

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2119

AN ACT

AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 5; AMENDING SECTION 38-881, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 87, SECTION 6; AMENDING SECTIONS 38-893 AND 38-902, ARIZONA REVISED STATUTES; RELATING TO THE CORRECTIONS OFFICER RETIREMENT PLAN; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-881, Arizona Revised Statutes, as amended by
3 Laws 2007, chapter 87, section 5, is amended to read:

4 38-881. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition that
7 the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's department, was
9 incurred in the performance of the employee's duties and was the result of
10 any of the following:

11 (a) Physical contact with inmates, prisoners, parolees or persons on
12 probation.

13 (b) Responding to a confrontational situation with inmates, prisoners,
14 parolees or persons on probation.

15 (c) A job related motor vehicle accident while on official business
16 for the employee's employer. A job related motor vehicle accident does not
17 include an accident that occurs on the way to or from work. Persons found
18 guilty of violating a personnel rule, a rule established by the employee's
19 employer or a state or federal law in connection with a job related motor
20 vehicle accident do not meet the conditions for accidental disability.

21 2. "Accumulated member contributions" means the sum of all member
22 contributions deducted from a member's salary and paid to the fund, plus
23 member contributions transferred to the fund by another retirement plan
24 covering public employees of this state, plus previously withdrawn
25 accumulated member contributions which are repaid to the fund in accordance
26 with this article, minus any benefits paid to or on behalf of a member.

27 3. "Alternate payee" means the spouse or former spouse of a
28 participant as designated in a domestic relations order.

29 4. "Alternate payee's portion" means benefits that are payable to an
30 alternate payee pursuant to a plan approved domestic relations order.

31 5. "Average monthly salary" means one-thirty-sixth of the aggregate
32 amount of salary that is paid a member by a participating employer during a
33 period of thirty-six consecutive months of service in which the member
34 received the highest salary within the last one hundred twenty months of
35 service. Average monthly salary means the aggregate amount of salary that is
36 paid a member divided by the member's months of service if the member has
37 less than thirty-six months of service. In the computation under this
38 paragraph, a period of nonpaid or partially paid industrial leave shall be
39 considered based on the salary the employee would have received in the
40 employee's job classification if the employee was not on industrial leave.

41 6. "Beneficiary" means an individual who is being paid or who has
42 entitlement to the future payment of a pension on account of a reason other
43 than the individual's membership in the retirement plan.

44 7. "Claimant" means a member, beneficiary or estate that files an
45 application for benefits with the retirement plan.

- 1 8. "Credited service" means credited service transferred to the
2 retirement plan from another retirement system or plan for public employees
3 of this state, plus those compensated periods of service as a member of the
4 retirement plan for which member contributions are on deposit in the fund.
- 5 9. "Cure period" means the ninety-day period in which a participant or
6 alternate payee may submit an amended domestic relations order and request a
7 determination, calculated from the time the plan issues a determination
8 finding that a previously submitted domestic relations order did not qualify
9 as a plan approved domestic relations order.
- 10 10. "Designated position" means:
- 11 (a) For a county:
- 12 (i) A county detention officer.
- 13 (ii) A nonuniformed employee of a sheriff's department whose primary
14 duties require direct contact with inmates.
- 15 (b) For the state department of corrections and the department of
16 juvenile corrections, only the following specifically designated positions:
- 17 (i) Food service.
- 18 (ii) Nursing personnel.
- 19 (iii) Corrections physician assistant.
- 20 (iv) Therapist.
- 21 (v) Corrections dental assistant.
- 22 (vi) Hygienist.
- 23 (vii) Corrections medical assistant.
- 24 (viii) Correctional service officer, including assistant deputy
25 warden, deputy warden, warden and superintendent.
- 26 (ix) State correctional program officer.
- 27 (x) Parole or community supervision officers.
- 28 (xi) Investigators.
- 29 (xii) Teachers.
- 30 (xiii) Institutional maintenance workers.
- 31 (xiv) Youth corrections officer.
- 32 (xv) Youth program officer.
- 33 (xvi) Behavioral health treatment unit managers.
- 34 (xvii) The director and assistant directors of the department of
35 juvenile corrections and the superintendent of the state educational system
36 for committed youth.
- 37 (xviii) The director, deputy directors and assistant directors of the
38 state department of corrections.
- 39 (xix) Other positions designated by the local board of the state
40 department of corrections or the local board of the department of juvenile
41 corrections pursuant to section 38-891, subsection E.
- 42 (c) For a city or town, a city or town detention officer.
- 43 (d) For an employer of an eligible group as defined in section 38-842,
44 full-time dispatchers.

