



|| State Statutes Requiring Payment into State Retirement System Upon Withdrawal

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At least eleven states' have statutes governing the state employee retirement systems (excluding teacher or police/fire retirement systems) that dictate how a public employer must pay its funding liability and/or termination costs.

Alaska

"An employer terminating participation in the plan shall pay termination costs determined by the administrator, **or enter into a payment plan acceptable to the administrator**, within 60 days after the employer receives notice of its termination costs from the administrator. Termination costs not paid within the prescribed time limit or in accordance with the approved payment plan shall be collected by the administrator in accordance with AS 39.35.610(b). Termination of participation by an employer in the plan does not bar future participation by the employer if the employer has paid in full its prior termination costs." Alaska Stat. 39.35.958(e).

"Notwithstanding (a) of this section, **the administrator may enter into a payment plan acceptable to the administrator for payment of an employer's liability for termination costs**. Termination costs not paid as prescribed by (a) of this section or in accordance with an approved payment plan may be collected by the administrator in accordance with AS 39.35.610(b)." Alaska Stat. 39.35.625(b).

Alaska Admin. Code title 2, § 35.235:

(a) An employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or terminate participation of the employer under AS 39.35.620 or 39.35.958, must have a termination study completed by the plan actuary to determine the actuarial cost to the employer for future benefits due employees whose coverage is terminated. **The employer shall pay the termination costs determined by the study either in a lump sum or under a payment plan acceptable to the administrator.** The employer shall pay the cost of the study.

(b) In addition to the costs calculated in (a) of this section, an employer that proposes to terminate coverage of a department, group, or other classification of employees under AS 39.35.615 or 39.35.957, or termination of participation of the employer under AS 39.35.620 or 39.35.958, is required to pay to the plan until the past service liability of the plan is extinguished an amount calculated by applying the current past service rate adopted by the board to salaries of the terminated employees as required by AS 39.35.625 (a). This payment shall be made each payroll period **or the employer may enter into a payment plan acceptable to the administrator** for each fiscal year.

(c) Interest as provided under AS 39.35.610 (a) is applied to the termination costs if an employer defaults in the payments under (a) or (b) of this section.



Arizona

“ASRS shall determine the schedule and method of payment of the allocated liability.” Arizona Rev. Stat. 38-751(B).

California

Note that California has several statutes that provide for different termination requirements for different employer situations. Cal. Gov’t Code §§ 20570-20593.

Cal. Gov’t Code § 20577:

If, at the date of termination, the sum of the accumulated contributions credited to, or held as having been made by, the contracting agency and the accumulated contributions credited to or held as having been made by persons who are or have been employed by the agency, as employees of the agency, is less than the actuarial equivalent specified in clause (1) of subdivision (a) of Section 20576, **the agency shall contribute to this system under terms fixed by the board, an amount equal to the difference between the amount specified in clause (1) of subdivision (a) of Section 20576 and the accumulated contributions.** The amount of the difference shall be subject to interest at the actuarial rate from the date of contract termination to the date the agency pays this system. **If the agency fails to pay to the board the amount of the difference, all benefits under the contract, payable after the board declares the agency in default therefor, shall be reduced by the percentage that the sum is less than the amount in clause (1) of subdivision (a) of Section 20576 as of the date the board declared the default.** If the sum of the accumulated contributions is greater than the amount in clause (1) of subdivision (a) of Section 20576, an amount equal to the excess shall be paid by this system to the contracting agency, including interest at the actuarial rate from the date of contract termination to the date this system makes payment. The market value used shall be the value calculated in the most recent annual closing.

The right of an employee of a contracting agency, or his or her beneficiary, to a benefit under this system, whether before or after retirement or death, is subject to the reduction.

Colorado

“In the event that the amount of the reserves required pursuant to the provisions of section 24-51-315 exceeds the amount of the employer’s share of the employer contribution reserve in the local government division trust fund as calculated by the actuary, then the employer shall make an additional payment as of the effective date of termination of affiliation in an amount equal to the difference between the amount of reserves required and the amount of reserves on deposit.” Colo. Rev. Stat. 24-51-316(1).

