House Engrossed Senate Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
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CHAPTER 251

SENATE BILL 1357

AN ACT

AMENDING SECTIONS 38-810, 38-843 AND 38-891, ARIZONA REVISED STATUTES; RELATING TO PUBLIC RETIREMENT PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-810, Arizona Revised Statutes, is amended to read:

38-810. Contributions

A. Each member shall contribute to the fund an amount equal to seven per cent of the member's gross salary. Contributions of members shall be made by payroll deductions. Every member is deemed to consent to these deductions. Payment of a member's compensation, less these payroll deductions, constitutes a full and complete discharge and satisfaction of all claims and demands by the member relating to remuneration for the member's services rendered during the period covered by the payment, except with respect to the benefits provided under the plan.

B. The fund manager's office shall be credited monthly with monies collected pursuant to section 12-119.01, subsection B, paragraph 2, section 12-120.31, subsection D, paragraph 2 and section 12-284.03, subsection A, paragraph 6. The monies credited to the fund pursuant to this subsection shall be deposited in the fund on a monthly basis, and there shall be a complete accounting of the determination of these monies deposited in the fund.

C. As determined by actuarial valuations performed by the plan's actuary, each employer shall make level per cent compensation contributions sufficient under the actuarial valuation to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, BEGINNING JULY 1, 2005, a rolling ~~twenty year~~ period ~~beginning on July 1, 1997~~ OF AT LEAST TWENTY AND NOT MORE THAN THIRTY YEARS THAT IS ESTABLISHED BY THE FUND MANAGER TAKING INTO ACCOUNT THE RECOMMENDATION OF THE PLAN'S ACTUARY, except that, beginning with fiscal year 2006-2007 AND EACH YEAR THEREAFTER, the employer contribution rate shall not be less than ~~five~~ TEN per cent of salary. The monies deposited in the fund pursuant to subsection B of this section shall be used to reduce the contributions required of state and county employers only. Employers that entered the system under a joinder agreement shall also contribute an amount equal to the unfunded accrued liability for that employer. The unfunded liability for each new employer shall be actuarially determined by the plan's actuary as of the effective date of participation of each employer and shall be payable on the effective date of participation. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The fund manager shall separately account for these monies in the fund. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF THE FUND CONTAINS EXCESS VALUATION ASSETS AND IS MORE THAN ONE HUNDRED PER CENT FUNDED, THE FUND MANAGER SHALL ACCOUNT FOR FIFTY PER CENT OF

1 THE EXCESS VALUATION ASSETS IN A STABILIZATION RESERVE ACCOUNT. AFTER THE
2 CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL
3 VALUATION OF THE FUND HAS A VALUATION ASSET DEFICIENCY AND AN UNFUNDED
4 ACTUARIAL ACCRUED LIABILITY, THE FUND MANAGER SHALL USE ANY VALUATION ASSETS
5 IN THE STABILIZATION RESERVE ACCOUNT, TO THE EXTENT AVAILABLE, TO LIMIT THE
6 DECLINE IN THE FUND'S FUNDING RATIO TO NOT MORE THAN TWO PER CENT.
7 D. The department of administration and the treasurer of each county
8 and participating city and town shall transfer to the fund manager the
9 contributions provided for in subsections A and C of this section within ten
10 working days after each payroll date. The state, county treasurers and
11 clerks of the superior court shall transfer the monies credited under
12 subsection B of this section to the fund manager on or before the fifteenth
13 day of each calendar month that follows the month in which the court fees
14 were collected. Contributions and monies credited under subsection B of this
15 section and transferred after these dates shall include a penalty equal to
16 ten per cent per annum, compounded annually, for each day that the
17 contributions or monies credited under subsection B of this section are
18 late. Delinquent payments due under this subsection, together with interest
19 charges as provided in this subsection and court costs, may be recovered by
20 action in a court of competent jurisdiction against the person or persons
21 responsible for the payments or, at the request of the fund manager, may be
22 deducted from any other monies including excise revenue taxes payable to a
23 political subdivision by any department or agency of this state. If
24 requested by the fund manager, the state, county treasurers or clerks of the
25 superior court shall transfer the monies credited under subsection B of this
26 section, in an amount determined by the fund manager, directly to the
27 qualified governmental excess benefit arrangement established pursuant to
28 section 38-803.01.
29 E. The employer shall pay the member contributions required of members
30 on account of compensation earned after August 7, 1985. The paid
31 contributions shall be treated as employer contributions for the purpose of
32 determining tax treatment under the United States internal revenue code. The
33 effective date of the employer payment shall not be before the date the
34 retirement plan has received notification from the United States internal
35 revenue service that pursuant to section 414(h) of the United States internal
36 revenue code the member contributions paid will not be included in gross
37 income for income tax purposes until the paid contributions are distributed
38 by refund or pension payments. The employer shall pay the member
39 contributions from monies established and available in the retirement
40 deduction account, which monies would otherwise have been designated as
41 member contributions and paid to the retirement plan. Member contributions
42 paid pursuant to this subsection shall be treated for all other purposes, in
43 the same manner and to the same extent, as member contributions made before
44 August 7, 1985.

