

HOUSE FLOOR AMENDMENT EXPLANATION



Bill Number: **HB 2080**

Blackman Floor Amendment

The Rep. Blackman floor amendment dated February 26, 2025 at 9:05 AM includes retired members that return to work as contracted or leased employees within 6 months of retirement from receiving pension payments during their reemployment.

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BLACKMAN FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2080
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[~~GREEN STRIKEOUT IN BRACKETS~~] indicates new text removed from statute or previously enacted session law.

[~~Green strikeout in brackets~~] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<~~Green strikeout in carets~~>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

2 Section 1. Section 38-833, Arizona Revised Statutes, is amended to
3 read:

4 38-833. Member and employer contributions: disability

5 A. Beginning January 1, 2014, the defined contribution system is
6 the retirement program for elected officials, unless the elected official
7 is described in section 38-727, subsection B. Elected officials shall be
8 enrolled in the defined contribution ~~plan~~ SYSTEM established by the board
9 pursuant to this article.

10 B. Each elected official who is a member of the defined
11 contribution system shall contribute eight ~~per cent~~ PERCENT of the
12 member's gross compensation by salary reduction that shall be deposited in
13 the member's annuity account. Each member shall also contribute to the
14 elected officials' defined contribution retirement system disability
15 program pursuant to article 3.2 of this chapter.

16 C. Although designated as employee contributions, all member
17 contributions made to the defined contribution system shall be picked up
18 and paid by the employer in lieu of contributions by the employee. The
19 contributions picked up by an employer may be made through a reduction in
20 the member's compensation. A member participating in the defined
21 contribution system does not have the option of choosing to receive the
22 contributed amounts directly instead of the employer paying the amounts to
23 the defined contribution system. All member contributions that are picked
24 up by the employer as provided in this subsection shall be treated as
25 employer contributions under section 414(h) of the internal revenue code,
26 shall be excluded from members' gross income for federal and state income
27 tax purposes and are includable in the gross income of the members or the

1 members' beneficiaries only in the taxable year in which they are
2 distributed.

3 D. Each employer shall annually make a contribution equal to six
4 ~~per cent~~ PERCENT of each member's gross compensation. The pro rata share
5 of this amount shall be paid on each date that a member contribution is
6 made and shall be credited to the member's annuity account. Each employer
7 shall also contribute to the elected officials' defined contribution
8 retirement system disability program pursuant to article 3.2 of this
9 chapter.

10 E. Member and employer contributions and earnings on those
11 contributions are immediately vested. A member WHO WAS NOT AN ACTIVE,
12 INACTIVE OR RETIRED MEMBER OF THE ELECTED OFFICIALS' RETIREMENT PLAN OR A
13 MEMBER OF THE ELECTED OFFICIALS' RETIREMENT PLAN WITH A DISABILITY may
14 receive benefits pursuant to article 3.2 of this chapter if the member
15 develops a total disability.

16 Sec. 2. Section 38-848, Arizona Revised Statutes, is amended to
17 read:

18 38-848. Board of trustees; powers and duties; reporting
19 requirements; independent trust fund;
20 administrator; agents and employees; advisory
21 committee

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

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

38 2. Two members representing firefighters, one of whom is appointed
39 by the speaker of the house of representatives and one of whom is
40 appointed by the governor. A statewide association representing
41 firefighters in this state shall forward nominations to the appointing
42 elected officials, providing at least three nominees for each position.
43 At least one of the members appointed under this paragraph shall be an
44 elected local board member.

45 3. Three members representing cities and towns in this state, one
46 of whom is appointed by the president of the senate, one of whom is
47 appointed by the speaker of the house of representatives and one of whom

1 is appointed by the governor. An association representing cities and
2 towns in this state shall forward nominations to the appointing elected
3 officials, providing at least three nominees for each position. These
4 nominees shall represent taxpayers or employers and may not be members of
5 the system.

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

11 5. One member who is appointed by the governor from a list of three
12 nominees forwarded by the board. The board shall select the nominees to
13 forward to the governor from a list of at least five nominees received
14 from the advisory committee.

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

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

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

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

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

43 2. A securities analyst.

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

1 4. A chartered financial analyst in good standing as determined by
2 the chartered financial analyst institute.

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

6 6. An economist.