1 (e) For the judiciary, probation, surveillance and juvenile detention
2 officers.

3 (f) A DETENTION OFFICER WHO IS EMPLOYED BY AN INDIAN TRIBE.

4 11. "Determination" means a written document that indicates to a
5 participant and alternate payee whether a domestic relations order qualifies
6 as a plan approved domestic relations order.

7 12. "Determination period" means the ninety-day period in which the
8 plan must review a domestic relations order that is submitted by a
9 participant or alternate payee to determine whether the domestic relations
10 order qualifies as a plan approved domestic relations order, calculated from
11 the time the plan mails a notice of receipt to the participant and alternate
12 payee.

13 13. "Domestic relations order" means an order of a court of this state
14 that is made pursuant to the domestic relations laws of this state and that
15 creates or recognizes the existence of an alternate payee's right to, or
16 assigns to an alternate payee the right to, receive a portion of the benefits
17 payable to a participant.

18 14. "Employee" means a person determined by the local board to be
19 employed by a participating employer in a designated position.

20 15. "Employer" means an agency or department of this state, ~~or~~ a
21 political subdivision of this state ~~which~~ OR AN INDIAN TRIBE THAT has one or
22 more employees in a designated position.

23 16. "Fund" means the corrections officer retirement plan fund.

24 17. "Fund manager" means the fund manager of the public safety
25 personnel retirement system.

26 18. "Juvenile detention officer" means a juvenile detention officer
27 responsible for the direct custodial supervision of juveniles who are
28 detained in a county juvenile detention center.

29 19. "Local board" means the retirement board of the employer that
30 consists of persons appointed or elected to administer the plan as it applies
31 to the employer's members in the plan.

32 20. "Member" means any employee who meets all of the following
33 qualifications:

34 (a) Who is a full-time paid person employed by a participating
35 employer in a designated position.

36 (b) Who is receiving salary for personal services rendered to a
37 participating employer or would be receiving salary except for an authorized
38 leave of absence.

39 (c) Whose customary employment is at least forty hours each week and
40 for more than six months in a calendar year.

41 21. "Normal retirement date" means the first day of the calendar month
42 immediately following an employee's completion of twenty years of service or,
43 in the case of a dispatcher, twenty-five years of service, the employee's
44 sixty-second birthday and completion of ten years of service or the month in

1 which the sum of the employee's age and years of credited service equals
2 eighty.

3 22. "Notice of receipt" means a written document that is issued by the
4 plan to a participant and alternate payee and that states that the plan has
5 received a domestic relations order and a request for a determination that
6 the domestic relations order is a plan approved domestic relations order.

7 23. "Participant" means a member who is subject to a domestic relations
8 order.

9 24. "Participant's portion" means benefits that are payable to a
10 participant pursuant to a plan approved domestic relations order.

11 25. "Participating employer" means an employer ~~which~~ THAT the fund
12 manager has determined to have one or more employees in a designated position
13 or a county, city, ~~or~~ town ~~which~~ OR INDIAN TRIBE THAT has entered into a
14 joinder agreement pursuant to section 38-902.

15 26. "Pension" means a series of monthly payments by the retirement
16 plan.

17 27. "Personal representative" means the personal representative of a
18 deceased alternate payee.

19 28. "Plan approved domestic relations order" means a domestic relations
20 order that the plan approves as meeting all the requirements for a plan
21 approved domestic relations order as otherwise prescribed in this article.

22 29. "Probation or surveillance officer" means an officer appointed
23 pursuant to section 8-203, 12-251 or 12-259 but does not include other
24 personnel, office assistants or support staff.

25 30. "Retired member" means an individual who is being paid a pension on
26 account of the individual's membership in the retirement plan.

27 31. "Retirement" means termination of employment after a member has
28 fulfilled all requirements for a pension.

29 32. "Retirement plan" or "plan" means the corrections officer
30 retirement plan established by this article.

