laws 2021, Ch. 188, § 9.

35-314.04. Pension prefunding plan investment accounts; state treasurer; investment authority; definitions

- A. In addition to the investment authority pursuant to section 35-313, the state treasurer may invest and reinvest pension prefunding plan monies in equity securities pursuant to section 35-314 for pension prefunding plan investment accounts.
- B. All pension prefunding plan monies shall be accounted for separately from all other funds. Monies may not be taken from one investment account for deposit in any other investment account.
- C. All monies in pension prefunding plan investment accounts shall be invested in safe interest-bearing securities and prudent equity securities consistent with the requirements of section 35-314.
- D. The earnings, interest, dividends and realized capital gains and losses from the investment of each investment account shall be credited to that investment account.
- E. Pension prefunding plan monies are for the purpose of allowing employers that provide a defined benefit pension plan to their employees to prefund the employer's required defined benefit pension payments.
- F. Pension prefunding plan monies are an integral part of this state and of the political subdivisions of this state and perform an essential governmental function. Investments of pension prefunding plan monies are intended to be structured and administered in a manner that results in the tax-exempt status of the pension prefunding plan's income. The state board of investment may adopt rules, policies and procedures as the board deems necessary to ensure that the prefunding plan's income is not subject to federal income tax.
- G. The governing body of an employer may authorize and request the state treasurer to invest pension prefunding plan monies in a pension prefunding plan investment account and set forth the terms of the distributions from such investment account for the employer pursuant to this section.

- H. Pension prefunding plan investment accounts established pursuant to this section or any other section in this title and the pension prefunding plan monies in such accounts are separate and apart from the Arizona employers' pension prefunding plan established by title 38, chapter 5, article 7.1 and the assets, receipts, earnings and income of that plan.
- I. For the purposes of this section:
 - 1. "Defined benefit pension" means:
 - (a) the Arizona State Retirement System established by title 38, chapter 5, articles 2 and 2.1.
 - (b) the Elected Officials' Retirement Plan established by title 38, chapter 5, article 3.
 - (c) the Public Safety Personnel Retirement System established by title 38, chapter 5, article 4.
 - (d) the Corrections Officer Retirement Plan established by title 38, chapter 5, article 6.
 - (e) any defined benefit pension plan established by the governing body of any political subdivision of this state for its employees.
 - 2. "Employer" means an employer as defined in section 38-711, 38-801, 38-842 or 38-881 or any governing body of a political subdivision of this state that has established a defined benefit pension plan for its employees.
 - 3. "Tax-exempt status of pension prefunding plan's income" means that the prefunding plan's income is excluded from gross income for the purposes of the assessment of federal income tax under section 115 of the internal revenue code, intergovernmental immunity or similar grounds.

Added by Laws 2020, Ch. 79 § 2.

38-446. Acts based on written opinions; immunity

Notwithstanding any provision of law to the contrary, no public officer or employee is personally liable for acts done in his official capacity in good faith reliance on written opinions of the attorney general issued pursuant to section 41-193, or written opinions of a county attorney of the county, or written opinions of the city or town attorney of the city or town or written opinions of any authorized private attorney for any independent public retirement trust fund or system for which the officer or employee serves or is employed.

Added by Laws 1987, Ch. 288, § 1. Amended by Laws 2006, Ch. 264, § 1.

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 this state and who opt upon retirement to enroll or continue enrollment in the group health and accident coverage for active employees working for this state, or with a disability, 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 state employees or state employees with a disability to participate in the coverage. The department of administration may adopt rules which provide that if a retired insured or insured person with a disability 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 death of the retired insured or insured person with a disability and the insured surviving dependent agrees to pay the cost of the premium for group health and accident insurance. On notification of the 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 former state employees with a disability 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 this state and its departments and agencies or their dependents as necessary to obtain health and accident coverage at favorable rates.
- C. The Arizona state retirement system board may enter into agreements with state employee members of the system and plan who are retired or who have a disability, retired members of the Elected Officials' Defined Contribution Retirement System established pursuant to Chapter 5, Article 3.1 of this title and retired participants of the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Chapter 5, Article 4.1 of this title 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 members or state employee members with a disability of the Public Safety Personnel Retirement System, the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Chapter 5, Article 4.1 of this title, the Elected Officials' Retirement Plan, the Elected Officials' Defined Contribution Retirement System established pursuant to Chapter 5, Article 3.1 of this title, 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 this state and their dependents and who are receiving benefits from the Public Safety Personnel Retirement System, the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Chapter 5, Article 4.1 of this title, the Elected Officials' Retirement Plan, the Elected Officials' Defined Contribution Retirement System established pursuant to Chapter 5, Article 3.1 of this title, 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 county employees or county employees with a disability 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.
- K. A retired member of the Elected Officials' Defined Contribution Retirement System established pursuant to Chapter 5, Article 3.1 of this title may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected and is not eligible for benefits pursuant to section 38-783 or 38-817.
- L. A retired participant of the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Chapter 5, Article 4.1 of this title may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected. A retired participant that makes an election pursuant to section 38-869 may be eligible for group health benefits as specified in section 38-869.

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. Amended by Laws 2013, Ch. 217. Amended by Laws 2014, Ch. 215. Amended by Laws 2016, Ch. 2, § 1. Amended by Laws 2021, Ch. 330, § 1, effective from and after June 30, 2022.