Sec. 2. Section 38-843, Arizona Revised Statutes, is amended to read:

38-843. Contributions

A. Each employer who participates in the system on behalf of a group of employees who were covered under a prior public retirement system, other than the federal social security act, shall transfer all securities and monies attributable to the taxes and contributions of the state other than the state contribution to social security, the employer and the employees for the covered group of employees under the other system, such transfer to be made to the fund subject to all existing liabilities and on or within sixty days following the employer's effective date. All monies and securities transferred to the fund shall be credited to the employer's account in the fund. A record of the market value and the cost value of such transferred contributions shall be maintained for actuarial and investment purposes.

B. As determined by actuarial valuations reported to the employer and the local board by the fund manager, each employer shall make level per cent of compensation contributions sufficient under such actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, BEGINNING JULY 1, 2005, a rolling ~~twenty year~~ period ~~commencing on July 1, 1997~~ OF AT LEAST TWENTY AND NOT MORE THAN THIRTY YEARS THAT IS ESTABLISHED BY THE FUND MANAGER TAKING INTO ACCOUNT THE RECOMMENDATION OF THE SYSTEM'S ACTUARY, except that, beginning with fiscal year 2006-2007, EXCEPT AS OTHERWISE PROVIDED, the employer contribution rate shall not be less than ~~five~~ EIGHT per cent of compensation. FOR ANY EMPLOYER WHOSE ACTUAL CONTRIBUTION RATE IS LESS THAN EIGHT PER CENT OF COMPENSATION FOR FISCAL YEAR 2006-2007, THAT EMPLOYER'S CONTRIBUTION RATE IS NOT SUBJECT TO THE EIGHT PER CENT MINIMUM BUT, FOR FISCAL YEAR 2006-2007 AND EACH YEAR THEREAFTER, SHALL BE AT LEAST FIVE PER CENT AND NOT MORE THAN THE EMPLOYER'S ACTUAL CONTRIBUTION RATE. An employer shall have the option of paying a higher level per cent of compensation thereby reducing its unfunded past service liability. An employer shall also have the option of increasing its contributions in order to reduce the contributions required from its members under subsection C, except that if an employer elects this option the employer shall pay the same higher level percentage contribution for all members of the eligible group. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer shall make the contributions based on the compensation the employee would have received in the employee's job classification if the employee was in normal employment status. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the system or to pay expenses of the system and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used

1 to pay for an increase in benefits that are otherwise payable to members. The
2 fund manager shall separately account for these monies in the fund.
3 Forfeitures arising because of severance of employment before a member
4 becomes eligible for a pension or any other reason shall be applied to reduce
5 the cost of the employer, not to increase the benefits otherwise payable to
6 members. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE SYSTEM'S ACTUARY
7 DETERMINES THAT THE ACTUARIAL VALUATION OF AN EMPLOYER'S ACCOUNT CONTAINS
8 EXCESS VALUATION ASSETS OTHER THAN EXCESS VALUATION ASSETS THAT WERE IN THE
9 EMPLOYER'S ACCOUNT AS OF FISCAL YEAR 2004-2005 AND IS MORE THAN ONE HUNDRED
10 PER CENT FUNDED, THE FUND MANAGER SHALL ACCOUNT FOR FIFTY PER CENT OF THE
11 EXCESS VALUATION ASSETS IN A STABILIZATION RESERVE ACCOUNT. AFTER THE CLOSE
12 OF ANY FISCAL YEAR, IF THE SYSTEM'S ACTUARY DETERMINES THAT THE ACTUARIAL
13 VALUATION OF AN EMPLOYER'S ACCOUNT HAS A VALUATION ASSET DEFICIENCY AND AN
14 UNFUNDED ACTUARIAL ACCRUED LIABILITY, THE FUND MANAGER SHALL USE ANY
15 VALUATION ASSETS IN THE STABILIZATION RESERVE ACCOUNT FOR THAT EMPLOYER, TO
16 THE EXTENT AVAILABLE, TO LIMIT THE DECLINE IN THAT EMPLOYER'S FUNDING RATIO
17 TO NOT MORE THAN TWO PER CENT.
18 C. Each member, throughout the member's period of service from the
19 member's effective date of participation, shall contribute to the fund an
20 amount equal to 7.65 per cent of the member's compensation, except as
21 provided in subsection B. During a period when an employee is on industrial
22 leave and the employee elects to continue contributions during the period of
23 industrial leave, the employee shall make the employee's contribution based
24 on the compensation the employee would have received in the employee's job
25 classification if the employee was in normal employment status.
26 Contributions of members shall be required as a condition of employment and
27 membership in the system and shall be made by payroll deductions. Every
28 employee shall be deemed to consent to such deductions. Payment of an
29 employee's compensation, less such payroll deductions, shall constitute a
30 full and complete discharge and satisfaction of all claims and demands by the
31 employee relating to remuneration for the employee's services rendered during
32 the period covered by the payment, except with respect to the benefits
33 provided under the system.
34 D. Each employer shall transfer to the fund manager the employer and
35 employee contributions provided for in subsections B and C within ten working
36 days after each payroll date. Contributions transferred after that date
37 shall include a penalty of ten per cent per annum, compounded annually, for
38 each day the contributions are late, such penalty to be paid by the
39 employer. Delinquent payments due under this subsection, together with
40 interest charges as provided in this subsection, may be recovered by action
41 in a court of competent jurisdiction against an employer liable for the
42 payments or, at the request of the fund manager, may be deducted from any
43 other monies including excise revenue taxes payable to such employer by any
44 department or agency of this state.