31 33. "Salary" means the base salary, shift differential pay and holiday
32 pay paid a member in a designated position for personal services rendered to
33 a participating employer on a regular monthly, semimonthly or biweekly
34 payroll basis. Salary includes amounts that are subject to deferred
35 compensation or tax shelter agreements. Salary does not include payment for
36 any remuneration or reimbursement other than as prescribed by this
37 paragraph. For the purposes of this paragraph, "base salary" means the
38 amount of compensation each member is regularly paid for personal services
39 rendered to an employer before the addition of any extra monies, including
40 overtime pay, shift differential pay, holiday pay, fringe benefit pay and
41 similar extra payments.

42 34. "Segregated funds" means the amount of benefits that would
43 currently be payable to an alternate payee pursuant to a domestic relations
44 order under review by the plan, or a domestic relations order submitted to
45 the plan that failed to qualify as a plan approved domestic relations order,

1 if the domestic relations order were determined to be a plan approved
2 domestic relations order.

3 35. "Service" means employment rendered to a participating employer as
4 an employee in a designated position. Any absence that is authorized by an
5 employer, including any periods during which the employee is on an employer
6 sponsored long-term disability program, is considered as service if the
7 employee returns or is deemed by the employer to have returned to a
8 designated position within the period of the authorized absence.

9 36. "Total and permanent disability" means a physical or mental
10 condition that is not an accidental disability, that the local board finds
11 totally and permanently prevents a member from engaging in any gainful
12 employment and that is the direct and proximate result of the member's
13 performance of the member's duty as an employee of a participating employer.

14 Sec. 2. Section 38-881, Arizona Revised Statutes, as amended by Laws
15 2007, chapter 87, section 6, is amended to read:

16 38-881. Definitions

17 In this article, unless the context otherwise requires:

18 1. "Accidental disability" means a physical or mental condition that
19 the local board finds totally and permanently prevents an employee from
20 performing a reasonable range of duties within the employee's department, was
21 incurred in the performance of the employee's duties and was the result of
22 any of the following:

23 (a) Physical contact with inmates, prisoners, parolees or persons on
24 probation.

25 (b) Responding to a confrontational situation with inmates, prisoners,
26 parolees or persons on probation.

27 (c) A job related motor vehicle accident while on official business
28 for the employee's employer. A job related motor vehicle accident does not
29 include an accident that occurs on the way to or from work. Persons found
30 guilty of violating a personnel rule, a rule established by the employee's
31 employer or a state or federal law in connection with a job related motor
32 vehicle accident do not meet the conditions for accidental disability.

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34 contributions deducted from a member's salary and paid to the fund, plus
35 member contributions transferred to the fund by another retirement plan
36 covering public employees of this state, plus previously withdrawn
37 accumulated member contributions which are repaid to the fund in accordance
38 with this article, minus any benefits paid to or on behalf of a member.

39 3. "Alternate payee" means the spouse or former spouse of a
40 participant as designated in a domestic relations order.

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42 alternate payee pursuant to a plan approved domestic relations order.

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44 amount of salary that is paid a member by a participating employer during a
45 period of thirty-six consecutive months of service in which the member

1 received the highest salary within the last one hundred twenty months of
2 service. Average monthly salary means the aggregate amount of salary that is
3 paid a member divided by the member's months of service if the member has
4 less than thirty-six months of service. In the computation under this
5 paragraph, a period of nonpaid or partially paid industrial leave shall be
6 considered based on the salary the employee would have received in the
7 employee's job classification if the employee was not on industrial leave.

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9 entitlement to the future payment of a pension on account of a reason other
10 than the individual's membership in the retirement plan.

11 7. "Claimant" means a member, beneficiary or estate that files an
12 application for benefits with the retirement plan.

13 8. "Credited service" means credited service transferred to the
14 retirement plan from another retirement system or plan for public employees
15 of this state, plus those compensated periods of service as a member of the
16 retirement plan for which member contributions are on deposit in the fund.

17 9. "Cure period" means the ninety-day period in which a participant or
18 alternate payee may submit an amended domestic relations order and request a
19 determination, calculated from the time the plan issues a determination
20 finding that a previously submitted domestic relations order did not qualify
21 as a plan approved domestic relations order.

