

REFERENCE TITLE: retirement; reemployment; school resource officers

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

## **SB 1414**

Introduced by  
Senators Gowan: Carroll, Shamp; Representatives Carbone, Diaz, Dunn,  
Gillette, Griffin, Marshall, Martinez, Montenegro, Nguyen

AN ACT

AMENDING SECTION 38-849, 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 38-849, Arizona Revised Statutes, is amended to  
3 read:

4 38-849. Limitations on receiving pension; violation;  
5 classification; reemployment after severance;  
6 reinstatement of service credits; reemployment of  
7 retired member or member with a disability;  
8 definition

9 A. If a member is convicted of, or discharged because of, theft,  
10 embezzlement, fraud or misappropriation of an employer's property or  
11 property under the control of the employer, the member shall be subject to  
12 restitution and fines imposed by a court of competent jurisdiction. The  
13 court may order the restitution or fines to be paid from any payments  
14 otherwise payable to the member from the retirement system.

15 B. A person who knowingly makes any false statement or who  
16 falsifies or allows to be falsified any record of the system with an  
17 intent to defraud the system is guilty of a class 5 felony. If any change  
18 or error in the records results in any member or beneficiary receiving  
19 from the system more or less than the member or beneficiary would have  
20 been entitled to receive had the records been correct, the local board  
21 shall correct such error, and as far as practicable shall adjust the  
22 payments in such manner that the actuarial equivalent of the benefit to  
23 which such member or beneficiary was correctly entitled shall be paid. If  
24 a member is convicted of a crime specified in this subsection, section  
25 13-713 applies.

26 C. If a member who received a severance refund on termination of  
27 employment pursuant to section 38-846.02 becomes reemployed with the same  
28 employer within two years after the former member's termination date, the  
29 member may have forfeited credited service attributable to service  
30 rendered during a prior period of service as an employee restored on  
31 satisfaction of each of the following conditions:

32 1. The member files with the system a written application for  
33 reinstatement of forfeited credited service within ninety days after again  
34 becoming an employee.

35 2. The retirement fund is paid the total amount previously  
36 withdrawn pursuant to section 38-846.02 plus compound interest from the  
37 date of withdrawal to the date of repayment. Interest shall be computed  
38 at the rate of nine percent for each year compounded each year from the  
39 date of withdrawal to the date of repayment. Forfeited credited service  
40 shall not be restored until complete payment is received by the fund.

41 3. The required payment is completed within one year after  
42 returning to employee status.

43 D. If a member who received a severance refund on termination of  
44 employment, as provided in section 38-846.02, is subsequently reemployed  
45 by an employer, the member's prior service credits shall be cancelled and

1 service shall be credited only from the date the member's most recent  
2 reemployment period commenced. However, a present active member of the  
3 system who forfeited credited service, received a severance refund  
4 pursuant to section 38-846.02 and becomes reemployed with the same  
5 employer two years or more after the member's termination date or becomes  
6 reemployed with another employer may elect to redeem any part of that  
7 forfeited credited service by paying into the system any amounts required  
8 pursuant to this subsection. A present active member who elects to redeem  
9 any part of forfeited credited service for which the member is deemed  
10 eligible by the board shall pay into the system the amounts previously  
11 paid or transferred to the member as a severance refund plus an amount  
12 that is computed by the system's actuary that is necessary to equal the  
13 increase in the actuarial present value of projected benefits resulting  
14 from the redemption calculated using the actuarial methods and assumptions  
15 prescribed by the system's actuary. On satisfaction of this obligation,  
16 the member's prior service credits shall be reinstated.

17 E. If a retired member becomes reemployed in any capacity by the  
18 employer from which the member retired before six months after the date of  
19 retirement or in the same position at any time following retirement:

20 1. The following apply:

21 (a) Within ten days after the retired member is reemployed, the  
22 local board shall advise the system in writing of the retired member's  
23 reemployment.

24 (b) The system shall not make pension payments to the retired  
25 member during the period of reemployment.

26 (c) Employee contributions shall not be made on the retired  
27 member's account, nor shall any service be credited during the period of  
28 reemployment. On subsequent termination of employment by the retired  
29 member, the retired member is entitled to receive a pension based on the  
30 member's service and compensation before the date of the member's  
31 reemployment. The employer shall pay the alternate contribution rate  
32 pursuant to section 38-843.05.

33 (d) Any pension payments received by the retired member, who  
34 retired on or after July 1, 2009, during the period of reemployment are  
35 considered overpayments pursuant to section 38-850, unless subsection B of  
36 this section applies. If the board determines in the board's sole  
37 discretion, for a member who retired on or after July 1, 2009, that the  
38 retired member's reemployment during the six-month period and the failure  
39 of the employer or the local board to suspend the member's pension were  
40 not intentional to circumvent the requirements of this subsection, the  
41 pension payments received by the retired member after the retired member's  
42 reemployment are subject to repayment up to only the amount received  
43 between the date of the member's reemployment and the expiration of the  
44 six-month period.

