

State of Arizona  
Senate  
Fiftieth Legislature  
First Regular Session  
2011

# SENATE BILL 1614

AN ACT

AMENDING TITLE 38, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 38-736, 38-737, 38-797.05 AND 38-797.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-763.05; AMENDING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 3, SECTION 9; RELATING TO STATE BUDGET PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 38, chapter 4, Arizona Revised Statutes, is amended  
3 by adding article 5, to read:

4 ARTICLE 5. EMPLOYEE BENEFITS

5 38-671. Employee benefits; exclusions; definitions

6 A. ANY EMPLOYEE HIRED AFTER THE EFFECTIVE DATE OF THIS SECTION IS NOT  
7 ELIGIBLE FOR STATE EMPLOYEE BENEFITS UNTIL THE EMPLOYEE HAS WORKED REGULARLY  
8 FOR AT LEAST NINETY DAYS.

9 B. NOTWITHSTANDING ANY OTHER LAW, ANY STATE EMPLOYEE HIRED AFTER THE  
10 EFFECTIVE DATE OF THIS SECTION IS NOT ELIGIBLE TO BECOME A MEMBER OF ANY  
11 STATE RETIREMENT SYSTEM UNTIL THE EMPLOYEE HAS WORKED REGULARLY FOR AT LEAST  
12 SIX MONTHS.

13 C. FOR THE PURPOSES OF THIS SECTION:

14 1. "STATE EMPLOYEE BENEFITS" MEANS ANY COVERAGE PROVIDED PURSUANT TO  
15 ARTICLE 4 OF THIS CHAPTER.

16 2. "STATE RETIREMENT SYSTEM" MEANS THE ARIZONA STATE RETIREMENT SYSTEM  
17 ESTABLISHED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THE LONG-TERM  
18 DISABILITY PROGRAM ESTABLISHED BY CHAPTER 5, ARTICLE 2.1 OF THIS TITLE.

19 Sec. 2. Section 38-736, Arizona Revised Statutes, is amended to read:

20 38-736. Member contributions

21 A. Member contributions are required as a condition of employment and  
22 shall be made by payroll deductions. Member contributions shall begin  
23 simultaneously with membership in ASRS. Beginning July 1, ~~1985~~ 2011, member  
24 contributions are a percentage of a member's compensation equal to ~~the~~  
25 ~~employer contribution required~~ FIFTY-THREE PER CENT OF THE TOTAL  
26 CONTRIBUTIONS, AS DETERMINED pursuant to section 38-737. Amounts so deducted  
27 by employers shall be deposited in the ASRS depository.

28 B. The employer shall pay the member contributions required of members  
29 on account of compensation earned. The paid contributions shall be treated  
30 as employer contributions for the purpose of determining tax treatment under  
31 the internal revenue code. The effective date of the employer payment shall  
32 not be before the date ASRS has received notification from the United States  
33 internal revenue service that pursuant to section 414(h) of the internal  
34 revenue code the member contributions paid will not be included in gross  
35 income for income tax purposes until the paid contributions are distributed  
36 by refund or retirement benefit payments. The employer shall pay the member  
37 contributions from monies that are established and available in the  
38 retirement deduction account and that would otherwise have been designated as  
39 member contributions and paid to ASRS. Member contributions paid pursuant to  
40 this subsection shall be treated for all other purposes, in the same manner  
41 and to the same extent, as member contributions made before the approval of  
42 the United States internal revenue service pursuant to this section.

1           Sec. 3. Section 38-737, Arizona Revised Statutes, is amended to read:  
2           38-737. Employer contributions

3           A. Employer contributions shall be a percentage of compensation of all  
4 employees of the employers, excluding the compensation of those employees who  
5 are members of the defined contribution program administered by ASRS, as  
6 determined by the ASRS actuary pursuant to this section for June 30 of the  
7 fiscal year immediately preceding the preceding fiscal year, except that  
8 beginning with fiscal year 2001-2002 the contribution rate shall not be less  
9 than two per cent of compensation of all employees of the employers.  
10 BEGINNING JULY 1, 2011, the total employer contribution shall be FORTY-SEVEN  
11 PERCENT OF THE TOTAL CONTRIBUTIONS. THE TOTAL CONTRIBUTIONS SHALL BE  
12 determined on the projected unit credit method. The total ~~employer~~  
13 contributions shall be equal to the ~~employer~~ normal cost plus the amount  
14 required to amortize the past service funding requirement over a rolling  
15 thirty-year period.