22 10. "Designated position" means:

23 (a) For a county:

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25 (ii) A nonuniformed employee of a sheriff's department whose primary
26 duties require direct contact with inmates.

27 (b) For the state department of corrections and the department of
28 juvenile corrections, only the following specifically designated positions:

29 (i) Food service.

30 (ii) Nursing personnel.

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35 (vii) Corrections medical assistant.

36 (viii) Correctional service officer, including assistant deputy
37 warden, deputy warden, warden and superintendent.

38 (ix) State correctional program officer.

39 (x) Parole or community supervision officers.

40 (xi) Investigators.

41 (xii) Teachers.

42 (xiii) Institutional maintenance workers.

43 (xiv) Youth corrections officer.

44 (xv) Youth program officer.

45 (xvi) Behavioral health treatment unit managers.

1 (xvii) The director and assistant directors of the department of
2 juvenile corrections and the superintendent of the state educational system
3 for committed youth.

4 (xviii) The director, deputy directors and assistant directors of the
5 state department of corrections.

6 (xix) Other positions designated by the local board of the state
7 department of corrections or the local board of the department of juvenile
8 corrections pursuant to section 38-891, subsection E.

9 (c) For a city or town, a city or town detention officer.

10 (d) For an employer of an eligible group as defined in section 38-842,
11 full-time dispatchers.

12 (e) For the judiciary, probation, surveillance and juvenile detention
13 officers.

14 (f) **A DETENTION OFFICER WHO IS EMPLOYED BY AN INDIAN TRIBE.**

15 11. "Determination" means a written document that indicates to a
16 participant and alternate payee whether a domestic relations order qualifies
17 as a plan approved domestic relations order.

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19 plan must review a domestic relations order that is submitted by a
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21 order qualifies as a plan approved domestic relations order, calculated from
22 the time the plan mails a notice of receipt to the participant and alternate
23 payee.

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25 that is made pursuant to the domestic relations laws of this state and that
26 creates or recognizes the existence of an alternate payee's right to, or
27 assigns to an alternate payee the right to, receive a portion of the benefits
28 payable to a participant.

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30 employed by a participating employer in a designated position.

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32 political subdivision of this state ~~which~~ **OR AN INDIAN TRIBE THAT** has one or
33 more employees in a designated position.

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35 17. "Fund manager" means the fund manager of the public safety
36 personnel retirement system.

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38 for the direct custodial supervision of juveniles who are detained in a
39 county juvenile detention center.

40 19. "Local board" means the retirement board of the employer that
41 consists of persons appointed or elected to administer the plan as it applies
42 to the employer's members in the plan.

43 20. "Member" means any employee who meets all of the following
44 qualifications:

1 (a) Who is a full-time paid person employed by a participating
2 employer in a designated position.

3 (b) Who is receiving salary for personal services rendered to a
4 participating employer or would be receiving salary except for an authorized
5 leave of absence.

6 (c) Whose customary employment is at least forty hours each week and
7 for more than six months in a calendar year.

8 21. "Normal retirement date" means the first day of the calendar month
9 immediately following an employee's completion of twenty years of service or,
10 in the case of a dispatcher, twenty-five years of service, the employee's
11 sixty-second birthday and completion of ten years of service or the month in
12 which the sum of the employee's age and years of credited service equals
13 eighty.

14 22. "Notice of receipt" means a written document that is issued by the
15 plan to a participant and alternate payee and that states that the plan has
16 received a domestic relations order and a request for a determination that
17 the domestic relations order is a plan approved domestic relations order.

18 23. "Participant" means a member who is subject to a domestic relations
19 order.

20 24. "Participant's portion" means benefits that are payable to a
21 participant pursuant to a plan approved domestic relations order.

22 25. "Participating employer" means an employer ~~which~~ THAT the fund
23 manager has determined to have one or more employees in a designated position
24 or a county, city, ~~or~~ town ~~which~~ OR INDIAN TRIBE THAT has entered into a
25 joinder agreement pursuant to section 38-902.

26 26. "Pension" means a series of monthly payments by the retirement
27 plan.

28 27. "Personal representative" means the personal representative of a
29 deceased alternate payee.

30 28. "Plan approved domestic relations order" means a domestic relations
31 order that the plan approves as meeting all the requirements for a plan
32 approved domestic relations order as otherwise prescribed in this article.

