

Senate Engrossed House Bill

PSPRS; contribution rates

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HOUSE BILL 2028

AN ACT

AMENDING SECTION 38-843, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL 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 38-843, Arizona Revised Statutes, is amended to  
3 read:

4 38-843. Contributions; employer account asset transfers

5 A. Each employer ~~who~~ THAT participates in the system on behalf of a  
6 group of employees who were covered under a prior public retirement  
7 system, other than the federal social security act, shall transfer all  
8 securities and monies attributable to the taxes and contributions of ~~the~~  
9 THIS state other than ~~the state~~ THIS STATE'S contribution to social  
10 security, the employer and the employees for the covered group of  
11 employees under the other system, such transfer to be made to the fund  
12 subject to all existing liabilities and on or within sixty days following  
13 the employer's effective date. All monies and securities transferred to  
14 the fund shall be credited to the employer's account in the fund. A  
15 record of the market value and the cost value of such transferred  
16 contributions shall be maintained for actuarial and investment purposes.

17 B. As determined by actuarial valuations reported to the employer  
18 and the local board by the board of trustees, each employer shall make  
19 contributions sufficient under such actuarial valuations to meet both the  
20 normal cost for members hired before July 1, 2017 plus the actuarially  
21 determined amount required to amortize the unfunded accrued liability on a  
22 level percent of compensation basis for all employees of the employer who  
23 are members of the system or participants as defined in section 38-865,  
24 paragraph 7, subdivision (a), item (i) over, beginning July 1, 2017, a  
25 closed period of not more than twenty years, except as provided in  
26 subsection ~~T~~ M of this section, that is established by the board of  
27 trustees taking into account the recommendation of the system's actuary.  
28 An employer shall have the option of paying a higher level percent of  
29 compensation thereby reducing its unfunded past service liability. An  
30 employer shall also have the option of increasing its contributions in  
31 order to reduce the contributions required from its members under  
32 subsection C of this section, except that if an employer elects this  
33 option the employer shall pay the same higher level percentage  
34 contribution for all members of the eligible group. A county employer  
35 that elected to pay a higher level percentage contribution rate may  
36 eliminate that higher level percentage contribution rate amount for  
37 members who are hired on or after January 1, 2015. During a period when  
38 an employee is on industrial leave and the employee elects to continue  
39 contributions during the period of industrial leave, the employer shall  
40 make the contributions based on the compensation the employee would have  
41 received in the employee's job classification if the employee was in  
42 normal employment status. All contributions made by the employers and all  
43 state taxes allocated to the fund shall be irrevocable and shall be used  
44 to pay benefits under the system or to pay expenses of the system and  
45 fund. The minimum employer contribution that is paid and that is in

1 excess of the normal cost plus the actuarially determined amount required  
2 to amortize the unfunded accrued liability as calculated pursuant to this  
3 subsection shall be used to reduce future employer contribution increases  
4 and shall not be used to pay for an increase in benefits that are  
5 otherwise payable to members. The board shall separately account for  
6 these monies in the fund. Forfeitures arising because of severance of  
7 employment before a member becomes eligible for a pension or any other  
8 reason shall be applied to reduce the cost of the employer, not to  
9 increase the benefits otherwise payable to members. After the close of  
10 any fiscal year, if the system's actuary determines that the actuarial  
11 valuation of an employer's account contains excess valuation assets other  
12 than excess valuation assets that were in the employer's account as of  
13 fiscal year 2004-2005 and is more than one hundred percent funded, the  
14 board shall account for the excess valuation assets up to one hundred  
15 percent of THE present value of all future benefits of the employer in a  
16 stabilization reserve account. After the close of any fiscal year, if the  
17 system's actuary determines that the actuarial valuation of an employer's  
18 account has a valuation asset deficiency and an unfunded actuarial accrued  
19 liability, the board shall use any valuation assets in the stabilization  
20 reserve account for that employer, to the extent available, to limit the  
21 decline in that employer's funding ratio to not more than two percent.

22 C. Each member who was hired before July 1, 2017, throughout the  
23 member's period of service from the member's effective date of  
24 participation, shall contribute to the fund an amount equal to the amount  
25 prescribed in subsection E of this section, except as provided in  
26 subsection B of this section. Each member who was hired on or after July  
27 1, 2017, throughout the member's period of service from the member's  
28 effective date of participation, shall contribute to the fund an amount  
29 equal to the amount prescribed in subsection ~~G~~ H of this section. During  
30 a period when an employee is on industrial leave and the employee elects  
31 to continue contributions during the period of industrial leave, the  
32 employee shall make the employee's contribution based on the compensation  
33 the employee would have received in the employee's job classification if  
34 the employee was in normal employment status. Contributions of members  
35 shall be required as a condition of employment and membership in the  
36 system and shall be made by payroll deductions. Every employee shall be  
37 deemed to consent to such deductions. Payment of an employee's  
38 compensation, less such payroll deductions, shall constitute a full and  
39 complete discharge and satisfaction of all claims and demands by the  
40 employee relating to remuneration for the employee's services rendered  
41 during the period covered by the payment, except with respect to the  
42 benefits provided under the system. A member may not, under any  
43 circumstance, borrow from, take a loan against or remove contributions  
44 from the member's account before the termination of membership in the plan  
45 or the receipt of a pension.