16           B. All contributions made by the employer and allocated to the fund  
17 established by section 38-712 are irrevocable and shall be used as benefits  
18 under this article or to pay expenses of ASRS.

19           C. The required ~~employer~~ TOTAL contributions shall be determined on an  
20 annual basis by an actuary who is selected by the board and who is a fellow  
21 of the society of actuaries. ASRS shall provide a preliminary report by  
22 November 1 and a final report by December 15 of each fiscal year to the  
23 governor, the speaker of the house of representatives and the president of  
24 the senate on the contribution rate for the ensuing fiscal year.

25           Sec. 4. Section 38-797.05, Arizona Revised Statutes, is amended to  
26 read:

27           38-797.05. Employer and member contributions

28           A. Beginning July 1, ~~1996~~ 2011, employers shall contribute the  
29 percentage of the compensation of all of the members under their employment  
30 so that the total employer contributions equals the amount that the board  
31 determines is necessary to pay ~~one-half~~ FORTY-SEVEN PER CENT of all benefits  
32 under and costs of administering the LTD program.

33           B. Beginning July 1, ~~1996~~ 2011, a member shall contribute a percentage  
34 of the member's compensation equal to the REMAINDER NECESSARY TO PAY FOR ALL  
35 BENEFITS UNDER AND COSTS OF ADMINISTERING THE LTD PROGRAM AFTER THE employer  
36 contribution for the member required pursuant to subsection A of this section  
37 IS PAID.

38           C. The employer shall pay the member contributions required of members  
39 on account of compensation earned. All employer and member contributions  
40 shall be paid to the board. The board shall allocate the contributions to  
41 the LTD trust fund and shall place the contributions in the LTD program's  
42 depository.

43           D. Each employer shall certify on each payroll the amount to be  
44 contributed to the LTD program and shall remit that amount to the board. The  
45 contributions are irrevocable.

1 E. Payments due pursuant to this article by employers become  
2 delinquent after the due date prescribed in the board's rules and thereafter  
3 shall be increased by interest from and after that date until payment is  
4 received by the board. The board shall charge interest on the delinquent  
5 payments at an annual rate equal to the interest rate assumption approved by  
6 the board for actuarial equivalency pursuant to article 2 of this chapter.  
7 Delinquent payments due under this subsection, together with interest charges  
8 as provided in this subsection, may be recovered by an action in a court of  
9 competent jurisdiction against an employer liable for payments or, at the  
10 request of the director, may be deducted from any monies, including excise  
11 revenue taxes, payable to the employer by any department or agency of this  
12 state.

13 F. If more than the correct amount of contributions required is paid  
14 by an employer, proper adjustment shall be made in connection with subsequent  
15 payments. The board shall return excess contributions to the employer if the  
16 employer requests return of the contributions within one year after the date  
17 of overpayment.

18 G. Member contributions are not refundable and are not included in the  
19 calculation of survivor benefits pursuant to section 38-762.

20 Sec. 5. Section 38-797.06, Arizona Revised Statutes, is amended to  
21 read:

22 38-797.06. Contribution rate; annual report

23 A. The board shall select an actuary to determine required ~~employer~~  
24 contributions on an annual basis. The actuary shall be a fellow of the  
25 society of actuaries.

26 B. ~~Employer~~ Contributions shall be a percentage of compensation of all  
27 employees of the employers, as the ASRS actuary determines pursuant to this  
28 section. The actuary shall make this determination in an annual valuation  
29 performed as of June 30. The valuation as of June 30 of a calendar year  
30 shall determine the percentage to be applied to compensation for the fiscal  
31 year beginning July 1 of the following calendar year. The actuary shall  
32 determine the total ~~employer-contribution~~ CONTRIBUTIONS using an actuarial  
33 cost method consistent with generally accepted actuarial standards. The  
34 total ~~employer~~ contributions shall be equal to the ~~employer~~ normal cost plus  
35 the amount required to amortize the past service funding requirement over a  
36 period consistent with generally accepted actuarial standards.

37 C. All contributions made by the employer and allocated to the LTD  
38 trust fund established by section 38-797.02 are irrevocable and shall be used  
39 as benefits under this article or to pay expenses of the LTD program.

40 D. ASRS shall provide a preliminary report on or before November 30 of  
41 the valuation year and a final report on or before January 15 of the  
42 following year to the governor, the speaker of the house of representatives  
43 and the president of the senate on the contribution rate for the ensuing  
44 fiscal year.