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 members, surviving dependents and member with a disability and their dependents. The board may establish a self-insurance program for the purposes of this subsection if the board determines that self-insuring would be less expensive than and at least as effective as a fully insured plan, while considering the risks and costs. If the board establishes a self-insurance program, the board shall provide that the self-insurance program include all health coverage benefits that are required pursuant to title 20. ASRS shall establish a separate account for any self-insurance program established pursuant to this section in an amount determined appropriate by ASRS. ASRS shall not use or divert any part of the corpus or income of the account for any purpose other than to provide benefits and to pay the administration costs for the self-insurance program pursuant to this section or the premium payments pursuant to section 38-873 unless the board determines that a self-insurance program should no longer be offered. If a self-insurance program is no longer offered, monies in the account shall be used to provide any remaining benefits and to pay administration costs for the self-insurance program pursuant to this section or the premium payments pursuant to section 38-783. If the liabilities of ASRS to provide the benefits under the self-insurance program and the premium payments pursuant to section 38-783 are satisfied, the board shall return any remaining monies in the account to the employer. If an insured retired member or member with a disability 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 or an insured surviving dependent of the provisions of this section.
- B. Retired members of the Public Safety Personnel Retirement System, the Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Article 4.1 of this chapter, the Elected Officials' Retirement Plan, the Elected Officials' Defined Contribution Retirement System established pursuant to article 3.1 of this chapter, 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 Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Article 4.1 of this chapter, the Elected Officials' Retirement Plan, the Elected Officials' Defined Contribution Retirement System established pursuant to article 3.1 of this chapter, 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 Public Safety Personnel Defined Contribution Retirement Plan established pursuant to Article 4.1 of this chapter, the Elected Officials' Retirement Plan, the Elected Officials' Defined Contribution Retirement System established pursuant to article 3.1 of this chapter, 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 members, surviving dependents and members with a disability of ASRS and retired members of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter who elect to obtain the coverage provided pursuant to subsection A of this section. Those agreements may include provisions 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 from 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 members, surviving dependents or members with a disability 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.

- I. A retired member of the elected officials' defined contribution retirement system established pursuant to article 3.1 of this chapter may elect to obtain the coverage provided pursuant to subsection A of this section, but shall pay the premium for the coverage selected and is not eligible for benefits pursuant to section 38-783 or 38-817.
- J. For the purposes of this section, "eligible retired member, surviving dependent and member with a disability " means a retired member who is receiving retirement benefits from ASRS, a designated beneficiary of a deceased member who is receiving a survivor benefit pursuant to section 38-762, subsection C as monthly income or a member with a disability who is receiving long-term disability benefits pursuant to section 38-651.03 or article 2.1 of this chapter, and who does not otherwise elect to obtain coverage under a group health and accident insurance plan or program.

Added by Laws 1995, Ch. 32, § 14, effective March 30, 1995. Amended by Laws 1995, Ch. 134, § 13; eff. April 17, 1995; Laws 1997, Ch. 291, § 4, effective July 1, 1998; Laws 1998, Ch. 236, § 3; Laws 1999, Ch. 300, § 15; Laws 2001, Ch. 136, § 18. Amended by Laws 2010, Ch. 200, § 12, eff. April 28, 2010; Amended by Laws 2013, Ch. 110, § 10 and Ch. 217, § 3. Amended by Laws 2014, Ch. 215, § 164. Amended by Laws 2021, Ch. 14, § 1.

38-961. Public safety officer; duty-related injury; supplemental benefits plan; definitions

(Rpld. 10/1/25)

- A. This state or a political subdivision of this state that employs a public safety employee on a full-time basis shall establish a supplemental benefits plan for a public safety employee who is injured while on duty to the extent that the public safety employee cannot perform the functions of the position. To become eligible for the supplemental benefits plan, the public safety employee must be receiving workers' compensation benefits pursuant to title 23, chapter 6. This state or a political subdivision of this state shall design the supplemental benefits plan so that, with the addition of other benefits being paid to the public safety employee pursuant to title 23, chapter 6, the public safety employee will receive approximately the identical base salary less the amount of taxes the public safety employee was paying.
- B. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee's employer shall continue to pay the employer portion of the health care benefits that was being paid to the public safety employee on the date of the employee's injury.
- C. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee's employer shall pay the employee contribution to the Public Safety Personnel Retirement System or Corrections Officer Retirement Plan, as applicable, and shall continue to pay the employer contribution to the respective retirement system or plan. The public safety employee is entitled to accrue credited service for the period of time enrolled in the supplemental benefits plan.
- D. A public safety employee who is eligible for the supplemental benefits plan shall apply for benefits to this state or a political subdivision of this state. This state or a political subdivision of this state, on an individual basis, shall determine if the public safety employee is entitled to the benefits in the plan. This state or a political subdivision of this state may establish injury standards for eligibility into the plan that may include the exclusion of a public safety employee whose injury is a result of the public safety employee's gross negligence, or any other condition that this state or the political subdivision chooses to consider within the plan.
- E. A public safety employee who is accepted into the plan shall comply with all risk management requirements, including evaluation for light duty options and rehabilitation programs. If a public safety employee fails to comply with risk management decisions, the public safety employee's participation in the supplemental benefits plan will be terminated. The public safety employee who is accepted into the plan is responsible for the public safety employee's portion of the health care benefit costs the public safety employee was paying on the date of the injury. The public safety employee remains responsible for any elective health care plan deductions, health related optional deductions or optional life insurance deductions.
- F. If a public safety employee is accepted into the supplemental benefits plan, the public safety employee shall not accrue any additional sick or annual leave and any sick or annual leave amount on the public safety employee's account shall not be decreased while the public safety employee is participating in the plan.

