

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SENATE BILL 1213

AN ACT

AMENDING SECTION 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. Section 38-766.02, Arizona Revised Statutes, is amended
3 to read:

4 38-766.02. Retired members; return to work; employer
5 contribution payments; exception; definitions

6 A. Notwithstanding section 38-766.01, subsection E, beginning July
7 1, 2012, an employer shall pay contributions at an alternate contribution
8 rate on behalf of a retired member who returns to work with an ASRS
9 employer in any capacity in a position ordinarily filled by an employee of
10 the employer or in a position that is similar in duties and
11 responsibilities to that of a position ordinarily filled by an employee of
12 the employer. This subsection applies to a retired member who has reached
13 a normal retirement age or a retired member who retired under section
14 38-758 if the retired member's retirement benefit has not been suspended
15 pursuant to section 38-766.

16 B. The ASRS actuary shall determine the alternate contribution rate
17 in an annual valuation performed as of June 30. For the fiscal year
18 beginning on July 1 of the following calendar year, the valuation shall
19 determine the percentage to be applied to the compensation, gross salary
20 or contract fee of a retired member who meets the requirements of this
21 section.

22 C. The alternate contribution rate shall not be less than two
23 percent in any fiscal year. The alternate contribution rate is equal to
24 the lesser of:

25 1. The employer contribution rate established by the ASRS actuary
26 pursuant to section 38-737 plus the employer contribution rate established
27 by the ASRS actuary pursuant to section 38-797.06.

28 2. The total past service funding requirement rate established by
29 the ASRS actuary pursuant to section 38-737 plus the total past service
30 funding requirement rate established by the ASRS actuary pursuant to
31 section 38-797.06.

32 D. ASRS shall determine the schedule and method of payment of the
33 alternate contribution rate. Subject to section 38-738, subsection A, all
34 contributions made by the employer and allocated to the fund established
35 by section 38-712 are irrevocable and shall be used as benefits under this
36 article or to pay the expenses of ASRS. Payments made pursuant to this
37 section by employers become delinquent after the due date prescribed in
38 the board's rules and thereafter shall be increased by interest from and
39 after that date until payment is received by ASRS. ASRS shall charge
40 interest on the delinquent payments as prescribed in section 38-711. ASRS
41 may recover delinquent payments due under this section, together with
42 interest charges as provided in this section, by action in a court of
43 competent jurisdiction against an employer liable for payments or, at the
44 request of the director, ASRS may deduct the delinquent payments and

1 interest charges from any other monies, including excise revenue taxes,
2 payable to the employer by any department or agency of this state.

3 E. An employer of a retired member shall submit any reports, data,
4 paperwork or materials that are requested by ASRS and that are necessary
5 to determine the compensation, gross salary or contract fee associated
6 with a retired member who returns to work or to determine the function,
7 utilization, efficacy or operation of the return to work program.

8 F. AN EMPLOYER IS NOT REQUIRED TO PAY CONTRIBUTIONS AT AN ALTERNATE
9 CONTRIBUTION RATE ON BEHALF OF A RETIRED MEMBER UNDER SUBSECTION A OF THIS
10 SECTION IF THE RETIRED MEMBER RETURNS TO WORK WITH THE EMPLOYER IN A
11 POSITION THAT IS CURRENTLY FILLED BY AN EMPLOYEE OF THE EMPLOYER WHO IS AN
12 ACTIVE MEMBER AND FOR WHICH THE EMPLOYER IS CURRENTLY REQUIRED TO PAY AND
13 IS PAYING CONTRIBUTIONS ON BEHALF OF THE ACTIVE MEMBER IN THAT SAME
14 POSITION PURSUANT TO SECTIONS 38-736 AND 38-737. AN EMPLOYER MAY PAY
15 CONTRIBUTIONS AT AN ALTERNATE CONTRIBUTION RATE FOR A RETIRED MEMBER WHO
16 MEETS THE REQUIREMENTS FOR AN EXEMPTION UNDER THIS SUBSECTION.

17 G. FOR CONTRIBUTIONS MADE PURSUANT TO SUBSECTION F OF THIS SECTION
18 BEGINNING JULY 1, 2019, IF ASRS AND THE EMPLOYER DETERMINE THAT THE
19 ALTERNATIVE CONTRIBUTION RATE DOES NOT APPLY TO A RETIRED MEMBER WHO
20 RETURNS TO WORK FOR WHOM THE EMPLOYER HAS PAID CONTRIBUTIONS AT THE
21 ALTERNATE CONTRIBUTION RATE, THE EMPLOYER MAY REQUEST AN EMPLOYER CREDIT,
22 NOT INCLUDING INTEREST, FOR THOSE CONTRIBUTIONS WITHIN NINETY DAYS AFTER
23 THE END OF THE FISCAL YEAR IN WHICH THE CONTRIBUTIONS WERE PAID. IF ASRS
24 DETERMINES THAT AN EMPLOYER CREDIT IS NOT FEASIBLE, ASRS SHALL ISSUE A
25 REFUND TO AN EMPLOYER IN A FORM DETERMINED BY ASRS.

26 ~~F.~~ H. For the purposes of this section:

27 1. "Contract fee" means the gross amount paid to a retired member
28 as an independent contractor minus an amount, not to exceed ten percent,
29 for an administrative fee.

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