

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

# HOUSE BILL 2104

AN ACT

AMENDING TITLE 38, CHAPTER 5, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-739.01; AMENDING SECTIONS 38-766.01 AND 38-766.02, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(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 5, article 2, Arizona Revised Statutes,  
3 is amended by adding section 38-739.01, to read:

4 38-739.01 Credited service retention

5 CONSISTENT WITH THE COMPLIANCE STATEMENT ISSUED BY THE UNITED STATES  
6 INTERNAL REVENUE SERVICE, AN EMPLOYEE WHO IS EMPLOYED WITH AN ASRS EMPLOYER  
7 IN A POSITION THAT WAS EXEMPT FROM ASRS MEMBERSHIP BECAUSE THE POSITION WAS  
8 NOT INCLUDED IN AGREEMENTS PROVIDING FOR THE EMPLOYEE'S COVERAGE UNDER THE  
9 FEDERAL OLD-AGE AND SURVIVORS INSURANCE SYSTEM BUT ON WHOSE BEHALF THE  
10 EMPLOYER HAS REMITTED ASRS CONTRIBUTIONS SHALL RETAIN CREDITED SERVICE FOR  
11 THE PERIOD OF EMPLOYMENT FOR WHICH THE EMPLOYER REMITTED ASRS CONTRIBUTIONS  
12 ON THE EMPLOYEE'S BEHALF.

13 Sec. 2. Section 38-766.01, Arizona Revised Statutes, is amended to  
14 read:

15 38-766.01. Retired members; return to work

16 A. Notwithstanding section 38-766, at a retired member's election, a  
17 retired member may return to work and still be eligible to receive retirement  
18 benefits if all of the following requirements are satisfied:

- 19 1. The retired member has attained the member's normal retirement age.
- 20 2. The retired member terminated direct employment with an employer at  
21 least three hundred sixty-five consecutive days before returning to work.
- 22 3. If the retired member returns to work as a teacher, the retired  
23 member's employment is not subject to the requirements prescribed in sections  
24 15-536, 15-538, 15-538.01 and 15-539 through 15-543.

25 B. NOTWITHSTANDING SECTION 38-766 AND SUBSECTION A OF THIS SECTION, AT  
26 A RETIRED MEMBER'S ELECTION, A RETIRED MEMBER MAY RETURN TO WORK AS A STATE  
27 ELECTED OFFICIAL WHO IS SUBJECT TO TERM LIMITS AND STILL BE ELIGIBLE TO  
28 RECEIVE RETIREMENT BENEFITS.

29 ~~B.~~ C. A retired member's election to return to work under this  
30 section is irrevocable for the remainder of the retired member's employment  
31 for which the retiree made the election.

32 ~~C.~~ D. The retired member shall acknowledge this section in writing  
33 and file the acknowledgement with the employer within thirty days ~~of~~ AFTER  
34 returning to work.

35 ~~D.~~ E. An employer of a retired member who returns to work pursuant to  
36 this section shall not pay contributions on behalf of the retired member  
37 pursuant to section 38-736, 38-737 or 38-797.05.

38 ~~E.~~ F. A retired member who returns to work pursuant to this section  
39 does not accrue credited service, member service as provided in section  
40 15-1628, subsection B, paragraph 4, additional account balances, retirement  
41 benefits or long-term disability program benefits pursuant to article 2.1 of  
42 this chapter for the period the retired member returns to work. The period  
43 the retired member returns to work is not eligible for purchase under section  
44 38-743 or 38-744.



1 retired member who returns to work or to determine the function, utilization,  
2 efficacy or operation of the return to work program.

3 F. For the purposes of this section:

4 1. "Contract fee" means the gross amount paid to a retired member as  
5 an independent contractor minus an amount, not to exceed ten per cent, for an  
6 administrative fee.

7 2. "Gross salary" means the gross amount paid to a retired member by a  
8 leasing company as salary or wages, including amounts that are subject to  
9 deferred compensation or tax shelter agreements, for services rendered or  
10 that would have been paid to the retired member except for the member's  
11 election or a legal requirement that all or part of the gross amount be used  
12 for other purposes.

13 Sec. 4. Retroactivity

14 Sections 38-766.01 and 38-766.02, Arizona Revised Statutes, as amended  
15 by this act, apply retroactively to from and after June 30, 2015.

16 Sec. 5. Emergency

17 This act is an emergency measure that is necessary to preserve the  
18 public peace, health or safety and is operative immediately as provided by  
19 law.