

REFERENCE TITLE: EORP; appropriations; repayment

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2430

Introduced by
Representative Livingston

AN ACT

AMENDING SECTION 38-810, ARIZONA REVISED STATUTES; AMENDING TITLE 38, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 38-824; APPROPRIATING MONIES; RELATING TO THE ELECTED OFFICIALS' RETIREMENT PLAN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 38-810. Contributions; appropriations

5 A. Each member shall contribute to the fund an amount equal to the
6 amount prescribed in subsection G of this section. Contributions of
7 members shall be made by payroll deductions. Every member is deemed to
8 consent to these deductions. Payment of a member's compensation, less
9 these payroll deductions, constitutes a full and complete discharge and
10 satisfaction of all claims and demands by the member relating to
11 remuneration for the member's services rendered during the period covered
12 by the payment, except with respect to the benefits provided under the
13 plan. A member may not, under any circumstance, borrow from, take a loan
14 against or remove contributions from the member's account before the
15 termination of membership in the plan or the receipt of a pension.

16 B. The board's office shall be credited monthly with monies
17 collected pursuant to section 12-119.01, subsection B, paragraph 2,
18 section 12-120.31, subsection D, paragraph 2, section 12-284.03,
19 subsection A, paragraph 6, section 22-281, subsection C, paragraph 3 and
20 section 41-178. The monies credited to the fund pursuant to this
21 subsection shall be deposited in the fund on a monthly basis, and there
22 shall be a complete accounting of the determination of these monies
23 deposited in the fund.

24 C. Beginning on July 1, 2018, as determined by actuarial valuations
25 performed by the plan's actuary each employer shall make contributions on
26 a level percent of compensation basis for all employees of the employer
27 who are either members under this article, article 3.1 of this chapter or
28 article 2 of this chapter pursuant to section 38-727, subsection B
29 sufficient under the actuarial valuation to meet both the normal cost plus
30 the actuarially determined amount required to amortize the unfunded
31 accrued liability over a closed period of at least twenty and not more
32 than thirty years that is established by the board taking into account the
33 recommendation of the plan's actuary and the employer's contribution under
34 the elected officials' defined contribution retirement system established
35 pursuant to article 3.1 of this chapter and the employer's contribution
36 under article 2 of this chapter for members who are eligible pursuant to
37 section 38-727, subsection B. The employer also shall pay the amount
38 required by section 38-797.05 for members under article 2 of this chapter
39 who are eligible pursuant to section 38-727, subsection B and the amount
40 required by article 3.2 of this chapter for members under article 3.1 of
41 this chapter. The monies deposited in the fund pursuant to subsection B
42 of this section shall be used to supplement the contributions required of
43 all employers under the plan. The employer level percent compensation
44 contribution that is paid pursuant to this subsection, less the amount
45 contributed by the employer pursuant to section 38-833 and section 38-737

1 for members eligible pursuant to section 38-727, subsection B, shall not
2 be used to pay for an increase in benefits that is otherwise payable to
3 members but shall be used to meet the normal cost plus an amount to
4 amortize the unfunded accrued liability.

5 D. In any fiscal year, an employer's contribution to the plan in
6 combination with member contributions may not be less than the actuarially
7 determined normal cost for that fiscal year. After the close of any
8 fiscal year, if the plan's actuary determines that the actuarial valuation
9 of the fund contains excess valuation assets and is more than one hundred
10 percent funded, the board shall account for fifty percent of the excess
11 valuation assets in a stabilization reserve account. After the close of
12 any fiscal year, if the plan's actuary determines that the actuarial
13 valuation of the fund has a valuation asset deficiency and an unfunded
14 actuarial accrued liability, the board shall use any valuation assets in
15 the stabilization reserve account, to the extent available, to limit the
16 decline in the fund's funding ratio to not more than two percent.