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

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

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

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

45 F. The board shall have the full power in its sole discretion to
46 invest and reinvest, alter and change the monies accumulated under the
47 system and other retirement plans and trusts that the board administers as

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

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

25 2. Not more than five percent of the combined assets of the system
26 or other plans that the board manages is invested in corporate stock
27 issued by any one corporation, other than corporate stock issued by
28 corporations chartered by the United States government or corporate stock
29 issued by a bank or insurance company.

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

34 4. Corporate stocks and exchange traded funds eligible for direct
35 purchase are restricted to stocks and exchange traded funds that, except
36 for bank stocks, insurance stocks, **STOCKS ACQUIRED AS AN INVESTMENT IN ANY**
37 **COMMINGLED INVESTMENT**, stocks acquired for coinvestment in connection with
38 the system's or the plans' or trusts' commingled investments and interests
39 in limited liability companies and mutual funds, are any of the following:

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

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

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

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

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

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

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

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

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

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

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

5 3. Also:

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

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

9 (c) Exercise any conversion privileges, subscription rights or
10 other options and make any payments incidental to the exercise of the
11 conversion privileges, subscription rights or other options.

12 (d) Consent to or otherwise participate in corporate
13 reorganizations or other changes affecting corporate securities, delegate
14 discretionary powers and pay any assessments or charges in connection
15 therewith.

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

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

22 5. Register any investment held by the system or other plans whose
23 assets the board administers in the name of the system or plan or in the
24 name of a nominee or trust.

25 6. At the expense of the system or other plans that the board
26 administers, enter into an agreement with any bank or banks for the
27 safekeeping and handling of securities and other investments coming into
28 the possession of the board. The agreement shall be entered into under
29 terms and conditions that secure the proper safeguarding, inventory,
30 withdrawal and handling of the securities and other investments. Access
31 to and deposit or withdrawal of the securities from any place of deposit
32 selected by the board is not allowed and may not be made except as the
33 terms of the agreement provide.

34 7. Appear before local boards and the courts of this state and
35 political subdivisions of this state through counsel or an appointed
36 representative to protect the fund or the assets of other plans that the
37 board administers. The board is not responsible for the actions or
38 omissions of the local boards under this system but may require a review
39 or rehearing of actions or omissions of local boards. A limitation period
40 does not prohibit the board or administrator from contesting or require
41 the board or administrator to implement or comply with a local board
42 decision that violates the internal revenue code or that threatens to
43 impair the tax-qualified status of the system or any plan administered by
44 the board or administrator.

45 8. Empower the fund administrator to take actions on behalf of the
46 board that are necessary for the protection and administration of the fund

1 or the assets of other plans that the board administers pursuant to the
2 guidelines of the board.

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

6 10. Settle threatened or actual litigation against any system or
7 plan that the board administers.

8 K. Investment expenses and operation and administrative expenses of
9 the board shall be accounted for separately and allocated against
10 investment income.

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

16 1. A balance sheet.

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

18 3. A report on an actuarial valuation of its assets and
19 liabilities.

20 4. A list of investments owned.

21 5. The total rate of return, yield on cost, percentage of cost to
22 market value of the fund and the assets of other plans that the board
23 administers.

24 6. Any other statistical and financial data that may be necessary
25 for the proper understanding of the financial condition of the system and
26 other plans that the board administers and the results of their
27 operations. A synopsis of the annual report shall be published for the
28 information of members of the system, the elected officials' retirement
29 plan or the corrections officer retirement plan.

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

34 8. An estimate of the aggregate employer contribution rate for the
35 public safety personnel retirement system for the next ten fiscal years
36 and an estimate of the aggregate employer contribution rate for the
37 corrections officer retirement plan for the next ten fiscal years.

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

41 (a) Department of liquor licenses and control.

42 (b) Department of public safety.

43 (c) Northern Arizona university.

44 (d) University of Arizona.

45 (e) Arizona state university.

46 (f) Arizona game and fish department.

47 (g) Department of law.

