House Engrossed Senate Bill

**FILED**
**KEN BENNETT**
**SECRETARY OF STATE**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 26

# SENATE BILL 1614

AN ACT

AMENDING TITLE 38, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 38-736, 38-737, 38-797.05 AND 38-797.06, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 4, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-763.05; AMENDING LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 3, SECTION 9; RELATING TO STATE BUDGET PROCEDURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 38, chapter 4, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. EMPLOYEE BENEFITS

38-671. Employee benefits; exclusions; definitions

A. ANY EMPLOYEE HIRED AFTER THE EFFECTIVE DATE OF THIS SECTION IS NOT ELIGIBLE FOR STATE EMPLOYEE BENEFITS UNTIL THE EMPLOYEE HAS WORKED REGULARLY FOR AT LEAST NINETY DAYS.

B. NOTWITHSTANDING ANY OTHER LAW, ANY STATE EMPLOYEE HIRED AFTER THE EFFECTIVE DATE OF THIS SECTION IS NOT ELIGIBLE TO BECOME A MEMBER OF ANY STATE RETIREMENT SYSTEM UNTIL THE EMPLOYEE HAS WORKED REGULARLY FOR AT LEAST SIX MONTHS.

C. FOR THE PURPOSES OF THIS SECTION:

1. "STATE EMPLOYEE BENEFITS" MEANS ANY COVERAGE PROVIDED PURSUANT TO ARTICLE 4 OF THIS CHAPTER.

2. "STATE RETIREMENT SYSTEM" MEANS THE ARIZONA STATE RETIREMENT SYSTEM ESTABLISHED BY CHAPTER 5, ARTICLE 2 OF THIS TITLE AND THE LONG-TERM DISABILITY PROGRAM ESTABLISHED BY CHAPTER 5, ARTICLE 2.1 OF THIS TITLE.

Sec. 2. Section 38-736, Arizona Revised Statutes, is amended to read:

38-736. Member contributions

A. Member contributions are required as a condition of employment and shall be made by payroll deductions. Member contributions shall begin simultaneously with membership in ASRS. Beginning July 1, ~~1985~~ 2011, member contributions are a percentage of a member's compensation equal to ~~the employer contribution required~~ FIFTY-THREE PER CENT OF THE TOTAL CONTRIBUTIONS, AS DETERMINED pursuant to section 38-737. Amounts so deducted by employers shall be deposited in the ASRS depository.

B. The employer shall pay the member contributions required of members on account of compensation earned. The paid contributions shall be treated as employer contributions for the purpose of determining tax treatment under the internal revenue code. The effective date of the employer payment shall not be before the date ASRS has received notification from the United States internal revenue service that pursuant to section 414(h) of the internal revenue code the member contributions paid will not be included in gross income for income tax purposes until the paid contributions are distributed by refund or retirement benefit payments. The employer shall pay the member contributions from monies that are established and available in the retirement deduction account and that would otherwise have been designated as member contributions and paid to ASRS. Member contributions paid pursuant to this subsection shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made before the approval of the United States internal revenue service pursuant to this section.

Sec. 3. Section 38-737, Arizona Revised Statutes, is amended to read:

38-737. Employer contributions

A. Employer contributions shall be a percentage of compensation of all employees of the employers, excluding the compensation of those employees who are members of the defined contribution program administered by ASRS, as determined by the ASRS actuary pursuant to this section for June 30 of the fiscal year immediately preceding the preceding fiscal year, except that beginning with fiscal year 2001-2002 the contribution rate shall not be less than two per cent of compensation of all employees of the employers. BEGINNING JULY 1, 2011, the total employer contribution shall be FORTY-SEVEN PERCENT OF THE TOTAL CONTRIBUTIONS. THE TOTAL CONTRIBUTIONS SHALL BE determined on the projected unit credit method. The total ~~employer~~ contributions shall be equal to the ~~employer~~ normal cost plus the amount required to amortize the past service funding requirement over a rolling thirty-year period.

