Senate Engrossed

ASRS; employer payments; ineligible contributions

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 135

SENATE BILL 1051

AN ACT

AMENDING SECTION 38-748, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-748, Arizona Revised Statutes, is amended to read:

38-748. Employer payments for ineligible contributions; definitions

A. If an employer pays contributions on behalf of any person who is not eligible by statute or rule for ASRS membership or pays contributions on compensation that is not eligible by statute or rule for ASRS contributions and either ASRS or a court determines that ASRS ~~is legally obligated to~~ SHALL provide a person with any benefit or credit under this article or article 2.1 of this chapter based on such contributions, the employer shall pay to ASRS any unfunded liability resulting from the provision of benefits or credit to the person.

B. If the employer does not remit full payment of the unfunded liability pursuant to subsection A of this section within ninety days after being notified by ASRS of the amount due, the unpaid amount accrues interest until the amount is paid in full.

C. Credited service ceases to accrue as of the date that ASRS or a court first determines that ASRS ~~is legally obligated to~~ SHALL provide any benefit or credit to the person.

D. If the amount in the person's ASRS account is greater than the present value of the benefit or credit, ASRS shall retain the entire account and is not required to refund, credit or offset any excess against future contributions.

E. This section applies to an employer that employs, either directly or indirectly, a person who performs services for a third-party organization and that does not have a written representation by ASRS of the person's eligibility.

F. For the purposes of this section:

1. "Amount in the person's ASRS account" means two times the person's retirement contributions made pursuant to section 38-736:

(a) Plus:

(i) Interest on the person's retirement contributions made pursuant to section 38-736.

(ii) Any contributions made for the purchase of service credits pursuant to section 38-742, 38-743, 38-744 or 38-745.

(iii) Interest on the amount contributed for the purchase of service credits pursuant to section 38-742, 38-743, 38-744 or 38-745.

(b) Minus any amounts paid by ASRS pursuant to this article or article 2.1 of this chapter.

2. "Interest" means the interest rate assumption that is approved by ASRS for actuarial equivalency.

3. "Unfunded liability" means:

(a) For a person who is not eligible by statute or rule for ASRS membership, the amount, if any, that the present value of the person's benefit or credit, using the actuarial assumptions approved by ASRS, exceeds the amount in the person's ASRS account calculated as of the date that ASRS or a court first determines that ASRS ~~is legally obligated to~~ SHALL provide any benefit or credit to the person.

(b) For contributions on compensation that is not eligible by statute or rule for ASRS contributions, the difference, if any, of the amount that the present value of a person's benefit or credit, using the actuarial assumptions approved by ASRS, exceeds the amount of the present value of the benefit or credit the person would receive if the ineligible contributions, and the compensation and credit associated with those ineligible contributions, had not been reported to ASRS and the amount in the person's ASRS account that is associated with the ineligible contributions on compensation.

APPROVED BY THE GOVERNOR MARCH 26, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 26, 2021.