1 (h) Department of emergency and military affairs.
2 (i) Arizona state parks board.
3 10. An estimate of the employer contribution rates for the next ten
4 fiscal years for each of the following employers within the corrections
5 officer retirement plan:
6 (a) State department of corrections.
7 (b) Department of public safety.
8 (c) The judiciary.
9 (d) Department of juvenile corrections.
10 11. An estimate of the aggregate fees paid for private equity
11 investments and other alternative investments, including management fees
12 and performance fees and carried interest.
13 M. The board shall:
14 1. Maintain the accounts of the system and other plans that the
15 board administers and issue statements to each employer annually and to
16 each member who requests a statement.
17 2. Report the results of the actuarial valuations to the local
18 boards and employers.
19 3. Contract on a fee basis with an independent investment counsel
20 to advise the board in the investment management of the fund and assets of
21 other plans that the board administers and with an independent auditing
22 firm to audit the board's accounting.
23 4. Allow the auditor general to make an annual audit and transmit
24 the results to the governor and the legislature.
25 5. Contract on a fee basis with an actuary who shall make actuarial
26 valuations of the system and other plans that the board administers, be
27 the technical adviser of the board on matters regarding the operation of
28 the funds created by the provisions of the system, the elected officials'
29 retirement plan, the corrections officer retirement plan and the public
30 safety cancer insurance policy program and perform other duties required
31 in connection therewith. The actuary must be a member of a nationally
32 recognized association or society of actuaries.
33 6. Employ, as administrator, a person, state department or other
34 body to serve at the pleasure of the board.
35 7. Establish procedures and guidelines for contracts with
36 actuaries, auditors, investment counsel and legal counsel and for
37 safeguarding of securities.
38 8. Issue a request for proposals every five years for an external
39 auditor. The board is not required to change its auditor after issuing the
40 request for proposals.
41 9. Develop a policy regarding routine stress testing of the
42 retirement systems and plans administered by the board at the employer
43 level and system level. The stress test shall use industry standards,
44 such as the inclusion of assumptions regarding investment returns,
45 inflation, population growth, payroll growth and employer contributions.
46 For the purposes of this paragraph, "stress test" means an assessment of

1 the risk exposure of the retirement system or plan, including scenario
2 analysis, simulation analysis and sensitivity analysis.

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

4 1. Administer this article.

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

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

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

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

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

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

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

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

44 P. All trust funds administered by the board are exempt from title
45 44, chapter 3. The board shall adopt policies for monies presumed to be
46 abandoned, including requirements for the notification of the presumed
47 owner and for distributing the monies if the owner establishes an

1 entitlement in the monies. Monies in the retirement plans and system
2 administered by the board are presumed to be abandoned two years after any
3 of the following, whichever occurs first:

4 1. The date of the distribution or attempted distribution of the
5 monies.

6 2. The date of the required distribution as stated in the plan or
7 trust agreement that governs the plan.

8 3. If determinable by the holder, the date specified in the income
9 tax laws of the United States by which distribution of the monies must
10 begin in order to avoid a tax penalty.

11 Q. The board, the administrator, the deputy or assistant
12 administrators and all persons employed by them are subject to title 41,
13 chapter 4, article 4. The administrator, deputy or assistant
14 administrators and other employees of the board are entitled to receive
15 compensation pursuant to section 38-611.

16 R. In consultation with the director of the department of
17 administration, the board may enter into employment agreements and
18 establish the terms of those agreements with persons holding any of the
19 following system positions:

20 1. Administrator.

21 2. Deputy or assistant administrator.

22 3. Chief investment officer.

23 4. Deputy chief investment officer.

24 5. Fiduciary or investment counsel.

25 S. The attorney general or an attorney approved by the attorney
26 general and paid by the fund is the attorney for the board and shall
27 represent the board in any legal proceeding or forum that the board deems
28 appropriate. The board, administrator, deputy or assistant administrators
29 and employees of the board are not personally liable for any acts done in
30 their official capacity in good faith reliance on the written opinions of
31 the board's attorney.

32 T. At least once in each five-year period after the effective date,
33 the actuary shall make an actuarial investigation into the mortality,
34 service and compensation experience of the members and beneficiaries of
35 the system and other plans that the board administers and shall make a
36 special valuation of the assets and liabilities of the monies of the
37 system and plans. Taking into account the results of the investigation
38 and special valuation, the board shall adopt for the system and other
39 plans that the board administers those mortality, service and other tables
40 deemed necessary.

