

REFERENCE TITLE: ASRS; retirement; elected officials

State of Arizona
House of Representatives
Fifty-seventh Legislature
Second Regular Session
2026

HB 2502

Introduced by
Representative Livingston

AN ACT

AMENDING SECTIONS 38-764, 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. Section 38-764, Arizona Revised Statutes, is amended to
3 read:

4 38-764. Commencement of retirement; payment of retirement
5 benefits; lump sum payments

6 A. Retirement is deemed to commence on a date elected by the
7 member. That date shall not be earlier than the day following the date of
8 termination of employment, the date ASRS receives the member's completed
9 retirement application or the date specified by the member pursuant to
10 subsection I OR J of this section.

11 B. All retirement benefits:

12 1. Are normally payable in monthly installments beginning on the
13 commencement of retirement as prescribed in subsection A of this section.

14 2. Continue to and include the first day of the month in which
15 death occurs or continue until the date of their cessation in accordance
16 with any optional method of payment that may have been elected.

17 C. Except as provided in subsection D of this section, at the
18 request of a retired member, a retired member's guardian or a court
19 appointed conservator, the board may pay any increase in retirement
20 benefits or the entire retirement benefit in a lump sum payment based on
21 the actuarial present value of the benefit or the increase in the benefit
22 if the payment of the benefits would result in ineligibility, reduction or
23 elimination of social service programs provided to the member by this
24 state, its political subdivisions or the federal government.

25 D. The board may pay the entire retirement benefit in a lump sum
26 pursuant to subsection C of this section only if continued membership in
27 ASRS will result in additional requests for lump sum payments based on
28 cost of living adjustments or the establishment of minimum benefit awards.

29 E. If any benefit that is payable as a series of periodic payments
30 amounts to less than a threshold amount determined by the board, the
31 board, in its sole discretion and based on uniform rules it establishes,
32 may order the amount to be paid in a lump sum. A member who receives a
33 lump sum payment pursuant to this subsection remains a member of ASRS and
34 is eligible for the coverage provided pursuant to section 38-782 and the
35 payment pursuant to section 38-783 but is not eligible for a benefit
36 increase pursuant to section 38-767.

37 F. All distributions of retirement benefits to a member shall be
38 distributed within the required distribution provisions of section
39 401(a)(9) of the internal revenue code and the regulations that are issued
40 under that section by the United States secretary of the treasury as
41 prescribed in section 38-775.

42 G. Notwithstanding subsection H of this section, a member may elect
43 to cancel the effective date of retirement within thirty days of
44 retirement or before the member's receipt of retirement benefits,
45 whichever is later.

1 H. A member may elect to make changes to a retirement application
2 before the member's retirement date. A member may exercise a onetime
3 election to make changes to the retirement application within sixty days
4 after the member's retirement date. The member may not change the
5 member's retirement date, and any changes made to the retirement
6 application are retroactive to the member's retirement date.

7 I. A member who attains a normal retirement date may retire at any
8 time without terminating employment if the member is employed for less
9 than the hours required for active membership pursuant to section 38-711,
10 paragraph 23, subdivision (b). THE EMPLOYER SHALL PAY THE ALTERNATE
11 CONTRIBUTION RATE ON BEHALF OF THE RETIRED MEMBER PURSUANT TO SECTION
12 38-766.02. ON OR BEFORE THE DATE OF RETIREMENT UNDER THIS SUBSECTION, A
13 MEMBER WHO RETIRES PURSUANT TO THIS SUBSECTION AND THE MEMBER'S EMPLOYER
14 SHALL NOTIFY ASRS IN WRITING OF THE MEMBER'S RETIREMENT WITHOUT
15 TERMINATING EMPLOYMENT.

16 J. NOTWITHSTANDING SECTION 38-766, A MEMBER WHO IS AN ELECTED
17 OFFICIAL AND WHO ATTAINS A NORMAL RETIREMENT DATE MAY RETIRE AT ANY TIME
18 WITHOUT TERMINATING THE MEMBER'S POSITION AS AN ELECTED OFFICIAL. A
19 MEMBER WHO RETIRES PURSUANT TO THIS SUBSECTION IS A RETIRED MEMBER AS OF
20 THE DATE OF RETIREMENT. THE PERIOD OF EMPLOYMENT AFTER RETIREMENT
21 PURSUANT TO THIS SUBSECTION IS NOT ELIGIBLE FOR PURCHASE PURSUANT TO
22 SECTION 38-743 OR 38-744. A MEMBER WHO RETIRES PURSUANT TO THIS
23 SUBSECTION IS NOT ELIGIBLE FOR LONG-TERM DISABILITY AND DOES NOT EARN
24 SERVICE CREDIT WHILE RETIRED. IF THE RETIRED MEMBER IS EMPLOYED BY AN
25 EMPLOYER IN A NONELECTED POSITION FOR WHICH THE RETIRED MEMBER IS REQUIRED
26 TO CONTRIBUTE UNDER THIS ARTICLE AND ARTICLE 2.1 OF THIS CHAPTER, THE
27 RETIRED MEMBER SHALL TERMINATE EMPLOYMENT FOR ALL NONELECTED POSITIONS
28 WITH AN EMPLOYER OR REDUCE THE RETIRED MEMBER'S HOURS WORKED IN THE
29 NONELECTED POSITION WITH ALL EMPLOYERS TO LESS THAN THE HOURS REQUIRED FOR
30 ACTIVE MEMBERSHIP PURSUANT TO SECTION 38-711, PARAGRAPH 23,
31 SUBDIVISION (b). THE EMPLOYER OF THE ELECTED OFFICIAL SHALL PAY THE
32 ALTERNATE CONTRIBUTION RATE ON BEHALF OF THE RETIRED MEMBER PURSUANT TO
33 SECTION 38-766.02. ON OR BEFORE THE DATE OF RETIREMENT UNDER THIS
34 SUBSECTION, A MEMBER WHO RETIRES PURSUANT TO THIS SUBSECTION AND THE
35 MEMBER'S EMPLOYER SHALL NOTIFY ASRS IN WRITING OF THE MEMBER'S RETIREMENT
36 WITHOUT TERMINATING EMPLOYMENT.