17 E. The department of administration and the treasurer of each
18 county and participating city and town shall transfer to the board the
19 contributions provided for in subsections A and C of this section within
20 ten working days after each payroll date. The state, county treasurers
21 and clerks of the superior court shall transfer the monies credited under
22 subsection B of this section to the board on or before the fifteenth day
23 of each calendar month that follows the month in which the court fees were
24 collected. Contributions and monies credited under subsection B of this
25 section and transferred after these dates shall include a penalty equal to
26 ten percent a year, compounded annually, for each day that the
27 contributions or monies credited under subsection B of this section are
28 late. Delinquent payments due under this subsection, together with
29 interest charges as provided in this subsection and court costs, may be
30 recovered by action in a court of competent jurisdiction against the
31 person or persons responsible for the payments or, at the request of the
32 board, may be deducted from any other monies, including excise revenue
33 taxes, payable to a political subdivision by any department or agency of
34 this state. If requested by the board, the state, county treasurers or
35 clerks of the superior court shall transfer the monies credited under
36 subsection B of this section, in an amount determined by the board,
37 directly to the qualified governmental excess benefit arrangement
38 established pursuant to section 38-803.01.

39 F. The employer shall pay the member contributions required of
40 members on account of compensation earned after August 7, 1985. The paid
41 contributions shall be treated as employer contributions for the purpose
42 of determining tax treatment under the United States internal revenue
43 code. The effective date of the employer payment shall not be before the
44 date the retirement plan has received notification from the United States
45 internal revenue service that pursuant to section 414(h) of the United

1 States internal revenue code the member contributions paid will not be
2 included in gross income for income tax purposes until the paid
3 contributions are distributed by refund or pension payments. The employer
4 shall pay the member contributions from monies established and available
5 in the retirement deduction account, which monies would otherwise have
6 been designated as member contributions and paid to the retirement plan.
7 Member contributions paid pursuant to this subsection shall be treated for
8 all other purposes, in the same manner and to the same extent, as member
9 contributions made before August 7, 1985.

10 G. An elected official who became a member of the plan before July
11 20, 2011 shall contribute seven percent of the member's gross salary
12 pursuant to subsection A of this section. The amount contributed pursuant
13 to subsection A of this section by an elected official who became a member
14 of the plan on or after July 20, 2011 is:

15 1. For fiscal year 2011-2012, ten percent of the member's gross
16 salary.

17 2. For fiscal year 2012-2013, eleven and one-half percent of the
18 member's gross salary.

19 3. For fiscal year 2013-2014 and each fiscal year thereafter,
20 thirteen percent of the member's gross salary.

21 H. For fiscal year 2011-2012 and each fiscal year thereafter, the
22 amount of the member's contribution that exceeds seven percent of the
23 member's compensation shall not be used to reduce the employer's
24 contributions that are calculated pursuant to subsection C of this
25 section.

26 I. In fiscal years 2013-2014 through ~~2042-2043~~ 2022-2023, the sum
27 of \$5,000,000 is appropriated in each fiscal year from the state general
28 fund to the elected officials' retirement plan fund to supplement the
29 normal cost plus an amount to amortize the unfunded accrued liability
30 pursuant to subsection C of this section. Monies appropriated pursuant to
31 this subsection shall not be used to pay for an increase in benefits that
32 is otherwise payable to members and shall only be used as specified in
33 this subsection. Monies appropriated pursuant to this subsection are
34 exempt from the provisions of section 35-190 relating to lapsing of
35 appropriations.

36 Sec. 2. Title 38, chapter 5, article 3, Arizona Revised Statutes,
37 is amended by adding section 38-824, to read:

38 38-824. Repayment; local governments; pension liability;
39 payment schedule; treasurer notification

