

State of Arizona  
House of Representatives  
Fifty-third Legislature  
First Regular Session  
2017

**CHAPTER 227**  
**HOUSE BILL 2166**

AN ACT

AMENDING SECTION 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 38-766.02, Arizona Revised Statutes, is amended  
3 to read:

4 38-766.02. Retired members; return to work; employer  
5 contribution payments; definitions

6 A. Notwithstanding section 38-766.01, subsection E, beginning July  
7 1, 2012, an employer shall pay contributions at an alternate contribution  
8 rate on behalf of a retired member who returns to work WITH AN ASRS  
9 EMPLOYER in any capacity in a position ordinarily filled by an employee of  
10 the employer OR IN A POSITION THAT IS SIMILAR IN DUTIES AND  
11 RESPONSIBILITIES TO THAT OF A POSITION ORDINARILY FILLED BY AN EMPLOYEE OF  
12 THE EMPLOYER. This subsection applies to a retired member who has reached  
13 a normal retirement age or a retired member who retired under section  
14 38-758 if the retired member's retirement benefit has not been suspended  
15 pursuant to section 38-766.

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

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

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

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

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

9 1. "Contract fee" means the gross amount paid to a retired member  
10 as an independent contractor minus an amount, not to exceed ten ~~per cent~~  
11 PERCENT, for an administrative fee.

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

APPROVED BY THE GOVERNOR MAY 1, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2017.