

COMMITTEE ON FINANCE

SENATE AMENDMENTS TO H.B. 2056

(Reference to House engrossed bill)

1 Page 4, line 28, after "48-804" insert "OR A JOINT POWERS AUTHORITY PURSUANT TO
2 SECTION 48-805.01"

3 Page 6, line 17, after the third comma insert "JOINT POWERS AUTHORITIES,"

4 Page 17, between lines 6 and 7, insert:

5 "Sec. 7. Section 38-847, Arizona Revised Statutes, is amended to read:
6 38-847. Local boards

7 A. The administration of the system and responsibility for making the
8 provisions of the system effective for each employer are vested in a local
9 board. The department of public safety, the Arizona game and fish
10 department, the department of emergency and military affairs, the university
11 of Arizona, Arizona state university, northern Arizona university, each
12 county sheriff's office, each county attorney's office, each county parks
13 department, each municipal fire department, each eligible fire district, each
14 community college district, each municipal police department, the department
15 of law, the department of liquor licenses and control, the Arizona department
16 of agriculture, the Arizona state parks board, each Indian reservation police
17 agency and each Indian reservation fire fighting agency shall have a local
18 board. A nonprofit corporation operating pursuant to sections 28-8423 and
19 28-8424 shall have one local board for all of its members. Each local board
20 shall be constituted as follows:

21 1. For political subdivisions or Indian tribes, the mayor or chief
22 elected official or a designee of the mayor or chief elected official
23 approved by the respective governing body as chairman, two members elected by
24 secret ballot by members employed by the appropriate employer and two
25 citizens, one of whom shall be the head of the merit system, or the head's
26 designee from among the other members of the merit system, if it exists for
27 the group of members, appointed by the mayor or chief elected official and

1 with the approval of the governing body of the city or the governing body of
2 the employer. The appointed two citizens shall serve on both local boards in
3 a city or Indian tribes where both fire and police department employees are
4 members.

5 2. For state agencies and nonprofit corporations operating pursuant to
6 sections 28-8423 and 28-8424, two members elected by secret ballot by members
7 employed by the appropriate employer and three citizens appointed by the
8 governor. Each state agency local board shall elect a chairman.

9 3. For fire districts organized pursuant to section 48-804, the
10 secretary-treasurer as chairman, two members elected by secret ballot by
11 members employed by the fire district and two citizens appointed by the
12 secretary-treasurer, one of whom is a resident of the fire district and one
13 of whom has experience in personnel administration but who is not required to
14 be a resident of the fire district.

15 4. FOR JOINT POWERS AUTHORITIES ORGANIZED PURSUANT TO SECTION 48-
16 805.01, THE JOINT POWERS AUTHORITY BOARD CHAIRMAN OR A DESIGNEE APPROVED BY
17 THE GOVERNING BODY, TWO MEMBERS ELECTED BY SECRET BALLOT BY MEMBERS EMPLOYED
18 BY THE JOINT POWERS AUTHORITY AND TWO CITIZENS, ONE OF WHOM IS A RESIDENT OF
19 ONE OF THE PARTNER ENTITIES AND ONE OF WHOM HAS EXPERIENCE IN PERSONNEL
20 ADMINISTRATION BUT WHO IS NOT REQUIRED TO BE A RESIDENT OF A PARTNER ENTITY.

21 B. On the taking effect of this system for an employer, the
22 appointments and elections of local board members shall take place with one
23 elective and appointive local board member serving a term ending two years
24 after the effective date of participation for the employer and other local
25 board members serving a term ending four years after the effective date.
26 Thereafter, every second year, and as a vacancy occurs, an office shall be
27 filled for a term of four years in the same manner as previously provided.

28 C. Each local board shall be fully constituted pursuant to subsection
29 A of this section within sixty days after the employer's effective date of
30 participation in the system. If the deadline is not met, on the written
31 request of any member who is covered by the local board or the employer to
32 the board of trustees, the board of trustees may appoint all vacancies of the

1 local board pursuant to subsection A of this section and designate whether
2 each appointive position is for a two year or four year term. If the board
3 of trustees cannot find individuals to serve on the local board who meet the
4 requirements of subsection A of this section, the board of trustees may
5 appoint individuals to serve as interim local board members until qualified
6 individuals are appointed or elected. Each local board shall meet at least
7 twice a year. Each member of a local board, within ten days after the
8 member's appointment or election, shall take an oath of office that, so far
9 as it devolves on the member, the member shall diligently and honestly
10 administer the affairs of the local board and that the member shall not
11 knowingly violate or willingly permit to be violated any of the provisions of
12 law applicable to the system.

13 D. Except as limited by subsection E of this section, a local board
14 shall have such powers as may be necessary to discharge the following duties:

15 1. To decide all questions of eligibility and service credits, and
16 determine the amount, manner and time of payment of any benefits under the
17 system.

18 2. To prescribe procedures to be followed by claimants in filing
19 applications for benefits.

20 3. To make a determination as to the right of any claimant to a
21 benefit and to afford any claimant or the board of trustees, or both, a right
22 to a rehearing on the original determination. Except as otherwise required
23 by law, unless all parties involved in a matter presented to the local board
24 for determination otherwise agree, the local board shall commence a hearing
25 on the matter within ninety days after the date the matter is presented to
26 the local board for determination. If a local board fails to commence a
27 hearing as provided in this paragraph, on a matter presented to the local
28 board for determination, the relief demanded by the party petitioning the
29 local board is deemed granted and approved by the local board. The granting
30 and approval of this relief is considered final and binding unless a timely
31 request for rehearing or appeal is made as provided in this article, unless
32 the board of trustees determines that granting the relief requested would

1 violate the internal revenue code or threaten to impair the system's status
2 as a qualified plan under the internal revenue code. If the board of
3 trustees determines that granting the requested relief would violate the
4 internal revenue code or threaten to impair the system's status as a
5 qualified plan, the board of trustees may refuse to grant the relief by
6 issuing a written determination to the local board and the party petitioning
7 the local board for relief. The decision by the board of trustees is subject
8 to judicial review pursuant to title 12, chapter 7, article 6.