33 29. "Probation or surveillance officer" means an officer appointed
34 pursuant to section 8-203, 12-251 or 12-259 but does not include other
35 personnel, office assistants or support staff.

36 30. "Retired member" means an individual who is being paid a pension on
37 account of the individual's membership in the retirement plan.

38 31. "Retirement" means termination of employment after a member has
39 fulfilled all requirements for a pension.

40 32. "Retirement plan" or "plan" means the corrections officer
41 retirement plan established by this article.

42 33. "Salary" means the base salary, overtime pay, shift differential
43 pay and holiday pay paid a member in a designated position for personal
44 services rendered to a participating employer on a regular monthly,
45 semimonthly or biweekly payroll basis, except that for the purposes of this

1 paragraph the amount of overtime included shall not include payments to the
2 member for the sale of compensatory time. Salary includes amounts that are
3 subject to deferred compensation or tax shelter agreements. Salary does not
4 include payment for any remuneration or reimbursement other than as
5 prescribed by this paragraph. For the purposes of this paragraph, "base
6 salary" means the amount of compensation each member is regularly paid for
7 personal services rendered to an employer before the addition of any extra
8 monies, including overtime pay, shift differential pay, holiday pay, payments
9 for the sale of compensatory time, fringe benefit pay and similar extra
10 payments.

11 34. "Segregated funds" means the amount of benefits that would
12 currently be payable to an alternate payee pursuant to a domestic relations
13 order under review by the plan, or a domestic relations order submitted to
14 the plan that failed to qualify as a plan approved domestic relations order,
15 if the domestic relations order were determined to be a plan approved
16 domestic relations order.

17 35. "Service" means employment rendered to a participating employer as
18 an employee in a designated position. Any absence that is authorized by an
19 employer, including any periods during which the employee is on an employer
20 sponsored long-term disability program, is considered as service if the
21 employee returns or is deemed by the employer to have returned to a
22 designated position within the period of the authorized absence.

23 36. "Total and permanent disability" means a physical or mental
24 condition that is not an accidental disability, that the local board finds
25 totally and permanently prevents a member from engaging in any gainful
26 employment and that is the direct and proximate result of the member's
27 performance of the member's duty as an employee of a participating employer.

28 Sec. 3. Section 38-893, Arizona Revised Statutes, is amended to read:

29 38-893. Local boards; powers and duties; rules; hearings;
30 administrative review

31 A. The administration of the plan and the responsibility for making
32 the provisions of the plan effective for each employer are vested in a local
33 board. The state department of corrections, the department of juvenile
34 corrections, each participating county sheriff's department, each
35 participating city or town, each participating employer of full-time
36 dispatchers for eligible groups as defined in section 38-842, **EACH**
37 **PARTICIPATING INDIAN TRIBE THAT EMPLOYS DETENTION OFFICERS** and the judiciary
38 shall have a local board. Each local board is constituted as follows:

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

1 2. For each participating county, the chairman of the board of
2 supervisors, or the chairman's designee who is approved by the board of
3 supervisors, as chairman, two members who are elected by secret ballot by
4 members employed by the participating county in a designated position and two
5 citizens, one of whom shall be the head of the merit system if it exists for
6 the group of members, who are appointed by the chairman of the board of
7 supervisors with the approval of the board of supervisors.

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

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

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

27 C. Within ten days after the member's appointment or election, each
28 member of a local board shall take an oath of office that, so far as it
29 devolves on the member, the member shall diligently and honestly administer
30 the affairs of the local board and shall not knowingly violate or willingly
31 permit to be violated any of the provisions of law applicable to the plan.

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

34 1. Decide all questions of eligibility and service credits and
35 determine the amount, manner and time of payment of any benefit under the
36 plan.

37 2. Make a determination as to the right of a claimant to a benefit and
38 afford a claimant or the fund manager, or both, a right to a rehearing on the
39 original determination.

40 3. Request and receive from the employers and from members information
41 as is necessary for the proper administration of the plan and action on
42 claims for benefits and forward the information to the fund manager.

43 4. Distribute, in the manner the local board determines to be
44 appropriate, information explaining the plan that is received from the fund
45 manager.

1 5. Furnish the employer, the fund manager and the legislature, on
2 request, with annual reports with respect to the administration of the plan
3 that are reasonable and appropriate.