B. All contributions made by the employer and allocated to the fund established by section 38-712 are irrevocable and shall be used as benefits under this article or to pay expenses of ASRS.

C. The required ~~employer~~ TOTAL contributions shall be determined on an annual basis by an actuary who is selected by the board and who is a fellow of the society of actuaries. ASRS shall provide a preliminary report by November 1 and a final report by December 15 of each fiscal year to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

Sec. 4. Section 38-797.05, Arizona Revised Statutes, is amended to read:

38-797.05. Employer and member contributions

A. Beginning July 1, ~~1996~~ 2011, employers shall contribute the percentage of the compensation of all of the members under their employment so that the total employer contributions equals the amount that the board determines is necessary to pay ~~one-half~~ FORTY-SEVEN PER CENT of all benefits under and costs of administering the LTD program.

B. Beginning July 1, ~~1996~~ 2011, a member shall contribute a percentage of the member's compensation equal to the REMAINDER NECESSARY TO PAY FOR ALL BENEFITS UNDER AND COSTS OF ADMINISTERING THE LTD PROGRAM AFTER THE employer contribution for the member required pursuant to subsection A of this section IS PAID.

C. The employer shall pay the member contributions required of members on account of compensation earned. All employer and member contributions shall be paid to the board. The board shall allocate the contributions to the LTD trust fund and shall place the contributions in the LTD program's depository.

D. Each employer shall certify on each payroll the amount to be contributed to the LTD program and shall remit that amount to the board. The contributions are irrevocable.

E. Payments due pursuant to this article by employers become delinquent after the due date prescribed in the board's rules and thereafter shall be increased by interest from and after that date until payment is received by the board. The board shall charge interest on the delinquent payments at an annual rate equal to the interest rate assumption approved by the board for actuarial equivalency pursuant to article 2 of this chapter. Delinquent payments due under this subsection, together with interest charges as provided in this subsection, may be recovered by an action in a court of competent jurisdiction against an employer liable for payments or, at the request of the director, may be deducted from any monies, including excise revenue taxes, payable to the employer by any department or agency of this state.

F. If more than the correct amount of contributions required is paid by an employer, proper adjustment shall be made in connection with subsequent payments. The board shall return excess contributions to the employer if the employer requests return of the contributions within one year after the date of overpayment.

G. Member contributions are not refundable and are not included in the calculation of survivor benefits pursuant to section 38-762.

Sec. 5. Section 38-797.06, Arizona Revised Statutes, is amended to read:

38-797.06. Contribution rate; annual report

A. The board shall select an actuary to determine required ~~employer~~ contributions on an annual basis. The actuary shall be a fellow of the society of actuaries.

B. ~~Employer~~ Contributions shall be a percentage of compensation of all employees of the employers, as the ASRS actuary determines pursuant to this section. The actuary shall make this determination in an annual valuation performed as of June 30. The valuation as of June 30 of a calendar year shall determine the percentage to be applied to compensation for the fiscal year beginning July 1 of the following calendar year. The actuary shall determine the total ~~employer contribution~~ CONTRIBUTIONS using an actuarial cost method consistent with generally accepted actuarial standards. The total ~~employer~~ contributions shall be equal to the ~~employer~~ normal cost plus the amount required to amortize the past service funding requirement over a period consistent with generally accepted actuarial standards.

C. All contributions made by the employer and allocated to the LTD trust fund established by section 38-797.02 are irrevocable and shall be used as benefits under this article or to pay expenses of the LTD program.

D. ASRS shall provide a preliminary report on or before November 30 of the valuation year and a final report on or before January 15 of the following year to the governor, the speaker of the house of representatives and the president of the senate on the contribution rate for the ensuing fiscal year.

Sec. 6. Title 41, chapter 4, article 5, Arizona Revised Statutes, is amended by adding section 41-763.05, to read:

41-763.05. Required reduction in hours

AN AGENCY DIRECTOR MAY REQUIRE AGENCY COVERED EMPLOYEES TO WORK REDUCED HOURS IN ORDER TO COMPLY WITH ANY REDUCTION IN APPROPRIATIONS. THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION SHALL PRESCRIBE PROCEDURES TO IMPLEMENT THESE REDUCTIONS.