41 U. On the basis of the tables the board adopts, the actuary shall
42 make a valuation of the assets and liabilities of the funds of the system
43 and other plans that the board administers at least every year. By
44 November 1 of each year the board shall provide a preliminary report and
45 by December 1 of each year provide a final report to the governor, the
46 speaker of the house of representatives and the president of the senate on
47 the contribution rate for the ensuing fiscal year.

1 V. Neither the board nor any member or employee of the board shall
2 directly or indirectly, for the board, the member or the employee or as an
3 agent, in any manner use the monies or deposits of the fund except to make
4 current and necessary payments, nor shall the board or any member or
5 employee become an endorser or surety or in any manner an obligor for
6 monies loaned by or borrowed from the fund or the assets of any other
7 plans that the board administers.

8 W. Financial or commercial information that is provided to the
9 board, employees of the board and attorneys of the board in connection
10 with investments in which the board has invested or investments the board
11 has considered for investment is confidential, proprietary and not a
12 public record if the information is information that would customarily not
13 be released to the public by the person or entity from whom the
14 information was obtained.

15 X. A person who is a dealer as defined in section 44-1801 and who
16 is involved in securities or investments related to the board's
17 investments is not eligible to serve on the board.

18 Y. The public safety personnel retirement system advisory committee
19 is established and shall serve as a liaison between the board and the
20 members and employers of the system. The president of the senate and the
21 speaker of the house of representatives shall each appoint to the
22 committee one member. The remaining members of the committee shall be
23 appointed by the chairperson of the board from names submitted to the
24 chairperson by associations representing law enforcement, firefighters,
25 state government, counties, cities and towns and tribal governments. The
26 committee shall select a chairperson from among its members each calendar
27 year. The committee members appointed by the chairperson of the board
28 shall consist of the following ten members:

- 29 1. A member who is a law enforcement officer.
- 30 2. A member who is a firefighter.
- 31 3. A member of the elected officials' retirement plan.
- 32 4. A member of the corrections officer retirement plan.
- 33 5. A retiree from the public safety personnel retirement system.
- 34 6. A representative from a city or town in this state.
- 35 7. A representative from a county in this state.
- 36 8. A representative from a fire district in this state.
- 37 9. A representative from a state employer.
- 38 10. A representative from a tribal government located in this
39 state.

40 Sec. 3. Section 38-849, Arizona Revised Statutes, is amended to
41 read:

42 38-849. Limitations on receiving pension; violation;
43 classification; reemployment after severance;
44 reinstatement of service credits; reemployment of
45 retired member or member with a disability;
46 definition

1 A. If a member is convicted of, or discharged because of, theft,
2 embezzlement, fraud or misappropriation of an employer's property or
3 property under the control of the employer, the member shall be subject to
4 restitution and fines imposed by a court of competent jurisdiction. The
5 court may order the restitution or fines to be paid from any payments
6 otherwise payable to the member from the retirement system.

7 B. A person who knowingly makes any false statement or who
8 falsifies or allows to be falsified any record of the system with an
9 intent to defraud the system is guilty of a class 5 felony. If any change
10 or error in the records results in any member or beneficiary receiving
11 from the system more or less than the member or beneficiary would have
12 been entitled to receive had the records been correct, the local board
13 shall correct such error, and as far as practicable shall adjust the
14 payments in such manner that the actuarial equivalent of the benefit to
15 which such member or beneficiary was correctly entitled shall be paid. If
16 a member is convicted of a crime specified in this subsection, section
17 13-713 applies.

18 C. If a member who received a severance refund on termination of
19 employment pursuant to section 38-846.02 becomes reemployed with the same
20 employer within two years after the former member's termination date, the
21 member may have forfeited credited service attributable to service
22 rendered during a prior period of service as an employee restored on
23 satisfaction of each of the following conditions:

24 1. The member files with the system a written application for
25 reinstatement of forfeited credited service within ninety days after again
26 becoming an employee.

27 2. The retirement fund is paid the total amount previously
28 withdrawn pursuant to section 38-846.02 plus compound interest from the
29 date of withdrawal to the date of repayment. Interest shall be computed
30 at the rate of nine percent for each year compounded each year from the
31 date of withdrawal to the date of repayment. Forfeited credited service
32 shall not be restored until complete payment is received by the fund.

33 3. The required payment is completed within one year after
34 returning to employee status.

