DOUGLAS A. DUCEY
GOVERNOR

STATE OF ARIZONA
OFFICE OF THE GOVERNOR

EXECUTIVE OFFICE

May 2, 2017

The Honorable Michele Reagan
Secretary of State
1700 W. Washington, 7th Floor
Phoenix, AZ 85007

Dear Secretary Reagan:

I am transmitting to you the following bills from the Fifty-third Legislature, 1st Regular Session, which I signed on May 2, 2017:

SB 1115 - PSPRS; retirement benefit calculation
SB 1331 - workers' compensation rates; deviations
SB 1451 - orthotics; prosthetics; standards

Sincerely,

Douglas A. Ducey
Governor
State of Arizona

cc: Senate Secretary
Chief Clerk of the House of Representatives
Arizona News Service

Senate Engrossed

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

CHAPTER 266

SENATE BILL 1115

AN ACT

AMENDING SECTIONS 38-842 AND 38-845, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 38-842, Arizona Revised Statutes, is amended to read:

38-842. Definitions

In this article, unless the context otherwise requires:

1. "Accidental disability" means a physical or mental condition that the local board finds totally and permanently prevents an employee from performing a reasonable range of duties within the employee's job classification and that was incurred in the performance of the employee's duty.

2. "Accumulated contributions" means, for each member, the sum of the amount of the member's aggregate contributions made to the fund and the amount, if any, attributable to the employee's contributions before the member's effective date under another public retirement system, other than the federal social security act, and transferred to the fund minus the benefits paid to or on behalf of the member.

3. "Actuarial equivalent" means equality in present value of the aggregate amounts expected to be received under two different forms of payment, based on mortality and interest assumptions adopted by the board.

4. "Alternate payee" means the spouse or former spouse of a participant as designated in a domestic relations order.

5. "Alternate payee's portion" means benefits that are payable to an alternate payee pursuant to a plan approved domestic relations order.

6. "Annuitant" means a person who is receiving a benefit pursuant to section 38-846.01.

7. "Average monthly benefit compensation" means the result obtained by dividing the total compensation paid to an employee during a considered period by the number of months, including fractional months, in which such compensation was received. For an employee who becomes a member of the system:

(a) Before January 1, 2012, the considered period shall be the three consecutive years within the last twenty completed years of credited service that yield the highest average.

(b) On or after January 1, 2012 and before July 1, 2017, the considered period is the five consecutive years within the last twenty completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in the employee's job classification if the employee was not on industrial leave.

(c) On or after July 1, 2017, the considered period is the five consecutive years within the last fifteen completed years of credited service that yield the highest average. In the computation under this paragraph, a period of nonpaid or partially paid industrial leave shall be considered based on the compensation the employee would have received in

the employee's job classification if the employee was not on industrial leave.

8. "Board" means the board of trustees of the system, who are the persons appointed to invest and operate the fund.

9. "Catastrophic disability" means a physical and not a psychological condition that the local board determines prevents the employee from totally and permanently engaging in any gainful employment and that results from a physical injury incurred in the performance of the employee's duty.

10. "Certified peace officer" means a peace officer certified by the Arizona peace officer standards and training board.

11. "Claimant" means any member or beneficiary who files an application for benefits pursuant to this article.

12. "Compensation" means, for the purpose of computing retirement benefits, base salary, overtime pay, shift differential pay, military differential wage pay, compensatory time used by an employee in lieu of overtime not otherwise paid by an employer and holiday pay paid to an employee by the employer for the employee's performance of services in an eligible group on a regular monthly, semimonthly or biweekly payroll basis and longevity pay paid to an employee at least every six months for which contributions are made to the system pursuant to section 38-843, subsection D. Compensation does not include, for the purpose of computing retirement benefits, payment for unused sick leave, payment in lieu of vacation, payment for unused compensatory time or payment for any fringe benefits. In addition, compensation does not include, for the purpose of computing retirement benefits, payments made directly or indirectly by the employer to the employee for work performed for a third party on a contracted basis or any other type of agreement under which the third party pays or reimburses the employer for the work performed by the employee for that third party, except for third party contracts between public agencies for law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities or where the employer supervises the employee's performance of law enforcement, criminal, traffic and crime suppression activities training or fire, wildfire, emergency medical or emergency management activities. For the purposes of this paragraph, "base salary" means the amount of compensation each employee is regularly paid for personal services rendered to an employer before the addition of any extra monies, including overtime pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay and similar extra payments.

