

REFERENCE TITLE: government budget reconciliation; 2012-2013

State of Arizona  
House of Representatives  
Fiftieth Legislature  
Second Regular Session  
2012

## HB 2856

Introduced by  
Representative Kavanagh (with permission of Committee on Rules)

AN ACT

AMENDING SECTIONS 38-736, 38-737, 38-797.05 AND 38-797.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-714; AMENDING TITLE 41, CHAPTER 4, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-726; AMENDING SECTION 41-1273, ARIZONA REVISED STATUTES; RELATING TO GENERAL GOVERNMENT BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-736, Arizona Revised Statutes, is amended to  
3 read:

4 38-736. Member contributions

5 A. Member contributions are required as a condition of employment and  
6 shall be made by payroll deductions. Member contributions shall begin  
7 simultaneously with membership in ASRS. Beginning July 1, 2011, member  
8 contributions are a percentage of a member's compensation equal to  
9 ~~fifty three per cent of the total contributions, as determined~~ THE EMPLOYER  
10 CONTRIBUTION REQUIRED pursuant to section 38-737. Amounts so deducted by  
11 employers shall be deposited in the ASRS depository.

12 B. The employer shall pay the member contributions required of members  
13 on account of compensation earned. The paid contributions shall be treated  
14 as employer contributions for the purpose of determining tax treatment under  
15 the internal revenue code. The effective date of the employer payment shall  
16 not be before the date ASRS has received notification from the United States  
17 internal revenue service that pursuant to section 414(h) of the internal  
18 revenue code the member contributions paid will not be included in gross  
19 income for income tax purposes until the paid contributions are distributed  
20 by refund or retirement benefit payments. The employer shall pay the member  
21 contributions from monies that are established and available in the  
22 retirement deduction account and that would otherwise have been designated as  
23 member contributions and paid to ASRS. Member contributions paid pursuant to  
24 this subsection shall be treated for all other purposes, in the same manner  
25 and to the same extent, as member contributions made before the approval of  
26 the United States internal revenue service pursuant to this section.

27 Sec. 2. Section 38-737, Arizona Revised Statutes, is amended to read:

28 38-737. Employer contributions

29 A. Employer contributions shall be a percentage of compensation of all  
30 employees of the employers, excluding the compensation of those employees who  
31 are members of the defined contribution program administered by ASRS, as  
32 determined by the ASRS actuary pursuant to this section for June 30 of the  
33 fiscal year immediately preceding the preceding fiscal year, except that  
34 beginning with fiscal year 2001-2002 the contribution rate shall not be less  
35 than two per cent of compensation of all employees of the employers.  
36 Beginning July 1, 2011, the total employer contribution shall be ~~forty seven~~  
37 ~~per cent of the total contributions. The total contributions shall be~~  
38 determined on the projected unit credit method. The total EMPLOYER  
39 contributions shall be equal to the EMPLOYER normal cost plus the amount  
40 required to amortize the past service funding requirement over a rolling  
41 thirty-year period.

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

1 C. The required ~~total~~ EMPLOYER contributions shall be determined on an  
2 annual basis by an actuary who is selected by the board and who is a fellow  
3 of the society of actuaries. ASRS shall provide a preliminary report by  
4 November 1 and a final report by December 15 of each fiscal year to the  
5 governor, the speaker of the house of representatives and the president of  
6 the senate on the contribution rate for the ensuing fiscal year.

7 Sec. 3. Section 38-797.05, Arizona Revised Statutes, is amended to  
8 read:

9 38-797.05. Employer and member contributions

10 A. Beginning July 1, 2011, employers shall contribute the percentage  
11 of the compensation of all of the members under their employment so that the  
12 total employer contributions equals the amount that the board determines is  
13 necessary to pay ~~forty-seven per cent~~ ONE-HALF of all benefits under and  
14 costs of administering the LTD program.

15 B. Beginning July 1, 2011, a member shall contribute a percentage of  
16 the member's compensation equal to the ~~remainder necessary to pay for all~~  
17 ~~benefits under and costs of administering the LTD program after the~~  
18 contribution for the member required pursuant to subsection A of this section  
19 ~~is paid~~.

20 C. The employer shall pay the member contributions required of members  
21 on account of compensation earned. All employer and member contributions  
22 shall be paid to the board. The board shall allocate the contributions to  
23 the LTD trust fund and shall place the contributions in the LTD program's  
24 depository.

