House Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 323

HOUSE BILL 2643

AN ACT

AMENDING SECTIONS 38-843.05, 38-847, 38-849, 38-884 AND 38-891.01, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT SYSTEMS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-843.05, Arizona Revised Statutes, is amended to read:

38-843.05. Retired members; return to work; employer contributions

A. An employer shall pay contributions at an alternate contribution rate on behalf of a retired member who returns to work in any capacity in a position ordinarily filled by an employee of the employer of an eligible group, unless the retired member is required to participate in another state retirement system and the retired member returned to work before July 20, 2011. For the purposes of this subsection, "returns to work in any capacity" includes a retired member who returns to work and is ineligible for benefits pursuant to section 38-849, subsection E.

B. The alternate contribution rate shall be equal to that portion of the INDIVIDUAL EMPLOYER'S total required contribution that is applied to the amortization of the unfunded actuarial accrued liability for the fiscal year beginning July 1, based on the system's actuary's calculation of the total required contribution for the preceding fiscal year ended on June 30. The alternate contribution rate shall be applied to the compensation, gross salary or contract fee of a retired member who meets the requirements of this section.

C. The alternate contribution rate shall not be less than eight ~~per cent~~ PERCENT in any fiscal year.

D. All contributions made by the employer and allocated to the fund are irrevocable and shall be used as benefits under this article or to pay the expenses of the system. Payments made pursuant to this section by employers become delinquent after the due date prescribed in section 38-843, subsection D, and thereafter shall be increased by interest from and after that date until payment is received by the system.

E. An employer of a retired member shall immediately notify the local board after the employment of a retired member and shall submit any reports, data, paperwork or materials that are requested by the board or the local board that are necessary to determine the compensation, gross salary or contract fee associated with a retired member who returns to work or to determine the function, use, efficacy or operation of the return to work program.

Sec. 2. Section 38-847, Arizona Revised Statutes, is amended to read:

38-847. Local boards

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each

community college district, each municipal police department, the department of law, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation ~~fire fighting~~ FIREFIGHTING agency shall have a local board. A nonprofit corporation operating pursuant to sections 28-8423 and 28-8424 shall have one local board for all of its members. Each local board shall be constituted as follows:

1. For political subdivisions or Indian tribes, the mayor or chief elected official or a designee of the mayor or chief elected official approved by the respective governing body as chairman, two members elected by secret ballot by members employed by the appropriate employer and two citizens, one of whom shall be the head of the merit system, or the head's designee from among the other members of the merit system, if it exists for the group of members, appointed by the mayor or chief elected official and with the approval of the governing body of the city or the governing body of the employer. The appointed two citizens shall serve on both local boards in a city or Indian tribes where both fire and police department employees are members.

2. For state agencies and nonprofit corporations operating pursuant to sections 28-8423 and 28-8424, two members elected by secret ballot by the members employed by the appropriate employer and three citizens appointed by the governor. Each state agency local board shall elect a chairman.

3. For fire districts ~~organized pursuant to section 48-804, the secretary-treasurer as chairman~~, THE CHAIRPERSON OF THE FIRE DISTRICT GOVERNING BOARD OR THE CHAIRPERSON'S DESIGNEE, two members elected by secret ballot by members employed by the fire district and two citizens appointed by the ~~secretary-treasurer~~ CHAIRPERSON OF THE FIRE DISTRICT GOVERNING BOARD, one of whom is a resident of the fire district and one of whom has experience in personnel administration but who is not required to be a resident of the fire district.

4. For joint powers authorities organized pursuant to section 48-805.01, the joint powers authority board chairman or a designee approved by the governing body, two members elected by secret ballot by members employed by the joint powers authority and two citizens, one of whom is a resident of one of the partner entities and one of whom has experience in personnel administration but who is not required to be a resident of a partner entity.

B. On the taking effect of this system for an employer, the appointments and elections of local board members shall take place with one elective and appointive local board member serving a term ending two years after the effective date of participation for the employer and other local board members serving a term ending four years after the effective date. Thereafter, every second year, and as a vacancy occurs, an office shall be filled for a term of four years in the same manner as previously provided.