- G. A public safety employee who is accepted into the supplemental benefits plan is not precluded from disciplinary action, including termination of employment, pursuant to chapter 8 of this title or any agreements that supplant, revise or otherwise alter the provisions of this title, including preexisting agreements between the employer and the public safety employee's lawful representative association.
- H. This section shall not supersede any plan or policy that provides a greater benefit being offered by this state or a political subdivision of this state to a public safety employee who is injured while on duty. This state or a political subdivision of this state shall offer the supplemental benefits plan for an initial six-month period. This state or the political subdivision may determine if the plan shall be extended, on an individual basis, an additional six months, for a maximum of one year.
- I. State employee appeals for denials for supplemental benefits are exempt from the hearing process set forth in Title 41, Chapter 6, Article 10. For state employees exercising appeals for denial of supplemental benefits, the department of administration may establish an alternative appeal hearing process, including the requirement that parties agree to arbitration heard by the industrial commission pursuant to section 23-107, or an alternative procedure established by the Arizona department of administration. If the department of administration establishes an alternative hearing process for the denial of claims for supplemental benefits, the department may contract with another government agency or with a third party to conduct hearings of appeals pursuant to section 38-961. The department may specify by rule or administrative policy the scope of the program and the alternative hearing procedures.
- J. The department of administration shall report by March 1 each year on the overall claim, appeal and payment history for state employee claims and appeals made pursuant to this section during the prior year. The report shall include claims made and claims resolved.
- K. For the purposes of this section:
 - 1. "Member" includes a retired member of the Public Safety Personnel Retirement System who is a certified peace officer.
 - 2. "Public safety employee" means:
 - (a) An individual who is a member of the Public Safety Personnel Retirement System or the Corrections Officer Retirement Plan.
 - (b) A probation officer, surveillance officer or juvenile detention officer who is employed by this state or a political subdivision of this state.

Added by Laws 2012, Ch. 287, § 1. Amended by Laws 2013, Ch. 203, § 13; Amended by Laws 2014, Ch. 190, § 11.

Sec. 2. Delayed repeal

Title 38, chapter 6, article 1, Arizona Revised Statutes, is repealed from and after September 30, 2025.

38-1114. Health insurance payments for spouse or dependents of law enforcement officer killed in the line of duty; applicability; definition

- A. Notwithstanding any other law, the surviving spouse or a surviving dependent 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 if the law enforcement officer was killed in the line of duty or died from injuries suffered in the line of duty.
- B. The employer shall make payments if the surviving spouse or surviving dependent is enrolled or was enrolled at the time the law enforcement officer was killed in the line of duty or died from injuries suffered in the line of duty in either:
 - 1. The health insurance program of the employer.
 - 2. The health insurance program that is offered by the state retirement system or plan from which the surviving spouse or surviving dependent is receiving benefits.

- C. If a surviving spouse or surviving dependent was enrolled in either health insurance program described in subsection B of this section at the time the law enforcement officer was killed in the line of duty or died from injuries suffered in the line of duty and is eligible pursuant to subsection D of this section to receive health insurance premium payments under this section but is no longer enrolled in either health insurance program described in subsection B of this section, the employer shall allow the surviving spouse and any surviving dependent to enroll in the employer's health insurance program to receive health insurance premium payments pursuant to this section.
- D. The health insurance premium amount payable by the employer of the deceased law enforcement officer is the amount the employer of the deceased law enforcement officer would pay for an active law enforcement officer for a family coverage premium or single coverage premium, whichever is applicable. Payments shall be discontinued pursuant to this section if:
 - 1. The surviving spouse remarries.
 - 2. The surviving spouse becomes Medicare eligible.
 - 3. The surviving spouse dies.
 - 4. For dependent coverage, the person is no longer considered a dependent
- E. If the employer currently pays a greater portion of the health insurance premium for a surviving spouse or a surviving dependent than the required amount prescribed in subsection D of this section, the surviving spouse or surviving dependent shall receive the greater amount as payment toward the surviving spouse's or surviving dependent's health insurance premium.
- F. This section applies:
 - 1. To a surviving spouse or a surviving dependent of a deceased law enforcement officer, as defined in subsection G, paragraph 2, subdivision (a), (b) or (c) of this section, who was killed in the line of duty or who died from injuries suffered in the line of duty on or after April 5, 1933.
 - 2. To a surviving spouse or a surviving dependent of a deceased law enforcement officer, as defined in subsection G, paragraph 2, subdivision (d) of this section, who was killed in the line of duty or who died from injuries suffered in the line of duty on or after April 5, 2013.
 - 3. For the surviving spouse or the surviving dependent who qualifies pursuant to paragraph 1 of this subsection, only to health insurance premiums paid on or after September 13, 2013.
- G. For the purposes of this section:
 - 1. "Dependent" means an unmarried child of a deceased law enforcement officer 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 a guardian.
 - 2. "Law enforcement officer" means:
 - (a) A peace officer who is certified by the Arizona peace officer standards and training board.
 - (b) A detention officer or corrections officer who, other than a juvenile detention officer, is employed by this state or a political subdivision of this state.
 - (c) A firefighter who is employed by this state or a political subdivision of this state.
 - (d) A corrections officer or firefighter who works on behalf of this state or a political subdivision of this state through a contract with a private company.