40 A. FROM AND AFTER JUNE 30, 2023 THROUGH JUNE 30, 2033, THE
41 FOLLOWING AMOUNTS SHALL BE PAID ANNUALLY BY THE FOLLOWING CITIES, TOWNS
42 AND COUNTIES TO REPAY THIS STATE FOR THE AMOUNTS PAID IN FISCAL YEAR
43 2022-2023 ON THE LOCAL GOVERNMENTS' BEHALF TO THE ELECTED OFFICIALS'
44 RETIREMENT PLAN FOR UNFUNDED ACCRUED LIABILITY:

| | | | |
|----|-----|-------------------------|--------------|
| 1 | 1. | APACHE COUNTY | \$ 138,000 |
| 2 | 2. | COCHISE COUNTY | \$ 464,500 |
| 3 | 3. | COCONINO COUNTY | \$ 456,000 |
| 4 | 4. | GILA COUNTY | \$ 134,900 |
| 5 | 5. | GRAHAM COUNTY | \$ 113,100 |
| 6 | 6. | GREENLEE COUNTY | \$ 49,300 |
| 7 | 7. | LA PAZ COUNTY | \$ 61,500 |
| 8 | 8. | MARICOPA COUNTY | \$11,995,200 |
| 9 | 9. | MOHAVE COUNTY | \$ 1,187,200 |
| 10 | 10. | NAVAJO COUNTY | \$ 616,600 |
| 11 | 11. | PIMA COUNTY | \$ 4,052,900 |
| 12 | 12. | PINAL COUNTY | \$ 1,828,200 |
| 13 | 13. | SANTA CRUZ COUNTY | \$ 122,200 |
| 14 | 14. | YAVAPAI COUNTY | \$ 727,200 |
| 15 | 15. | YUMA COUNTY | \$ 786,200 |
| 16 | 16. | CITY OF TUCSON | \$ 151,700 |
| 17 | 17. | CITY OF SAFFORD | \$ 41,800 |
| 18 | 18. | TOWN OF MARANA | \$ 95,100 |
| 19 | 19. | TOWN OF GILBERT | \$ 133,300 |
| 20 | 20. | TOWN OF SAHUARITA | \$ 38,200 |
| 21 | 21. | CITY OF PHOENIX | \$ 455,100 |
| 22 | 22. | CITY OF SURPRISE | \$ 159,800 |
| 23 | 23. | CITY OF SAN LUIS | \$ 74,800 |
| 24 | 24. | CITY OF SCOTTSDALE | \$ 137,100 |
| 25 | 25. | CITY OF FLAGSTAFF | \$ 139,700 |
| 26 | 26. | CITY OF SOUTH TUCSON | \$ 14,800 |
| 27 | 27. | CITY OF TEMPE | \$ 196,600 |
| 28 | 28. | CITY OF MESA | \$ 248,700 |
| 29 | 29. | CITY OF GLENDALE | \$ 188,600 |
| 30 | 30. | CITY OF AVONDALE | \$ 59,700 |
| 31 | 31. | CITY OF APACHE JUNCTION | \$ 59,500 |
| 32 | 32. | CITY OF PEORIA | \$ 131,400 |
| 33 | 33. | CITY OF TOLLESON | \$ 86,800 |
| 34 | 34. | CITY OF GLOBE | \$ 26,300 |
| 35 | 35. | CITY OF CHANDLER | \$ 196,900 |
| 36 | 36. | CITY OF YUMA | \$ 220,900 |
| 37 | 37. | TOWN OF THATCHER | \$ 26,000 |

38 B. NOT LATER THAN JANUARY 15 OF EACH YEAR, THE STATE TREASURER
 39 SHALL ANNUALLY BILL EACH CITY, TOWN AND COUNTY SPECIFIED IN SUBSECTION A
 40 OF THIS SECTION THE AMOUNT DUE. THE CITY, TOWN OR COUNTY MAY PAY AN
 41 ADDITIONAL AMOUNT IN ANY YEAR, AND THE ADDITIONAL AMOUNT PAID WILL BE
 42 CREDITED AGAINST THE LAST SCHEDULED REMAINING PAYMENT DUE FOR THAT CITY,
 43 TOWN OR COUNTY. THE STATE TREASURER SHALL INCLUDE IN EACH BILLING
 44 STATEMENT THE CITY'S, TOWN'S OR COUNTY'S REMAINING PAYMENT SCHEDULE.

