

REFERENCE TITLE: PSPRS; funded ratio; asset transfers

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# **SB 1085**

Introduced by  
Senator Livingston

AN ACT

AMENDING SECTION 38-843, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL 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 38-843, Arizona Revised Statutes, is amended to  
3 read:

4 38-843. Contributions; employer account asset transfers

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

17 B. As determined by actuarial valuations reported to the employer  
18 and the local board by the board of trustees, each employer shall make  
19 contributions sufficient under such actuarial valuations to meet both the  
20 normal cost for members hired before July 1, 2017 plus the actuarially  
21 determined amount required to amortize the unfunded accrued liability on a  
22 level percent of compensation basis for all employees of the employer who  
23 are members of the system or participants as defined in section 38-865,  
24 paragraph 7, subdivision (a), item (i) over, beginning July 1, 2017, a  
25 closed period of not more than twenty years, except as provided in  
26 subsection ~~I~~ L of this section, that is established by the board of  
27 trustees taking into account the recommendation of the system's actuary,  
28 ~~except that, beginning with fiscal year 2006-2007, except as otherwise~~  
29 ~~provided, the employer contribution rate shall not be less than eight~~  
30 ~~percent of compensation. For any employer whose actual contribution rate~~  
31 ~~is less than eight percent of compensation for fiscal year 2006-2007, that~~  
32 ~~employer's contribution rate is not subject to the eight percent minimum~~  
33 ~~but, for fiscal year 2006-2007 and each year thereafter, shall be at least~~  
34 ~~five percent and not more than the employer's actual contribution rate.~~

35 An employer shall have the option of paying a higher level percent of  
36 compensation thereby reducing its unfunded past service liability. An  
37 employer shall also have the option of increasing its contributions in  
38 order to reduce the contributions required from its members under  
39 subsection C of this section, except that if an employer elects this  
40 option the employer shall pay the same higher level percentage  
41 contribution for all members of the eligible group. A county employer  
42 that elected to pay a higher level percentage contribution rate may  
43 eliminate that higher level percentage contribution rate amount for  
44 members who are hired on or after January 1, 2015. During a period when  
45 an employee is on industrial leave and the employee elects to continue

1 contributions during the period of industrial leave, the employer shall  
2 make the contributions based on the compensation the employee would have  
3 received in the employee's job classification if the employee was in  
4 normal employment status. All contributions made by the employers and all  
5 state taxes allocated to the fund shall be irrevocable and shall be used  
6 to pay benefits under the system or to pay expenses of the system and  
7 fund. The minimum employer contribution that is paid and that is in  
8 excess of the normal cost plus the actuarially determined amount required  
9 to amortize the unfunded accrued liability as calculated pursuant to this  
10 subsection shall be used to reduce future employer contribution increases  
11 and shall not be used to pay for an increase in benefits that are  
12 otherwise payable to members. The board shall separately account for  
13 these monies in the fund. Forfeitures arising because of severance of  
14 employment before a member becomes eligible for a pension or any other  
15 reason shall be applied to reduce the cost of the employer, not to  
16 increase the benefits otherwise payable to members. After the close of  
17 any fiscal year, if the system's actuary determines that the actuarial  
18 valuation of an employer's account contains excess valuation assets other  
19 than excess valuation assets that were in the employer's account as of  
20 fiscal year 2004-2005 and is more than one hundred percent funded, the  
21 board shall account for ~~fifty percent of~~ the excess valuation assets **UP TO**  
22 **ONE HUNDRED PERCENT OF PRESENT VALUE OF ALL FUTURE BENEFITS OF THE**  
23 **EMPLOYER** in a stabilization reserve account. After the close of any  
24 fiscal year, if the system's actuary determines that the actuarial  
25 valuation of an employer's account has a valuation asset deficiency and an  
26 unfunded actuarial accrued liability, the board shall use any valuation  
27 assets in the stabilization reserve account for that employer, to the  
28 extent available, to limit the decline in that employer's funding ratio to  
29 not more than two percent.