Added by Laws 2010, Ch. 148, § 2, effective April 26, 2010, retroactively effective to January 1, 2010. Amended by Laws 2013, Ch. 54, § 1, effective April 5, 2013 and Ch. 211, § 6. Renumbered as § 38-1114 by Laws 2014, Ch. 240, § 6. Amended by Laws 2014, Ch. 240, § 15, effective January 1, 2015.

Sec. 2. 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 2010, Ch. 148, effective April 26, 2010. Amended by Laws 2013, Ch. 54, effective April 5, 2013 and Ch. 211. Amended by Laws 2014, Ch. 240.

Sec. 3. Purpose

Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the Public Safety Personnel Retirement System board of trustees in order to manage and invest employee and employer contributions and assets and distribute retirement benefits to retired members of the elected officials' retirement plan, the Public Safety Personnel Retirement System and the Corrections Officer Retirement Plan.

Added by Laws 2016, Ch. 306.

Sec. 4. Retroactivity

Sections 1 and 2 of this act are effective retroactively to July 1, 2016.

Added by Laws 2016, Ch. 306.

41-3030.12 Public safety personnel retirement system board of trustees; termination July 1, 2030

- A. The Public Safety Personnel Retirement System Board of Trustees terminates on July 1, 2030.
- B. Title 38, Chapter 5, Articles 3, 3.1, 3.2, 4, 4.1, 4.2, 5.1 and 6 and this section are repealed on January 1, 2031.

Added by Laws 2024, Ch. 207, § 2.

Sec. 4. Retroactivity

Sections 1 and 2 of this act apply retroactively to from and after July 1, 2024.

Added by Laws 2024, Ch. 207.

43-404. Extension of withholding to pensions, annuities, retirement accounts; and definitions

- A. For the purposes of this title, a payment from a pension or annuity or a distribution from a retirement account to an individual, if at the time the payment or distribution is made a request by the individual that such pension, annuity, retirement account be subject to withholding under this section is in effect, shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.
- B. A request that payment from a pension or annuity or distribution from a retirement account be subject to withholding under this section shall be made by the payee in writing to the person that is making the pension or annuity payments or retirement account distributions and shall be accompanied by a form, prescribed by the department, executed in accordance with section 43-401, subsection E. Such a request may be denied or terminated by furnishing to the person making the payment or distribution a written statement of denial or termination.
- C. Distributions from a retirement account are eligible for withholding, but only to the extent that amount is includable in the Arizona gross income of the individual who receives the distribution.
- D. A request to initiate, adjust or terminate withholding under this section may be executed in writing by paper or electronic means on either a paper form prescribed by the department or the form's electronic equivalent.
- E. For the purposes of this section
 - 1. "Annuity" means either of the following:
 - (a) An employee annuity authorized under the Internal Revenue Code paid to an individual, but only to the extent that the amount is includable in the Arizona gross income of such individual.

- (b) Specified income payable at stated intervals to an individual for a fixed or contingent period, often for that individual's life, but only to the extent that the amount is includable in the Arizona gross income of such individual.
- 2. "Pension" means either of the following:
 - (a) A defined benefit plan authorized under the Internal Revenue Code paid to an individual, but only to the extent that amount is includable in the Arizona gross income for such individual.
 - (b) Periodic, fixed amount retirement payments made by the United States military, the United States civil service or a state or local government or a private employer to former employees and surviving spouses of former employees for prior services performed, but only to the extent that amount is includable in the Arizona gross income of such individuals.
- 3. "Retirement account" includes:
 - (a) A qualified retirement plan under sections 401, 403 and 457 of the Internal Revenue Code.
 - (b) An individual retirement account under section 408 of the Internal Revenue Code, including a simplified employee pension fund as defined in section 408(k) of the Internal Revenue Code and a simple retirement account as defined in section 408(p) of the Internal Revenue Code.

Added by Laws 1979, Ch. 145, § 11. Amended by Laws 1985, Ch. 79, § 1; Amended by Laws 1986, Ch. 56, § 1; Amended by Laws 1989, Ch. 132, § 39, eff. May 3, 1989; Amended by Laws 1992, Ch. 220, § 2; Amended by Laws 2005, Ch. 311, § 3, eff. Sept. 1, 2005; Amended by Laws 2009, Ch. 2, § 5, eff. April 9, 2009; Amended by Laws 2012, Ch. 3, § 39. Amended by Laws 2024, Ch. 55, § 1.