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

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

12 E. A local board has no power to add to, subtract from, modify or
13 waive any of the terms of the plan, change or add to any benefits provided by
14 the plan or waive or fail to apply any requirement of eligibility for
15 membership or benefits under the plan.

16 F. A local board, from time to time, shall establish and adopt rules
17 as it deems necessary or desirable for its administration. All rules and
18 decisions of a local board shall be uniformly and consistently applied to all
19 members in similar circumstances.

20 G. An action by a majority vote of the members of a local board that
21 is not inconsistent with the provisions of the plan is final, conclusive and
22 binding on all persons affected by it, unless a timely application for a
23 rehearing or appeal is filed as provided in this article.

24 H. A claimant or the fund manager may apply for a rehearing before the
25 local board within the time period prescribed in this subsection. A claimant
26 or the fund manager shall file an application for rehearing in writing with a
27 member of the local board or its secretary within sixty days after:

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

32 2. The fund manager receives notification of the local board's
33 original action by certified mail or by receipt of written directions from
34 the local board pursuant to its original action, whichever occurs first.

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

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

39 K. When making a ruling, determination or calculation, the local board
40 is entitled to rely on information furnished by the employer, the fund
41 manager, independent legal counsel or the actuary for the plan.

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

1 M. The local board shall adopt bylaws as it deems necessary. The
2 local board shall elect a secretary who may, but need not, be a member of the
3 local board. The secretary of the local board shall keep a record and
4 prepare minutes of all meetings, forward the minutes to the fund manager
5 within forty-five days after each meeting and forward all necessary
6 communications to the fund manager.

7 N. The employer shall pay the fees of the medical board and of the
8 local board's legal counsel and all other expenses of the local board
9 necessary for the administration of the plan at rates and in amounts as the
10 local board approves.

11 O. The local board shall issue directions to the fund manager
12 concerning all benefits that are to be paid from the employer's account
13 pursuant to the provisions of the fund. The local board shall keep on file,
14 in the manner it deems convenient and proper, all reports from the fund
15 manager and the actuary.

16 P. The local board and the individual members of the local board are
17 indemnified from the assets of the fund against any liability arising by
18 reason of any act, or failure to act, made in good faith pursuant to the
19 provisions of the plan.

20 Sec. 4. Section 38-902, Arizona Revised Statutes, is amended to read:

21 38-902. Joinder agreement

22 A. County detention officers and nonuniformed employees of a sheriff's
23 department whose primary duties require direct contact with inmates may
24 participate in this plan if the board of supervisors of the county enters
25 into a joinder agreement with the fund manager to bring such employees into
26 this plan. The joinder agreement shall be in accordance with the provisions
27 of this plan. All such employees shall be designated for membership in the
28 joinder agreement unless written consent to the contrary is obtained from the
29 fund manager.

30 B. City or town detention officers may participate in this plan if the
31 governing body of the city or town enters into a joinder agreement with the
32 fund manager to bring its detention officers into this plan. The joinder
33 agreement shall be in accordance with the provisions of the plan. The
34 governing body of the city or town shall designate all detention officers for
35 membership in the plan unless written consent to the contrary is obtained
36 from the fund manager.

37 C. Full-time dispatchers may participate in this plan if the governing
38 body or agency of the employer of an eligible group as defined in
39 section 38-842 enters into a joinder agreement with the fund manager to bring
40 its full-time dispatchers into this plan. The joinder agreement shall be in
41 accordance with the provisions of this plan. The governing body or agency of
42 the employer shall designate all full-time dispatchers for membership in the
43 plan except for a full-time dispatcher who signs an irrevocable agreement
44 before the joinder agreement becomes effective electing not to become a
45 member of the plan. A full-time dispatcher employed by an employer who

1 becomes eligible for membership in the plan pursuant to this section may
2 elect to participate in the plan within the deadlines and pursuant to the
3 terms prescribed for such participation by the fund manager.

4 D. Probation, surveillance and juvenile detention officers may
5 participate in this plan if the administrative office of the courts enters
6 into a joinder agreement with the fund manager to bring its probation,
7 surveillance and juvenile detention officers into this plan. The joinder
8 agreement shall be in accordance with the provisions of this plan. The
9 administrative office of the courts shall designate all probation,
10 surveillance and juvenile detention officers for membership in this plan
11 unless written consent to the contrary is obtained from the fund manager.