1 C. IF A CITY, TOWN OR COUNTY SPECIFIED IN SUBSECTION A OF THIS
2 SECTION FAILS TO PAY THE ANNUAL REPAYMENT AMOUNT IN FULL ON OR BEFORE
3 MARCH 15, THE STATE TREASURER SHALL WITHHOLD THE AMOUNT OWED FROM THE
4 DISTRIBUTION OF MONIES TO THE AFFECTED CITY, TOWN OR COUNTY PURSUANT TO
5 SECTION 42-5029 AND CONTINUE TO WITHHOLD MONIES UNTIL THE ENTIRE AMOUNT OF
6 THE ANNUAL REPAYMENT AMOUNT HAS BEEN SATISFIED. ALL MONIES PAID TO THE
7 STATE TREASURER OR WITHHELD BY THE STATE TREASURER SHALL BE DEPOSITED,
8 PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE STATE GENERAL FUND.

9 D. A CITY, TOWN OR COUNTY MAY PAY THE ANNUAL REPAYMENT AMOUNT FROM
10 ANY SOURCE OF CITY, TOWN OR COUNTY REVENUE. THE COUNTY SOURCES MAY
11 INCLUDE MONIES OF ANY COUNTYWIDE SPECIAL TAXING JURISDICTION IN WHICH THE
12 BOARD OF SUPERVISORS SERVES AS THE BOARD OF DIRECTORS.

13 Sec. 3. Appropriation; elected officials' retirement plan;
14 pension liability

15 A. In addition to any other appropriations made in fiscal year
16 2022-2023, the sum of \$609,054,500 is appropriated from the state general
17 fund in fiscal year 2022-2023 to the elected officials' retirement plan
18 fund established by section 38-802, Arizona Revised Statutes, to pay the
19 unfunded accrued liability for the elected officials' retirement plan.

20 B. The board of trustees of the public safety personnel retirement
21 system shall account for the appropriation made in subsection A of this
22 section in the June 30, 2023 actuarial valuation of the elected officials'
23 retirement plan. The board shall account for the appropriation when
24 calculating the employee contribution rates and the employer contribution
25 rates pursuant to section 38-810, Arizona Revised Statutes, as amended by
26 this act, during fiscal year 2023-2024.

27 Sec. 4. Appropriation reductions; department of
28 administration; fiscal year 2023-2024

29 A. The sum of (\$3,000,000) is reduced from appropriations made from
30 the state general fund in fiscal year 2023-2024 to the department of
31 administration. This reduction shall be applied to monies the department
32 of administration distributes to counties for required employer
33 contributions to the elected officials' retirement plan.

34 B. The sum of (\$9,488,300) is reduced from appropriations made from
35 the state general fund in fiscal year 2023-2024 to the judiciary—superior
36 court judges' compensation line item.

37 C. The sum of (\$3,115,900) is reduced from appropriations made from
38 the state general fund in fiscal year 2023-2024 to the judiciary—court of
39 appeals as follows:

- 40 1. (\$2,114,400) division one line item.
- 41 2. (\$1,001,500) division two line item.

42 D. The following sums are reduced from appropriations made from the
43 state general fund in fiscal year 2023-2024 to the following agencies'
44 operating lump sum appropriation line item:

| | | |
|----|---|-------------|
| 1 | 1. Attorney general | (\$ 52,700) |
| 2 | 2. Corporation commission | (\$232,800) |
| 3 | 3. Superintendent of public instruction | (\$ 49,800) |
| 4 | 4. Office of the governor | (\$ 55,600) |
| 5 | 5. Judiciary – supreme court | (\$844,600) |
| 6 | 6. Legislature – senate | (\$421,700) |
| 7 | 7. Legislature – house of representatives | (\$843,400) |
| 8 | 8. State mine inspector | (\$ 29,300) |
| 9 | 9. Department of state – secretary of state | (\$ 41,000) |
| 10 | 10. State treasurer | (\$ 41,000) |

11 Sec. 5. Emergency

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