43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

- 1. The amount of exemptions allowed by section 43-1023.
- 2. Benefits, annuities and pensions in an amount totaling not more than \$2,500 received from one or more of the following:
 - (a) The United States government service retirement and disability fund, the United States foreign service retirement and disability system and any other retirement system or plan established by federal law. Except retired or retainer pay of the uniformed services of the United States that qualifies for a subtraction under paragraph 27 of this section.
 - (b) The Arizona State Retirement System, the Corrections Officer Retirement Plan, the Public Safety Personnel Retirement System, the elected officials' retirement plan, an optional retirement program established by the Arizona board of regents under section 15-1628, an optional retirement program established by a community college district board under section 15-1451 or a retirement plan established for employees of a county, city or town in this state.
- 3. A beneficiary's share of the fiduciary adjustment to the extent that the amount determined by section 43-1333 decreases the beneficiary's Arizona gross income.
- 4. Interest income received on obligations of the United States, minus any interest on indebtedness, or other related expenses, and deducted in arriving at Arizona gross income, that were incurred or continued to purchase or carry such obligations.
- 5. The excess of a partner's share of income required to be included under section 702(a)(8) of the internal revenue code over the income required to be included under Chapter 14, Article 2 of this title.
- 6. The excess of a partner's share of partnership losses determined pursuant to Chapter 14, Article 2 of this title over the losses allowable under section 702(a)(8) of the internal revenue code.
- 7. The amount allowed by section 43-1025 for contributions during the taxable year of agricultural crops to charitable organizations.

8. The portion of any wages or salaries paid or incurred by the taxpayer for the taxable year that is equal to the amount of the federal work opportunity credit, the empowerment zone employment credit, the credit for employer paid social security taxes on employee cash tips and the Indian employment credit that the taxpayer received under sections 45A, 45B, 51(a) and 1396 of the internal revenue code.
9. The amount of exploration expenses that is determined pursuant to section 617 of the Internal Revenue Code, that has been deferred in a taxable year ending before January 1, 1990 and for which a subtraction has not previously been made. The subtraction shall be made on a ratable basis as the units of produced ores or minerals discovered or explored as a result of this exploration are sold.
10. The amount included in federal adjusted gross income pursuant to section 86 of the internal revenue code, relating to taxation of social security and railroad retirement benefits.
11. To the extent not already excluded from Arizona gross income under the internal revenue code, compensation received for active service as a member of the reserves, the National Guard or the armed forces of the United States, including compensation for service in a combat zone as determined under section 112 of the internal revenue code.
12. The amount of unreimbursed medical and hospital costs, adoption counseling, legal and agency fees and other nonrecurring costs of adoption not to exceed \$3,000. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed \$3,000. The subtraction under this paragraph may be taken for the costs that are described in this paragraph and that are incurred in prior years, but the subtraction may be taken only in the year during which the final adoption order is granted.
13. The amount authorized by section 43-1027 for the taxable year relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.
14. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code.
15. Any amount of qualified educational expenses that is distributed from a qualified state tuition program determined pursuant to section 529 of the internal revenue code and that is included in income in computing federal adjusted gross income
16. Any item of income resulting from an installment sale that has been properly subjected to income tax in another state in a previous taxable year and that is included in Arizona gross income in the current taxable year.
17. For property placed in service:
 - (a) In taxable years beginning before December 31, 2012, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.
 - (b) In taxable years beginning from and after December 31, 2012 through December 31, 2013, an amount determined in the year the asset was placed in service based on the calculation in subdivision (a) of this paragraph. In the first taxable year beginning from and after December 31, 2013, the taxpayer may elect to subtract the amount necessary to make the depreciation claimed to date for the purposes of this title the same as it would have been if subdivision (c) of this paragraph had applied for the entire time the asset was in service. Subdivision (c) of this paragraph applies for the remainder of the asset's life. If the taxpayer does not make the election under this subdivision, subdivision (a) of this paragraph applies for the remainder of the asset's life.
 - (c) In taxable years beginning from and after December 31, 2013 through December 31, 2015, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been ten percent of the amount allowed pursuant to section 168(k) of the internal revenue code.

- (d) In taxable years beginning from and after December 31, 2015 through December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been fifty-five percent of the amount allowed pursuant to section 168(k) of the internal revenue code.
 - (e) In taxable years beginning from and after December 31, 2016, an amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year as computed as if the additional allowance for depreciation had been the full amount allowed pursuant to section 168(k) of the internal revenue code.
18. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 12 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.
 19. The amount contributed during the taxable year to college savings plans established pursuant to section 529 of the internal revenue code to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted shall not exceed:
 - (a) \$2,000 for a single individual or a head of household.
 - (b) \$4,000 for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife shall not exceed \$4,000.
 20. The portion of the net operating loss carry forward that would have been allowed as a deduction in the current year pursuant to section 172 of the internal revenue code if the election described in section 172(b)(1)(H) of the internal revenue code had not been made in the year of the loss that exceeds the actual net operating loss carry forward that was deducted in arriving at federal adjusted gross income. This subtraction only applies to taxpayers who made an election under section 172(b)(1)(H) of the internal revenue code as amended by section 1211 of the American recovery and reinvestment act of 2009 (P.L. 111-5) or as amended by section 13 of the worker, homeownership, and business assistance act of 2009 (P.L. 111-92).
 21. For taxable years beginning from and after December 31, 2013, the amount of any net capital gain included in federal adjusted gross income for the taxable year derived from investment in a qualified small business as determined by the Arizona commerce authority pursuant to section 41-1518.
 22. An amount of any net long-term capital gain included in federal adjusted gross income for the taxable year that is derived from an investment in an asset acquired after December 31, 2011, as follows:
 - (a) For taxable years beginning from and after December 31, 2012 through December 31, 2013, ten percent of the net long-term capital gain included in federal adjusted gross income.
 - (b) For taxable years beginning from and after December 31, 2013 through December 31, 2014, twenty percent of the net long-term capital gain included in federal adjusted gross income.
 - (c) For taxable years beginning from and after December 31, 2014, twenty-five percent of the net long-term capital gain included in federal adjusted gross income. For the purposes of this paragraph, a transferee that receives an asset by gift or at the death of a transferor is considered to have acquired the asset when the asset was acquired by the transferor. If the date an asset is acquired cannot be verified, a subtraction under this paragraph is not allowed.
 23. If an individual is not claiming itemized deductions pursuant to section 43-1042, the amount of premium costs for long-term care insurance, as defined in section 20-1691.

