Senate Engrossed

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SENATE BILL 1178

AN ACT

AMENDING SECTION 38-751, ARIZONA REVISED STATUTES; RELATING TO THE ARIZONA STATE RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-751, Arizona Revised Statutes, is amended to read:

38-751. Nonparticipating employer liability allocation; definitions

A. ASRS shall ~~allocate a liability to~~ ESTABLISH A SEPARATE FUND FOR an employer that is:

1. No longer participating in ASRS ~~if that nonparticipation is based on~~ AS A RESULT OF any of the following:

~~1.~~ (a) The character of the employer changes from a public entity to a private entity.

~~2.~~ (b) An employer, other than this state ~~or a charter school~~, files for bankruptcy ~~or otherwise dissolves~~.

~~3. An employer is no longer participating.~~

(c) AN EMPLOYER, OTHER THAN THIS STATE OR A CHARTER SCHOOL, DISSOLVES.

(d) THROUGH LEGISLATIVE ACTION, THE EMPLOYER IS NO LONGER ENROLLING NEW EMPLOYEES IN ASRS AND NO LONGER CONTRIBUTING TO ASRS ON BEHALF OF CURRENT EMPLOYEES OR GROUPS OF EMPLOYEES WHO OTHERWISE WOULD BE ELIGIBLE FOR ASRS MEMBERSHIP.

~~4. For this state, the character of a state agency, board or commission changes from public to private.~~

~~B. ASRS shall determine the schedule and method of payment of the allocated liability.~~

~~C. The liability allocated to an employer under this section is equal to the sum of the following:~~

~~1. The plan employer actuarial accrued liability multiplied by the plan total deficit percentage.~~

~~2. The LTD program employer actuarial accrued liability multiplied by the LTD program total deficit percentage.~~

2. FOR THE PURPOSES OF THIS SECTION, CONSIDERED TO BE NO LONGER PARTICIPATING IN ASRS AS A RESULT OF EITHER OF THE FOLLOWING:

(a) THROUGH LEGISLATIVE ACTION, THE EMPLOYER IS NO LONGER ENROLLING NEW EMPLOYEES IN ASRS AND NO LONGER CONTRIBUTING TO ASRS ON BEHALF OF NEW EMPLOYEES OR GROUPS OF NEW EMPLOYEES WHO OTHERWISE WOULD BE ELIGIBLE FOR ASRS MEMBERSHIP.

(b) A REDUCTION OF THIRTY PERCENT OR MORE IN THE NUMBER OF ACTIVELY CONTRIBUTING EMPLOYEES OVER A THREE-YEAR PERIOD OR A REDUCTION OF FIFTY PERCENT OR MORE IN THE NUMBER OF ACTIVELY CONTRIBUTING EMPLOYEES, BASED ON THE NUMBER OF CONTRIBUTING EMPLOYEES AS OF THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, OVER ANY PERIOD OF TIME.

B. FOR A NONPARTICIPATING EMPLOYER DESCRIBED IN SUBSECTION A OF THIS SECTION, ASRS SHALL ALLOCATE AN ACTUARIAL ACCRUED LIABILITY AND A DESIGNATED ASSET AMOUNT TO THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND AS OF THE NONPARTICIPATION DATE, WHICH SHALL BE CALCULATED AS FOLLOWS:

1. THE ACTUARIAL ACCRUED LIABILITY SHALL EQUAL THE SUM OF THE PLAN EMPLOYER ACTUARIAL ACCRUED LIABILITY AND THE LTD PROGRAM EMPLOYER ACTUARIAL ACCRUED LIABILITY. ACTUARIAL ACCRUED LIABILITY SHALL BE CALCULATED BASED ON THE SAME ACTUARIAL ASSUMPTIONS AND METHODS AS THE ACTUARIAL VALUATION PERFORMED IMMEDIATELY PRECEDING THE NONPARTICIPATING EMPLOYER'S NONPARTICIPATION DATE.

2. THE DESIGNATED ASSET AMOUNT SHALL EQUAL THE SUM OF THE FOLLOWING:

(a) THE PLAN EMPLOYER ACTUARIAL ACCRUED LIABILITY MULTIPLIED BY THE PLAN FUNDED PERCENTAGE.