9 4. To request and receive from the employers and from members such
10 information as is necessary for the proper administration of the system and
11 action on claims for benefits and to forward such information to the board of
12 trustees.

13 5. To distribute, in such manner as the local board determines to be
14 appropriate, information explaining the system received from the board of
15 trustees.

16 6. To furnish the employer, the board of trustees and the legislature,
17 on request, with such annual reports with respect to the administration of
18 the system as are reasonable and appropriate.

19 7. To receive and review the actuarial valuation of the system for its
20 group of members.

21 8. To receive and review reports of the financial condition and of the
22 receipts and disbursements of the fund from the board of trustees.

23 9. To appoint medical boards as provided in section 38-859.

24 10. To sue and be sued to effectuate the duties and responsibilities
25 set forth in this article.

26 E. A local board shall have no power to add to, subtract from, modify
27 or waive any of the terms of the system, change or add to any benefits
28 provided by the system or waive or fail to apply any requirement of
29 eligibility for membership or benefits under the system. Notwithstanding any
30 limitations periods imposed in this article, including subsection D,
31 paragraph 3 and subsections G and H of this section, if the board of trustees
32 determines a local board decision violates the internal revenue code or

1 threatens to impair the system's status as a qualified plan under the
2 internal revenue code, the local board's decision is not final and binding
3 and the board of trustees may refrain from implementing or complying with the
4 local board decision.

5 F. A local board, from time to time, shall establish and adopt such
6 rules as it deems necessary or desirable for its administration. All rules
7 and decisions of a local board shall be uniformly and consistently applied to
8 all members in similar circumstances. If a claim or dispute is presented to
9 a local board for determination but the local board has not yet adopted
10 uniform rules of procedure for adjudication of the claim or dispute, the
11 local board shall adopt and use the model uniform rules of local board
12 procedure that are issued by the board of trustees' fiduciary counsel to
13 adjudicate the claim or dispute.

14 G. Except as otherwise provided in this article, any action by a
15 majority vote of the members of a local board that is not inconsistent with
16 the provisions of the system and the internal revenue code shall be final,
17 conclusive and binding on all persons affected by it unless a timely
18 application for a rehearing or appeal is filed as provided in this article.
19 No later than twenty days after taking action, the local board shall submit
20 to the board of trustees the minutes from the local board meeting that
21 include the name of the member affected by its decision, a description of the
22 action taken and an explanation of the reasons and all documents submitted to
23 the local board for the action taken, including the reports of a medical
24 board. The board of trustees may not implement and comply with any local
25 board action that does not comply with the internal revenue code or that
26 threatens to jeopardize the system's status as a qualified plan under the
27 internal revenue code.

28 H. A claimant or the board of trustees may apply for a rehearing
29 before the local board within the time periods prescribed in this subsection,
30 except that if a decision of a local board violates the internal revenue code
31 or threatens to jeopardize the system's status as a qualified plan under the
32 internal revenue code, no limitation period for the board of trustees to seek

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

4 1. The applicant-claimant receives notification of the local board's
5 original action by certified mail, by attending the meeting at which the
6 action is taken or by receiving benefits from the system pursuant to the
7 local board's original action, whichever occurs first.

8 2. The applicant-board of trustees receives notification of the local
9 board's original action as prescribed by subsection G of this section by
10 certified mail.

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

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

15 K. When making a ruling, determination or calculation, the local board
16 shall be entitled to rely on information furnished by the employer, a medical
17 board, the board of trustees, independent legal counsel or the actuary for
18 the system.

19 L. Each member of a local board is entitled to one vote. A majority
20 is necessary for a decision by the members of a local board at any meeting of
21 the local board.

22 M. The local board shall adopt such bylaws as it deems desirable. The
23 local board shall elect a secretary who may, but need not, be a member of the
24 local board. The secretary of the local board shall keep a record and
25 prepare minutes of all meetings in compliance with chapter 3, article 3.1 of
26 this title and forward the minutes and all necessary communications to the
27 board of trustees as prescribed by subsection G of this section.

28 N. The fees of the medical board and of the local board's independent
29 legal counsel and all other expenses of the local board necessary for the
30 administration of the system shall be paid by the employer and not the board
31 of trustees or system at such rates and in such amounts as the local board
32 shall approve. Legal counsel that is employed by the local board is

1 independent of the employer and any employee organization or member and owes
2 its duty of loyalty only to the local board in connection with its
3 representation of the local board.

4 O. The local board shall issue directions to the board of trustees
5 concerning all benefits that are to be paid from the employer's account
6 pursuant to the provisions of the fund. The local board shall keep on file,
7 in such manner as it may deem convenient or proper, all reports from the
8 board of trustees and the actuary.

9 P. The local board and the individual members of the local board shall
10 be indemnified from the assets of the employer for any judgment against the
11 local board or its members, including attorney fees and costs, arising from
12 any act, or failure to act, made in good faith pursuant to the provisions of
13 the system, including expenses reasonably incurred in the defense of any
14 claim relating to the act or failure to act.”

15 Renumber to conform

16 Amend title to conform

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