

REFERENCE TITLE: state employees; retirement contributions; withdrawal

State of Arizona
House of Representatives
Forty-fourth Legislature
Second Regular Session
2000

HB 2008

Introduced by
Representative Kyle

AN ACT

AMENDING SECTIONS 38-740, 38-846.02 AND 38-884, ARIZONA REVISED STATUTES;
RELATING TO RETURN OF PUBLIC RETIREMENT SYSTEM CONTRIBUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 38-740, Arizona Revised Statutes, is amended to
3 read:

4 38-740. Return of contributions

5 A. Any member who leaves employment other than by retirement or death
6 may elect to receive a return of the contributions as follows:

7 1. If the member has less than five years of credited service, the
8 member shall receive the member's contributions.

9 2. If a member has five or more years of credited service, the member
10 shall receive the member's contributions and an amount equal to a percentage
11 of the employer contributions paid on behalf of the member. The percentage
12 of employer contributions paid on behalf of the member shall be as follows:

13 (a) 5.0 to 5.9 years of credited service, twenty-five per cent.

14 (b) 6.0 to 6.9 years of credited service, forty per cent.

15 (c) 7.0 to 7.9 years of credited service, fifty-five per cent.

16 (d) 8.0 to 8.9 years of credited service, seventy per cent.

17 (e) 9.0 to 9.9 years of credited service, eighty-five per cent.

18 (f) 10.0 or more years of credited service, one hundred per cent.

19 3. Interest on the returned contributions as determined by the board.

20 **B. NOTWITHSTANDING SUBSECTION A, IF A MEMBER WHO IS A STATE EMPLOYEE
21 LEAVES EMPLOYMENT DUE SOLELY TO THE PRIVATIZATION OF THE MEMBER'S POSITION OR
22 JOB FUNCTION, THE MEMBER SHALL RECEIVE THE MEMBER'S CONTRIBUTIONS AND AN
23 AMOUNT EQUAL TO ONE HUNDRED PER CENT OF THE EMPLOYER CONTRIBUTIONS PAID ON
24 BEHALF OF THE MEMBER.**

25 ~~B.~~ C. Withdrawal of contributions with interest constitutes a
26 withdrawal from membership in ASRS and results in a forfeiture of all other
27 benefits under ASRS.

28 ~~C.~~ D. Notwithstanding any other provision of this article, a member
29 who has not received a return of contributions pursuant to this section may
30 combine any two or more periods of service for purposes of determining the
31 member's benefits.

32 ~~D.~~ E. If a member receives more than the amount due to a member
33 pursuant to this section, the member shall repay the amount of the
34 overpayment together with interest at the interest rate earned on ASRS
35 investments as reported on a quarterly basis, but not less than the valuation
36 rate established by the board, from the time of overpayment to the settlement
37 of the debt.

38 Sec. 2. Section 38-846.02, Arizona Revised Statutes, is amended to
39 read:

40 38-846.02. Termination of membership

41 A. On termination of employment for any reason other than death or
42 retirement, within twenty days after filing a completed application with the
43 fund manager, a member is entitled to receive the following amounts, less any
44 benefit payments the member has received or any amount the member may owe to
45 the system:

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

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

7 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
8 member contributions deducted from the member's salary pursuant to section
9 38-843, subsection C.

10 (b) 6.0 to 6.9 years of credited service, forty per cent of all member
11 contributions deducted from the member's salary pursuant to section 38-843,
12 subsection C.

13 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
14 member contributions deducted from the member's salary pursuant to section
15 38-843, subsection C.

16 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
17 member contributions deducted from the member's salary pursuant to section
18 38-843, subsection C.

19 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
20 member contributions deducted from the member's salary pursuant to section
21 38-843, subsection C.

22 (f) 10.0 or more years of credited service, one hundred per cent of
23 all member contributions deducted from the member's salary pursuant to
24 section 38-843, subsection C.

25 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, IF A MEMBER WHO IS A
26 STATE EMPLOYEE LEAVES EMPLOYMENT DUE SOLELY TO THE PRIVATIZATION OF THE
27 MEMBER'S POSITION OR JOB FUNCTION, THE MEMBER MAY WITHDRAW THE MEMBER'S
28 ACCUMULATED CONTRIBUTIONS PLUS AN AMOUNT EQUAL TO ONE HUNDRED PER CENT OF ALL
29 MEMBER CONTRIBUTIONS DEDUCTED FROM THE MEMBER'S SALARY PURSUANT TO SECTION
30 38-843, SUBSECTION C, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED OR
31 ANY AMOUNT THE MEMBER MAY OWE TO THE SYSTEM.

32 ~~B.~~ C. If a member has more than ten years of credited service with
33 the system, leaves the monies prescribed in subsection A OR B of this section
34 on account with the system for more than thirty days after termination of
35 employment and after that time period requests a refund of those monies, the
36 member is entitled to receive the PRESCRIBED amount ~~prescribed in subsection~~
37 ~~A of this section~~ plus interest at a rate determined by the fund manager for
38 each year computed from and after the member's termination of employment.

39 ~~C.~~ D. If the amount prescribed in subsection A, ~~or~~ B OR C of this
40 section includes monies that are an eligible rollover distribution and the
41 member elects to have the distribution paid directly to an eligible
42 retirement plan or individual retirement account or annuity and specifies the
43 eligible retirement plan or individual retirement account or annuity to which
44 the distribution is to be paid, the distribution shall be made in the form of
45 a direct trustee-to-trustee transfer to the specified eligible retirement

1 plan. The distribution shall be made in the form and at the time prescribed
2 by the fund manager. A member who withdraws the amount prescribed in
3 subsection A, ~~or~~ B OR C of this section from the system or who elects a
4 transfer pursuant to this section forfeits all rights to benefits under the
5 system and rights to rehearing and appeal, except as provided in section
6 38-849.