30 C. Each member who was hired before July 1, 2017, throughout the  
31 member's period of service from the member's effective date of  
32 participation, shall contribute to the fund an amount equal to the amount  
33 prescribed in subsection E of this section, except as provided in  
34 subsection B of this section. Each member who was hired on or after July  
35 1, 2017, throughout the member's period of service from the member's  
36 effective date of participation, shall contribute to the fund an amount  
37 equal to the amount prescribed in subsection G of this section. During a  
38 period when an employee is on industrial leave and the employee elects to  
39 continue contributions during the period of industrial leave, the employee  
40 shall make the employee's contribution based on the compensation the  
41 employee would have received in the employee's job classification if the  
42 employee was in normal employment status. Contributions of members shall  
43 be required as a condition of employment and membership in the system and  
44 shall be made by payroll deductions. Every employee shall be deemed to  
45 consent to such deductions. Payment of an employee's compensation, less

1 such payroll deductions, shall constitute a full and complete discharge  
2 and satisfaction of all claims and demands by the employee relating to  
3 remuneration for the employee's services rendered during the period  
4 covered by the payment, except with respect to the benefits provided under  
5 the system. A member may not, under any circumstance, borrow from, take a  
6 loan against or remove contributions from the member's account before the  
7 termination of membership in the plan or the receipt of a pension.

8 D. Each employer shall transfer to the board the employer and  
9 employee contributions provided for in subsections B, C and G of this  
10 section within ten working days after each payroll date. Contributions  
11 transferred after that date shall include a penalty of ten percent per  
12 annum, compounded annually, for each day the contributions are late, such  
13 penalty to be paid by the employer. Delinquent payments due under this  
14 subsection, together with interest charges as provided in this subsection,  
15 may be recovered by action in a court of competent jurisdiction against an  
16 employer liable for the payments or, at the request of the board, may be  
17 deducted from any other monies, including excise revenue taxes, payable to  
18 such employer by any department or agency of this state.

19 E. The amount contributed by a member who was hired before July 1,  
20 2017 pursuant to subsection C of this section is:

21 1. Through June 30, 2011, 7.65 percent of the member's  
22 compensation.

23 2. For fiscal year 2011-2012, 8.65 percent of the member's  
24 compensation.

25 3. For fiscal year 2012-2013, 9.55 percent of the member's  
26 compensation.

27 4. For fiscal year 2013-2014, 10.35 percent of the member's  
28 compensation.

29 5. For fiscal year 2014-2015, 11.05 percent of the member's  
30 compensation.

31 6. For fiscal year 2015-2016 and each fiscal year thereafter, 11.65  
32 percent of the member's compensation or 33.3 percent of the sum of the  
33 member's contribution rate from the preceding fiscal year and the  
34 aggregate computed employer contribution rate that is calculated pursuant  
35 to subsection B of this section, whichever is lower, except that the  
36 member contribution rate shall not be less than 7.65 percent of the  
37 member's compensation and the employer contribution rate shall not be less  
38 than the rate prescribed in subsection B of this section.

39 ~~F. For fiscal year 2011-2012 and each fiscal year thereafter,~~ The  
40 amount of the member's contribution that exceeds 7.65 percent of the  
41 member's compensation shall not be used to reduce the employer's  
42 contributions that are calculated pursuant to subsection B of this section  
43 UNTIL THE EMPLOYER'S FUNDED RATIO AS EXPRESSED AS A PERCENTAGE OF THE  
44 EMPLOYER'S ACTUARIAL VALUE OF ASSETS TO ACCRUED ACTUARIAL LIABILITY AS  
45 DETERMINED BY ACTUARIAL VALUATIONS REPORTED PURSUANT TO SUBSECTION B OF

1 THIS SECTION IS AT OR ABOVE ONE HUNDRED PERCENT. IF THE EMPLOYER'S FUNDED  
2 RATIO FALLS BELOW ONE HUNDRED PERCENT FUNDED, THE AMOUNT OF THE MEMBER'S  
3 CONTRIBUTIONS ABOVE 7.65 PERCENT AS PROVIDED IN SUBSECTION E, PARAGRAPH 6  
4 OF THIS SECTION SHALL ACCUMULATE FROM THAT TIME AND NOT BE USED TO REDUCE  
5 THE EMPLOYER'S CONTRIBUTION RATE UNTIL THE EMPLOYER'S FUNDED RATIO RETURNS  
6 TO ONE HUNDRED PERCENT FUNDED.

