

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 304

HOUSE BILL 2264

AN ACT

AMENDING SECTIONS 38-736, 38-737, 38-797.05 AND 38-797.06, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; 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 38-736, Arizona Revised Statutes, is amended to
3 read:

4 38-736. Member contributions

5 A. Member contributions are required as a condition of employment and
6 shall be made by payroll deductions. Member contributions shall begin
7 simultaneously with membership in ASRS. Beginning July 1, 2011, member
8 contributions are a percentage of a member's compensation equal to
9 ~~fifty three per cent of the total contributions, as determined~~ THE EMPLOYER
10 CONTRIBUTION REQUIRED pursuant to section 38-737. Amounts so deducted by
11 employers shall be deposited in the ASRS depository.

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

27 Sec. 2. Section 38-737, Arizona Revised Statutes, is amended to read:

28 38-737. Employer contributions

29 A. Employer contributions shall be a percentage of compensation of all
30 employees of the employers, excluding the compensation of those employees who
31 are members of the defined contribution program administered by ASRS, as
32 determined by the ASRS actuary pursuant to this section for June 30 of the
33 fiscal year immediately preceding the preceding fiscal year, except that
34 beginning with fiscal year 2001-2002 the contribution rate shall not be less
35 than two per cent of compensation of all employees of the employers.
36 Beginning July 1, 2011, the total employer contribution shall be ~~forty seven~~
37 ~~per cent of the total contributions. The total contributions shall be~~
38 determined on the projected unit credit method. The total EMPLOYER
39 contributions shall be equal to the EMPLOYER normal cost plus the amount
40 required to amortize the past service funding requirement over a rolling
41 thirty-year period.

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

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

7 Sec. 3. Section 38-797.05, Arizona Revised Statutes, is amended to
8 read:

9 38-797.05. Employer and member contributions

10 A. Beginning July 1, 2011, employers shall contribute the percentage
11 of the compensation of all of the members under their employment so that the
12 total employer contributions equals the amount that the board determines is
13 necessary to pay ~~forty seven per cent~~ ONE-HALF of all benefits under and
14 costs of administering the LTD program.

15 B. Beginning July 1, 2011, a member shall contribute a percentage of
16 the member's compensation equal to the ~~remainder necessary to pay for all~~
17 ~~benefits under and costs of administering the LTD program after the employer~~
18 ~~contribution for the member required pursuant to subsection A of this section~~
19 ~~is paid.~~

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

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

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

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

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

3 Sec. 4. Section 38-797.06, Arizona Revised Statutes, is amended to
4 read:

5 38-797.06. Contribution rate; annual report

6 A. The board shall select an actuary to determine required EMPLOYER
7 contributions on an annual basis. The actuary shall be a fellow of the
8 society of actuaries.

9 B. EMPLOYER contributions shall be a percentage of compensation of all
10 employees of the employers, as the ASRS actuary determines pursuant to this
11 section. The actuary shall make this determination in an annual valuation
12 performed as of June 30. The valuation as of June 30 of a calendar year
13 shall determine the percentage to be applied to compensation for the fiscal
14 year beginning July 1 of the following calendar year. The actuary shall
15 determine the total ~~contributions~~ EMPLOYER CONTRIBUTION using an actuarial
16 cost method consistent with generally accepted actuarial standards. The
17 total EMPLOYER contributions shall be equal to the EMPLOYER normal cost plus
18 the amount required to amortize the past service funding requirement over a
19 period consistent with generally accepted actuarial standards.