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

39 38-766.01. Retired members; return to work

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

- 43 1. The retired member has attained the member's normal retirement
44 age.

1 2. The retired member terminated direct employment with an employer
2 at least three hundred sixty-five consecutive days before returning to
3 work.

4 3. If the retired member returns to work as a teacher, the retired
5 member's employment is not subject to the requirements prescribed in
6 sections 15-536, 15-538, 15-538.01 and 15-539, ~~through 15-540, 15-541,~~
7 ~~15-542 AND~~ 15-543.

8 B. Notwithstanding section 38-766 and subsection A of this section,
9 at a retired member's election, a retired member WHO ATTAINS A NORMAL
10 RETIREMENT AGE may return to work as ~~a state~~ AN elected official ~~who is~~
11 ~~subject to term limits~~ and still be eligible to receive retirement
12 benefits.

13 C. A retired member's election to return to work under this section
14 is irrevocable for the remainder of the retired member's employment for
15 which the retiree made the election.

16 D. The retired member shall acknowledge this section in writing and
17 file the ~~acknowledgement~~ ACKNOWLEDGMENT with the employer within thirty
18 days after returning to work.

19 E. An employer of a retired member who returns to work pursuant to
20 this section shall not pay contributions on behalf of the retired member
21 pursuant to section 38-736, 38-737 or 38-797.05.

22 F. A retired member who returns to work pursuant to this section
23 does not accrue credited service, member service as provided in section
24 15-1628, subsection B, paragraph 4, additional account balances,
25 retirement benefits or long-term disability program benefits pursuant to
26 article 2.1 of this chapter for the period the retired member returns to
27 work. The period the retired member returns to work is not eligible for
28 purchase under section 38-743 or 38-744.

29 Sec. 3. Section 38-766.02, Arizona Revised Statutes, is amended to
30 read:

31 38-766.02. Retired members; return to work; employer
32 contribution payments; exception; definitions

33 A. Notwithstanding section 38-766.01, subsection E, beginning
34 July 1, 2012, an employer shall pay contributions at an alternate
35 contribution rate on behalf of a retired member who ~~returns to work~~ WORKS
36 with an ASRS employer AFTER EMPLOYMENT in any capacity in a position
37 ordinarily filled by an employee of the employer or in a position that is
38 similar in duties and responsibilities to that of a position ordinarily
39 filled by an employee of the employer. This subsection applies to a
40 retired member who has reached a normal retirement age or a retired member
41 who retired under section 38-758 if the retired member's retirement
42 benefit has not been suspended pursuant to section 38-766.

43 B. The ASRS actuary shall determine the alternate contribution rate
44 in an annual valuation performed as of June 30. For the fiscal year
45 beginning on July 1 of the following calendar year, the valuation shall

1 determine the percentage to be applied to the compensation, gross salary
2 or contract fee of a retired member who meets the requirements of this
3 section.

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

7 1. The employer contribution rate established by the ASRS actuary
8 pursuant to section 38-737 plus the employer contribution rate established
9 by the ASRS actuary pursuant to section 38-797.06.

10 2. The total past service funding requirement rate established by
11 the ASRS actuary pursuant to section 38-737 plus the total past service
12 funding requirement rate established by the ASRS actuary pursuant to
13 section 38-797.06.

14 D. ASRS shall determine the schedule and method of payment of the
15 alternate contribution rate. Subject to section 38-738, subsection A, all
16 contributions made by the employer and allocated to the fund established
17 by section 38-712 are irrevocable and shall be used as benefits under this
18 article or to pay the expenses of ASRS. Payments made pursuant to this
19 section by employers become delinquent after the due date prescribed in
20 the board's rules and thereafter shall be increased by interest from and
21 after that date until payment is received by ASRS. ASRS shall charge
22 interest on the delinquent payments as prescribed in section 38-711. ASRS
23 may recover delinquent payments due under this section, together with
24 interest charges as provided in this section, by action in a court of
25 competent jurisdiction against an employer liable for payments or, at the
26 request of the director, ASRS may deduct the delinquent payments and
27 interest charges from any other monies, including excise revenue taxes,
28 payable to the employer by any department or agency of this state.

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

34 F. An employer is not required to pay contributions at an alternate
35 contribution rate on behalf of a retired member under subsection A of this
36 section if the retired member returns to work with the employer in a
37 position that is currently filled by an employee of the employer who is an
38 active member and for which the employer is currently required to pay and
39 is paying contributions on behalf of the active member in that same
40 position pursuant to sections 38-736 and 38-737. An employer may pay
41 contributions at an alternate contribution rate for a retired member who
42 meets the requirements for an exemption under this subsection.

43 G. For contributions made pursuant to subsection F of this section
44 beginning July 1, 2019, if ASRS and the employer determine that the
45 alternate contribution rate does not apply to a retired member who returns

1 to work for whom the employer has paid contributions at the alternate
2 contribution rate, the employer may request an employer credit, not
3 including interest, for those contributions within ninety days after the
4 end of the fiscal year in which the contributions were paid. If ASRS
5 determines that an employer credit is not feasible, ASRS shall issue a
6 refund to an employer in a form determined by ASRS.

7 H. For the purposes of this section:

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

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