

**NOTICE OF SPECIAL MEETING  
SAN LUIS POLICE DEPARTMENT PUBLIC SAFETY PERSONNEL LOCAL  
RETIREMENT BOARD**

In accordance with §38-431.01 of the Arizona Revised Statutes of the State of Arizona, notice is hereby given to the Board and to the general public that the San Luis Police Department Public Safety Personnel Local Retirement Board will hold a meeting at 9:00 AM. on August 28, 2024. The meeting will take place at the City Council Chambers, located at 1090 E. Union Street, San Luis, Arizona, 85349. Everyone from the public is invited to attend the open meeting.

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment of employment in its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Board are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recordings. Parents, in order to exercise their rights, may either file written consent with the City Clerk to such recordings or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.

THIS NOTICE IS GIVEN BY:

/s/ Maria Barajas, Human Resources Generalist

**AVISO DE JUNTA ESPECIAL  
SAN LUIS POLICE DEPARTMENT PUBLIC SAFETY PERSONNEL LOCAL  
RETIREMENT BOARD**

De acuerdo con los Estatutos del Estado de Arizona A.R.S. §38-431.01, se le informa a los miembros de la Mesa Directiva y al publico en general que la Junta Local de Jubilaciones del Personal de Seguridad Pública del Departamento de Policía de San Luis, tendran una junta a las 9:00 AM, el dia Miercoles 28 de Agosto, 2024. La junta se llevara a cabo en la Sala del Cabildo, ubicada en el 1090 E. Union Street, San Luis, Arizona, 85349. El publico este cordialmente invitado a la junta.

De acuerdo con el Acta de Americanos con Discapacidades y la Seccion 504 del Acta de Rehabilitacion del 1973, la Ciudad de San Luis, Arizona no discrimina por causa de discapacidad la admision y acceso a sus programas, actividades, servicios o en el trato en cuanto a empleo. Para mas informacion referente a derechos y provisiones del Acta de Americanos con Discapacidades o Sección 504, o para solicitar adaptaciones qua sean razonables para la participacion en programas, actividades o servicios de la Ciudad, contactar al: Coordinador del Acta de Americanos con Discapacidades/Sección 504, Departamento de Recursos Humanos de la Ciudad de San Luis, Arizona, ubicado en el 1090 E. Union Street, San Luis, Arizona, 85349; (928) 341-8520.

Por medio de este aviso y de acuerdo con los Estatutos del Estado de Arizona A.R.S §1-602.A.9, sujeto a ciertas excepciones reglamentarias, los padres de familia tienen el derecho de dar el consentimiento ante el Estado o cualquiera de sus subdivisiones politicas para hacer una grabacion de audio o video de su hijo menor de edad. Las juntas de la Mesa Directiva se graban en audio y/o video y como resultado, el hecho de que hays menores presentes puede ser sujeto a que sean grabados. Para que los padres de

familia puedan ejercer sus derechos pueden dar el consentimiento por escrito con la Secretaria de la Ciudad a tal grabacion, o tomar accion personal para asegurarse que su hijo menor no este presente cuando la grabacion se lleve a cabo. Si un menor de edad este presente en el momento de la grabacion, la Ciudad asumira que los padres de familia estan cediendo los derechos sobre una posible grabacion de acuerdo con los Estatutos del Estado de Arizona A.R.S. §1-602.A.9.

ESTE AVISO ES DADO POR:

/f/ Maria Barajas, Generalista de Recursos Humanos



**AGENDA**  
**San Luis Police Department**  
**Public Safety Personnel**  
**Local Retirement Board**  
**San Luis Council Chambers**  
**1090 E. Union Street**  
**San Luis, Arizona 85349**  
**August 28, 2024**  
**9:00AM**



PLEASE TAKE NOTICE THAT MEMBERS OF THE BOARD WILL ATTEND EITHER IN PERSON, TELEPHONE, OR VIDEO CONFERENCE COMMUNICATION. THE CHAIR OR ACTING CHAIR FOR THIS MEETING MAY CHANGE THE ORDER OF THE ITEMS; IF AUTHORIZED BY LAW AND BY A MAJORITY VOTE OF A QUORUM OF BOARD MEMBERS PRESENT, AN EXECUTIVE SESSION WILL BE HELD IMMEDIATELY FOLLOWING THE VOTE IN ACCORDANCE WITH A.R.S. §38-431.03(A) AND THE MEETING WILL BE TEMPORARILY RECESSED WHILE THE BOARD RETIRES TO EXECUTIVE SESSION WHICH WILL NOT BE OPEN TO THE PUBLIC.