Sec. 3. Section 38-891, Arizona Revised Statutes, is amended to read:

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the fund manager, each employer shall make level per cent of salary contributions sufficient under the actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, BEGINNING JULY 1, 2005 a rolling ~~twenty year~~ period ~~commencing on July 1, 1997~~ OF AT LEAST TWENTY AND NOT MORE THAN THIRTY YEARS THAT IS ESTABLISHED BY THE FUND MANAGER TAKING INTO ACCOUNT THE RECOMMENDATION OF THE PLAN'S ACTUARY, except that, beginning with fiscal year 2006-2007, EXCEPT AS OTHERWISE PROVIDED, the employer contribution rate shall not be less than ~~five~~ SIX per cent of salary. FOR ANY EMPLOYER WHOSE ACTUAL CONTRIBUTION RATE IS LESS THAN SIX PER CENT OF SALARY FOR FISCAL YEAR 2006-2007 AND EACH YEAR THEREAFTER, THAT EMPLOYER'S CONTRIBUTION RATE SHALL BE AT LEAST FIVE PER CENT AND NOT MORE THAN THE EMPLOYER'S ACTUAL CONTRIBUTION RATE. An employer may pay a higher level per cent of salary thereby reducing its unfunded past service liability. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The fund manager shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF AN EMPLOYER'S ACCOUNT CONTAINS EXCESS VALUATION ASSETS OTHER THAN EXCESS VALUATION ASSETS THAT WERE IN THE EMPLOYER'S ACCOUNT AS OF FISCAL YEAR 2004-2005 AND IS MORE THAN ONE HUNDRED PER CENT FUNDED, THE FUND MANAGER SHALL ACCOUNT FOR FIFTY PER CENT OF THE EXCESS VALUATION ASSETS IN A STABILIZATION RESERVE ACCOUNT. AFTER THE CLOSE OF ANY FISCAL YEAR, IF THE PLAN'S ACTUARY DETERMINES THAT THE ACTUARIAL VALUATION OF AN EMPLOYER'S ACCOUNT HAS A VALUATION ASSET DEFICIENCY AND AN UNFUNDED ACTUARIAL ACCRUED LIABILITY, THE FUND MANAGER SHALL USE ANY VALUATION ASSETS IN THE STABILIZATION RESERVE ACCOUNT FOR THAT EMPLOYER, TO THE EXTENT AVAILABLE, TO LIMIT THE DECLINE IN THAT EMPLOYER'S FUNDING RATIO TO NOT MORE THAN TWO PER CENT.

B. Each member shall contribute eight and one-half per cent of the member's salary to the retirement plan. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution.

Payment of the member's salary less the deducted contributions constitutes full and complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment.

C. Each participating employer shall cause the member contributions to be deducted from the salary of each member. The deducted member contributions shall be paid to the retirement plan within five working days and shall be credited to the member's individual account.

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the salary the employee would have received in the employee's job classification if the employee was in normal employment status.

E. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a position within that department as a designated position if the position is filled by an employee who has at least five years of credited service under the plan, who is transferred to temporarily fill the position and who makes a written request to the local board to specify the position as a designated position within ninety days of being transferred. On the employee leaving the position, the position is no longer a designated position.

F. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a designated position within the department as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety days of accepting the position. On the employee leaving the position, the position reverts to a designated position.

G. If the aggregate computed employer contribution rate that is calculated pursuant to subsection A is less than ~~five~~ SIX per cent of salary, beginning on July 1 of the following fiscal year the member contribution rate prescribed in subsection B is permanently reduced by an amount that is equal to the difference between ~~five~~ SIX per cent and the aggregate computed employer contribution rate. Notwithstanding this subsection, the member contribution rate shall not be less than 7.65 per cent of the member's salary.

Sec. 4. Emergency

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

APPROVED BY THE GOVERNOR MAY 1, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2006.