C. Each local board shall be fully constituted pursuant to subsection A of this section within sixty days after the employer's effective date of participation in the system. If the deadline is not met, on the written request of any member who is covered by the local board or the employer to the board of trustees, the board of trustees may appoint all vacancies of the local board pursuant to subsection A of this section and designate whether each appointive position is for a two year or four year term. If the board of trustees cannot find individuals to serve on the local board who meet the requirements of subsection A of this section, the board of trustees may appoint individuals to serve as interim local board members until qualified individuals are appointed or elected. Each local board shall meet at least twice a year. Each member of a local board, within ten days after the member's appointment or election, shall take an oath of office that, so far as it devolves on the member, the member shall diligently and honestly administer the affairs of the local board and that the member shall not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the system.

D. Except as limited by subsection E of this section, a local board shall have such powers as may be necessary to discharge the following duties:

1. To decide all questions of eligibility for membership, service credits and benefits and determine the amount, manner and time of payment of any benefits under the system.

2. To prescribe procedures to be followed by claimants in filing applications for benefits.

3. To make a determination as to the right of any claimant to a benefit and to afford any claimant or the board of trustees, or both, a right to a rehearing on the original determination. Except as otherwise required by law, unless all parties involved in a matter presented to the local board for determination otherwise agree, the local board shall commence a hearing on the matter within ninety days after the date the matter is presented to the local board for determination. If a local board fails to commence a hearing as provided in this paragraph, on a matter presented to the local board for determination, the relief demanded by the party petitioning the local board is deemed granted and approved by the local board. The granting and approval of this relief is considered final and binding unless a timely request for rehearing or appeal is made as provided in this article, unless the board of trustees determines that granting the relief requested would violate the internal revenue code or threaten to impair the system's status as a qualified plan under the internal revenue code. If the board of trustees determines that granting the requested relief would violate the internal revenue code or threaten to impair the system's status as a qualified plan, the board of trustees may refuse to grant the relief by issuing a written determination to the local board and the party petitioning the local board for relief. The decision by the board of trustees is subject to judicial review pursuant to title 12, chapter 7, article 6.

4. To request and receive from the employers and from members such information as is necessary for the proper administration of the system and action on claims for eligibility for membership and benefits, and to forward such information to the board of trustees.

5. To distribute, in such manner as the local board determines to be appropriate, information explaining the system received from the board of trustees.

6. To furnish the employer, the board of trustees and the legislature, on request, with such annual reports with respect to the administration of the system as are reasonable and appropriate.

7. To receive and review the actuarial valuation of the system for its group of members.

8. To receive and review reports of the financial condition and of the receipts and disbursements of the fund from the board of trustees.

9. To appoint medical boards as provided in section 38-859.

10. To sue and be sued to effectuate the duties and responsibilities set forth in this article.

E. A local board shall have no power to add to, subtract from, modify or waive any of the terms of the system, change or add to any benefits provided by the system or waive or fail to apply any requirement of eligibility for membership or benefits under the system. Notwithstanding any limitations periods imposed in this article, including subsection D, paragraph 3 and subsections G and H of this section, if the board of trustees determines a local board decision violates the internal revenue code or threatens to impair the system's status as a qualified plan under the internal revenue code, the local board's decision is not final and binding and the board of trustees may refrain from implementing or complying with the local board decision.

F. A local board, from time to time, shall establish and adopt such rules as it deems necessary or desirable for its administration. All rules and decisions of a local board shall be uniformly and consistently applied to all members in similar circumstances. If a claim or dispute is presented to a local board for determination but the local board has not yet adopted uniform rules of procedure for adjudication of the claim or dispute, the local board shall adopt and use the model uniform rules of local board procedure that are issued by the board of trustees' fiduciary counsel to adjudicate the claim or dispute.

G. Except as otherwise provided in this article, any action by a majority vote of the members of a local board that is not inconsistent with the provisions of the system and the internal revenue code shall be final, conclusive and binding on all persons affected by it unless a timely application for a rehearing or appeal is filed as provided in this article. No later than twenty days after taking action, the local board shall submit to the board of trustees the minutes from the local board meeting that include the name of the member affected by its decision, a description of the

action taken and an explanation of the reasons and all documents submitted to the local board for the action taken, including the reports of a medical board. The board of trustees may not implement and comply with any local board action that does not comply with the internal revenue code or that threatens to jeopardize the system's status as a qualified plan under the internal revenue code.

H. A claimant or the board of trustees may apply for a rehearing before the local board within the time periods prescribed in this subsection, except that if a decision of a local board violates the internal revenue code or threatens to jeopardize the system's status as a qualified plan under the internal revenue code, no limitation period for the board of trustees to seek a rehearing of a local board decision applies. An application for a rehearing shall be filed in writing with a member of the local board or its secretary within sixty days after:

1. The applicant-claimant receives notification of the local board's original action by certified mail, by attending the meeting at which the action is taken or by receiving benefits from the system pursuant to the local board's original action, whichever occurs first.