POR FAVOR TENGA EN CUENTA QUE LOS MIEMBROS DE LA JUNTA ASISTIRÁN EN PERSONA, POR TELÉFONO O

COMUNICACIÓN POR VIDEOCONFERENCIA. EL PRESIDENTE O EL PRESIDENTE INTERINO DE ESTA REUNIÓN PUEDE CAMBIAR EL ORDEN DE LOS PUNTOS; SI LO AUTORIZA LA LEY Y POR MAYORÍA DE VOTOS DEL QUÓRUM DE MIEMBROS DEL CONSEJO PRESENTES, SE CELEBRARÁ UNA SESIÓN EJECUTIVA INMEDIATAMENTE DESPUÉS DE LA VOTACIÓN DE CONFORMIDAD CON A.R.S. §38-431.03(A) Y LA REUNIÓN SE CANCELARÁ TEMPORALMENTE MIENTRAS LA JUNTA SE RETIRA A LA SESIÓN EJECUTIVA QUE NO ESTARÁ ABIERTA AL PÚBLICO.

**1. CALL TO ORDER/ROLL CALL**

**2. PRESENTATION**

- 2. A.** Presentation of the appointment of two (2) members to serve on the San Luis Police Department Public Safety Personnel Local Retirement Board. **(Mary Barajas, Human Resources Generalist)**

**3. CONSENT AGENDA**

All matters are considered to be routine by the Commission and will be enacted by one motion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

**3. A. MINUTES OF**

- Special Meeting held March 29, 2023

**4. DISCUSSION AND POSSIBLE ACTION ITEM:**

- 4. A.** Discussion and possible action on any and all matters regarding new PSPRS membership applications. **(Mary Barajas, Human Resources Generalist)**

**5. ADJOURNMENT**



## PRESENTATION



2. A.

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### Summary

Presentation of the appointment of two (2) members to serve on the San Luis Police Department Public Safety Personnel Local Retirement Board. **(Mary Barajas, Human Resources Generalist)**

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## AGENDA ITEM REVIEW FORM



**PSPRS - Police**

**3. A.**

**Meeting Date:** 08/28/2024

**Submitted By:** Maria Barajas Gutierrez, Human Resources Coordinator, Human Resources Department

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### **Summary**

#### **MINUTES OF**

- Special Meeting held March 29, 2023

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### **Attachments**

03.29.2023 Meeting

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**MINUTES**  
**Special Meeting**  
**San Luis Police Department Public Safety**  
**Personnel Local Retirement Board**  
**San Luis Council Chambers**  
**1090 E Union Street**  
**March 29, 2023**  
**1:00pm**

**1. CALL TO ORDER/ROLL CALL:** Chairman Tadeo De La Hoya called the meeting to order at approximately 1:02 p.m.

**PRESENT:** Nigel Reynoso, Contributing Member  
Alan Guevara, Contributing Member  
Maria Munoz, Board Member  
Tadeo A. De La Hoya, Chairman (*via zoom*)

**OTHERS PRESENT:** Sonia Cornelio, City Clerk  
Ruben Lopez, IT Department  
Domingo Sosa, IT Department  
Mary Barajas, HR Department

**2. CONSENT AGENDA:**

**2. A. MINUTES OF**

- Board meeting held on March 20, 2023.

**MOTION:** Chairman Tadeo De La Hoya / Contributing Member Alan Guevara to approve consent agenda as presented. Motion passed unanimously.

The vote was as follows:

|                                    |     |
|------------------------------------|-----|
| Chairman Tadeo A. De La Hoya       | Aye |
| Nigel Reynoso, Contributing Member | Aye |
| Board Member Maria Munoz           | Aye |
| Contributing Member Alan Guevara   | Aye |

### 3. DISCUSSION AND POSSIBLE ACTION ITEM

#### 3. A. Discussion and possible action on any and all matters regarding reemployment of retiree Javier Nuno into a Public Safety position. (Mary Barajas, Human Resources Coordinator)

Mary Barajas, Human Resources Coordinator, states the following:

The City of San Luis Human Resources Department is submitting information to be considered for acceptance of reemployment of the following retiree:

- Javier Nuno - DOH: March 27, 2023; Police Officer.