7 G. For members hired on or after July 1, 2017, the employer and  
8 member contributions are determined as follows:

9 1. For employers and members in the public safety employer risk  
10 pool:

11 (a) As determined by the system consolidated actuarial valuation  
12 reported to the board of trustees, each employer shall make contributions  
13 sufficient under such actuarial valuation to pay fifty percent of both the  
14 normal cost plus the actuarially determined amount required to amortize  
15 the total unfunded accrued liability within the risk pool for all  
16 employers attributable to all members in the risk pool. For each year  
17 that new unfunded liabilities are attributable to the public safety  
18 employer risk pool, a new amortization base representing the most recent  
19 annual gain or loss, smoothed over a period of not more than five years as  
20 determined by the board, shall be created on a level-dollar basis over a  
21 closed period equal to the average expected remaining service lives of all  
22 members of the risk pool but not more than ten years, as determined by the  
23 board.

24 (b) The remaining fifty percent of both the normal cost and  
25 actuarially determined amount required to amortize the total unfunded  
26 accrued liability within the public safety employer risk pool as  
27 determined in subdivision (a) of this paragraph shall be divided by the  
28 total number of members in the risk pool such that each member contributes  
29 an equal percentage of the member's compensation. Member contributions  
30 shall begin simultaneously with membership in the system and shall be made  
31 by payroll deduction.

32 2. For employers and members that are not in the public safety  
33 employer risk pool:

34 (a) As determined by actuarial valuations reported to the employer  
35 and the local board by the board of trustees, each employer shall make  
36 contributions sufficient under such actuarial valuations to pay fifty  
37 percent of both the normal cost plus the actuarially determined amount  
38 required to amortize the total unfunded accrued liability for each  
39 employer attributable only to those members hired on or after July 1,  
40 2017. For each year that new unfunded liabilities are attributable to the  
41 employer's own members hired on or after July 1, 2017, a new amortization  
42 base representing the most recent annual gain or loss, smoothed over a  
43 period of not more than five years as determined by the board, shall be  
44 created on a level-dollar basis over a closed period equal to the average

1 expected remaining service lives of all members but not more than ten  
2 years, as determined by the board.

3 (b) The remaining fifty percent of both the normal cost and  
4 actuarially determined amount required to amortize the total unfunded  
5 accrued liability as determined pursuant to subdivision (a) of this  
6 paragraph shall be divided by the total number of the employer's members  
7 who were hired on or after July 1, 2017 such that each member contributes  
8 an equal percentage of the member's compensation. Member contributions  
9 shall begin simultaneously with membership in the system and shall be made  
10 by payroll deduction.

11 H. In any fiscal year, an employer's contribution to the system in  
12 combination with member contributions may not be less than the actuarially  
13 determined normal cost for that fiscal year. The board may not suspend  
14 contributions to the system unless both of the following apply:

15 1. The retirement system actuary, based on the annual valuation,  
16 ~~determines that continuing to accrue excess earnings could result in~~  
17 ~~disqualification of the system's tax-exempt status under the United States~~  
18 ~~internal revenue code~~ DETERMINES THE STABILIZATION RESERVE OF AN  
19 EMPLOYER'S ACCOUNT IS FUNDED TO ONE HUNDRED PERCENT OF PRESENT VALUE OF  
20 ALL FUTURE BENEFITS OF THE EMPLOYER.

21 2. The board determines that ~~the receipt of any additional~~  
22 ~~contributions required under this section would~~ SUSPENDING, IN WHOLE OR IN  
23 PART, THE NORMAL COST CONTRIBUTIONS AS CALCULATED UNDER SUBSECTION B OF  
24 THIS SECTION WOULD NOT BE IN conflict with its fiduciary responsibility.