35 D. If a member who received a severance refund on termination of
36 employment, as provided in section 38-846.02, is subsequently reemployed
37 by an employer, the member's prior service credits shall be cancelled and
38 service shall be credited only from the date the member's most recent
39 reemployment period commenced. However, a present active member of the
40 system who forfeited credited service, received a severance refund
41 pursuant to section 38-846.02 and becomes reemployed with the same
42 employer two years or more after the member's termination date or becomes
43 reemployed with another employer may elect to redeem any part of that
44 forfeited credited service by paying into the system any amounts required
45 pursuant to this subsection. A present active member who elects to redeem
46 any part of forfeited credited service for which the member is deemed
47 eligible by the board shall pay into the system the amounts previously

1 paid or transferred to the member as a severance refund plus an amount
2 that is computed by the system's actuary that is necessary to equal the
3 increase in the actuarial present value of projected benefits resulting
4 from the redemption calculated using the actuarial methods and assumptions
5 prescribed by the system's actuary. On satisfaction of this obligation,
6 the member's prior service credits shall be reinstated.

7 E. If a retired member becomes reemployed in any capacity[
8 INCLUDING AS A CONTRACTED OR LEASED EMPLOYEE.] by the employer from which
9 the member retired before six months after the date of retirement ~~or in~~
10 ~~the same position at any time~~ following retirement:

11 1. The following apply:

12 (a) Within ten days after the retired member is reemployed, the
13 local board shall advise the system in writing of the retired member's
14 reemployment.

15 (b) The system shall not make pension payments to the retired
16 member during the period of reemployment.

17 (c) Employee contributions shall not be made on the retired
18 member's account, nor shall any service be credited during the period of
19 reemployment. On subsequent termination of employment by the retired
20 member, the retired member is entitled to receive a pension based on the
21 member's service and compensation before the date of the member's
22 reemployment. The employer shall pay the alternate contribution rate
23 pursuant to section 38-843.05.

24 (d) Any pension payments received by the retired member, who
25 retired on or after July 1, 2009, during the period of reemployment are
26 considered overpayments pursuant to section 38-850, unless subsection B of
27 this section applies. If the board determines in the board's sole
28 discretion, for a member who retired on or after July 1, 2009, that the
29 retired member's reemployment WITH THE EMPLOYER FROM WHICH THE MEMBER
30 RETIRED during the six-month period and the failure of the employer or the
31 local board to suspend the member's pension were not intentional to
32 circumvent the requirements of this subsection, the pension payments
33 received by the retired member after the retired member's reemployment are
34 subject to repayment up to only the amount received between the date of
35 the member's reemployment and the expiration of the six-month period.

36 2. The retired member, who retired on or after July 1, 2009 and who
37 is reemployed terminates employment, may be subsequently reemployed with
38 the employer from which the member retired and resume receiving pension
39 payments after a period of six months, less the period of time the retired
40 member was not reemployed after retirement with the employer from which
41 the member retired, if at least sixty days of the six months are
42 consecutive.

43 3. Paragraph 1, subdivisions (a), (b) and (d) of this subsection do
44 not apply if any of the following occurs:

45 (a) The retired member becomes reemployed after sixty consecutive
46 days from the member's retirement date as a result of participating in an
47 open competitive new hire process except if the retired member is hired

1 for the same position or if the retired member has a prearranged
2 reemployment agreement with the employer.

3 (b) The retired member is hired as a fire inspector or arson
4 investigator.

5 (c) The retired member who is receiving an accidental disability,
6 ordinary disability, catastrophic disability or temporary disability
7 pension accepts a job reassignment as an accommodation in accordance with
8 the Americans with disabilities act of 1990 due to a disability that is
9 directly related to the retired member being awarded an accidental
10 disability, ordinary disability, catastrophic disability or temporary
11 disability benefit.

12 F. If a retired member is assigned voluntary duties acting as a
13 limited authority peace officer, pursuant to the Arizona peace officer
14 standards and training board rules, employee contributions shall not be
15 made on the retired member's account, and any service shall not be
16 credited during the period of reemployment. The employer shall not pay
17 the alternate contribution rate pursuant to section 38-843.05.