Sec. 7. Laws 2010, seventh special session, chapter 3, section 9 is amended to read:

Sec. 9. Mandatory furloughs; 2009-2010; 2010-2011; terms; exceptions; definitions

A. In order to the implement the expenditure reductions for personnel expenses in the 2010-2011 general appropriations act, the joint legislative budget committee staff shall determine and the department of administration shall allocate to each state agency, department, board or commission an amount sufficient to implement the mandatory furloughs pursuant to this section. All monies from other appropriated funds and nonfederal nonappropriated funds that are reduced pursuant to this section shall be transferred to the state general fund. The joint legislative budget committee staff also shall determine and the department of administration shall allocate reductions, as necessary, in total expenditure authority resulting from the mandatory furloughs required by this section.

B. Unless otherwise exempted by this section, each state agency, department, board or commission, in addition to any other furlough program implemented by the agency, shall furlough employees as follows:

1. In fiscal year 2009-2010: One day

2. In fiscal year 2010-2011: ~~Six~~ FIVE days

~~3. In fiscal year 2011-2012: Six days~~

C. It is the intent of the legislature that the furlough days required by this section be taken no more than once a month and in a way that maximizes utility savings and minimizes customer inconvenience. The department of administration shall publish a list of the preferred furlough dates that best achieve these goals. These published dates shall be the presumptive furlough dates for all governmental units unless otherwise approved by the department of administration. Notwithstanding any other law, for fiscal years 2009-2010~~,~~ AND 2010-2011 ~~and 2011-2012,~~ the furlough dates published by the department of administration shall authorize participating state offices to be closed on those dates in order to meet the furlough requirements of this section.

D. Employees who are subject to the furlough requirement of this section shall be on leave without pay and are not eligible to use any form of paid leave on a designated furlough day unless allowance for the use of paid leave in any specific case is otherwise required by state or federal law.

1 E. On or before April 16, 2010, the department of administration shall
2 develop a list of governmental unit functions or services requiring
3 continuous operations throughout the entire week or workweek that would be
4 significantly and negatively affected by the implementation of a furlough
5 program due to either:
6 1. The critical nature of the services delivered, such as direct
7 public safety activities or direct care of patients, residents, inmates,
8 detainees or other similar service populations.
9 2. Other compelling demands for a governmental unit's functions or
10 services.
11 F. Employees whose services are determined to be essential pursuant to
12 subsection E to ensuring that functions or services are delivered safely and
13 effectively are exempt from the furlough requirements of this section. It is
14 the intent of the legislature to exempt from the furlough requirements of
15 this section only those employees considered absolutely essential for the
16 proper performance and oversight of these essential functions or services.
17 G. In lieu of mandatory furlough participation, the director of a
18 governmental unit may elect, on written approval of the director of the
19 department of administration, to reduce employee pay for personnel not
20 otherwise determined exempt pursuant to subsection F within the governmental
21 unit by amounts that, when totaled, equal the savings generated by the
22 furlough days otherwise required in this section. The director of the
23 department of administration may approve only those written requests in which
24 the director of the governmental unit establishes, to the satisfaction of the
25 director of the department of administration, that the governmental unit's
26 implementation of mandatory furlough days would not be in the best interests
27 of this state and that an equivalent pay reduction program is more
28 appropriate. The director of the department of administration may approve or
29 disapprove only written requests that fully substitute the required furlough
30 days with an equivalent salary rate and employee related expenditure
31 reduction. Governmental units shall submit written requests pursuant to this
32 subsection no later than April 16, 2010.
33 H. On or before April 30, 2010, the department of administration shall
34 report to the joint legislative budget committee those job classifications
35 and the numbers, by governmental unit, of employees that have been exempted
36 from the furlough program pursuant to this section. The department shall
37 provide report updates to the joint legislative budget committee whenever
38 changes are made to the exempted job classifications or the numbers, by
39 governmental unit, of exempted employees. The report shall also include any
40 written requests that were approved to fully substitute the required furlough
41 days with an equivalent salary rate and employee related expenditure
42 reduction pursuant to subsection G.
43 I. This section does not apply to:
44 1. Employees of universities under the jurisdiction of the Arizona
45 board of regents while the maintenance of effort provisions of the federal

education stabilization program are in effect, as required by the American recovery and reinvestment act of 2009 (P.L. 111-5).

