



Bill Number: S.B. 1034

Kavanagh Floor Amendment

Reference to: printed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- **Removes the specification that a retired Arizona State Retirement System member's authority to return to work as a state, county, city or town prosecutor after six months of retirement is at the member's election.**

KAVANAGH FLOOR AMENDMENT
SENATE AMENDMENTS TO S.B. 1034
(Reference to printed bill)

Amendment instruction key:

[GREEN UNDERLINING IN BRACKETS] indicates text added to statute or previously enacted session law.

[Green underlining in brackets] indicates text added to new session law or text restoring existing law.

[GREEN STRIKEOUT IN BRACKETS] indicates new text removed from statute or previously enacted session law.

[Green strikeout in brackets] indicates text removed from existing statute, previously enacted session law or new session law.

<<Green carets>> indicate a section added to the bill.

<<Green strikeout in carets>> indicates a section removed from the bill.

1 The bill as proposed to be amended is reprinted as follows:

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.

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

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

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

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

15 1. MEANS A COUNTY ATTORNEY, A MUNICIPAL PROSECUTOR OR AN ATTORNEY
16 GENERAL.

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

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

21 38-766.02. Retired members; return to work; employer
22 contribution payments; exception; definitions

23 A. Notwithstanding section 38-766.01, subsection ~~F.~~ F, beginning
24 July 1, 2012, an employer shall pay contributions at an alternate
25 contribution rate on behalf of a retired member who returns to work with
26 an ASRS employer in any capacity in a position ordinarily filled by an
27 employee of the employer or in a position that is similar in duties and
28 responsibilities to that of a position ordinarily filled by an employee of
29 the employer. This subsection applies to a retired member who has reached
30 a normal retirement age or a retired member who retired under section
31 38-758 if the retired member's retirement benefit has not been suspended
32 pursuant to section 38-766.

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

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

42 1. The employer contribution rate established by the ASRS actuary
43 pursuant to section 38-737 plus the employer contribution rate established
44 by the ASRS actuary pursuant to section 38-797.06.

1 2. The total past service funding requirement rate established by
2 the ASRS actuary pursuant to section 38-737 plus the total past service
3 funding requirement rate established by the ASRS actuary pursuant to
4 section 38-797.06.

5 D. ASRS shall determine the schedule and method of payment of the
6 alternate contribution rate. Subject to section 38-738, subsection A, all
7 contributions made by the employer and allocated to the fund established
8 by section 38-712 are irrevocable and shall be used as benefits under this
9 article or to pay the expenses of ASRS. Payments made pursuant to this
10 section by employers become delinquent after the due date prescribed in
11 the board's rules and thereafter shall be increased by interest from and
12 after that date until payment is received by ASRS. ASRS shall charge
13 interest on the delinquent payments as prescribed in section 38-711. ASRS
14 may recover delinquent payments due under this section, together with
15 interest charges as provided in this section, by action in a court of
16 competent jurisdiction against an employer liable for payments or, at the
17 request of the director, ASRS may deduct the delinquent payments and
18 interest charges from any other monies, including excise revenue taxes,
19 payable to the employer by any department or agency of this state.

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

25 F. An employer is not required to pay contributions at an alternate
26 contribution rate on behalf of a retired member under subsection A of this
27 section if the retired member returns to work with the employer in a
28 position that is currently filled by an employee of the employer who is an
29 active member and for which the employer is currently required to pay and
30 is paying contributions on behalf of the active member in that same
31 position pursuant to sections 38-736 and 38-737. An employer may pay
32 contributions at an alternate contribution rate for a retired member who
33 meets the requirements for an exemption under this subsection.

34 G. For contributions made pursuant to subsection F of this section
35 beginning July 1, 2019, if ASRS and the employer determine that the
36 alternate contribution rate does not apply to a retired member who returns
37 to work for whom the employer has paid contributions at the alternate
38 contribution rate, the employer may request an employer credit, not
39 including interest, for those contributions within ninety days after the
40 end of the fiscal year in which the contributions were paid. If ASRS
41 determines that an employer credit is not feasible, ASRS shall issue a
42 refund to an employer in a form determined by ASRS.

43 H. For the purposes of this section:

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

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

7 Enroll and engross to conform
8 Amend title to conform

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