24. The amount of eligible access expenditures paid or incurred during the taxable year to comply with the requirements of the Americans with Disabilities Act of 1990 (P.L. 101-336) or Title 41, Chapter 9, Article 8 as provided by section 43-1024.
25. For taxable years beginning from and after December 31, 2017, the amount of any net capital gain included in Arizona gross income for the taxable year that is derived from the exchange of one kind of legal tender for another kind of legal tender. For the purposes of this paragraph:
 - (a) "Legal tender" means a medium of exchange, including specie, that is authorized by the United States constitution or congress to pay debts, public charges, taxes and dues.
 - (b) "Specie" means coins having precious metal content.
26. Benefits, annuities and pensions received as retired or retainer pay of the uniformed services of the United States in amounts as follows:
 - (a) For taxable years through December 31, 2018, an amount totaling not more than \$2,500.
 - (b) For taxable years beginning from and after December 31, 2018, an amount totaling not more than \$3,500.
27. For taxable years beginning from and after December 31, 2020, the amount contributed during the taxable year to an achieving a better life experience account established pursuant to section 529A of the internal revenue code on behalf of the designated beneficiary to the extent that the contributions were not deducted in computing federal adjusted gross income. The amount subtracted may not exceed:
 - (a) \$2,000 per beneficiary for a single individual or a head of household.
 - (b) \$4,000 per beneficiary for a married couple filing a joint return. In the case of a husband and wife who file separate returns, the subtraction may be taken by either taxpayer or may be divided between them, but the total subtractions allowed both husband and wife may not exceed \$4,000 per beneficiary.
28. For taxable years beginning from and after December 31, 2020, Arizona small business gross income but only if an individual taxpayer has elected to separately report and pay tax on the taxpayer's Arizona small business adjusted gross income on the Arizona small business income tax return.
29. To the extent not already excluded from Arizona gross income under the internal revenue code, the value of virtual currency and non-fungible tokens the taxpayer received pursuant to an airdrop at the time of the airdrop. This paragraph may not be interpreted as providing a subtraction for any appreciation in value that occurs from holding the virtual currency after the initial receipt of the airdrop. For the purposes of this paragraph:
 - (a) "airdrop" means the receipt of virtual currency through a means of distribution of virtual currency to the distributed ledger addresses of multiple taxpayers.
 - (b) "non-fungible token" has the same meaning prescribed in section 43-1028.
 - (c) "virtual currency" has the same meaning prescribed in section 43-1028.
30. The amount allowed as a subtraction by section 43-1028 for gas fees not already included in the taxpayer's virtual currency or non-fungible token basis.

Amended by Laws 2012, Ch. 3 § 43; Ch. 343, § 9; Ch. 170 § 53; Ch. 351, § 1; Ch. 297 § 20; Ch. 143 § 2. Amended by Laws 2013, Ch. 114, Ch. 236 and Ch. 256. Amended by Laws 2014, Ch. 245. Amended by Laws 2016, Ch. 118, § 1 and Ch. 214, § 4. Amended by Laws 2017, Ch. 178, § 15. Ch. 278, § 2, Ch. 299, § 9 and 316, § 2. Amended by Laws 2018, Ch. 104, § 30, Ch. 283, § 4 and Ch. 338, § 47. Amended by Laws 2019, Ch. 203, § 13 and Ch. 273, § 19. Amended by Laws 2020, Ch. 43, § 15. Amended by Laws 2021, Ch. 436, § 6. Amended by Laws 2022, Ch. 235, § 11 and Ch. 369, § 1.

Laws 2019, Ch. 38, § 15 provides:

Sec. 15. Board of trustees for the public safety personnel retirement system; interest payments
On or before June 30, 2019, the board of trustees for the Public Safety Personnel Retirement System may choose to require interest to be paid on monies returned to members of a retirement plan or system under the jurisdiction of the board consistent with sections 38-823, 38-844.05, 38-844.06, 38-844.08, 38-862 and 38-913, Arizona Revised Statutes, as amended by this act, for the period of time between the transaction under the applicable section until a date to be determined by the board, but not later than the effective date of this act.

Laws 2019, Ch. 38, § 16 provides:

Sec. 16. Retroactivity
A. Sections 38-810, 38-816, 38-820, 38-844.03, 38-844.05, 38-844.06, 38-844.08, 38-853.01, 38-858, 38-907 and 38-909, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after July 19, 2011.
B. Sections 38-823, 38-862 and 38-913, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after June 30, 2017.