2. Employees of elected state officers.

J. For the purposes of this section:

1. "Employees of elected state officers" means employees of the house of representatives, the senate, any budget unit that reports to the legislature, the judiciary, the secretary of state, the state treasurer, the attorney general, the corporation commission, the state mine inspector, the Arizona board of regents and the superintendent of public instruction.

2. "Governmental unit" means all agencies, departments, boards and commissions of this state unless otherwise exempt under this section.

Sec. 8. Arizona state retirement system; employer contributions

A. In addition to any other appropriation reductions made in fiscal year 2011-2012, notwithstanding any other law, the total reduction in employer contributions to the Arizona state retirement system required by this act is reduced from state general fund appropriations and other state funds appropriated to state agency units and from nonfederal nonappropriated funds for personnel expenses and related benefit costs and is transferred or reverted to the state general fund for the purposes of providing adequate support and maintenance for agencies of this state.

B. The joint legislative budget committee staff shall determine and the department of administration shall allocate to each state agency, department, board or commission an amount sufficient to decrease the employer contributions to the Arizona state retirement system as specified in this act. All monies from other appropriated funds and nonfederal nonappropriated funds that are reduced pursuant to this act shall be transferred to the state general fund.

C. The joint legislative budget committee staff shall also determine and the department of administration shall allocate reductions, as necessary, in total expenditure authority resulting from the reduction in employer contributions to the Arizona state retirement system required by this act.

D. In addition to the allocations made pursuant to subsections B and C, and in addition to reductions required by any other law, for fiscal year 2011-2012, the department of education shall reduce equalization assistance to school districts and charter schools by the amount that their employer contributions to the Arizona state retirement system are reduced pursuant to this act and shall reduce school district budget limits accordingly.

E. In addition to reductions required by any other law, for fiscal year 2011-2012, the department of education shall reduce the capital outlay revenue limit for a school district that is not eligible to receive equalization assistance for fiscal year 2011-2012 by the amount that its equalization assistance would be reduced pursuant to subsection D if the district was eligible to receive equalization assistance for fiscal year 2011-2012 and shall reduce school district budget limits accordingly.

1 Sec. 9. Federal stimulus funding; reporting; definitions
2 A. The governor has allocated the government services portion of the
3 fiscal stabilization fund from the American recovery and reinvestment act of
4 2009 (P.L. 111-5) to the following expenditure categories and subexpenditure
5 categories:
6 1. Education reform.
7 (a) Teach for America - $2,000,000.
8 (b) Education information systems - $3,000,000.
9 (c) Education innovation project - $1,636,374.
10 Subtotal - Education reform - $ 6,636,374.
11 2. Health care and children's programs.
12 (a) Department of health services community health - $11,600,000.
13 (b) Department of health services Arizona state hospital - $116,273.
14 (c) Department of economic security autism - $2,297,824.
15 (d) Department of economic security developmentally disabled -
16 $15,000,000.
17 (e) Department of economic security children's services - $18,000,000.
18 (f) Department of economic security adoption services - $2,500,000.
19 (g) Department of economic security child protective services -
20 $5,500,000.
21 Subtotal - Health care and children's programs - $55,014,097.
22 3. Public safety
23 (a) Department of corrections - $50,000,000.
24 (b) Border security enhancement - $10,000,000.
25 (c) Public safety stabilization - $10,000,000.
26 (d) Supplemental public safety projects - $6,545,494.
27 (e) Department of administration public safety project - $1,700,000.
28 Subtotal - Public safety - $78,245,494.
29 4. Innovation, technology and economic development.
30 (a) Commerce economic development - $15,000,000.
31 (b) Commerce job training - $12,000,000.
32 (c) Commerce jobs agenda - $12,000,000.
33 (d) Arizona technology enhancement (department of administration) -
34 $182,079.
35 Subtotal - Innovation, technology and economic development -
36 $39,182,079.
37 5. Arizona county projects (including all categories) - $4,007,797.
38 6. Office of economic recovery state fiscal stabilization fund costs -
39 $2,000,000.
40 Total - Government services fiscal stabilization fund - $185,085,841.
41 B. Within thirty days after the last day of each calendar quarter, the
42 governor's office of economic recovery shall provide a report to the joint
43 legislative budget committee outlining the allocation of monies to the
44 designated categories.