7 Sec. 3. Section 38-884, Arizona Revised Statutes, is amended to read:
8 38-884. Membership of retirement plan; termination; credited
9 service; redemption

10 A. Each employee of a participating employer is a member of the plan.
11 A person employed shall undergo a medical examination performed by a doctor
12 or clinic appointed by the local board or, in the case of a state
13 correctional officer who is employed by the state department of corrections,
14 complete a physical examination pursuant to section 41-1822, subsection B.
15 For the purposes of subsection B of this section, the doctor or clinic
16 appointed by the local board may be the employer's regular employee or
17 contractor.

18 B. The purpose of the medical examination authorized by this section
19 is to identify a member's physical or mental condition or injury that existed
20 or occurred before the member's date of membership in the plan. Any employee
21 who fails or refuses to submit to the medical examination prescribed in this
22 section is deemed to waive all rights to disability benefits under this
23 article. Medical examinations conducted under this article shall not be
24 conducted or used for purposes of hiring, advancement, discharge, job
25 training or other terms, conditions and privileges of employment unrelated to
26 receipt or qualification for pension benefits or service credits from the
27 fund. This subsection does not affect or impair the right of an employer to
28 prescribe medical or physical standards for employees or prospective
29 employees.

30 C. If a member ceases to be an employee for any reason other than
31 death or retirement, within twenty days after filing a completed application
32 with the fund manager, the member is entitled to receive the following
33 amounts, less any benefit payments the member has received and any amount the
34 member may owe to the plan:

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

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

41 (a) 5.0 to 5.9 years of credited service, twenty-five per cent of all
42 member contributions deducted from the member's salary pursuant to section
43 38-891, subsection B.

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

4 (c) 7.0 to 7.9 years of credited service, fifty-five per cent of all
5 member contributions deducted from the member's salary pursuant to section
6 38-891, subsection B.

7 (d) 8.0 to 8.9 years of credited service, seventy per cent of all
8 member contributions deducted from the member's salary pursuant to section
9 38-891, subsection B.

10 (e) 9.0 to 9.9 years of credited service, eighty-five per cent of all
11 member contributions deducted from the member's salary pursuant to section
12 38-891, subsection B.

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

16 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, IF A MEMBER WHO IS A
17 STATE EMPLOYEE LEAVES EMPLOYMENT DUE SOLELY TO THE PRIVATIZATION OF THE
18 MEMBER'S POSITION OR JOB FUNCTION, THE MEMBER MAY WITHDRAW THE MEMBER'S
19 ACCUMULATED CONTRIBUTIONS PLUS AN AMOUNT EQUAL TO ONE HUNDRED PER CENT OF ALL
20 MEMBER CONTRIBUTIONS DEDUCTED FROM THE MEMBER'S SALARY PURSUANT TO SECTION
21 38-891, SUBSECTION B, LESS ANY BENEFIT PAYMENTS THE MEMBER HAS RECEIVED OR
22 ANY AMOUNT THE MEMBER MAY OWE TO THE PLAN.

23 ~~D.~~ E. If a member has more than ten years of credited service with
24 the plan, ~~and~~ leaves the monies prescribed in subsection C ~~OR D~~ of this
25 section on account with the plan for more than thirty days after termination
26 of employment and after that time period requests a refund of those monies,
27 the member is entitled to receive the PRESCRIBED amount ~~prescribed in~~
28 ~~subsection C of this section~~ plus interest at a rate determined by the fund
29 manager for each year computed from and after the member's termination of
30 employment.

31 ~~E.~~ F. If the refund includes monies that are an eligible rollover
32 distribution and the member elects to have the distribution paid directly to
33 an eligible retirement plan or individual retirement account or annuity and
34 specifies the eligible retirement plan or individual retirement account or
35 annuity to which the distribution is to be paid, the distribution shall be
36 made in the form of a direct trustee-to-trustee transfer to the specified
37 eligible retirement plan. The distribution shall be made in the form and at
38 the time prescribed by the fund manager.

39 ~~F.~~ G. Service shall be credited to a member's individual credited
40 service account in accordance with rules the local board prescribes. In no
41 case shall more than twelve months of credited service be credited on account
42 of all service rendered by a member in any one year. In no case shall
43 service be credited for any period during which the member is not employed in
44 a designated position, except as provided by sections 38-921 and 38-922.

1 ~~G~~ H. Credited service is forfeited if the amounts prescribed in
2 subsection C, ~~or~~ D OR E of this section are paid or are transferred in
3 accordance with this section.

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

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

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

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

20 ~~I~~ J. A present active member of the plan who received a refund of
21 accumulated contributions from the plan pursuant to subsection C, D OR E of
22 this section and forfeited credited service pursuant to subsection ~~G~~ H of
23 this section may elect to redeem any part of that forfeited credited service
24 by paying into the plan any amounts required pursuant to this subsection. A
25 present active member who elects to redeem any part of forfeited credited
26 service for which the member is deemed eligible by the fund manager shall pay
27 into the plan the amounts previously paid or transferred as a refund of the
28 member's accumulated contributions plus an amount, computed by the plan's
29 actuary that is necessary to equal the increase in the actuarial present
30 value of projected benefits resulting from the redemption calculated using
31 the actuarial methods and assumptions prescribed by the plan's actuary.

32 ~~J~~ K. The following conditions apply to a retired member who becomes
33 an employee subsequent to retirement:

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

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