18 G. If after six months after the date of retirement a retired
19 member becomes reemployed [IN ANY CAPACITY, INCLUDING AS A CONTRACTED OR
20 LEASED EMPLOYEE,] by the employer from which the member retired ~~in a~~
21 ~~position other than the same position from which the member retired,~~
22 employee contributions shall not be made on the retired member's account,
23 and any service shall not be credited during the period of reemployment.
24 The employer shall pay the alternate contribution rate pursuant to section
25 38-843.05.

26 H. At any time following retirement, if the retired member becomes
27 employed by an employer, other than the employer from which the member
28 retired, in a position ordinarily filled by an employee of an eligible
29 group, employee contributions shall not be made on the retired member's
30 account, and any service shall not be credited during the period of
31 reemployment. The employer shall pay the alternate contribution rate
32 pursuant to section 38-843.05.

33 I. If a member who retired under an accidental or ordinary
34 disability becomes reemployed as an employee of an eligible group, section
35 38-844 applies and a determination shall be made by the local board as to
36 whether subsection E, F, G or H of this section applies.

37 J. The local board shall review all reemployment determinations and
38 voluntary assignments as described in subsection F of this section. If
39 the local board or the system is not provided the necessary information
40 required by the system to make a reemployment determination, the local
41 board and the system shall suspend pension payments until information is
42 received and a determination is made regarding whether the reemployment
43 meets the requirements of subsection E, F, G, H or I of this section.

44 K. A person who defrauds the system or who takes, converts, steals
45 or embezzles monies owned by or from the system and who fails or refuses
46 to return the monies to the system on the board's written request is
47 subject to civil suit by the system in the superior court in Maricopa

1 county. On entry of an order finding the person has defrauded the system
2 or taken, converted, stolen or embezzled monies owned by or from the
3 system, the court shall enter an order against that person and for the
4 system awarding the system all of its costs and expenses of any kind,
5 including attorney fees, that were necessary to successfully prosecute the
6 action. The court shall also grant the system a judicial lien on all of
7 the nonexempt property of the person against whom judgment is entered
8 pursuant to this subsection in an amount equal to all amounts awarded to
9 the system, plus interest at the rate prescribed by section 44-1201, until
10 all amounts owed are paid to the system.

11 L. Notwithstanding any other provision of this article, the board
12 may offset against any benefits otherwise payable by the system to an
13 active or retired member or survivor any court ordered amounts awarded to
14 the board and system and assessed against the member or survivor.

15 M. Notwithstanding any other provision of this article, a member
16 who retires having met all of the qualifications for retirement and who
17 subsequently becomes an elected official, by election or appointment, is
18 not considered reemployed by the same employer.

19 N. For the purposes of this section, "same position" means a
20 position in which the member performs substantially similar duties that
21 were performed and exercises substantially similar authority that was
22 exercised by the retired member before retirement.

23 <<Sec. 4. Section 38-884, Arizona Revised Statutes, is amended to
24 read:

25 38-884. Membership of retirement plan; termination; credited
26 service; redemption; reemployment

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

37 B. The purpose of the medical examination authorized by this
38 section is to identify a member's physical or mental condition or injury
39 that existed or occurred before the member's date of membership in the
40 plan. Any employee who fails or refuses to submit to the medical
41 examination prescribed in this section is deemed to waive all rights to
42 disability benefits under this article. Medical examinations conducted
43 under this article shall be conducted by a physician and shall not be
44 conducted or used for purposes of hiring, advancing, discharging, job
45 training or other terms, conditions and privileges of employment unrelated
46 to receipt or qualification for pension benefits or service credits from
47 the fund. This subsection does not affect or impair the right of an

1 employer to prescribe medical or physical standards for employees or
2 prospective employees.

3 C. If a member who becomes a member of the plan before January 1,
4 2012 ceases to be an employee for any reason other than death or
5 retirement, within twenty days after filing a completed application with
6 the board, the member is entitled to receive the following amounts, less
7 any benefit payments the member has received and any amount the member may
8 owe to the plan:

9 1. If the member has less than five years of credited service with
10 the plan, the member may withdraw the member's accumulated contributions
11 from the plan.

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

15 (a) 5.0 to 5.9 years of credited service, twenty-five percent of
16 all member contributions deducted from the member's salary pursuant to
17 section 38-891, subsection B.

18 (b) 6.0 to 6.9 years of credited service, forty percent of all
19 member contributions deducted from the member's salary pursuant to section
20 38-891, subsection B.