C. For the designated categories, the report shall include the amount newly allocated and newly expended in the calendar quarter immediately preceding the report date listed in subsection B and the total amount allocated and expended to date by the following:

1. Each state agency that has received an allocation of monies.

2. Each individual grantee that has received an allocation of monies.

D. For the purposes of this section:

1. "Designated category" means an expenditure category or subexpenditure category listed in subsection A as education information systems, education innovation project, supplemental public safety projects, department of administration public safety project, commerce economic development, commerce job training, commerce jobs agenda or Arizona technology enhancement (department of administration).

2. "State agency" means any department, office, agency, commission, board or other instrumentality of state government.

Sec. 10. Unrestricted federal monies

Any unrestricted federal monies received from July 1, 2011 through June 30, 2012 shall be deposited in the state general fund. The monies shall be used for the payment of essential governmental services.

Sec. 11. Rental rates; state-owned buildings; fiscal year 2011-2012; intent

Notwithstanding section 41-792.01, subsection D, Arizona Revised Statutes, the capital outlay stabilization fund rental rates for state-owned buildings in fiscal year 2011-2012 shall decrease from $21.02 per square foot for office space to $15.08 per square foot and from $7.62 per square foot for storage space to $5.47 per square foot. It is the intent of the legislature that the square footage calculations are based on the methodology currently used by the department of administration.

Sec. 12. Annual budgets

Notwithstanding section 35-121, Arizona Revised Statutes, for fiscal year 2011-2012, appropriations for all budget units may be limited to one fiscal year.

Sec. 13. Calculation adjustments; fiscal year 2011-2012; closing state general fund balance

Notwithstanding any other law, for the purposes of calculating the state general fund balance at the close of fiscal year 2011-2012, any monies that are appropriated from the state general fund that are exempt from lapsing pursuant to section 35-190, Arizona Revised Statutes, and that remain unexpended and unencumbered at the close of fiscal year 2011-2012 shall be included in the closing balance as if the appropriations had lapsed or otherwise reverted to the state general fund.

Sec. 14. Rule making exemption

The director of the department of administration is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, until July 1, 2012 for the purposes of prescribing the procedures required by section 41-763.05, Arizona Revised Statutes, as added by this act.

Sec. 15. Retroactivity

A. Laws 2010, seventh special session, chapter 3, section 9, as amended by this act, applies retroactively to April 1, 2011.

B. Sections 38-736, 38-737, 38-797.05 and 38-797.06, Arizona Revised Statutes, as amended by this act, apply retroactively to from and after June 30, 2011.

APPROVED BY THE GOVERNOR APRIL 6, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 7, 2011.

Passed the House April 1, 2011,

by the following vote: 40 Ayes,

19 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 16, 2011,

by the following vote: 21 Ayes,

9 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

**S.B. 1614**

**SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE**

Passed the Senate April 1, 20 11

by the following vote: 21 Ayes,

8 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF GOVERNOR**

This Bill received by the Governor this

15th day of April, 20 11

at 5:30 o'clock P. M.

Secretary to the Governor

Approved this 6th day of

April

at 5:42 o'clock P. M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA**
**OFFICE OF SECRETARY OF STATE**

This Bill received by the Secretary of State

this 7th day of April, 20 11

at 2:06 o'clock P M.

Secretary of State

S.B. 1614