Mr. Javier Nuno was originally hired by COSL on February 16, 1997. Member retired from City of San Luis on December 27, 2012, while holding the rank of Police Captain (*Job description attached*).

On October 17, 2022, a Police Officer-Lateral position was advertised on a continuous basis. During initial review of applications, from a total of 32 applicants, only seven (7) met the minimum requirements as outlined on the Job Description and were invited for pre-employment testing. Out of the seven applicants that were tested, only two passed every phase of testing and were invited for an interview. Mr. Nuno was deemed the most qualified and was selected for hire.

Under A.R.S. 38-849 (G)

If after six months from the date of retirement a retired member becomes reemployed by the employer from which the member retired in a position other than the same position from which the member retired, employee contributions shall not be made on the retired member's account, and any service shall not be credited during the period of reemployment. The employer shall pay the alternate contribution rate pursuant to section 38-843.05 which states the following:

An employer shall pay contributions at an alternate contribution rate on behalf of a retired member who returns to work in any capacity in a position ordinarily filled by an employee of the employer of an eligible group.

**For the fiscal year ending on 2023, the Alternate Contribution Rate (ACR) is 8%.**

The City of San Luis Human Resources Department finds that:

- Mr. Javier Nuno has met requirements of this statute of:
  - Waiting 6 months before returning to work for the same employer he retired from; and not be rehired in the same position; and
- Because he has been hired into a Public Safety position, the ACR will be payable.

Chairman Tadeo A. De La Hoya asked HR if the ACR was applied to the salary and Mary Barajas stated that it was applied to gross salary. Then, Chairman proceeded to ask how much the ACR would be. HR did not have calculation at the moment. In addition, Chairman asked if Mr. Nuno is not return to the same position he had, if his would exclude him from returning to the same position in the future. HR proceeded to explain that member is not allowed to return to same position, it must be a different

position. Board member Maria Munoz explained that Mr. Nuno was hired as a lateral and years of experience were considered when he was hired. He started at the mid of the paygrade which was approximately between \$29.35-29.65 per hour. Local Board concluded that ACR would be approximately \$4800-\$5000 a year.

**MOTION:** Contributing Member Nigel Reynoso / Contributing Member Alan Guevara to accept Human Resources findings and approve the re-employment of Mr. Javier Nuno as a Police Officer.

The vote was as follows:

|                                   |     |
|-----------------------------------|-----|
| Chairman Tadeo A. De La Hoya      | Aye |
| Contributing Member Alan Guevara  | Aye |
| Contributing Member Nigel Reynoso | Aye |
| Board Member Maria Munoz          | Aye |

## **5. ADJOURNMENT**

Chairman Tadeo A. De La Hoya to adjourn the regular meeting at approximately 1:12 p.m.

**APPROVED:**

\_\_\_\_\_  
Nieves Riedel, Chairman

**ATTEST:**

\_\_\_\_\_  
Mary Barajas, Board Secretary

**CERTIFICATION**

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Special Meeting of the San Luis Police Department Public Safety Personnel Local Retirement Board of the City of San Luis, Arizona, held on March 29, 2023. I further certify that the meeting was duly called and held and that a quorum was present.

\_\_\_\_\_  
Mary Barajas, Board Secretary



## AGENDA ITEM REVIEW FORM



### PSPRS - Police

4. A.

**Meeting Date:** 08/28/2024

**Submitted By:** Maria Barajas Gutierrez, Human Resources Coordinator, Human Resources Department

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### ITEM:

Discussion and possible action on any and all matters regarding new PSPRS membership applications. **(Mary Barajas, Human Resources Generalist)**

### SUMMARY:

The City of San Luis Human Resources Department is submitting appropriate information to be considered for rendering acceptance of membership of the following employees to participate in the Public Safety Personnel Retirement System Plan (PSPRS).

Under ARS § 38-847.01 (attached), below is all necessary information to render a decision on the employee's eligibility for membership.

- Ruben Duarte; effective: August 31, 2023; Police Officer.
- Cristian Gonzalez; effective: February 21, 2024; Police Officer.
- Edgar Renteria; effective: February 21, 2024; Police Officer.
- Nayeli Soto Martinez; effective: February 21, 2024; Police Officer.
- Brenda A. Acosta; effective: February 21, 2024; Police Officer.
- Enrique Nunez Jr; effective: March 3, 2024; Police Officer.