13. "Credited service" means the member's total period of service before the member's effective date of participation, plus those compensated periods of the member's service thereafter for which the member made contributions to the fund.

14. "Cure period" means the ninety-day period in which a participant or alternate payee may submit an amended domestic relations order and request a determination, calculated from the time the system issues a determination finding that a previously submitted domestic relations order did not qualify as a plan approved domestic relations order.

15. "Depository" means a bank in which all monies of the system are deposited and held and from which all expenditures for benefits, expenses and investments are disbursed.

16. "Determination" means a written document that indicates to a participant and alternate payee whether a domestic relations order qualifies as a plan approved domestic relations order.

17. "Determination period" means the ninety-day period in which the system must review a domestic relations order that is submitted by a participant or alternate payee to determine whether the domestic relations order qualifies as a plan approved domestic relations order, calculated from the time the system mails a notice of receipt to the participant and alternate payee.

18. "Direct rollover" means a payment by the system to an eligible retirement plan that is specified by the distributee.

19. "Distributee" means a member, a member's surviving spouse or a member's spouse or former spouse who is the alternate payee under a plan approved domestic relations order.

20. "Domestic relations order" means an order of a court of this state that is made pursuant to the domestic relations laws of this state and that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive a portion of the benefits payable to a participant.

21. "Effective date of participation" means July 1, 1968, except with respect to employers and their covered employees whose contributions to the fund commence thereafter, the effective date of their participation in the system is as specified in the applicable joinder agreement.

22. "Effective date of vesting" means the date a member's rights to benefits vest pursuant to section 38-844.01.

23. "Eligible child" means an unmarried child of a deceased member or retired member who meets one of the following qualifications:

(a) Is under eighteen years of age.

(b) Is at least eighteen years of age and under twenty-three years of age only during any period that the child is a full-time student.

(c) Is under a disability that began before the child attained twenty-three years of age and remains a dependent of the surviving spouse or guardian.

24. "Eligible groups" means only the following who are regularly assigned to hazardous duty:

(a) Municipal police officers who are certified peace officers.

(b) Municipal firefighters.

(c) Paid full-time firefighters employed directly by a fire district organized pursuant to section 48-803 or 48-804 or a joint powers authority pursuant to section 48-805.01 with three or more full-time firefighters, but not including firefighters employed by a fire district pursuant to a contract with a corporation.

(d) State highway patrol officers who are certified peace officers.

(e) State firefighters.

(f) County sheriffs and deputies who are certified peace officers.

(g) Game and fish wardens who are certified peace officers.

(h) Police officers who are certified peace officers and firefighters of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424. A police officer shall be designated pursuant to section 28-8426 to aid and supplement state and local law enforcement agencies and a firefighter's sole duty shall be to perform firefighting services, including services required by federal regulations.

(i) Police officers who are certified peace officers and who are appointed by the Arizona board of regents.

(j) Police officers who are certified peace officers and who are appointed by a community college district governing board.

(k) State attorney general investigators who are certified peace officers.

(l) County attorney investigators who are certified peace officers.

(m) Police officers who are certified peace officers and who are employed by an Indian reservation police agency.

(n) Firefighters who are employed by an Indian reservation firefighting agency.

(o) Department of liquor licenses and control investigators who are certified peace officers.

(p) Arizona department of agriculture officers who are certified peace officers.

(q) Arizona state parks board rangers and managers who are certified peace officers.

(r) County park rangers who are certified peace officers.

25. "Eligible retirement plan" means any of the following that accepts a distributee's eligible rollover distribution:

(a) An individual retirement account described in section 408(a) of the internal revenue code.

(b) An individual retirement annuity described in section 408(b) of the internal revenue code.

(c) An annuity plan described in section 403(a) of the internal revenue code.

(d) A qualified trust described in section 401(a) of the internal revenue code.

(e) An annuity contract described in section 403(b) of the internal revenue code.

(f) An eligible deferred compensation plan described in section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state or any agency or instrumentality of a state or a political subdivision of a state and that agrees to separately account for amounts transferred into the eligible deferred compensation plan from this plan.

26. "Eligible rollover distribution" means a payment to a distributee, but does not include any of the following:

(a) Any distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for the life or life expectancy of the member or the joint lives or joint life expectancies of the member and the member's beneficiary or for a specified period of ten years or more.

(b) Any distribution to the extent the distribution is required under section 401(a)(9) of the internal revenue code.