1 D. Each employer shall transfer to the board the employer and  
2 employee contributions provided for in subsections B, C and ~~G~~ H of this  
3 section within ten working days after each payroll date. Contributions  
4 transferred after that date shall include a penalty of ten percent per  
5 annum, compounded annually, for each day the contributions are late, such  
6 penalty to be paid by the employer. Delinquent payments due under this  
7 subsection, together with interest charges as provided in this subsection,  
8 may be recovered by action in a court of competent jurisdiction against an  
9 employer liable for the payments or, at the request of the board, may be  
10 deducted from any other monies, including excise revenue taxes, payable to  
11 such employer by any department or agency of this state.

12 E. The amount contributed by a member who was hired before July 1,  
13 2017 pursuant to subsection C of this section is:

14 1. Through June 30, 2011, 7.65 percent of the member's  
15 compensation.

16 2. For fiscal year 2011-2012, 8.65 percent of the member's  
17 compensation.

18 3. For fiscal year 2012-2013, 9.55 percent of the member's  
19 compensation.

20 4. For fiscal year 2013-2014, 10.35 percent of the member's  
21 compensation.

22 5. For fiscal year 2014-2015, 11.05 percent of the member's  
23 compensation.

24 6. For fiscal year 2015-2016 ~~and each~~ THROUGH fiscal year  
25 ~~thereafter~~ 2022-2023, 11.65 percent of the member's compensation or 33.3  
26 percent of the sum of the member's contribution rate from the preceding  
27 fiscal year and the aggregate computed employer contribution rate that is  
28 calculated pursuant to subsection B of this section, whichever is lower,  
29 except that the member contribution rate shall not be less than 7.65  
30 percent of the member's compensation and the employer contribution rate  
31 shall not be less than the rate prescribed in subsection B of this  
32 section.

33 7. FOR FISCAL YEAR 2023-2024 AND EACH FISCAL YEAR THEREAFTER, 7.65  
34 PERCENT OF THE MEMBER'S COMPENSATION.

35 F. FROM AND AFTER JUNE 30, 2011 THROUGH JUNE 30, 2023, the amount  
36 of the member's contribution that exceeds 7.65 percent of the member's  
37 compensation shall not be used to reduce the employer's contributions that  
38 are calculated pursuant to subsection B of this section until the  
39 employer's funded ratio, as expressed as a percentage of the employer's  
40 actuarial value of assets to accrued actuarial liability as determined by  
41 actuarial valuations reported pursuant to subsection B of this section, is  
42 at or above one hundred percent. ~~If the employer's funded ratio falls~~  
43 ~~below one hundred percent funded, the amount of the member's contributions~~  
44 ~~above 7.65 percent as provided in subsection E, paragraph 6 of this~~  
45 ~~section shall accumulate from that time and not be used to reduce the~~

1 ~~employer's contribution rate until the employer's funded ratio returns to~~  
2 ~~one hundred percent funded.~~

3 G. FROM AND AFTER JUNE 30, 2023, THE AMOUNT OF THE MEMBERS  
4 CONTRIBUTION THAT EXCEEDS 7.65 PERCENT OF THE MEMBER'S COMPENSATION  
5 COLLECTED PURSUANT TO SUBSECTION E OF THIS SECTION AND THAT WAS  
6 ACCUMULATED FROM AND AFTER JUNE 30, 2011 THROUGH JUNE 30, 2023 MAY BE USED  
7 IN CALCULATING THE EMPLOYERS CONTRIBUTIONS THAT ARE CALCULATED PURSUANT TO  
8 SUBSECTION B OF THIS SECTION.

9 ~~G.~~ H. For members hired on or after July 1, 2017, the employer and  
10 member contributions are determined as follows:

11 1. For employers and members in the public safety employer risk  
12 pool:

13 (a) As determined by the system consolidated actuarial valuation  
14 reported to the board of trustees, each employer shall make contributions  
15 sufficient under such actuarial valuation to pay fifty percent of both the  
16 normal cost plus the actuarially determined amount required to amortize  
17 the total unfunded accrued liability within the risk pool for all  
18 employers attributable to all members in the risk pool. For each year  
19 that new unfunded liabilities are attributable to the public safety  
20 employer risk pool, a new amortization base representing the most recent  
21 annual gain or loss, smoothed over a period of not more than five years as  
22 determined by the board, shall be created on a level-dollar basis over a  
23 closed period equal to the average expected remaining service lives of all  
24 members of the risk pool but not more than ten years, as determined by the  
25 board.