### Description of Essential Functions/Physical Demands:

- While performing the duties of this job, the employee is frequently required to sit and stand; walk long distances; drive a vehicle; talk and hear, both in person and by radio; use hands to finger, handle, feel, or operate equipment; engage in repetitive movements of hands and wrists; reach with hands and arms; stoop, bend, kneel and crouch and occasionally lift or move up to twenty-five pounds.
- Specific vision abilities required by this job include close vision, distance vision, color vision, the use of both eyes, depth perception, peripheral vision and the ability to adjust focus.
- While performing the duties of this class, employees are regularly required to use written and oral communication skills; read and interpret data, information and documents; analyze and solve problems; use math and mathematical reasoning; observe and interpret situations; learn and apply new information or new skills; work under deadlines with constant interruptions; interact with City staff and other organizations; and frequently deal with dissatisfied or quarrelsome individuals.

Under ARS § 38-842(31) – Member Definition, all applicants meet the Member Definition, which include:

1. be a paid municipal police officer who is regularly assigned to hazardous duty,
2. be a full-time employee, working a minimum of 40 hours per week,
3. be a certified peace officer, and
4. be hired for more than six months in a calendar year

Under ARS § 38-859 - Medical evaluations for these applicants were conducted in compliance with PSPRS Revised Model Uniform Rules of Local Board Procedure and relevant Arizona Revised Statutes. As a requirement for membership, the City of San Luis and this board must ensure that employees who qualify for membership into PSPRS undergo a medical evaluation. This evaluation is completed to identify any physical or mental conditions that exist that may potentially affect the employee's future eligibility for disability benefits. (See ARS § 38-844(D) and ARS §38-859(B), attached). These evaluations are strictly conducted for purposes related to PSPRS plan benefits and are not used in employment-related decisions such as hiring, promotion, termination, etc. Human Resources received required medical evaluations and no pre-existing conditions were indicated.

The City of San Luis Human Resources Department finds that:

- Ruben Duarte, Cristian Gonzalez, Edgar Renteria, Nayeli Soto, Brenda Acosta, and Enrique Nunez have met eligibility requirements and satisfactorily completed the PSPRS Membership Form with no pre-existing conditions.

**RECOMMENDATION / SUGGESTED MOTION:**

**I MOVE TO ACCEPT THE HR DEPARTMENT'S FINDINGS AND ACCEPT MEMBERSHIP TO PARTICIPATE IN THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM FOR APPLICANTS RUBEN DUARTE, CRISTIAN GONZALEZ, EDGAR RENTERIA, NAYELI SOTO, BRENDA ACOSTA, AND ENRIQUE NUNEZ WITH NO PRE-EXISTING CONDITIONS.**

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**Attachments**

ARS 38-842 Definitions

ASR 38-844 Benefits Eligibility Requirements

ARS 38-859 Medical Board Purposes

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### 38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.
2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.
3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the board.
4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.
5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.
6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.
7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. For an employee who becomes a member of the system:
  - (a) Before January 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this subdivision, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.
  - (b) On or after January 1, 2012 and before July 1, 2017, the considered period is the five consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this subdivision, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.
  - (c) On or after July 1, 2017, the considered period is the five consecutive years within the last fifteen completed years of credited service that yield the highest average. In the computation under this subdivision, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.
8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.
9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.
10. "Certified peace officer" means a peace officer certified by the Arizona peace officer standards and training board.
11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.
12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and holiday pay paid to an employee by the employer for the employee's performance of services in an eligible group on a regular monthly,

semi-monthly or bi-weekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for unused compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third-party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

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

15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

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

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

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under a plan approved domestic relations order.

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

21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:

(a) Is under eighteen years of age.

(b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.

(c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

- (a) Municipal police officers who are certified peace officers.
- (b) Municipal firefighters.
- (c) Paid full-time firefighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 or a joint powers authority pursuant to section 48-805.01 with three or more full-time firefighters, but not including firefighters employed by a fire district pursuant to a contract with a corporation.
- (d) State highway patrol officers who are certified peace officers.
- (e) State firefighters.
- (f) County sheriffs and deputies who are certified peace officers.
- (g) Game and fish wardens who are certified peace officers.
- (h) Police officers who are certified peace officers and firefighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a firefighter's sole duty shall be to perform firefighting services, including services required by federal regulations.
- (i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.
- (j) Police officers who are certified peace officers and who are appointed by a community college district governing board.
- (k) State attorney general investigators who are certified peace officers.
- (l) County attorney investigators who are certified peace officers.
- (m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.
- (n) Firefighters who are employed by an Indian reservation firefighting agency.
- (o) Department of liquor licenses and control investigators who are certified peace officers.
- (p) Arizona department of agriculture officers who are certified peace officers.
- (q) Arizona state parks board rangers and managers who are certified peace officers.
- (r) County park rangers who are certified peace officers.
- (s) Game rangers who are certified peace officers and who are employed by an Indian reservation.