Laws 2019, Ch. 38, § 17 provides:

Sec. 17. 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.

Laws 2016, Ch. 2 provides:

Sec. 18. Study; risk pooling; local board consolidation and structure; recommendations
A. Within fifteen days after the effective date of this act, the Public Safety Personnel Retirement System shall commence a study to determine various methods in which risk pooling may be structured and local board consolidation and structure may be accomplished and to determine which methods, if any, are in the best interests of the Public Safety Personnel Retirement System's fund, members, beneficiaries and employers.
B. The study shall be presented to the board of trustees of the Public Safety Personnel Retirement System on or before January 15, 2017. The board shall consider the study and report its recommendations for legislation to the president of the senate, the speaker of the House of Representatives and the Governor on or before February 15, 2017.

Sec. 19. Initial appointments of the board of trustees of the public safety personnel Retirement system; initial terms
A. For the initial appointments to the board of trustees of the Public Safety Personnel Retirement System, on or before August 1, 2016, associations representing public safety personnel, cities and towns in this state and counties in this state shall establish a list of nominees who are qualified pursuant to section 38-848, Arizona Revised Statutes, and willing to serve on the board. The list shall include at least three nominees for each position on the board, which will be forwarded to the appointing elected officials.
B. Each member of the board of trustees of the Public Safety Personnel Retirement System shall be selected from the list of nominees presented to the appointing elected officials for each position on the board. The following elected officials shall make the following appointments:
1. The Governor shall appoint:
(a) One member representing law enforcement in this state.
(b) One member representing firefighters in this state.
(c) One member representing cities and towns in this state.
(d) One member representing counties in this state.
(e) One member as specified in section 38-848, subsection A, paragraph 5, Arizona Revised Statutes.

2. The president of the senate shall appoint:
 - (a) One member representing law enforcement in this state.
 - (b) One member representing cities and towns in this state.
 3. The speaker of the House of Representatives shall appoint:
 - (a) One member representing firefighters in this state.
 - (b) One member representing cities and towns in this state.
- C. The appointments shall be made in the following order:
1. On or before November 1, 2016, the Governor shall make one appointment to the board from the list of nominees followed by one appointment made in turn from the president of the senate and the speaker of the House of Representatives until eight members are appointed to the board.
 2. The eight members initially appointed to the board pursuant to paragraph 1 of this subsection shall elect a chairperson who shall appoint the advisory committee pursuant to section 38-848, subsection X, Arizona Revised Statutes. The advisory committee shall forward to the newly appointed board of trustees of the Public Safety Personnel Retirement System at least five nominees who are qualified pursuant to section 38-848, Arizona Revised Statutes, and willing to serve on the board for the appointment of the ninth member of the board. From that list of nominees, the newly appointed board of trustees of the Public Safety Personnel Retirement System shall forward to the Governor at least three nominees for the appointment of the ninth member of the board, which shall be made on or before December 1, 2016.
- D. If the board members specified in subsection B of this section, except the board member specified in section 38-848, subsection A, paragraph 5, Arizona Revised Statutes, are not appointed by November 1, 2016, the elected official who fails to make an appointment forfeits the appointment and the appointment will be made within fifteen days by the next elected official in the rotation specified in subsection C, paragraph 1 of this section. This rotation shall continue until the eight board members are appointed.
- E. Notwithstanding section 38-848, Arizona Revised Statutes, the initial terms of the Public Safety Personnel Retirement System board members are:
1. Four terms ending on January 1, 2019 that include:
 - (a) One member representing law enforcement who is appointed by the Governor.
 - (b) One member representing firefighters who is appointed by the Governor.
 - (c) Two members representing cities and towns in this state, one of whom is appointed by the Speaker of the House of Representatives and one of whom is appointed by the President of the Senate.
 2. Five terms ending on January 1, 2021 that include:
 - (a) One member representing law enforcement who is appointed by the President of the Senate.
 - (b) One member representing firefighters who is appointed by the speaker of the House of Representatives.
 - (c) One member representing cities and towns in this state who is appointed by the Governor.
 - (d) One member representing counties in this state who is appointed by the Governor.
 - (e) The member specified in section 38-848, subsection A, paragraph 5, Arizona Revised Statutes.
- F. The subsequent appointments shall be made as prescribed in section 38-848, Arizona Revised Statutes.

Sec. 20. Annual compensation adjustment; employers; public safety wage index

Notwithstanding section 38-843.04, subsection D, Arizona Revised Statutes, as added by this act, beginning July 1, 2017, the employers for the purposes of the public safety wage index are the central Yavapai fire district, department of public safety, Drexel heights fire district, Flagstaff fire department, Flagstaff police department, Arizona game and fish department, Gilbert police department, Glendale police department, Golder ranch fire district, Kingman fire department, Kingman police department, Maricopa county sheriff's department, Mesa police department, Nogales fire department, Nogales police department, Northwest fire district, Phoenix fire department, Phoenix police department, Pima county sheriff's department, Pinal county sheriff's department, Prescott fire department, Prescott police department, Scottsdale police department, Tempe fire department, Tucson fire department and Tucson police department.