1           Sec. 6. Title 41, chapter 4, article 5, Arizona Revised Statutes, is  
2 amended by adding section 41-763.05, to read:

3           41-763.05. Required reduction in hours

4           AN AGENCY DIRECTOR MAY REQUIRE AGENCY COVERED EMPLOYEES TO WORK REDUCED  
5 HOURS IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR  
6 OF THE DEPARTMENT OF ADMINISTRATION SHALL PRESCRIBE PROCEDURES TO IMPLEMENT  
7 THESE REDUCTIONS.

8           Sec. 7. Laws 2010, seventh special session, chapter 3, section 9 is  
9 amended to read:

10          Sec. 9. Mandatory furloughs; 2009-2010; 2010-2011; terms;  
11                 exceptions; definitions

12          A. In order to the implement the expenditure reductions for personnel  
13 expenses in the 2010-2011 general appropriations act, the joint legislative  
14 budget committee staff shall determine and the department of administration  
15 shall allocate to each state agency, department, board or commission an  
16 amount sufficient to implement the mandatory furloughs pursuant to this  
17 section. All monies from other appropriated funds and nonfederal  
18 nonappropriated funds that are reduced pursuant to this section shall be  
19 transferred to the state general fund. The joint legislative budget  
20 committee staff also shall determine and the department of administration  
21 shall allocate reductions, as necessary, in total expenditure authority  
22 resulting from the mandatory furloughs required by this section.

23          B. Unless otherwise exempted by this section, each state agency,  
24 department, board or commission, in addition to any other furlough program  
25 implemented by the agency, shall furlough employees as follows:

- 26           1. In fiscal year 2009-2010: One day
- 27           2. In fiscal year 2010-2011: ~~Six~~ FIVE days
- 28           ~~3. In fiscal year 2011-2012: Six days~~

29          C. It is the intent of the legislature that the furlough days required  
30 by this section be taken no more than once a month and in a way that  
31 maximizes utility savings and minimizes customer inconvenience. The  
32 department of administration shall publish a list of the preferred furlough  
33 dates that best achieve these goals. These published dates shall be the  
34 presumptive furlough dates for all governmental units unless otherwise  
35 approved by the department of administration. Notwithstanding any other law,  
36 for fiscal years 2009-2010, ~~AND~~ 2010-2011 ~~and 2011-2012,~~ the furlough dates  
37 published by the department of administration shall authorize participating  
38 state offices to be closed on those dates in order to meet the furlough  
39 requirements of this section.

40          D. Employees who are subject to the furlough requirement of this  
41 section shall be on leave without pay and are not eligible to use any form of  
42 paid leave on a designated furlough day unless allowance for the use of paid  
43 leave in any specific case is otherwise required by state or federal law.

1 E. On or before April 16, 2010, the department of administration shall  
2 develop a list of governmental unit functions or services requiring  
3 continuous operations throughout the entire week or workweek that would be  
4 significantly and negatively affected by the implementation of a furlough  
5 program due to either:

6 1. The critical nature of the services delivered, such as direct  
7 public safety activities or direct care of patients, residents, inmates,  
8 detainees or other similar service populations.

9 2. Other compelling demands for a governmental unit's functions or  
10 services.

11 F. Employees whose services are determined to be essential pursuant to  
12 subsection E to ensuring that functions or services are delivered safely and  
13 effectively are exempt from the furlough requirements of this section. It is  
14 the intent of the legislature to exempt from the furlough requirements of  
15 this section only those employees considered absolutely essential for the  
16 proper performance and oversight of these essential functions or services.

17 G. In lieu of mandatory furlough participation, the director of a  
18 governmental unit may elect, on written approval of the director of the  
19 department of administration, to reduce employee pay for personnel not  
20 otherwise determined exempt pursuant to subsection F within the governmental  
21 unit by amounts that, when totaled, equal the savings generated by the  
22 furlough days otherwise required in this section. The director of the  
23 department of administration may approve only those written requests in which  
24 the director of the governmental unit establishes, to the satisfaction of the  
25 director of the department of administration, that the governmental unit's  
26 implementation of mandatory furlough days would not be in the best interests  
27 of this state and that an equivalent pay reduction program is more  
28 appropriate. The director of the department of administration may approve or  
29 disapprove only written requests that fully substitute the required furlough  
30 days with an equivalent salary rate and employee related expenditure  
31 reduction. Governmental units shall submit written requests pursuant to this  
32 subsection no later than April 16, 2010.

