

House Engrossed

FILED

MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 291
HOUSE BILL 2167

AN ACT

AMENDING SECTION 38-738, 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 38-738, Arizona Revised Statutes, is amended to
3 read:

4 38-738. Adjustment and refund

5 A. If more than the correct amount of employer or member
6 contributions is paid into ASRS by an employer through a mistake of fact,
7 ASRS shall return those contributions to the employer if the employer
8 requests return of the contributions THROUGH AN EMPLOYER CREDIT OR, IF THE
9 REQUEST IS MADE within one year after the date of overpayment, BY CHECK ON
10 REQUEST OF THE EMPLOYER. ~~ASRS shall not pay an employer earnings~~
11 ~~attributable to excess contributions but shall reduce the amount returned~~
12 ~~to an employer pursuant to this section by the amount of losses~~
13 ~~attributable to the excess contributions.~~ IF MORE THAN THE CORRECT AMOUNT
14 OF EMPLOYER OR MEMBER CONTRIBUTIONS IS PAID INTO ASRS BY AN EMPLOYER
15 THROUGH A MISTAKE OF LAW, ASRS SHALL RETURN THOSE CONTRIBUTIONS TO THE
16 EMPLOYER IF THE EMPLOYER REQUESTS RETURN OF THE CONTRIBUTIONS THROUGH AN
17 EMPLOYER CREDIT.

18 B. If less than the correct amount of employer or member
19 contributions is paid into ASRS by an employer, the following apply:

20 1. The member shall pay an amount that is equal to the amount that
21 would have been paid in member contributions for the period in
22 question. ~~The member's~~ FOR ACTIVE MEMBERS, payments shall be made as
23 provided in section 38-747. FOR MEMBERS WHO ARE INACTIVE, RETIRED OR ON
24 LONG-TERM DISABILITY, PAYMENTS SHALL BE MADE USING AFTER-TAX INCOME AND A
25 PERSONAL CHECK, CASHIER'S CHECK OR MONEY ORDER. If the member does not
26 make the payment within ninety days ~~of~~ AFTER being notified by ASRS that
27 the employer has paid all amounts due from the employer, the unpaid amount
28 accrues interest until the amount is paid in full. The member is
29 responsible for payment of the unpaid amount and interest. The interest
30 rate is the interest rate assumption that is approved by the board for
31 actuarial equivalency for the period in question to the date payment is
32 received.

33 2. If the member contributions to ASRS made pursuant to this
34 subsection exceed the limits prescribed in section 38-747, subsection E
35 when taking into account other annual additions of the member for the
36 limitation year, the amount to be paid by the member shall be adjusted as
37 provided in section 38-747. For the purposes of this ~~subsection~~
38 PARAGRAPH, "limitation year" has the same meaning prescribed in section
39 38-769.

40 3. The employer shall pay to ASRS an amount equal to the amount
41 that would have been paid in employer contributions for the period in
42 question together with accumulated interest that would have accrued on
43 both the employer and member contributions due. If the employer does not
44 remit full payment of all employer contributions and all interest due
45 within ninety days ~~of~~ AFTER being notified by ASRS of the amount due, the

1 unpaid amount accrues interest until the amount is paid in full. The
2 interest rate is the interest rate assumption that is approved by the
3 board for actuarial equivalency for the period in question to the date
4 payment is received.

5 4. On satisfaction of the requirements of this subsection, the
6 member's salary history on the records of ASRS shall be adjusted and any
7 additional service credits acquired by the member shall be reinstated.

8 5. If the member retires before all contributions are made pursuant
9 to this subsection, the member's benefits shall be calculated only based
10 on the contributions actually made.

11 6. Annual additions shall be determined as provided in section
12 38-747, subsection 0.

13 7. The initiator of the request for correction of salary history
14 and service credits on records of ASRS is responsible for providing
15 credible evidence of past employment and compensation to ASRS in a form or
16 forms that would lead a reasonable person to conclude that a period of
17 employment occurred under circumstances that made the employee eligible
18 for membership in ASRS during that period. A determination of eligibility
19 by ASRS may be appealed to the ASRS board in a manner prescribed by the
20 board.

21 8. A MEMBER WHO PREVIOUSLY RECEIVED A RETURN OF CONTRIBUTIONS
22 PURSUANT TO SECTION 38-740 MAY RECEIVE AN ADJUSTMENT OF EMPLOYER
23 CONTRIBUTIONS OR SERVICE CREDITS PURSUANT TO THIS SECTION ONLY FOR
24 QUALIFYING EMPLOYMENT AND COMPENSATION THAT OCCURRED AFTER THE MEMBER'S
25 MOST RECENT RETURN OF CONTRIBUTIONS PURSUANT TO SECTION 38-740.

26 C. Subsection B of this section applies to eligible verified
27 service that occurred less than or equal to fifteen years before the date
28 the initiator of the request for correction of salary history and service
29 credits on the records of ASRS provides ASRS with credible evidence in
30 writing that less than the correct amount of contributions were WAS paid
31 into ASRS or ASRS otherwise determines that less than the correct amount
32 of contributions were WAS made.

33 D. Eligible verified service that is more than fifteen years before
34 the date the initiator of the request for correction of salary history and
35 service credits on the records of ASRS provides ASRS with credible
36 evidence in writing that less than the correct amount of contributions
37 were WAS paid into ASRS or ASRS otherwise determines that less than the
38 correct amount of contributions were WAS made is considered public service
39 credit. The member may purchase this service pursuant to section 38-743.

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.

Passed the House February 9, 20 17

Passed the Senate May 8, 20 17

by the following vote: 41 Ayes,

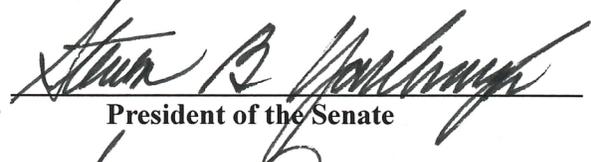
by the following vote: 28 Ayes,

17 Nays, 2 Not Voting

0 Nays, 2 Not Voting



Speaker of the House



President of the Senate

Pro Tempore



Chief Clerk of the House



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

8th day of May, 20 17

at 3:37 o'clock P. M.

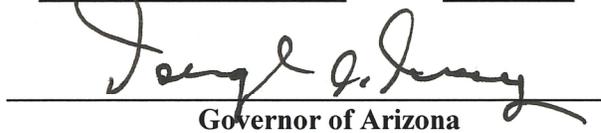


Secretary to the Governor

Approved this 10th day of

May

at 10:47 o'clock A. M.



Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10 day of May, 20 17

at 12:16 o'clock P. M.



Secretary of State

H.B. 2167