21 (c) 7.0 to 7.9 years of credited service, fifty-five percent of all
22 member contributions deducted from the member's salary pursuant to section
23 38-891, subsection B.

24 (d) 8.0 to 8.9 years of credited service, seventy percent of all
25 member contributions deducted from the member's salary pursuant to section
26 38-891, subsection B.

27 (e) 9.0 to 9.9 years of credited service, eighty-five percent of
28 all member contributions deducted from the member's salary pursuant to
29 section 38-891, subsection B.

30 (f) 10.0 or more years of credited service, one hundred percent of
31 all member contributions deducted from the member's salary pursuant to
32 section 38-891, subsection B.

33 D. If a member who becomes a member of the plan before January 1,
34 2012 has more than ten years of credited service with the plan, leaves the
35 monies prescribed in subsection C of this section on account with the plan
36 for more than thirty days after termination of employment and after that
37 time period requests a refund of those monies, the member is entitled to
38 receive the amount prescribed in subsection C of this section plus
39 interest at a rate determined by the board for each year computed from and
40 after the member's termination of employment.

41 E. The accumulated member contributions of a member who ceases to
42 be an employee for a reason other than death or retirement and who becomes
43 a member of the plan:

44 1. On or after January 1, 2012 and before July 1, 2018 shall be
45 paid to the member plus interest at a rate determined by the board as of
46 the date of termination within twenty days after filing with the plan a
47 written application for payment.

1 2. For a member who has less than ten years of credited service
2 with the plan, on or after July 1, 2018 shall be paid to the member plus
3 interest at a rate determined by the board as of the date of termination
4 within twenty days after filing with the plan a written application for
5 payment.

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

14 G. For distributions occurring from and after December 31, 2007, a
15 member or a member's beneficiary, including a nonspouse designated
16 beneficiary to the extent allowed under subsection H of this section, may
17 roll over an eligible rollover distribution as defined in section
18 402(c)(4) of the internal revenue code to a Roth individual retirement
19 account, if, for distributions occurring before January 1, 2010, the
20 member or the member's beneficiary satisfies the requirements for making a
21 Roth individual retirement account contribution under section
22 408A(c)(3)(B) of the internal revenue code, as in effect on the date of
23 the rollover. Any amount rolled over to a Roth individual retirement
24 account is included in the gross income of the member or the member's
25 beneficiary to the extent the amounts would have been included in gross
26 income if not rolled over as required under section 408A(d)(3)(A) of the
27 internal revenue code. For the purposes of this subsection, the
28 administrator is not responsible for ensuring the member or the member's
29 beneficiary is eligible to make a rollover to a Roth individual retirement
30 account.

31 H. For distributions made from and after December 31, 2009, a
32 nonspouse designated beneficiary as defined in section 401(a)(9)(E) of the
33 internal revenue code may elect to directly roll over an eligible rollover
34 distribution to an individual retirement account under section 408(a) of
35 the internal revenue code or an individual retirement annuity under
36 section 408(b) of the internal revenue code that is established on behalf
37 of the designated beneficiary and that will be treated as an inherited
38 individual retirement plan pursuant to section 402(c)(11) of the internal
39 revenue code. In order to be able to roll over the distribution, the
40 distribution otherwise must satisfy the definition of an eligible rollover
41 distribution as defined in section 402(c)(4) of the internal revenue
42 code. In applying this subsection, a nonspouse rollover is subject to the
43 direct rollover requirements under section 401(a)(31) of the internal
44 revenue code, the rollover notice requirements under section 402(f) of the
45 internal revenue code and the mandatory withholding requirements under
46 section 3405(c) of the internal revenue code.

1 I. For plan years occurring before January 1, 2007, the period for
2 providing the rollover notice as required under section 402(f) of the
3 internal revenue code is not less than thirty days and not more than
4 ninety days before the date of distribution and, for plan years beginning
5 from and after December 31, 2006, the period for providing the rollover
6 notice as required under section 402(f) of the internal revenue code is
7 not less than thirty days and not more than one hundred eighty days before
8 the date of distribution.

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

16 K. Credited service is forfeited if the amounts prescribed in
17 subsection C, D or E of this section are paid or are transferred in
18 accordance with this section.