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

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

28 Sec. 5. Return of contributions; retroactivity

29 A. Each employer who is subject to the Arizona state retirement system
30 shall:

31 1. On or before September 30, 2012, return employee contributions to
32 employees who during fiscal year 2011-2012 or 2012-2013 had made employee
33 contributions in excess of the employer contributions required pursuant to
34 sections 38-737 and 38-797.05, Arizona Revised Statutes, that were in effect
35 as of July 1, 2011, except that a return of contributions is not required to
36 an employee who has forfeited or extinguished their right to benefits under
37 title 38, chapter 5, article 2 or has otherwise received the value of the
38 excess contributions as a distribution from the Arizona state retirement
39 system pursuant to title 38, chapter 5, article 2 or 2.1. The return of
40 excess employee contributions under title 38, chapter 5, article 2, Arizona
41 Revised Statutes, shall be treated as taxable wages in calendar year 2012 and
42 the return of excess employee contributions under title 38, chapter 5,
43 article 2.1, Arizona Revised Statutes, shall be treated as a payment by the
44 employer of previously taxed wages. The return of any excess employee
45 contributions shall not be treated as salary, wages or compensation as

1 defined in section 38-711, Arizona Revised Statutes. The Arizona state
2 retirement system is not under any duty to monitor, arbitrate, manage or
3 otherwise control the return of any excess employee contributions by
4 employers to employees.

5 2. Adjust transactions reported to the Arizona state retirement system
6 in a manner instructed by the Arizona state retirement system on or before
7 June 30, 2012.

8 B. Notwithstanding any other law, the Arizona state retirement system
9 may adjust or rebalance a member's account to take into consideration the
10 modification to the contribution rate provided in this act.

11 C. Sections 38-736, 38-737, 38-797.05 and 38-797.06, as amended by
12 this act, apply retroactively to from and after June 30, 2011.

13 Sec. 6. Retirement rate shift; 2011-2012 employee refund;
14 exemption; appropriations

15 A. In addition to any other appropriation made in fiscal year
16 2011-2012, the sum of \$6,602,900 from the state general fund and \$1,454,200
17 from other appropriated funds is appropriated to state agency units for a
18 retirement contribution rate increase due to changes in the proportion of the
19 retirement rate paid by the employer in the Arizona state retirement system
20 from forty-seven per cent to fifty per cent, and to reimburse employees for
21 retirement contributions made in excess of fifty per cent of the total
22 retirement contribution in fiscal year 2011-2012. The joint legislative
23 budget committee staff shall determine and the department of administration
24 shall allocate to each agency or department an amount for the contribution
25 adjustment. The joint legislative budget committee staff shall also
26 determine and the department of administration shall allocate adjustments, as
27 necessary, in expenditure authority to allow the implementation of retirement
28 rate adjustments.

29 B. In addition to any other appropriations made in fiscal year
30 2011-2012 to the department of education, the sum of \$32,714,800 is
31 appropriated from the state general fund in fiscal year 2011-2012 to the
32 department of education for basic state aid associated with a retirement
33 contribution rate increase due to changes in the proportion of the retirement
34 rate paid by the employer in the Arizona state retirement system from
35 forty-seven per cent to fifty per cent and to reimburse employees for
36 retirement contributions made in excess of fifty per cent of the total
37 retirement contribution in fiscal year 2011-2012.

38 C. Before June 30, 2012, \$1,949,200 shall be transferred from the
39 state general fund to other state funds for transfers made under Laws 2011,
40 chapter 26, section 8. The joint legislative budget committee staff shall
41 determine and the department of administration shall allocate to each fund an
42 amount for the transfer.

1 D. The appropriations made in this section are exempt from the
2 provisions of section 35-190, Arizona Revised Statutes, relating to lapsing
3 of appropriations, except that any monies remaining unspent on December 31,
4 2012 shall revert to the fund from which the monies were appropriated.

5 Sec. 7. Emergency

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

APPROVED BY THE GOVERNOR MAY 7, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2012.

Passed the House March 5, 2012

Passed the Senate April 24, 2012

by the following vote: 60 Ayes,

by the following vote: 18 Ayes,

0 Nays, 0 Not Voting
w/ emergency
[Signature]
Speaker of the House

0 Nays, 2 Not Voting
with Emergency
[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

27 day of April, 2012

at 8:40 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 7th day of

May

at 4:00 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 8th day of May, 2012

at 8:25 o'clock a M.

[Signature]
Secretary of State