25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

- (a) An individual retirement account described in section 408(a) of the internal revenue code.
- (b) An individual retirement annuity described in section 408(b) of the internal revenue code.
- (c) An annuity plan described in section 403(a) of the internal revenue code.
- (d) A qualified trust described in section 401(a) of the internal revenue code.
- (e) An annuity contract described in section 403(b) of the internal revenue code.
- (f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to

separately account for amounts transferred into the eligible deferred compensation plan from this plan.

(g) A Roth individual retirement account that satisfies the requirements of section 408A of the internal revenue code.

(h) For distributions made after December 18, 2015, a simple retirement account as defined in section 408(p) of the internal revenue code.

26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's beneficiary or for a specified period of ten years or more.

(b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.

(c) The portion of any distribution that may not be included in gross income.

(d) Any distribution made to satisfy the requirements of section 415 of the internal revenue code.

(e) Hardship distributions.

(f) Similar items designated by the commissioner of the United States internal revenue service in revenue rulings, notices and other guidance published in the internal revenue bulletin.

27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status or firefighter certification and at the option of the local board, employee may include a person who is training to become a certified peace officer or firefighter.

28. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-973 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid firefighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, joint powers authorities, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

31. "Member":

(a) Means any full-time employee who meets all of the following qualifications:

(i) Who is either a paid municipal police officer, a paid firefighter, a law enforcement officer who is employed by this state including the director thereof, a state firefighter who is primarily assigned to firefighting duties, a firefighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a game ranger who is a certified peace officer and who is employed by an Indian reservation, a firefighter who is employed by an Indian reservation firefighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning retroactively to January 1, 2009, who is a police chief or a fire chief.

(ii) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(iii) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating workweeks, whose customary employment averages at least forty hours per week.

(iv) Who is engaged to work for more than six months in a calendar year.

(v) Who, if economic conditions exist, is required to take furlough days or reduce the hours of the employee's normal workweek below forty hours but not less than thirty hours per pay cycle, and maintain the employee's active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

(vi) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

(b) Does not include an employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.

32. "Normal retirement date" means:

(a) For an employee who becomes a member of the system before January 1, 2012, the first day of the calendar month immediately following the employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

(b) For an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, the first day of the calendar month immediately following the employee's completion of either twenty-five years of service or fifteen years of credited service if the employee is at least fifty-two and one-half years of age.

(c) For an employee who becomes a member of the system on or after July 1, 2017, the first day of the calendar month immediately following the employee's completion of fifteen years of credited service if the employee is at least fifty-five years of age.

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

34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

35. "Participant" means a member who is subject to a domestic relations order.

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

37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.
38. "Personal representative" means the personal representative of a deceased alternate payee.
39. "Physician" means a physician who is licensed pursuant to title 32, chapter 13 or 17.
40. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.
41. "Plan year" or "fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.
42. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state firefighters, eligible fire district firefighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, firefighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency, firefighters who are employed by an Indian reservation firefighting agency or game rangers who are certified peace officers and who are employed by an Indian reservation. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.
43. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension, for an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, attains the age and service requirements for a normal retirement date or for an employee who becomes a member of the system on or after July 1, 2017 attains the age and credited service requirements for a normal retirement date. Retirement shall be considered as commencing on the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.
44. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.
45. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer firefighter, then only twenty-five percent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid firefighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.
46. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of this state.
47. "System" means the public safety personnel retirement system established by this article.

48. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

### 38-844. Requirements for retirement benefits and disability pensions

A. A member shall be eligible for a normal pension on retirement on or after the member's normal retirement date. Payment of a normal pension shall commence as of the first day of the month following the date of retirement, and the last payment shall be made as of the last day of the month in which the death of the retired member occurs.

