

- K. If upon the expiration of a temporary disability pension the local board finds upon 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.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1971, Ch. 143, § 3, effective July 1, 1972; Laws 1980, Ch. 146, § 2; Laws 1983, Ch. 300, § 6; Laws 1988, Ch. 267, § 3; Laws 1994, Ch. 356, § 25; Laws 1996, Ch. 318, § 1, effective retroactively to July 1, 1995; Laws 1997, Ch. 239, § 11; Laws 2004, Ch. 91, § 1; Laws 2004, Ch. 325, § 2.

Laws 2004, Ch. 325, § 11 provides:

Sec. 11. Continuation of catastrophic disability pension

Any person who has been awarded a catastrophic disability pension pursuant to this act is entitled to continue to receive the pension as long as the person maintains eligibility as determined by the local board.

38-844.01. Vested rights to benefits

A member of the system does not have vested rights to benefits under the system, except as provided in section 38-854, until he files an application for benefits and is found eligible for those benefits as provided in this article. An eligible claimant's rights to benefits vest on the date of his application for those benefits or his last day of employment under the system, whichever occurs first.

Added by Laws 1983, Ch. 300, §7.

38-844.02. Deferred retirement option plan; purpose

- A. A deferred retirement option plan is established. The purpose of the deferred retirement option plan is to add flexibility to the system and to provide members who elect to participate in the deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.
- B. The fund manager shall offer the deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the system.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, § 3.

38-844.03. Eligibility; participation

- A. Any member who is eligible for a normal pension pursuant to section 38-844, subsection A, and who has at least twenty years of credited service is eligible to participate in the deferred retirement option plan. In addition, any member who is subject to section 38-858, subsection C, is eligible to participate in the deferred retirement option plan retroactive to the member's twentieth year of credited service or on the day before the member began active military service, whichever is later, if the member makes the election pursuant to this section on or before resuming employment with the member's employer.
- B. A member who elects to participate in the deferred retirement option plan shall voluntarily and irrevocably:
1. Designate a period of participation that is not more than sixty consecutive months.
 2. Beginning on the date the member elects to participate in the deferred retirement option plan, cease to accrue benefits under any other provision of this article. The member's effective date of participation is the first day of the month following the date the member elects to participate.
 3. Have deferred retirement option plan benefits credited to a deferred retirement option plan participation account pursuant to section 38-844.05.

4. Receive benefits from the system on termination of employment at the same time and in the same manner as otherwise prescribed in this article.
 5. Agree to terminate employment on completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
- C. **If a member fails to terminate employment on completion of the designated deferred retirement option plan participation period:**
1. **The member is not entitled to the interest accumulation on the deferred retirement option plan participation account.**
 2. The deferred retirement option plan participation account shall not be credited with the monthly amount prescribed in section 38-844.05, subsection C, paragraph 1, and that amount shall not be paid directly to the member.
 3. The payment prescribed in section 38-844.08, subsection A, paragraph 1, shall not be paid until the member terminates employment and is payable at the same time as the pension amount is paid on retirement.
 4. The member does not acquire any further credited service in the system.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2001, Ch. 59, §1; Laws 2001, Ch. 349 §1; Laws 2005, Ch. 209, § 1, applies retroactively to December 31, 2002.

38-844.04. Termination of deferred retirement option plan participation

- A. A member may terminate participation in the deferred retirement option plan by voluntarily terminating employment at any time before the completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
- B. Participation in the deferred retirement option plan terminates on the first occurrence of any of the following:
 1. Completion of the deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
 2. Termination of employment. If termination of employment for cause is reversed, a member's participation in the deferred retirement option plan, minus any benefits previously distributed pursuant to this article, shall be reinstated for the duration of the original deferred retirement option plan participation period designated by the member on the appropriate deferred retirement option plan participation form.
 3. Death of the member.
 4. Approval of disability retirement benefits pursuant to section 38-844, subsection B.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, §4.