(b) THE LTD PROGRAM EMPLOYER ACTUARIAL ACCRUED LIABILITY MULTIPLIED BY THE LTD PROGRAM FUNDED PERCENTAGE.

C. ALL MONIES AND SECURITIES TRANSFERRED TO THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND SHALL BE CREDITED TO THAT FUND. A RECORD OF THE MARKET VALUE AND THE COST VALUE OF SUCH TRANSFERRED CONTRIBUTIONS SHALL BE MAINTAINED FOR ACTUARIAL AND INVESTMENT PURPOSES. ASRS SHALL MAKE ALL DECISIONS REGARDING THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND.

D. AFTER ESTABLISHING THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND, THE FUND SHALL BE ADJUSTED FOR ALL OF THE FOLLOWING:

1. ALL CONTRIBUTIONS MADE BY EMPLOYEES OF THE NONPARTICIPATING EMPLOYER.

2. ALL CONTRIBUTIONS MADE BY THE NONPARTICIPATING EMPLOYER.

3. ALL PLAN AND LTD PROGRAM BENEFITS PAID TO THE NONPARTICIPATING EMPLOYER'S MEMBERS WHO ARE ACTIVE, INACTIVE, RETIRED OR ON LONG-TERM DISABILITY.

4. THE APPLICABLE SHARE OF THE INVESTMENT GAINS AND LOSSES.

5. EXPENSES ASSOCIATED WITH THE ADMINISTRATION OF THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND, INCLUDING ANY ADMINISTRATIVE, DEVELOPMENT, ACTUARIAL, LEGAL, CUSTODIAL AND INVESTMENT MANAGEMENT COSTS ASSOCIATED WITH THE FUND. THESE EXPENSES SHALL BE PAID DIRECTLY BY THE NONPARTICIPATING EMPLOYER OR INCLUDED IN THE EMPLOYER'S LIABILITY FOR THE PURPOSES OF DETERMINING THE EMPLOYER'S CONTRIBUTION RATE.

E. AFTER ESTABLISHING THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND, THE NONPARTICIPATING EMPLOYER AND ANY EMPLOYEES OF THAT EMPLOYER WHO ARE ENROLLED IN ASRS SHALL CONTINUE TO HAVE CONTRIBUTION REQUIREMENTS TO THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND. THE CONTRIBUTION REQUIREMENTS SHALL BE CALCULATED AS FOLLOWS:

1. ALL EMPLOYEES OF THE NONPARTICIPATING EMPLOYER WHO ARE ENROLLED IN ASRS SHALL CONTINUE TO MAKE CONTRIBUTIONS THROUGH PAYROLL DEDUCTIONS BASED ON THE CONTRIBUTION RATE DETERMINED FOR THE EMPLOYEES OF PARTICIPATING EMPLOYERS OF ASRS PURSUANT TO SECTION 38-736.

2. THE CONTRIBUTIONS FOR THE NONPARTICIPATING EMPLOYER SHALL BE DETERMINED ON AN ANNUAL BASIS AND SHALL BE EQUAL TO THE SUM OF:

(a) THE NORMAL COST OF ANY EMPLOYEES OF THE NONPARTICIPATING EMPLOYER WHO ARE ENROLLED IN ASRS.

(b) THE AMOUNT REQUIRED TO AMORTIZE THE PAST SERVICE FUNDING REQUIREMENT IN THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND OVER A PERIOD THAT IS DETERMINED BY THE BOARD AND CONSISTENT WITH GENERALLY ACCEPTED ACTUARIAL STANDARDS. IN DETERMINING THE PAST SERVICE FUNDING PERIOD, THE BOARD SHALL SEEK TO IMPROVE THE FUNDED STATUS WHENEVER THE NONPARTICIPATING EMPLOYER'S SEPARATE FUND IS LESS THAN ONE HUNDRED PERCENT FUNDED.