2. The applicant-board of trustees receives notification of the local board's original action as prescribed by subsection G of this section by certified mail.

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board shall be entitled to rely on information furnished by the employer, a medical board, the board of trustees, independent legal counsel or the actuary for the system.

L. Each member of a local board is entitled to one vote. A majority is necessary for a decision by the members of a local board at any meeting of the local board.

M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings in compliance with chapter 3, article 3.1 of this title and forward the minutes and all necessary communications to the board of trustees as prescribed by subsection G of this section.

N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer and not the board of trustees or system at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes

its duty of loyalty only to the local board in connection with its representation of the local board.

O. The local board shall issue directions to the board of trustees concerning all benefits that are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the board of trustees and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the employer for any judgment against the local board or its members, including attorney fees and costs, arising from any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

Sec. 3. Section 38-849, Arizona Revised Statutes, is amended to read:

38-849. <u>Limitations on receiving pension; violation; classification; reemployment after severance; reinstatement of service credits; reemployment of retired member or member with a disability; definition</u>

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

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

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

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

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

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

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

E. If a retired member becomes reemployed in any capacity by the employer from which the member retired before one year from the date of retirement or in the same position at any time following retirement:

1. The following apply:

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

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

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

2. Paragraph 1, subdivisions (a) and (b) of this subsection do not apply if either:

(a) The retired member becomes reemployed after sixty consecutive days from the member's retirement date as a result of participating in an open competitive new hire process for an entry level, nonsupervisory position, except if the retired member is hired for the same position.

(b) The retired member is hired as a fire inspector or arson investigator.

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

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

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

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

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

K. A person who defrauds the system or who takes, converts, steals or embezzles monies owned by or from the system and who fails or refuses to return the monies to the system on the board's written request is subject to civil suit by the system in the superior court in Maricopa county. On entry of an order finding the person has defrauded the system or taken, converted, stolen or embezzled monies owned by or from the system, the court shall enter an order against that person and for the system awarding the system all of its costs and expenses of any kind, including attorney fees, that were

1 necessary to successfully prosecute the action. The court shall also grant
2 the system a judicial lien on all of the nonexempt property of the person
3 against whom judgment is entered pursuant to this subsection in an amount
4 equal to all amounts awarded to the system, plus interest at the rate
5 prescribed by section 44-1201, until all amounts owed are paid to the system.
6 L. Notwithstanding any other provision of this article, the board may
7 offset against any benefits otherwise payable by the system to an active or
8 retired member or survivor any court ordered amounts awarded to the board and
9 system and assessed against the member or survivor.
10 M. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A MEMBER WHO
11 RETIRES HAVING MET ALL OF THE QUALIFICATIONS FOR RETIREMENT AND WHO
12 SUBSEQUENTLY BECOMES AN ELECTED OFFICIAL, BY ELECTION OR APPOINTMENT, IS NOT
13 CONSIDERED REEMPLOYED BY THE SAME EMPLOYER.
14 ~~M.~~ N. For the purposes of this section, "same position" means a
15 position in which the member performs substantially similar duties that were
16 performed and exercises substantially similar authority that was exercised by
17 the retired member before retirement.
18 Sec. 4. Section 38-884, Arizona Revised Statutes, is amended to read:
19 38-884. Membership of retirement plan; termination; credited
20 service; redemption; reemployment; definition
21 A. Each employee of a participating employer is a member of the plan
22 unless the employee is receiving a pension from the plan. A person employed
23 shall undergo a medical examination performed by a designated physician or a
24 physician working in a clinic that is appointed by the local board or, in the
25 case of a state correctional officer who is employed by the state department
26 of corrections, complete a physical examination pursuant to section 41-1822,
27 subsection B. For the purposes of subsection B of this section, the
28 designated physician or a physician working in a clinic that is appointed by
29 the local board may be the employer's regular employee or contractor.
30 B. The purpose of the medical examination authorized by this section
31 is to identify a member's physical or mental condition or injury that existed
32 or occurred before the member's date of membership in the plan. Any employee
33 who fails or refuses to submit to the medical examination prescribed in this
34 section is deemed to waive all rights to disability benefits under this
35 article. Medical examinations conducted under this article shall be
36 conducted by a physician and shall not be conducted or used for purposes of
37 hiring, advancement, discharge, job training or other terms, conditions and
38 privileges of employment unrelated to receipt or qualification for pension
39 benefits or service credits from the fund. This subsection does not affect
40 or impair the right of an employer to prescribe medical or physical standards
41 for employees or prospective employees.
42 C. If a member who becomes a member of the plan before January 1, 2012
43 ceases to be an employee for any reason other than death or retirement,
44 within twenty days after filing a completed application with the board, the
45 member is entitled to receive the following amounts, less any benefit

payments the member has received and any amount the member may owe to the plan:

1. If the member has less than five years of credited service with the plan, the member may withdraw the member's accumulated contributions from the plan.

2. If the member has five or more years of credited service with the plan, the member may withdraw the member's accumulated contributions plus an amount equal to the amount determined as follows:

(a) 5.0 to 5.9 years of credited service, twenty-five percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(b) 6.0 to 6.9 years of credited service, forty percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(c) 7.0 to 7.9 years of credited service, fifty-five percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(d) 8.0 to 8.9 years of credited service, seventy percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(e) 9.0 to 9.9 years of credited service, eighty-five percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

(f) 10.0 or more years of credited service, one hundred percent of all member contributions deducted from the member's salary pursuant to section 38-891, subsection B.

D. If a member who becomes a member of the plan before January 1, 2012 has more than ten years of credited service with the plan, leaves the monies prescribed in subsection C of this section on account with the plan for more than thirty days after termination of employment and after that time period requests a refund of those monies, the member is entitled to receive the amount prescribed in subsection C of this section plus interest at a rate determined by the board for each year computed from and after the member's termination of employment.

E. The accumulated member contributions of a member who ceases to be an employee for a reason other than death or retirement and who becomes a member of the plan on or after January 1, 2012 shall be paid to the member plus interest at a rate determined by the board as of the date of termination within twenty days after filing with the plan a written application for payment.

F. If the refund includes monies that are an eligible rollover distribution and the member elects to have the distribution paid directly to an eligible retirement plan or individual retirement account or annuity and specifies the eligible retirement plan or individual retirement account or annuity to which the distribution is to be paid, the distribution shall be

made in the form of a direct trustee-to-trustee transfer to the specified eligible retirement plan. The distribution shall be made in the form and at the time prescribed by the board.

G. For distributions occurring from and after December 31, 2007, a member or a member's beneficiary, including a nonspouse designated beneficiary to the extent permitted under subsection H of this section, may roll over an eligible rollover distribution as defined in section 402(c)(4) of the internal revenue code to a Roth individual retirement account, if, for distributions occurring before January 1, 2010, the member or the member's beneficiary satisfies the requirements for making a Roth individual retirement account contribution under section 408A(c)(3)(B) of the internal revenue code, as in effect on the date of the rollover. Any amount rolled over to a Roth individual retirement account is included in the gross income of the member or the member's beneficiary to the extent the amounts would have been included in gross income if not rolled over as required under section 408A(d)(3)(A) of the internal revenue code. For the purposes of this subsection, the administrator is not responsible for ensuring the member or the member's beneficiary is eligible to make a rollover to a Roth individual retirement account.

H. For distributions made from and after December 31, 2009, a nonspouse designated beneficiary as defined in section 401(a)(9)(E) of the internal revenue code may elect to directly roll over an eligible rollover distribution to an individual retirement account under section 408(a) of the internal revenue code or an individual retirement annuity under section 408(b) of the internal revenue code that is established on behalf of the designated beneficiary and that will be treated as an inherited individual retirement plan pursuant to section 402(c)(11) of the internal revenue code. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution as defined in section 402(c)(4) of the internal revenue code. In applying this subsection, a nonspouse rollover is not subject to the direct rollover requirements under section 401(a)(31) of the internal revenue code, the rollover notice requirements under section 402(f) of the internal revenue code or the mandatory withholding requirements under section 3405(c) of the internal revenue code.

I. For plan years occurring before January 1, 2007, the period for providing the rollover notice as required under section 402(f) of the internal revenue code is no less than thirty days and no more than ninety days before the date of distribution and, for plan years beginning from and after December 31, 2006, the period for providing the rollover notice as required under section 402(f) of the internal revenue code is no less than thirty days and no more than one hundred eighty days before the date of distribution.