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

28 E. Payments due pursuant to this article by employers become  
29 delinquent after the due date prescribed in the board's rules and thereafter  
30 shall be increased by interest from and after that date until payment is  
31 received by the board. The board shall charge interest on the delinquent  
32 payments at an annual rate equal to the interest rate assumption approved by  
33 the board for actuarial equivalency pursuant to article 2 of this chapter.  
34 Delinquent payments due under this subsection, together with interest charges  
35 as provided in this subsection, may be recovered by an action in a court of  
36 competent jurisdiction against an employer liable for payments or, at the  
37 request of the director, may be deducted from any monies, including excise  
38 revenue taxes, payable to the employer by any department or agency of this  
39 state.

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

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

3 Sec. 4. Section 38-797.06, Arizona Revised Statutes, is amended to  
4 read:

5 38-797.06. Contribution rate; annual report

6 A. The board shall select an actuary to determine required EMPLOYER  
7 contributions on an annual basis. The actuary shall be a fellow of the  
8 society of actuaries.

9 B. EMPLOYER contributions shall be a percentage of compensation of all  
10 employees of the employers, as the ASRS actuary determines pursuant to this  
11 section. The actuary shall make this determination in an annual valuation  
12 performed as of June 30. The valuation as of June 30 of a calendar year  
13 shall determine the percentage to be applied to compensation for the fiscal  
14 year beginning July 1 of the following calendar year. The actuary shall  
15 determine the total ~~contributions~~ EMPLOYER CONTRIBUTION using an actuarial  
16 cost method consistent with generally accepted actuarial standards. The  
17 total EMPLOYER contributions shall be equal to the EMPLOYER normal cost plus  
18 the amount required to amortize the past service funding requirement over a  
19 period consistent with generally accepted actuarial standards.

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

23 D. ASRS shall provide a preliminary report on or before November 30 of  
24 the valuation year and a final report on or before January 15 of the  
25 following year to the governor, the speaker of the house of representatives  
26 and the president of the senate on the contribution rate for the ensuing  
27 fiscal year.

28 Sec. 5. Title 41, chapter 4, article 2, Arizona Revised Statutes, is  
29 amended by adding section 41-714, to read:

30 41-714. Automation projects fund; purpose; exemption; joint  
31 legislative budget committee approval

32 A. THE AUTOMATION PROJECTS FUND IS ESTABLISHED CONSISTING OF MONIES  
33 APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT OF ADMINISTRATION SHALL  
34 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.  
35 MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING  
36 TO LAPSING OF APPROPRIATIONS.

37 B. MONIES IN THE FUND SHALL BE USED TO IMPLEMENT, UPGRADE OR MAINTAIN  
38 AUTOMATION AND INFORMATION TECHNOLOGY PROJECTS FOR ANY STATE AGENCY.

39 C. BEFORE THE EXPENDITURE OF ANY MONIES FROM THE FUND, THE JOINT  
40 LEGISLATIVE BUDGET COMMITTEE SHALL APPROVE THE EXPENDITURE PLAN PRESENTED BY  
41 THE DEPARTMENT FOR THE FISCAL YEAR IN WHICH THE MONIES ARE TO BE SPENT.

1           Sec. 6. Title 41, chapter 4, article 3, Arizona Revised Statutes, is  
2 amended by adding section 41-726, to read:

3           41-726. Debt retirement fund; purpose; exemption; joint  
4           legislative budget committee approval

5           A. THE DEBT RETIREMENT FUND IS ESTABLISHED CONSISTING OF MONIES  
6 APPROPRIATED BY THE LEGISLATURE. THE DEPARTMENT OF ADMINISTRATION SHALL  
7 ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED.  
8 MONIES IN THE FUND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING  
9 TO LAPSING OF APPROPRIATIONS.

10          B. MONIES IN THE FUND SHALL BE USED FOR THE PAYMENT OF PRINCIPAL AND  
11 REDEMPTION COSTS OF OBLIGATIONS OF THIS STATE, INCLUDING OBLIGATIONS COMMONLY  
12 KNOWN AS CERTIFICATES OF PARTICIPATION, REVENUE BONDS AND LONG-TERM NOTES.  
13 THE DEPARTMENT SHALL USE MONIES IN THE FUND ONLY FOR PAYMENTS FOR OBLIGATIONS  
14 THAT ARE PAID WITH STATE GENERAL FUND MONIES.

15          C. BEFORE THE EXPENDITURE OF ANY MONIES FROM THE FUND, THE JOINT  
16 LEGISLATIVE BUDGET COMMITTEE SHALL APPROVE THE EXPENDITURE PLAN PRESENTED BY  
17 THE DEPARTMENT FOR THE PAYMENT OF LONG-TERM STATE OBLIGATIONS.