33 H. On or before April 30, 2010, the department of administration shall  
34 report to the joint legislative budget committee those job classifications  
35 and the numbers, by governmental unit, of employees that have been exempted  
36 from the furlough program pursuant to this section. The department shall  
37 provide report updates to the joint legislative budget committee whenever  
38 changes are made to the exempted job classifications or the numbers, by  
39 governmental unit, of exempted employees. The report shall also include any  
40 written requests that were approved to fully substitute the required furlough  
41 days with an equivalent salary rate and employee related expenditure  
42 reduction pursuant to subsection G.

43 I. This section does not apply to:

44 1. Employees of universities under the jurisdiction of the Arizona  
45 board of regents while the maintenance of effort provisions of the federal

1 education stabilization program are in effect, as required by the American  
2 recovery and reinvestment act of 2009 (P.L. 111-5).

3 2. Employees of elected state officers.

4 J. For the purposes of this section:

5 1. "Employees of elected state officers" means employees of the house  
6 of representatives, the senate, any budget unit that reports to the  
7 legislature, the judiciary, the secretary of state, the state treasurer, the  
8 attorney general, the corporation commission, the state mine inspector, the  
9 Arizona board of regents and the superintendent of public instruction.

10 2. "Governmental unit" means all agencies, departments, boards and  
11 commissions of this state unless otherwise exempt under this section.

12 Sec. 8. Arizona state retirement system; employer contributions

13 A. In addition to any other appropriation reductions made in fiscal  
14 year 2011-2012, notwithstanding any other law, the total reduction in  
15 employer contributions to the Arizona state retirement system required by  
16 this act is reduced from state general fund appropriations and other state  
17 funds appropriated to state agency units and from nonfederal nonappropriated  
18 funds for personnel expenses and related benefit costs and is transferred or  
19 reverted to the state general fund for the purposes of providing adequate  
20 support and maintenance for agencies of this state.

21 B. The joint legislative budget committee staff shall determine and  
22 the department of administration shall allocate to each state agency,  
23 department, board or commission an amount sufficient to decrease the employer  
24 contributions to the Arizona state retirement system as specified in this  
25 act. All monies from other appropriated funds and nonfederal nonappropriated  
26 funds that are reduced pursuant to this act shall be transferred to the state  
27 general fund.

28 C. The joint legislative budget committee staff shall also determine  
29 and the department of administration shall allocate reductions, as necessary,  
30 in total expenditure authority resulting from the reduction in employer  
31 contributions to the Arizona state retirement system required by this act.

32 D. In addition to the allocations made pursuant to subsections B and  
33 C, and in addition to reductions required by any other law, for fiscal year  
34 2011-2012, the department of education shall reduce equalization assistance  
35 to school districts and charter schools by the amount that their employer  
36 contributions to the Arizona state retirement system are reduced pursuant to  
37 this act and shall reduce school district budget limits accordingly.

38 E. In addition to reductions required by any other law, for fiscal  
39 year 2011-2012, the department of education shall reduce the capital outlay  
40 revenue limit for a school district that is not eligible to receive  
41 equalization assistance for fiscal year 2011-2012 by the amount that its  
42 equalization assistance would be reduced pursuant to subsection D if the  
43 district was eligible to receive equalization assistance for fiscal year  
44 2011-2012 and shall reduce school district budget limits accordingly.