Sec. 21. Legislative findings and intent

- A. The legislature recognizes that in order to have a sound public retirement system that benefits this state, taxpayers and members of the retirement system, pursuant to article XXIX, Constitution of Arizona, the public retirement system must be funded with contributions and investment earnings based on actuarial methods and assumptions that are consistent with generally accepted actuarial standards. The legislature finds that the current structure of the Public Safety Personnel Retirement System does not achieve this goal and that the current system imperils the retirement security that the members of that system have come to expect. For these reasons, the legislature intends to modify and amend the provisions of the current system for both current and new members to make the system viable and sustainable now and into the future.
- B. The legislature further finds:
1. That the current structure of the Public Safety Personnel Retirement System does not lead to the goal of attaining one hundred percent funded status and jeopardizes the future payment of benefits to current and future retirees of the retirement program.
 2. That the current structure of the Public Safety Personnel Retirement System, which 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 a shared cost structure, public safety employees will bear increased responsibility for the fiscal health of the fund and, as the fund improves its funded status and approaches fully funded or overfunded status, the employees will realize decreased contribution costs that will be lower than currently required.
 3. That the current method of funding benefit increases to retirees of the Public Safety Personnel Retirement System is flawed and makes it highly unlikely that this fund will achieve its actuarially assumed earning rates during positive and negative investment environments and creates an undesirable possibility of greater investment risk on the part of the fund's trustees. It is fundamentally unsound to provide a benefit increase during periods when the funded status of the retirement program is less than seventy percent. Changing the manner of funding these benefit increases is intended to improve the funded status of the Public Safety Personnel Retirement System and is in the best interests of the members and beneficiaries of this retirement program in that it will preserve future benefits for plan participants.
 4. 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 program in future years.
 5. 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 this retirement program and return the program to fiscal solvency.
- C. It is the legislature's intent that this act does not impair or amend any agreement between an employee and employer that addresses participation in or contributions to alternative retirement plans or compensation arrangements not administered through the Public Safety Personnel Retirement System.

Sec. 22. Conditional enactment

- A. Sections 38-856, 38-856.01, 38-856.02, 38-856.03 and 38-856.04, Arizona Revised Statutes, as repealed by this act, section 38-844.05, Arizona Revised Statutes, as amended by this act, and sections 38-856.05, 38-865.01 and 38-868, Arizona Revised Statutes, as added by this act, do not become effective unless the Constitution of Arizona is amended as prescribed in Senate concurrent resolution 1019, fifty-second legislature, second regular session, by vote of the people at the special election conducted on May 17, 2016.
- B. The enactment of any provision of this act conditioned on the results of the election does not constitute a submission of any provision of this act to the voters under the power of referendum.

Sec. 23. 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.

Laws 2022, Ch. 325 provides:

Sec. 1. Supplemental appropriations; public safety personnel retirement system; corrections officer retirement plan; pension liability

- A. In addition to any other appropriations made in fiscal year 2021-2022, the following sums are appropriated from the state general fund in fiscal year 2021-2022 to the Public Safety Personnel Retirement System to be deposited in the following Public Safety Personnel Retirement System group employer accounts to reduce the unfunded accrued liability for the following agencies:

Department of emergency and military affairs	\$8,542,800
Attorney general investigators	\$9,117,700
Arizona state parks board rangers	\$8,820,600
Department of liquor licenses and control	\$7,628,900
Arizona State University campus police	\$23,565,000
University of Arizona campus police	\$15,645,900
Northern Arizona University campus police	\$7,725,600

- B. In addition to any other appropriations made in fiscal year 2021-2022, the following sums are appropriated from the state general fund in fiscal year 2021-2022 to the Public Safety Personnel Retirement System to be deposited in the following Corrections Officer Retirement Plan group employer accounts to reduce the unfunded accrued liability for the following agencies:

Department of public safety dispatchers	\$6,352,000
Department of public safety detention officers	\$309,200

- C. The board of trustees of the Public Safety Personnel Retirement System shall account for the appropriations made in this section in the June 30, 2022 actuarial valuation of the Public Safety Personnel Retirement System groups listed in subsection A of this section and the Corrections Officer Retirement Plan groups listed in subsection B of this section. The board shall account for the appropriations when calculating the employee contribution rates and employer contribution rates, which the Public Safety Personnel Retirement System groups shall use when making contributions pursuant to section 38-843, Arizona Revised Statutes, and the Corrections Officer Retirement Plan groups shall use when making contributions pursuant to section 38-891, Arizona Revised Statutes, during fiscal year 2023-2024.

CONSTITUTION OF ARIZONA

Article 29, Section 1

1. 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 standards.
- 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, section 25.
- D. Public retirement system benefits shall not be diminished or impaired, except that:
 - 1. Certain adjustments to the public safety personnel retirement system may be made as provided in senate bill 1428, as enacted by the fifty-second legislature, second regular session.
 - 2. Certain adjustments to the corrections officer retirement plan may be made as provided in senate bill 1442, as enacted by the fifty-third legislature, first regular session.
 - 3. Certain adjustments to the elected officials' retirement plan may be made as provided in house bill 2545, as enacted by the fifty-third legislature, second regular session.
- E. This section preserves the authority vested in the legislature pursuant to this constitution and does not restrict the legislature's ability to modify public retirement system benefits for prospective members of public retirement systems.