1           2. The retired member, who retired on or after July 1, 2009 and who  
2 is reemployed terminates employment, may be subsequently reemployed with  
3 the employer from which the member retired and resume receiving pension  
4 payments after a period of six months, less the period of time the retired  
5 member was not reemployed after retirement with the employer from which  
6 the member retired, if at least sixty days of the six months are  
7 consecutive.

8           3. Paragraph 1, subdivisions (a), (b) and (d) of this subsection do  
9 not apply if any of the following occurs:

10           (a) The retired member becomes reemployed after sixty consecutive  
11 days from the member's retirement date as a result of participating in an  
12 open competitive new hire process except if the retired member is hired  
13 for the same position or if the retired member has a prearranged  
14 reemployment agreement with the employer.

15           (b) The retired member is hired as a fire inspector, ~~or~~ arson  
16 investigator **OR SCHOOL RESOURCE OFFICER**.

17           (c) The retired member who is receiving an accidental disability,  
18 ordinary disability, catastrophic disability or temporary disability  
19 pension accepts a job reassignment as an accommodation in accordance with  
20 the Americans with disabilities act of 1990 due to a disability that is  
21 directly related to the retired member being awarded an accidental  
22 disability, ordinary disability, catastrophic disability or temporary  
23 disability benefit.

24           F. If a retired member is assigned voluntary duties acting as a  
25 limited authority peace officer, pursuant to the Arizona peace officer  
26 standards and training board rules, employee contributions shall not be  
27 made on the retired member's account, and any service shall not be  
28 credited during the period of reemployment. The employer shall not pay  
29 the alternate contribution rate pursuant to section 38-843.05.

30           G. If after six months after the date of retirement a retired  
31 member becomes reemployed by the employer from which the member retired in  
32 a position other than the same position from which the member retired,  
33 employee contributions shall not be made on the retired member's account,  
34 and any service shall not be credited during the period of reemployment.  
35 The employer shall pay the alternate contribution rate pursuant to section  
36 38-843.05.

37           H. At any time following retirement, if the retired member becomes  
38 employed by an employer, other than the employer from which the member  
39 retired, in a position ordinarily filled by an employee of an eligible  
40 group, employee contributions shall not be made on the retired member's  
41 account, and any service shall not be credited during the period of  
42 reemployment. The employer shall pay the alternate contribution rate  
43 pursuant to section 38-843.05.

1 I. If a member who retired under an accidental or ordinary  
2 disability becomes reemployed as an employee of an eligible group, section  
3 38-844 applies and a determination shall be made by the local board as to  
4 whether subsection E, F, G or H of this section applies.

5 J. The local board shall review all reemployment determinations and  
6 voluntary assignments as described in subsection F of this section. If  
7 the local board or the system is not provided the necessary information  
8 required by the system to make a reemployment determination, the local  
9 board and the system shall suspend pension payments until information is  
10 received and a determination is made regarding whether the reemployment  
11 meets the requirements of subsection E, F, G, H or I of this section.

12 K. A person who defrauds the system or who takes, converts, steals  
13 or embezzles monies owned by or from the system and who fails or refuses  
14 to return the monies to the system on the board's written request is  
15 subject to civil suit by the system in the superior court in Maricopa  
16 county. On entry of an order finding the person has defrauded the system  
17 or taken, converted, stolen or embezzled monies owned by or from the  
18 system, the court shall enter an order against that person and for the  
19 system awarding the system all of its costs and expenses of any kind,  
20 including attorney fees, that were necessary to successfully prosecute the  
21 action. The court shall also grant the system a judicial lien on all of  
22 the nonexempt property of the person against whom judgment is entered  
23 pursuant to this subsection in an amount equal to all amounts awarded to  
24 the system, plus interest at the rate prescribed by section 44-1201, until  
25 all amounts owed are paid to the system.

26 L. Notwithstanding any other provision of this article, the board  
27 may offset against any benefits otherwise payable by the system to an  
28 active or retired member or survivor any court ordered amounts awarded to  
29 the board and system and assessed against the member or survivor.

30 M. Notwithstanding any other provision of this article, a member  
31 who retires having met all of the qualifications for retirement and who  
32 subsequently becomes an elected official, by election or appointment, is  
33 not considered reemployed by the same employer.

34 N. For the purposes of this section, "same position" means a  
35 position in which the member performs substantially similar duties that  
36 were performed and exercises substantially similar authority that was  
37 exercised by the retired member before retirement.