38-844.05. Deferred retirement option benefits and participation accounts

- A. A deferred retirement option plan participation account is an account established within the system on behalf of each deferred retirement option plan participant. All benefits accrued pursuant to this article shall be accounted for in the deferred retirement option plan participation account. A deferred retirement option plan participant does not have a claim on the assets of the system with respect to the member's deferred retirement option plan participation account

and assets shall not be set aside for any deferred retirement option plan participant that are separate from all other system assets.

- B. All amounts credited to a member's deferred retirement option plan participation account are fully vested.
- C. A member's deferred retirement option plan participation account shall be credited with the following:
 - 1. An amount, credited monthly, that is computed in the same manner as a normal retirement benefit using the factors of credited service and average monthly benefit compensation in effect on the date of deferred retirement option plan participation.
 - 2. An amount, credited monthly, that represents interest at a rate equal to the assumed rate of return determined by the fund manager.
- D. The participant is not entitled to receive any amount prescribed by section 38-856 or 38-857 during the deferred retirement option plan participation period.

Added by laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.06. Additional deferred retirement option plan provisions

- A. Beginning on the day after the date the member elects to participate in the deferred retirement option plan, employee and employer contributions pursuant to section 38-843 cease with respect to that member.
- B. A member who elects to participate in the deferred retirement option plan and who becomes disabled during the period of deferred retirement option plan participation is eligible to apply for disability retirement benefits. If the application for disability retirement benefits is approved by the local board:
 - 1. The disability retirement benefits shall be computed using the factors of credited service and average monthly benefit compensation in effect the day before the effective date of the member's deferred retirement option plan participation.
 - 2. All amounts in the member's deferred retirement option plan participation account shall be distributed pursuant to section 38-844.08.
- C. If a member dies during the period of the member's deferred retirement option plan participation, the designated beneficiary of the member is entitled to receive all amounts in the member's deferred retirement option plan participation account.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001. Amended by Laws 2002, Ch. 335, §5.

38-844.07. Designation of deferred retirement option plan beneficiaries

- A. A member who elects to participate in the deferred retirement option plan shall designate a beneficiary. A member's beneficiary designation applies to all distributions pursuant to the deferred retirement option plan.
- B. If a designated beneficiary predeceases a deferred retirement option plan participant who dies before designating a new beneficiary, all distributions pursuant to the deferred retirement option plan shall be made to the estate of the deferred retirement option plan participant.
- C. A member shall not make a beneficiary designation pursuant to this section that results in an abrogation of a member's community property obligations under the applicable laws of this state.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.08. Payment of deferred retirement option plan benefits

- A. On the simultaneous termination of deferred retirement option plan participation and employment, a member is entitled to receive both of the following:
 - 1. The monthly retirement allowance in the amount determined pursuant to section 38-845 that was credited monthly to the member's deferred retirement option plan participation account at the date of termination of deferred retirement option plan participation.
 - 2. All amounts credited to the member's deferred retirement option plan participation account on the effective date of termination of deferred retirement option plan participation.
- B. The form of payment shall be a lump sum distribution. If allowed by the internal revenue service, the participant may elect to transfer the lump sum distribution to an eligible retirement plan or individual retirement account.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.09. Internal revenue code compliance

The deferred retirement plan option shall not jeopardize in any way the tax qualified status of the system under the rules of the internal revenue service. The fund manager may adopt additional provisions to the extent necessary or appropriate for the deferred retirement option plan to comply with applicable federal laws or rules.

Added by Laws 2000, Ch. 340, §1, effective July 1, 2001.