1           Sec. 9. Federal stimulus funding; reporting; definitions  
2           A. The governor has allocated the government services portion of the  
3 fiscal stabilization fund from the American recovery and reinvestment act of  
4 2009 (P.L. 111-5) to the following expenditure categories and subexpenditure  
5 categories:  
6           1. Education reform.  
7           (a) Teach for America - \$2,000,000.  
8           (b) Education information systems - \$3,000,000.  
9           (c) Education innovation project - \$1,636,374.  
10          Subtotal - Education reform - \$ 6,636,374.  
11          2. Health care and children's programs.  
12          (a) Department of health services community health - \$11,600,000.  
13          (b) Department of health services Arizona state hospital - \$116,273.  
14          (c) Department of economic security autism - \$2,297,824.  
15          (d) Department of economic security developmentally disabled -  
16 \$15,000,000.  
17          (e) Department of economic security children's services - \$18,000,000.  
18          (f) Department of economic security adoption services - \$2,500,000.  
19          (g) Department of economic security child protective services -  
20 \$5,500,000.  
21          Subtotal - Health care and children's programs - \$55,014,097.  
22          3. Public safety  
23          (a) Department of corrections - \$50,000,000.  
24          (b) Border security enhancement - \$10,000,000.  
25          (c) Public safety stabilization - \$10,000,000.  
26          (d) Supplemental public safety projects - \$6,545,494.  
27          (e) Department of administration public safety project - \$1,700,000.  
28          Subtotal - Public safety - \$78,245,494.  
29          4. Innovation, technology and economic development.  
30          (a) Commerce economic development - \$15,000,000.  
31          (b) Commerce job training - \$12,000,000.  
32          (c) Commerce jobs agenda - \$12,000,000.  
33          (d) Arizona technology enhancement (department of administration) -  
34 \$182,079.  
35          Subtotal - Innovation, technology and economic development -  
36 \$39,182,079.  
37          5. Arizona county projects (including all categories) - \$4,007,797.  
38          6. Office of economic recovery state fiscal stabilization fund costs -  
39 \$2,000,000.  
40          Total - Government services fiscal stabilization fund - \$185,085,841.  
41          B. Within thirty days after the last day of each calendar quarter, the  
42 governor's office of economic recovery shall provide a report to the joint  
43 legislative budget committee outlining the allocation of monies to the  
44 designated categories.

1 C. For the designated categories, the report shall include the amount  
2 newly allocated and newly expended in the calendar quarter immediately  
3 preceding the report date listed in subsection B and the total amount  
4 allocated and expended to date by the following:

- 5 1. Each state agency that has received an allocation of monies.
- 6 2. Each individual grantee that has received an allocation of monies.

7 D. For the purposes of this section:

8 1. "Designated category" means an expenditure category or  
9 subexpenditure category listed in subsection A as education information  
10 systems, education innovation project, supplemental public safety projects,  
11 department of administration public safety project, commerce economic  
12 development, commerce job training, commerce jobs agenda or Arizona  
13 technology enhancement (department of administration).

14 2. "State agency" means any department, office, agency, commission,  
15 board or other instrumentality of state government.

16 Sec. 10. Unrestricted federal monies

17 Any unrestricted federal monies received from July 1, 2011 through June  
18 30, 2012 shall be deposited in the state general fund. The monies shall be  
19 used for the payment of essential governmental services.

20 Sec. 11. Rental rates; state-owned buildings; fiscal year  
21 2011-2012; intent

22 Notwithstanding section 41-792.01, subsection D, Arizona Revised  
23 Statutes, the capital outlay stabilization fund rental rates for state-owned  
24 buildings in fiscal year 2011-2012 shall decrease from \$21.02 per square foot  
25 for office space to \$15.08 per square foot and from \$7.62 per square foot for  
26 storage space to \$5.47 per square foot. It is the intent of the legislature  
27 that the square footage calculations are based on the methodology currently  
28 used by the department of administration.

29 Sec. 12. Annual budgets

30 Notwithstanding section 35-121, Arizona Revised Statutes, for fiscal  
31 year 2011-2012, appropriations for all budget units may be limited to one  
32 fiscal year.

33 Sec. 13. Calculation adjustments; fiscal year 2011-2012;  
34 closing state general fund balance

35 Notwithstanding any other law, for the purposes of calculating the  
36 state general fund balance at the close of fiscal year 2011-2012, any monies  
37 that are appropriated from the state general fund that are exempt from  
38 lapsing pursuant to section 35-190, Arizona Revised Statutes, and that remain  
39 unexpended and unencumbered at the close of fiscal year 2011-2012 shall be  
40 included in the closing balance as if the appropriations had lapsed or  
41 otherwise reverted to the state general fund.

1           Sec. 14. Rule making exemption

2           The director of the department of administration is exempt from the  
3 rule making requirements of title 41, chapter 6, Arizona Revised Statutes,  
4 until July 1, 2012 for the purposes of prescribing the procedures required by  
5 section 41-763.05, Arizona Revised Statutes, as added by this act.

6           Sec. 15. Retroactivity

7           A. Laws 2010, seventh special session, chapter 3, section 9, as  
8 amended by this act, applies retroactively to April 1, 2011.

9           B. Sections 38-736, 38-737, 38-797.05 and 38-797.06, Arizona Revised  
10 Statutes, as amended by this act, apply retroactively to from and after June  
11 30, 2011.