

REFERENCE TITLE: ASRS; return to work; prosecutors

State of Arizona
Senate
Fifty-seventh Legislature
First Regular Session
2025

SB 1034

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTIONS 38-766.01 AND 38-766.02, ARIZONA REVISED STATUTES;
RELATING TO THE ARIZONA STATE 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 38-766.01, Arizona Revised Statutes, is amended
3 to read:

4 38-766.01. Retired members; return to work; definition

5 A. Notwithstanding section 38-766, at a retired member's election,
6 a retired member may return to work and still be eligible to receive
7 retirement benefits if all of the following requirements are satisfied:

8 1. The retired member has attained the member's normal retirement
9 age.

10 2. The retired member terminated direct employment with an employer
11 at least three hundred sixty-five consecutive days before returning to
12 work.

13 3. If the retired member returns to work as a teacher, the retired
14 member's employment is not subject to the requirements prescribed in
15 sections 15-536, 15-538, 15-538.01 and 15-539, ~~through~~ 15-540, 15-541,
16 15-542 AND 15-543.

17 B. Notwithstanding section 38-766 and subsection A of this section,
18 at a retired member's election, a retired member may return to work as a
19 state elected official who is subject to term limits and still be eligible
20 to receive retirement benefits.

21 C. NOTWITHSTANDING SECTION 38-766 AND SUBSECTION A OF THIS SECTION,
22 AT A RETIRED MEMBER'S ELECTION, A RETIRED MEMBER WHO TERMINATED DIRECT
23 EMPLOYMENT WITH AN EMPLOYER AT LEAST SIX MONTHS AFTER THE DATE OF
24 RETIREMENT BEFORE RETURNING TO WORK MAY RETURN TO WORK AS A PROSECUTOR FOR
25 THIS STATE, A COUNTY OR A CITY OR TOWN AND STILL BE ELIGIBLE TO RECEIVE
26 RETIREMENT BENEFITS.

27 ~~C.~~ D. A retired member's election to return to work under this
28 section is irrevocable for the remainder of the retired member's
29 employment for which the retiree made the election.

30 ~~D.~~ E. The retired member shall acknowledge this section in writing
31 and file the ~~acknowledgement~~ ACKNOWLEDGMENT with the employer within
32 thirty days after returning to work.

33 ~~E.~~ F. An employer of a retired member who returns to work pursuant
34 to this section shall not pay contributions on behalf of the retired
35 member pursuant to section 38-736, 38-737 or 38-797.05.

36 ~~F.~~ G. A retired member who returns to work pursuant to this
37 section does not accrue credited service, member service as provided in
38 section 15-1628, subsection B, paragraph 4, additional account balances,
39 retirement benefits or long-term disability program benefits pursuant to
40 article 2.1 of this chapter for the period the retired member returns to
41 work. The period the retired member returns to work is not eligible for
42 purchase under section 38-743 or 38-744.

43 H. FOR THE PURPOSES OF THIS SECTION, "PROSECUTOR":

44 1. MEANS A COUNTY ATTORNEY, A MUNICIPAL PROSECUTOR OR AN ATTORNEY
45 GENERAL.

1 2. INCLUDES AN ASSISTANT OR DEPUTY COUNTY ATTORNEY, MUNICIPAL
2 PROSECUTOR OR ATTORNEY GENERAL.

3 Sec. 2. Section 38-766.02, Arizona Revised Statutes, is amended to
4 read:

5 38-766.02. Retired members; return to work; employer
6 contribution payments; exception; definitions

7 A. Notwithstanding section 38-766.01, subsection ~~F~~ F, beginning
8 July 1, 2012, an employer shall pay contributions at an alternate
9 contribution rate on behalf of a retired member who returns to work with
10 an ASRS employer in any capacity in a position ordinarily filled by an
11 employee of the employer or in a position that is similar in duties and
12 responsibilities to that of a position ordinarily filled by an employee of
13 the employer. This subsection applies to a retired member who has reached
14 a normal retirement age or a retired member who retired under section
15 38-758 if the retired member's retirement benefit has not been suspended
16 pursuant to section 38-766.

17 B. The ASRS actuary shall determine the alternate contribution rate
18 in an annual valuation performed as of June 30. For the fiscal year
19 beginning on July 1 of the following calendar year, the valuation shall
20 determine the percentage to be applied to the compensation, gross salary
21 or contract fee of a retired member who meets the requirements of this
22 section.

23 C. The alternate contribution rate shall not be less than two
24 percent in any fiscal year. The alternate contribution rate is equal to
25 the lesser of:

26 1. The employer contribution rate established by the ASRS actuary
27 pursuant to section 38-737 plus the employer contribution rate established
28 by the ASRS actuary pursuant to section 38-797.06.

29 2. The total past service funding requirement rate established by
30 the ASRS actuary pursuant to section 38-737 plus the total past service
31 funding requirement rate established by the ASRS actuary pursuant to
32 section 38-797.06.

33 D. ASRS shall determine the schedule and method of payment of the
34 alternate contribution rate. Subject to section 38-738, subsection A, all
35 contributions made by the employer and allocated to the fund established
36 by section 38-712 are irrevocable and shall be used as benefits under this
37 article or to pay the expenses of ASRS. Payments made pursuant to this
38 section by employers become delinquent after the due date prescribed in
39 the board's rules and thereafter shall be increased by interest from and
40 after that date until payment is received by ASRS. ASRS shall charge
41 interest on the delinquent payments as prescribed in section 38-711. ASRS
42 may recover delinquent payments due under this section, together with
43 interest charges as provided in this section, by action in a court of
44 competent jurisdiction against an employer liable for payments or, at the
45 request of the director, ASRS may deduct the delinquent payments and

1 interest charges from any other monies, including excise revenue taxes,
2 payable to the employer by any department or agency of this state.

3 E. An employer of a retired member shall submit any reports, data,
4 paperwork or materials that are requested by ASRS and that are necessary
5 to determine the compensation, gross salary or contract fee associated
6 with a retired member who returns to work or to determine the function,
7 utilization, efficacy or operation of the return to work program.

8 F. An employer is not required to pay contributions at an alternate
9 contribution rate on behalf of a retired member under subsection A of this
10 section if the retired member returns to work with the employer in a
11 position that is currently filled by an employee of the employer who is an
12 active member and for which the employer is currently required to pay and
13 is paying contributions on behalf of the active member in that same
14 position pursuant to sections 38-736 and 38-737. An employer may pay
15 contributions at an alternate contribution rate for a retired member who
16 meets the requirements for an exemption under this subsection.

17 G. For contributions made pursuant to subsection F of this section
18 beginning July 1, 2019, if ASRS and the employer determine that the
19 alternate contribution rate does not apply to a retired member who returns
20 to work for whom the employer has paid contributions at the alternate
21 contribution rate, the employer may request an employer credit, not
22 including interest, for those contributions within ninety days after the
23 end of the fiscal year in which the contributions were paid. If ASRS
24 determines that an employer credit is not feasible, ASRS shall issue a
25 refund to an employer in a form determined by ASRS.

26 H. For the purposes of this section:

27 1. "Contract fee" means the gross amount paid to a retired member
28 as an independent contractor minus an amount, not to exceed ten percent,
29 for an administrative fee.

30 2. "Gross salary" means the gross amount paid to a retired member
31 by a leasing company as salary or wages, including amounts that are
32 subject to deferred compensation or tax shelter agreements, for services
33 rendered or that would have been paid to the retired member except for the
34 member's election or a legal requirement that all or part of the gross
35 amount be used for other purposes.