B. A member is eligible for an accidental disability pension if the member's employment is terminated by reason of accidental disability. A member is eligible for an ordinary disability pension if the member's employment is terminated before the member's normal retirement date by reason of ordinary disability. A member shall file an application for a disability pension after the disabling incident or within one year after the date the member ceases to be an employee. Timely application for an accidental, catastrophic or ordinary disability pension is a prerequisite to receipt of the pension. Payment of an accidental, catastrophic or ordinary disability pension shall commence as of the first day of the month following the date of retirement or the expiration of a period during which the member is receiving sick leave payments or a temporary disability pension, whichever is later, but not earlier than section 38-845.02 allows for retroactive payments. The last payment shall be made as of the last day of the month in which the death of the retired member occurs, or if disability ceases before the member's normal retirement date, the first day of the month in which disability ceases.

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

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

1. An injury suffered while engaged in a felonious criminal act or enterprise.
2. Service in the armed forces of the United States that entitles the member to a veteran's disability pension.
3. A physical or mental condition or injury that existed or occurred before the member's date of membership in the system.

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

1. Has sufficiently recovered, in the opinion of the local board, based on a medical examination by a designated physician or a physician working in a clinic that is appointed by the local board, to be able to engage in a reasonable range of duties within the member's department and the member refuses an offer of employment by an employer in the system.
2. Refuses to undergo any medical examination requested by the local board, provided that a medical examination shall not be required more frequently than once in any calendar year.

F. Sixty months after the award of a catastrophic disability pension, the local board shall reevaluate the member. If the member still qualifies for the catastrophic disability pension, the member is entitled to continue to receive the pension at the reduced amount prescribed in section 38-845, subsection E. A catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a designated physician or a physician working in a clinic that is appointed by the local board. After the sixty-month review, the catastrophic disability shall be considered to have ceased and a catastrophic disability pension terminates if the local board determines that the member has sufficiently recovered and is able to engage in gainful employment based on a medical examination by a designated physician or a physician working in a clinic that is appointed by the local board, except that the medical examination shall not be required more frequently than once in a calendar year. The medical review

after the sixty-month period does not apply after the date the catastrophic disability pensioner would have attained twenty-five years of service assuming the pensioner remained a member of the system. The local board shall also terminate a catastrophic disability pension if the member refuses to undergo any medical examination requested by the local board. A member whose catastrophic disability pension is terminated may apply for and if eligible is entitled to receive an accidental disability pension as provided in this section.

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

H. If accidental or ordinary disability ceases before a retired member attains the member's normal retirement date and the member is reemployed by an employer, the member shall be treated as if the member has been on an uncompensated leave of absence during the period of the member's disability retirement and shall be a contributing member of the system. The pension payable on the member's subsequent retirement shall be determined as provided in section 38-845.

I. A member shall be eligible for a temporary disability pension if the member's employment is terminated before the member's normal retirement date by reason of temporary disability. Payment of a temporary disability pension shall commence as of the first day of the month following the date of disability or the expiration of a period during which the member is receiving compensation and sick leave payments, whichever is later. The last payment shall be made as of the first day of the month in which either the death of the member occurs or the local board deems the member is no longer under temporary disability, whichever first occurs, provided that not more than twelve monthly temporary disability payments shall be made in total to the member.

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

K. The system shall make payments pursuant to section 401(a)(9) of the internal revenue code and the regulations that are issued under that section. Notwithstanding any other provision of the system, beginning January 1, 1987 payment of benefits to a member shall commence not later than April 1 of the calendar year following the later of:

1. The calendar year in which the member attains seventy-two years of age.
2. The date the member terminates employment.

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

A. The purposes of a medical board are to:

1. Identify a physical or mental condition or injury that existed or occurred prior to the member's date of membership in the system and for which benefits may otherwise be limited by section 38-844, subsection D.
2. Evaluate a member's eligibility for an accidental disability pension.
3. Evaluate a member's eligibility for an ordinary disability pension.
4. Evaluate a member's eligibility for a temporary disability pension.
5. Evaluate a member's eligibility for a catastrophic disability pension.
6. For the purposes of section 38-846, determine through appropriate medical evidence the proximate cause of death for members who are killed in the line of duty if the death occurs more than one year after the date of injury.

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

C. A finding of accidental, ordinary, temporary or catastrophic disability shall be based on medical evidence by a designated physician or a physician working in a clinic that is appointed by the local board pursuant to section 38-847, subsection D, paragraph 9 that established the disability. The local board shall resolve material conflicts in medical evidence. If required, the local board may employ other physicians or clinics to report on special cases. With the approval of the local board, a designated physician or physicians working in a clinic that is employed by the local board may employ occupational specialists to assist the designated physician or physicians working in a clinic in rendering an opinion.

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

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

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