25 I. AN EMPLOYER MAY REQUEST THAT THE BOARD TRANSFER EXCESS ASSETS OF  
26 AN EMPLOYER'S ACCOUNT THAT HAS NO LIABILITIES OR BENEFICIARIES TO ANOTHER  
27 ACCOUNT OF THE EMPLOYER THAT IS MANAGED BY THE BOARD. THE BOARD MAY  
28 AUTHORIZE THE TRANSFER OF ASSETS IF ALL OF THE FOLLOWING APPLY:

29 1. THE BOARD VERIFIES THAT THE EMPLOYER'S LIABILITIES HAVE BEEN  
30 RECONCILED WITH THE ADMINISTRATOR AND THERE ARE NO REMAINING OR POTENTIAL  
31 LIABILITIES OR BENEFICIARIES OF THE EMPLOYER'S ACCOUNT.

32 2. THE BOARD AND THE SYSTEM BEAR NO LIABILITY THAT THE PROPOSED  
33 TRANSFER CONFORMS WITH ANY OTHER RESTRICTIONS ON THE USE OR TRANSFER OF  
34 THE ASSETS OF THE PROPOSED TRANSFER.

35 3. THE TRANSFER DOES NOT VIOLATE THE INTERNAL REVENUE CODE OR  
36 THREATEN TO IMPAIR THE SYSTEM'S STATUS AS A QUALIFIED PLAN UNDER THE  
37 INTERNAL REVENUE CODE.

38 J. FOR THE PURPOSES OF REQUESTING A TRANSFER OF ASSETS PURSUANT TO  
39 THIS SECTION, AN EMPLOYER MUST MEET BOTH OF THE FOLLOWING REQUIREMENTS:

40 1. THE GOVERNING BODY OF THE EMPLOYER ADOPTS A RESOLUTION  
41 REQUESTING THE TRANSFER OF ASSETS IN AN OPEN SESSION WHERE PUBLIC COMMENT  
42 IS ALLOWED.

43 2. THE EMPLOYER SUBMITS A WRITTEN REQUEST TO THE ADMINISTRATOR OF  
44 THE BOARD FOR THE TRANSFER OF ASSETS ALONG WITH THE ADOPTED RESOLUTION.

1           K. FOR A STATE EMPLOYER THAT MEETS THE REQUIREMENTS OF SUBSECTION I  
2 OF THIS SECTION, THE JOINT LEGISLATIVE BUDGET COMMITTEE MAY REQUEST FROM  
3 THE ADMINISTRATOR OF THE BOARD CONFIRMATION THAT AN EMPLOYER'S ACCOUNT  
4 MEETS THE REQUIREMENTS TO TRANSFER THE ACCOUNT ASSETS. THE LEGISLATURE  
5 SHALL PASS A BILL DIRECTING THE BOARD TO TRANSFER THE ASSETS FROM THE  
6 ELIGIBLE EMPLOYER ACCOUNT TO ANOTHER ACCOUNT OF THE EMPLOYER. BEFORE THE  
7 LEGISLATURE PASSES THE BILL, THE JOINT LEGISLATIVE BUDGET COMMITTEE SHALL  
8 CONFIRM WITH THE ADMINISTRATOR OF THE BOARD THAT THE ASSETS ARE ELIGIBLE  
9 FOR TRANSFER TO ANOTHER EMPLOYER ACCOUNT AND DISCUSS THE MATTER IN A  
10 SCHEDULED PUBLIC MEETING.

11           ~~I~~ L. For the purposes of calculating unfunded liability  
12 amortization payments pursuant to subsection B of this section, an  
13 employer may make a onetime election to request that the board use a  
14 closed period of not more than thirty years if the employer meets both of  
15 the following requirements:

16           1. The governing body of the employer adopts a resolution  
17 requesting the longer amortization period and specifying the actuarial  
18 valuation date for which the new amortization period is to begin. The  
19 actuarial valuation date chosen must be the system's fiscal year end  
20 either immediately before or immediately after the date of the resolution.

21           2. The employer submits a written request for the longer  
22 amortization period along with the adopted resolution to the administrator  
23 of the board.

24           ~~J~~ M. For the purposes of subsection ~~I~~ L of this section,  
25 employer does not include this state or any state agency.

26           ~~K~~ N. If a member's employment is terminated with an employer by  
27 either party, the total liability under the system associated with the  
28 member's service with the employer remains with the employer.