26 (b) The remaining fifty percent of both the normal cost and  
27 actuarially determined amount required to amortize the total unfunded  
28 accrued liability within the public safety employer risk pool as  
29 determined in subdivision (a) of this paragraph shall be divided by the  
30 total number of members in the risk pool such that each member contributes  
31 an equal percentage of the member's compensation. Member contributions  
32 shall begin simultaneously with membership in the system and shall be made  
33 by payroll deduction.

34 2. For employers and members that are not in the public safety  
35 employer risk pool:

36 (a) As determined by actuarial valuations reported to the employer  
37 and the local board by the board of trustees, each employer shall make  
38 contributions sufficient under such actuarial valuations to pay fifty  
39 percent of both the normal cost plus the actuarially determined amount  
40 required to amortize the total unfunded accrued liability for each  
41 employer attributable only to those members hired on or after July 1,  
42 2017. For each year that new unfunded liabilities are attributable to the  
43 employer's own members hired on or after July 1, 2017, a new amortization  
44 base representing the most recent annual gain or loss, smoothed over a  
45 period of not more than five years as determined by the board, shall be

1 created on a level-dollar basis over a closed period equal to the average  
2 expected remaining service lives of all members but not more than ten  
3 years, as determined by the board.

4 (b) The remaining fifty percent of both the normal cost and  
5 actuarially determined amount required to amortize the total unfunded  
6 accrued liability as determined pursuant to subdivision (a) of this  
7 paragraph shall be divided by the total number of the employer's members  
8 who were hired on or after July 1, 2017 such that each member contributes  
9 an equal percentage of the member's compensation. Member contributions  
10 shall begin simultaneously with membership in the system and shall be made  
11 by payroll deduction.

12 ~~I.~~ I. In any fiscal year, an employer's contribution to the system  
13 in combination with member contributions may not be less than the  
14 actuarially determined normal cost for that fiscal year. The board may  
15 not suspend contributions to the system unless both of the following  
16 apply:

17 1. The retirement system actuary, based on the annual valuation,  
18 determines the stabilization reserve of an employer's account is funded to  
19 one hundred percent of present value of all future benefits of the  
20 employer.

21 2. The board determines that suspending, in whole or in part, the  
22 normal cost contributions as calculated under subsection B of this section  
23 would not be in conflict with its fiduciary responsibility.

24 ~~I.~~ J. An employer may request that the board transfer excess  
25 assets of an employer's account that has no liabilities or beneficiaries  
26 to another account of the employer that is managed by the board. The  
27 board may authorize the transfer of assets if all of the following apply:

28 1. The board verifies that the employer's liabilities have been  
29 reconciled with the administrator and there are no remaining or potential  
30 liabilities or beneficiaries of the employer's account.

31 2. The board and the system bear no liability that the proposed  
32 transfer conforms with any other restrictions on the use or transfer of  
33 the assets of the proposed transfer.

34 3. The transfer does not violate the internal revenue code or  
35 threaten to impair the system's status as a qualified plan under the  
36 internal revenue code.

37 ~~J.~~ K. For the purposes of requesting a transfer of assets pursuant  
38 to this section, an employer must meet both of the following requirements:

39 1. The governing body of the employer adopts a resolution  
40 requesting the transfer of assets in an open session where public comment  
41 is allowed.

42 2. The employer submits a written request to the administrator of  
43 the board for the transfer of assets along with the adopted resolution.

44 ~~K.~~ L. For a state employer that meets the requirements of  
45 subsection ~~I.~~ J of this section, the joint legislative budget committee

1 may request from the administrator of the board confirmation that an  
2 employer's account meets the requirements to transfer the account assets.  
3 The legislature shall pass a bill directing the board to transfer the  
4 assets from the eligible employer account to another account of the  
5 employer. Before the legislature passes the bill, the joint legislative  
6 budget committee shall confirm with the administrator of the board that  
7 the assets are eligible for transfer to another employer account and  
8 discuss the matter in a scheduled public meeting.

9 ~~M.~~ M. For the purposes of calculating unfunded liability  
10 amortization payments pursuant to subsection B of this section, an  
11 employer may make a onetime election to request that the board use a  
12 closed period of not more than thirty years if the employer meets both of  
13 the following requirements:

14 1. The governing body of the employer adopts a resolution  
15 requesting the longer amortization period and specifying the actuarial  
16 valuation date for which the new amortization period is to begin. The  
17 actuarial valuation date chosen must be the system's fiscal year end  
18 either immediately before or immediately after the date of the resolution.

19 2. The employer submits a written request for the longer  
20 amortization period along with the adopted resolution to the administrator  
21 of the board.

22 ~~M.~~ N. For the purposes of subsection ~~M~~ M of this section,  
23 employer does not include this state or any state agency.

24 ~~N.~~ O. If a member's employment is terminated with an employer by  
25 either party, the total liability under the system associated with the  
26 member's service with the employer remains with the employer.

27 Sec. 2. Retroactivity

28 This act applies retroactively to from and after June 30, 2023.

29 Sec. 3. Emergency

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