“If any payment required pursuant to the provisions of subsection (1) or (2) of this section is not made, interest shall be assessed on the amount due at the rate specified for employers in section 24-51-101(28) until such amount is paid in full.” Colo. Rev. Stat. 24-51-316(3).



Connecticut

“If there is a deficit in such sum, it shall be paid in full into the fund by the municipality seeking to withdraw and its liability in this regard shall be enforceable as provided in section 7-445.” Conn. Gen. Stat. 7-444.

“Each participating municipality shall be liable to the fund for the cost of maintaining for its employees the retirement system herein provided for, including all contributions collected from employees. The liability of a municipality under this part shall be enforceable by the Retirement Commission against such municipality through appropriate action in the Superior Court.” Conn. Gen. Stat. 7-445.

“Any deficit shall be paid in full to the fund prior to the formal acceptance of the withdrawal by the Commission.” “[T]he deficit shall be paid in full to the fund by the municipality seeking to withdraw, in accordance with Section 7-444, Connecticut General Statutes.”

Procedures for Withdrawal from CMERS website, available at:

<http://www.osc.ct.gov/rbsd/cmers/municipal/withdrawal.htm>

Idaho

“The withdrawing political subdivision shall enter into a contract with the system which establishes the terms for the political subdivision’s payment of its withdrawal liability. The contract shall use an interest rate equal to the interest rate used in the actuarial valuation adopted by the board prior to the withdrawal date, net of actuarially assumed investment expenses. The contract shall not extend the duration of the withdrawal liability payments beyond ten (10) years, or the end of the current amortization period whichever is less. The contract shall be a financial obligation of the withdrawing political subdivision and any of its successors and assigns.

“Current amortization period” means the period over which the amortization payment rate times the actuarial present value of the projected salaries is equivalent to the unfunded actuarial liability, all determined by the current valuation last adopted by the board prior to the complete withdrawal date.” Idaho Code Ann. 59-1326(9).

Indiana

“The contribution by the withdrawing political subdivision must be made in a lump sum or in a series of payments over a term determined by the board that does not exceed thirty (30) years.” Ind. Code 5-10.3-6-8(d), (e), (g) (identical sentence in all three subparts).

Kentucky

Ky. Rev. Stat 61.522(3)(a)(5), (b)(3) (identical payment language in both subparts):

The full actuarial cost may be paid by lump-sum payment or in installment payments to the system. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made. **If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:**



- a. Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;
- b. Be charged interest over the life of the installment period at the actuarially assumed rate of return; and
- c. Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:
 - i. A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;
 - ii. Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and
 - iii. The perfected security interest shall attach until the amount owed is paid in full.
 1. The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section;

Michigan

“If at the time of a comparison the adjusted balance is insufficient to fully cover the actuarial accrued liabilities, **the insufficiency shall be an obligation of the municipality and shall be liquidated as determined by the Retirement System.**” Plan Section 11(1)(b)(i).

Tennessee

Tenn. Code Ann. 8-35-218(11)-(13).

(11) An actuarial valuation shall be completed by the system's actuary when an employer voluntarily withdraws from the retirement system pursuant to this section. **The actuarial valuation shall determine the appropriate employer contributions to be made to the plan based on a level dollar contribution so as to amortize the unfunded accrued liability over a period of time established by the board of trustees, such period not to exceed a thirty-year period.** The board of trustees may, at its discretion, reestablish the amortization period at any time provided such re-established period does not exceed thirty (30) years. The level dollar contribution amount shall be remitted monthly to the retirement system. Pursuant to § 8-34-506, the biennial valuation shall continue to be performed;

(12) Employer contributions may be adjusted as frequently as monthly should such additional contributions be needed to fund the benefits of members and beneficiaries covered under this section;

(13) Any liabilities resulting from this section shall be a liability of the employer and not the state. Should any required employer costs become delinquent, the commissioner of finance and administration, at the direction of the board of trustees of the retirement system, is authorized to

withhold such amount or part of such amount from any state-shared taxes which are otherwise apportioned to such employer, and any amounts so withheld shall come last from the state shared gasoline tax designated in title 54, chapter 4;

Utah

“Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on: (a) the costs described under Subsection (2)(b); and (b) arrangements for the payment of the costs described under Subsection (2)(b).” Utah Code Ann. 49-11-623(6).

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