38-844.10. Reverse deferred retirement option plan

- A. A reverse deferred retirement option plan is established. The purpose of the reverse deferred retirement option plan is to add flexibility to the system and to provide members who elect to participate in the reverse deferred retirement option plan access to a lump sum benefit in addition to their normal monthly retirement benefit on actual retirement.
- B. The fund manager shall offer the reverse deferred retirement option plan to members on a voluntary basis as an alternative method of benefit accrual under the system.
- C. Any member who is eligible for a normal pension pursuant to section 38-844, subsection A, who has not elected to participate in the deferred retirement option plan pursuant to section 38-844.03 and who has at least twenty years of credited service is eligible to participate in the reverse deferred retirement option plan.
- D. A member who elects to participate in the reverse deferred retirement option plan shall voluntarily and irrevocably:
 - 1. Designate a reverse deferred retirement option plan date that is the first day of the calendar month immediately following a member's completion of twenty years of credited service or a date not more than sixty consecutive months before the date the member elects to participate in the reverse deferred retirement option plan, whichever is later.
 - 2. Agree to terminate employment on the date the member elects to participate in the reverse deferred retirement option plan.
 - 3. Receive benefits from the system on termination of employment at the same time and in the same manner as otherwise prescribed in this article using the factors of credited service and average monthly benefit compensation in effect on the reverse deferred retirement option plan date.

contributions but forfeits any future compensation and benefits which would otherwise accrue to the member or the member's estate under this Article.

- C. If a member who received a severance refund upon termination of employment, as provided in § 38-846.02, is subsequently reemployed by an employer, the member's prior service credits shall be cancelled and service shall be credited only from the date the member's most recent reemployment period commenced. However, if the former member's reemployment with the same employer occurred within two years after the former member's termination date, and, within ninety days after reemployment the former member signs a written election consenting to reimburse the fund within one year, the former member shall be required to redeposit the amount withdrawn at the time of the former member's separation from service, with interest thereon at the rate of nine per cent for each year compounded each year from the date of withdrawal to the date of repayment. Upon satisfaction of this obligation the member's prior service credits shall be reinstated.
- D. If a retired member is reemployed by an employer, no contributions shall be made on the retired member's account, nor any service credited, during the period of such reemployment. Notwithstanding this Subsection, if a retired member subsequently becomes employed in the same position by the employer from which the member retired, the system shall not make pension payments to the retired member during the period of reemployment. On subsequent termination of employment by the retired member, the retired member is entitled to receive a pension based on the member's service and compensation before the date of the member's reemployment. If a member who retired under disability is reemployed by an employer as an employee, that member shall be treated as if the member had 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. For the purposes of this Subsection, "same position" means the member is in a position where the member performs duties and exercises authority that are the same duties that were performed and the same authority that was exercised by the member before the member's retirement.
- E. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the fund manager's written request is subject to civil suit by the system in the Superior Court of Maricopa County. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees, that were necessary to successfully prosecute the action. The court shall also grant the system a judicial lien on all of the nonexempt property of the person against whom judgment is entered pursuant to this Subsection in an amount equal to all amounts awarded to the system, plus interest at the rate prescribed by Section 44-1201, Subsection A, until all amounts owed are paid to the system.
- F. Notwithstanding any other provision of this Article, the fund manager may offset against any benefits otherwise payable by the system to an active or retired member or survivor any court ordered amounts awarded to the fund manager and system and assessed against the member or survivor.

Added by Laws 1968, Ch. 85, § 1. Amended by Laws 1970, Ch. 211, § 11; Laws 1971, Ch. 74, § 5, effective April 16, 1971; Laws 1978, Ch. 201, § 693, effective October 1, 1978; Laws 1980, Ch. 146, § 8; Laws 1983, Ch. 300, § 15; Laws 1985, Ch. 250, § 2; Laws 1986, Ch. 415, § 19; Laws 1997, Ch. 239, § 16; Laws 1999, Ch. 327, § 25; Laws 2000, Ch. 307, § 1; Laws 2004, Ch. 325, § 4; Laws 2006, Ch. 264, § 9.

38-850. Assurances and liabilities; fund manager discretion; overpayments; underpayments

- A. Nothing contained in the system shall be construed as a contract of employment between an employer and any employee, or as a right of any employee to be continued in the employment of an employer, or as a limitation of the rights of an employer to discharge any of its employees, with or without cause.
- B. No employee shall have any right to, or interest in, any assets of the fund upon termination of his employment or otherwise, except as provided from time to time under the system, and then only to the extent of the benefits payable to such employee out of the assets of the fund. All payments of