12 E. DETENTION OFFICERS EMPLOYED BY AN INDIAN TRIBE MAY PARTICIPATE IN
13 THIS PLAN IF THE INDIAN TRIBE ENTERS INTO A JOINDER AGREEMENT WITH THE FUND
14 MANAGER TO BRING ITS DETENTION OFFICERS INTO THIS PLAN. BEFORE THE INDIAN
15 TRIBE JOINS THE PLAN, IT MUST FILE A CERTIFIED COPY OF A RESOLUTION APPROVING
16 THE JOINDER WITH THE FUND MANAGER AND ALSO REQUEST A PRELIMINARY ACTUARIAL
17 SURVEY TO DETERMINE THE ESTIMATED COST OF PARTICIPATION, THE BENEFITS TO BE
18 DERIVED AND OTHER INFORMATION DEEMED APPROPRIATE. THE COST OF THE SURVEY
19 SHALL BE PAID BY THE INDIAN TRIBE. AS A CONDITION TO PARTICIPATION IN THE
20 PLAN AN INDIAN TRIBE EMPLOYER, BY RESOLUTION OF THE GOVERNING BODY, SHALL:

21 1. AGREE THAT ALL DISPUTES INVOLVING INTERPRETATION OF STATE STATUTES
22 INVOLVING THE PLAN, AND ANY AMENDMENTS TO THOSE STATUTES, WILL BE RESOLVED
23 THROUGH THE COURT SYSTEM OF THIS STATE.

24 2. AGREE TO BE BOUND BY STATE STATUTES AND LAWS THAT REGULATE AND
25 INTERPRET THE PROVISIONS OF THE PLAN, INCLUDING ELIGIBILITY FOR MEMBERSHIP IN
26 THE PLAN, SERVICE CREDITS AND THE RIGHTS OF ANY CLAIMANT TO BENEFITS AND THE
27 AMOUNT OF THOSE BENEFITS.

28 3. AGREE TO MEET ANY REQUIREMENT THAT THE FUND MANAGER MAY PRESCRIBE
29 TO ENSURE TIMELY PAYMENT OF MEMBER AND EMPLOYER CONTRIBUTIONS AND ANY OTHER
30 AMOUNTS DUE FROM THE EMPLOYER TO THE PLAN.

31 4. INCLUDE IN THE JOINDER AGREEMENT ANY OTHER PROVISION DEEMED
32 NECESSARY BY THE FUND MANAGER FOR THE ADMINISTRATION OR ENFORCEMENT OF THE
33 AGREEMENT.

34 ~~E.~~ F. The new employer shall designate the groups of employees who
35 are eligible to participate in the plan and shall agree to make contributions
36 each year that are sufficient to meet both the normal cost of a level cost
37 method attributable to inclusion of its employees and the prescribed interest
38 on the past service cost for its employees.

39 ~~F.~~ G. Before the execution of any joinder agreement each employer
40 contemplating participation in the plan shall have an actuarial valuation
41 made, which is payable by the employer, to determine the estimated cost of
42 participation in accordance with section 38-894.

1 ~~G.~~ H. Assets under any existing public employee defined benefit
2 retirement program, except a military retirement program, that are necessary
3 to equal the actuarial present value of projected benefits to the extent
4 funded on a market value basis as of the most recent actuarial valuation
5 attributable to the employer's designated employee group, calculated using
6 the actuarial methods and assumptions adopted by the existing public employee
7 retirement program, shall be transferred from the program to this fund no
8 later than sixty days after the employer's effective date. That portion of
9 the transferred assets that is attributable to employee contributions,
10 including interest credits, shall be properly allocated to each affected
11 employee of the employer and credited to the employee's initial accumulated
12 contributions in accordance with a schedule furnished by the employer to the
13 fund manager.

14 Sec. 5. Conditional enactment

15 Section 38-881, Arizona Revised Statutes, as amended by Laws 2007,
16 chapter 87, section 6 and this act, becomes effective on the date prescribed
17 in Laws 2005, chapter 324, section 2 but only on the occurrence of the
18 condition prescribed by Laws 2005, chapter 324, section 2.