F. THE ASRS ACTUARY SHALL DETERMINE THE ACTUARIAL ASSUMPTIONS USED TO DETERMINE THE CONTRIBUTION REQUIREMENTS FOR THE NONPARTICIPATING EMPLOYER UNDER SUBSECTION E OF THIS SECTION. NOTWITHSTANDING SECTION 38-737, THE CONTRIBUTION FOR THE NONPARTICIPATING EMPLOYER SHALL NOT BE DETERMINED AS A PERCENTAGE OF COMPENSATION DUE TO THE ANTICIPATED DECLINE OF COMPENSATION FOR EMPLOYEES OF THE NONPARTICIPATING EMPLOYER PARTICIPATING IN ASRS. THE NONPARTICIPATING EMPLOYER SHALL CERTIFY ON EACH PAYROLL THE AMOUNT TO BE CONTRIBUTED AND SHALL REMIT THAT AMOUNT TO ASRS AT A RATE CONSISTENT WITH THE RATE PAID BY THE PARTICIPATING EMPLOYERS. EACH FISCAL YEAR, AMOUNTS THAT ARE NOT REMITTED THROUGH PAYROLL CONTRIBUTIONS PURSUANT TO THIS SECTION SHALL BE INVOICED TO THE EMPLOYER AND SHALL BE PAID WITHIN THE SAME FISCAL YEAR THE NONPARTICIPATING EMPLOYER IS INVOICED.

~~D.~~ G. This section does not permit an employer to alter the irrevocable agreement approved by the board under section 38-729.

H. FOR THE PURPOSES OF CALCULATING AN EMPLOYER'S LIABILITY UNDER THIS SECTION, MEMBERS WHO ARE ACTIVE, INACTIVE, RETIRED OR ON LONG-TERM DISABILITY ARE CONSIDERED EMPLOYEES OF THE NONPARTICIPATING EMPLOYER IF THE MEMBER'S MOST RECENT EMPLOYER WAS THE NONPARTICIPATING EMPLOYER AS OF THE NONPARTICIPATION DATE.

~~E.~~ I. For the purposes of this section:

1. "LTD program" means the program established by article 2.1 of this chapter.

2. "LTD program employer actuarial accrued liability" means the ~~value of all of the employer's open LTD program claims as of the nonparticipation date plus the value of any LTD program claims that employees of the employer file within twenty-four months after the nonparticipation date and that are approved by ASRS.~~ ACTUARIAL ACCRUED LIABILITY FOR THE EMPLOYER'S ACTIVE AND INACTIVE MEMBERS AND THE OPEN LTD PROGRAM CLAIMS FOR THE EMPLOYEES OF THE EMPLOYER AS OF THE NONPARTICIPATION DATE.

3. "LTD program ~~total deficit~~ FUNDED percentage" means the total ~~LTD program actuarial accrued liabilities minus the total market value of~~ MARKET VALUE OF LTD program assets divided by the total LTD program actuarial accrued liabilities, as of the actuarial valuation performed immediately preceding the nonparticipation date. If the percentage is ~~less~~ GREATER than ~~zero~~ ONE HUNDRED PERCENT, the LTD program ~~total deficit~~ FUNDED percentage is ~~zero~~ ONE HUNDRED PERCENT.

4. "Nonparticipation date" means the date on which the employer is no longer participating in ASRS.

5. "Plan" means the retirement plan established by this article.

6. "Plan employer actuarial accrued liability" means the plan's actuarial accrued liability for all benefits provided under this article, including benefits established in section 38-783, for the employer's active, inactive or retired members as of the actuarial valuation performed immediately preceding the nonparticipation date.

7. "Plan ~~total deficit~~ FUNDED percentage" means the plan's actuarial accrued liability for all benefits provided under this article, including benefits established in section 38-783, for all active, inactive or retired members ~~minus the market value of total plan assets divided by the plan's actuarial accrued liability for all benefits provided under this article, including benefits established in section 38-783, for all active, inactive or retired members~~ as of the actuarial valuation performed immediately preceding the nonparticipation date. If the percentage is ~~less~~ GREATER than ~~zero~~ ONE HUNDRED PERCENT, the plan ~~total deficit~~ FUNDED percentage is ~~zero~~ ONE HUNDRED PERCENT.