19 L. If a former member becomes reemployed with the same employer
20 within two years after the former member's termination date, a member may
21 have forfeited credited service attributable to service rendered during a
22 prior period of service as an employee restored on satisfaction of each of
23 the following conditions:

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

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

34 3. The required payment is completed within one year after
35 returning to employee status.

36 M. If a member who receives a severance refund on termination of
37 employment pursuant to subsection C, D or E of this section is
38 subsequently reemployed by an employer, the member's prior service credits
39 are cancelled, and the board shall credit service only from the date the
40 member's most recent reemployment period commenced. A present active
41 member of the plan who received a refund of accumulated contributions from
42 the plan pursuant to subsection C, D or E of this section, forfeited
43 credited service pursuant to subsection K of this section and becomes
44 reemployed with the same employer two years or more after the member's
45 termination date or becomes reemployed with another employer may elect to
46 redeem any part of that forfeited credited service by paying into the plan
47 any amounts required pursuant to this subsection. A present active member

1 who elects to redeem any part of forfeited credited service for which the
2 member is deemed eligible by the board shall pay into the plan the amounts
3 previously paid or transferred as a refund of the member's accumulated
4 contributions plus an amount, computed by the plan's actuary that is
5 necessary to equal the increase in the actuarial present value of
6 projected benefits resulting from the redemption calculated using the
7 actuarial methods and assumptions prescribed by the plan's actuary. On
8 satisfaction of this obligation, the board shall reinstate the member's
9 prior service credits.

10 N. A retired member may become employed by the employer from which
11 the employee retired in a designated position and continue to receive a
12 pension if the employment occurs at least six months after retirement.
13 The retired member shall not contribute to the fund and shall not accrue
14 credited service. If a retired member becomes employed by the employer
15 from which the employee retired in a designated position[, INCLUDING IN A
16 CONTRACTED OR LEASED POSITION.] before six months after retirement, the
17 following apply:

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

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

24 3. Any pension payments received by a retired member, who retired
25 on or after July 1, 2009, during a period of reemployment are considered
26 overpayments pursuant to section 38-899. If the board determines in the
27 board's sole discretion, for a member who retired on or after July 1,
28 2009, that the retired member's reemployment during the six-month period
29 and the failure of the employer or the local board to suspend the member's
30 pension were not intentional to circumvent the requirements of this
31 subsection, the pension payments received by the retired member during
32 reemployment are subject to repayment up to only the amount received
33 between the date of the member's reemployment and the expiration of the
34 six-month period.

35 4. If a retired member who retired on or after July 1, 2009 and who
36 is reemployed terminates employment, the retired member may be
37 subsequently reemployed with the employer from which the member retired in
38 a designated position and resume receiving pension payments after a period
39 of six months, less the period of time the retired member was not
40 reemployed by the employer from which the member retired in a designated
41 position after retirement, if at least sixty days of the six months are
42 consecutive.

43 O. Notwithstanding any other provision of this article, a member
44 who retires having met all of the qualifications for retirement and who
45 subsequently becomes an elected official, by election or appointment, is
46 not considered reemployed by the same employer.>>

1 Sec. 5. Section 38-951, Arizona Revised Statutes, is amended to
2 read:

3 38-951. Definitions

4 In this article, unless the context otherwise requires:

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

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

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

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

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

15 (d) The corrections officer retirement plan established by article
16 6 of this chapter.

17 (e) An optional retirement program established pursuant to section
18 15-1451 or 15-1628.

19 (f) The elected officials' defined contribution retirement system
20 established pursuant to article 3.1 of this chapter.

21 (g) The public safety personnel defined contribution retirement
22 plan established pursuant to article 4.1 of this chapter.

23 (h) STATE ELECTED OFFICIALS WHO WERE SUBJECT TO TERM LIMITS AND
24 EXEMPT STATE OFFICERS AND EMPLOYEES WHO ELECTED TO PARTICIPATE IN THE
25 DEFINED CONTRIBUTION RETIREMENT PLAN OPTION ESTABLISHED PURSUANT TO
26 SECTION 38-952 IN EFFECT ON AUGUST 6, 1999.

27 3. "Employer" means an agency or department of this state or an
28 agency or department of a political subdivision of this state that has
29 employees in an eligible group.

30 4. "Plan" means a defined contribution plan authorized by this
31 article.

32 Enroll and engross to conform

33 Amend title to conform

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