18          D. THE LEGISLATURE SHALL NOT TRANSFER ANY MONIES FROM THE FUND FOR  
19 PURPOSES OTHER THAN THOSE SPECIFIED IN SUBSECTION B OF THIS SECTION UNLESS  
20 THE PROPOSAL IS CONTAINED IN A SEPARATE MEASURE FROM ANY OTHER POLICY  
21 PROPOSAL REQUIRING A SEPARATE VOTE OF THE LEGISLATURE.

22          Sec. 7. Section 41-1273, Arizona Revised Statutes, is amended to read:

23          41-1273. Budget analyst; employees; duties; reports

24          A. The joint legislative budget committee shall appoint a budget  
25 analyst and other clerical and technical employees that may be required.

26          B. The budget analyst shall serve full time as staff director and  
27 receive compensation as determined pursuant to section 38-611. The budget  
28 analyst, as a prerequisite for appointment, shall have demonstrated the  
29 budget analyst's competency and ability in the field of finance either in  
30 private business or public work.

31          C. The budget analyst may be removed from office prior to expiration  
32 of the budget analyst's term if, voting separately, a majority of the members  
33 of each body constituting the joint legislative budget committee votes in  
34 favor of removal.

35          D. The budget analyst shall prepare for distribution an analysis of  
36 the governor's budget as soon after the budget is presented to the  
37 legislature as is possible. The analysis, among other things, shall include  
38 recommendations of the budget analyst for revisions in expenditures.

39          E. In consultation with the governor's office of strategic planning  
40 and budgeting, the budget analyst shall determine and report to the governor  
41 and the legislature an estimate of appropriations subject to the limit  
42 imposed by article IX, section 17, Constitution of Arizona. The report shall  
43 be published by February 15 of each year for the preceding fiscal year, for  
44 the current fiscal year and for the ensuing fiscal year to reflect the budget  
45 recommendations of the joint legislative budget committee.

1 F. By ~~November~~ DECEMBER 1 of each ~~odd-numbered~~ year, the budget  
2 analyst shall report ~~and recommend~~ to the committee. ~~A LISTING OF~~  
3 ~~STATUTORILY DELETED AND NEWLY CREATED FUNDS AND FUNDS THAT CHANGED~~  
4 ~~APPROPRIATED STATUS FROM THE PRIOR FISCAL YEAR.~~

5 ~~1. A listing of funds that are recommended for elimination or~~  
6 ~~consolidation that represents not more than seven per cent of the total~~  
7 ~~number of funds in existence, including all federal, state and other sources~~  
8 ~~of monies and grants.~~

9 ~~2. A listing of funds for conversion from nonappropriated status to~~  
10 ~~appropriated status that represents not more than seven per cent by dollar~~  
11 ~~amount estimated of all state nonappropriated funds.~~

12 G. The legislature in making its appropriation for the operation of  
13 the legislature shall allocate a portion thereof for the operation of the  
14 joint legislative budget committee.

15 Sec. 8. Declaration of emergency; limitation

16 Notwithstanding section 35-192, Arizona Revised Statutes, or any other  
17 law, the aggregate amount of all liabilities incurred during a declaration of  
18 emergency shall not exceed \$2,900,000 in fiscal year 2012-2013.

19 Sec. 9. Office of administrative hearings; prompt hearings

20 Notwithstanding section 41-1092.05, subsection A, Arizona Revised  
21 Statutes, for fiscal year 2012-2013, the office of administrative hearings  
22 shall hold hearings for appealable agency actions and contested cases as soon  
23 as reasonably possible after a notice of appeal is filed or a request for a  
24 hearing is made.

25 Sec. 10. Return of contributions; retroactivity

26 A. Sections 38-736, 38-737, 38-797.05 and 38-797.06, as amended by  
27 this act, do not apply to a member of the Arizona state retirement system who  
28 retired from and after June 30, 2011 until the effective date of this act or  
29 to a person who is no longer employed by an employer that is subject to the  
30 Arizona state retirement system on the effective date of this act.

31 B. Each employer who is subject to the Arizona state retirement system  
32 shall return employee contributions to those current employees who during  
33 fiscal year 2011-2012 or 2012-2013 made employee contributions in excess of  
34 the employer contributions required pursuant to section 38-737, Arizona  
35 Revised Statutes, that was in effect as of July 1, 2011. The return of these  
36 employee contributions shall be treated as after-tax earned income for  
37 calendar year 2012.

38 C. Sections 38-736, 38-737, 38-797.05 and 38-797.06, as amended by  
39 this act, apply retroactively to from and after June 30, 2011.