J. Service shall be credited to a member's individual credited service account in accordance with rules the local board prescribes. In no case

shall more than twelve months of credited service be credited on account of all service rendered by a member in any one year. In no case shall service be credited for any period during which the member is not employed in a designated position, except as provided by sections 38-921 and 38-922.

K. Credited service is forfeited if the amounts prescribed in subsection C, D or E of this section are paid or are transferred in accordance with this section.

L. If a former member becomes reemployed with the same employer within two years after the former member's termination date, a member may have forfeited credited service attributable to service rendered during a prior period of service as an employee restored on satisfaction of each of the following conditions:

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

2. The retirement fund is paid the total amount previously withdrawn pursuant to subsection C, D or E of this section plus compound interest from the date of withdrawal to the dates of repayment. Interest shall be computed at the rate of nine percent for each year compounded each year from the date of withdrawal to the date of repayment. Forfeited credited service shall not be restored until complete payment is received by the fund.

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

M. If a member who receives a severance refund on termination of employment pursuant to subsection C, D or E of this section is subsequently reemployed by an employer, the member's prior service credits are cancelled, and the board shall credit service only from the date the member's most recent reemployment period commenced. However, a present active member of the plan who received a refund of accumulated contributions from the plan pursuant to subsection C, D or E of this section, forfeited credited service pursuant to subsection K of this section and becomes reemployed with the same employer two years or more after the member's termination date or becomes reemployed with another employer may elect to redeem any part of that forfeited credited service by paying into the plan any amounts required pursuant to this subsection. A present active member who elects to redeem any part of forfeited credited service for which the member is deemed eligible by the board shall pay into the plan the amounts previously paid or transferred as a refund of the member's accumulated contributions plus an amount, computed by the plan's actuary that is necessary to equal the increase in the actuarial present value of projected benefits resulting from the redemption calculated using the actuarial methods and assumptions prescribed by the plan's actuary. On satisfaction of this obligation, the board shall reinstate the member's prior service credits.

N. A retired member may become employed by an employer in a designated position and continue to receive a pension if the employment occurs at least

twelve months after retirement. The retired member shall not contribute to the fund and shall not accrue credited service. If a retired member becomes employed by an employer in a designated position before twelve months after retirement:

1. Payment of the retired member's pension shall be suspended until the retired member again ceases to be an employee. The amount of pension shall not be changed on account of service as an employee subsequent to retirement.

2. The retired member shall not contribute to the fund and shall not accrue credited service.

O. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, A MEMBER WHO RETIRES HAVING MET ALL OF THE QUALIFICATIONS FOR RETIREMENT AND WHO SUBSEQUENTLY BECOMES AN ELECTED OFFICIAL, BY ELECTION OR APPOINTMENT, IS NOT CONSIDERED REEMPLOYED BY THE SAME EMPLOYER.

Sec. 5. Section 38-891.01, Arizona Revised Statutes, is amended to read:

38-891.01. Retired member; return to work; employer contributions

A. An employer shall pay contributions at an alternate contribution rate on behalf of a retired member who returns to work in any capacity in a position ordinarily filled by an employee of the employer in a designated position. This section applies to a retired member who has been retired for more than twelve consecutive months.

B. The alternate contribution rate shall be equal to that portion of the INDIVIDUAL EMPLOYER'S total required contribution that is applied to the amortization of the unfunded actuarial accrued liability for the fiscal year beginning July 1, based on the fund's actuary's calculation of the total required contribution for the preceding fiscal year ended on June 30. The alternate contribution rate shall be applied to the compensation, gross salary or contract fee of a retired member who meets the requirements of this section.

C. The alternate contribution rate shall not be less than six ~~per cent~~ PERCENT in any fiscal year.

D. All contributions made by the employer and allocated to the fund established by section 38-882 are irrevocable and shall be used as benefits under this article or to pay the expenses of the plan. Payments made pursuant to this section by employers become delinquent after the due date prescribed in section 38-891, subsection C, and thereafter shall be increased by interest from and after that date until payment is received by the plan.

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

APPROVED BY THE GOVERNOR MAY 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 18, 2016.

Passed the House March 2, 2016

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

☐ Pro Tempore

Chief Clerk of the House

Passed the Senate May 7, 2016

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

9th day of May, 2016

at 9:54 o'clock A. M.

Secretary to the Governor

Approved this 17th day of

May

at 4:50 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 18th day of May, 2016

at 10:20 o'clock A M.

Secretary of State

H.B. 2643