(c) The portion of any distribution that is not includable in gross income.

(d) Any distribution made to satisfy the requirements of section 415 of the internal revenue code.

(e) Hardship distributions.

(f) Similar items designated by the commissioner of the United States internal revenue service in revenue rulings, notices and other guidance published in the internal revenue bulletin.

27. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status or firefighter certification and at the option of the local board, employee may include a person who is training to become a certified peace officer or firefighter.

28. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid firefighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision of this state, including towns, cities, fire districts, joint powers authorities, counties and nonprofit corporations operating public airports pursuant to

sections 28-8423 and 28-8424, that has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes that have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

29. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

30. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

31. "Member":

(a) Means any full-time employee who meets all of the following qualifications:

(i) Who is either a paid municipal police officer, a paid firefighter, a law enforcement officer who is employed by this state including the director thereof, a state firefighter who is primarily assigned to firefighting duties, a firefighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a firefighter who is employed by an Indian reservation firefighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty or, beginning retroactively to January 1, 2009, who is a police chief or a fire chief.

(ii) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(iii) Whose customary employment is at least forty hours per week or, for those employees who customarily work fluctuating workweeks, whose customary employment averages at least forty hours per week.

(iv) Who is engaged to work for more than six months in a calendar year.

(v) Who, if economic conditions exist, is required to take furlough days or reduce the hours of the employee's normal workweek below forty

hours but not less than thirty hours per pay cycle, and maintain the employee's active member status within the system as long as the hour change does not extend beyond twelve consecutive months.

(vi) Who has not attained age sixty-five before the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service prior to the employee's effective date of participation.

(b) Does not include an employee who is hired on or after July 1, 2017, who makes the irrevocable election to participate solely in the public safety personnel defined contribution retirement plan established pursuant to article 4.1 of this chapter and who was not an active, an inactive or a retired member of the system or a member of the system with a disability on June 30, 2017.

32. "Normal retirement date" means:

(a) For an employee who becomes a member of the system before January 1, 2012, the first day of the calendar month immediately following the employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

(b) For an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, the first day of the calendar month immediately following the employee's completion of EITHER twenty-five years of service OR FIFTEEN YEARS OF CREDITED SERVICE if the employee is at least fifty-two and one-half years of age.

(c) For an employee who becomes a member of the system on or after July 1, 2017, the first day of the calendar month immediately following the employee's completion of fifteen years of credited service if the employee is at least fifty-five years of age.

33. "Notice of receipt" means a written document that is issued by the system to a participant and alternate payee and that states that the system has received a domestic relations order and a request for a determination that the domestic relations order is a plan approved domestic relations order.

34. "Ordinary disability" means a physical condition that the local board determines will prevent an employee totally and permanently from performing a reasonable range of duties within the employee's department or a mental condition that the local board determines will prevent an employee totally and permanently from engaging in any substantial gainful activity.

35. "Participant" means a member who is subject to a domestic relations order.

36. "Participant's portion" means benefits that are payable to a participant pursuant to a plan approved domestic relations order.

37. "Pension" means a series of monthly amounts that are payable to a person who is entitled to receive benefits under the plan but does not include an annuity that is payable pursuant to section 38-846.01.

38. "Personal representative" means the personal representative of a deceased alternate payee.

39. "Physician" means a physician who is licensed pursuant to title 32, chapter 13 or 17.

40. "Plan approved domestic relations order" means a domestic relations order that the system approves as meeting all the requirements for a plan approved domestic relations order as otherwise prescribed in this article.

41. "Plan year" or "fiscal year" means the period beginning on July 1 of any year and ending on June 30 of the next succeeding year.

42. "Regularly assigned to hazardous duty" means regularly assigned to duties of the type normally expected of municipal police officers, municipal or state firefighters, eligible fire district firefighters, state highway patrol officers, county sheriffs and deputies, fish and game wardens, firefighters and police officers of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, police officers who are appointed by the Arizona board of regents or a community college district governing board, state attorney general investigators who are certified peace officers, county attorney investigators who are certified peace officers, department of liquor licenses and control investigators who are certified peace officers, Arizona department of agriculture officers who are certified peace officers, Arizona state parks board rangers and managers who are certified peace officers, county park rangers who are certified peace officers, police officers who are certified peace officers and who are employed by an Indian reservation police agency or firefighters who are employed by an Indian reservation firefighting agency. Those individuals who are assigned solely to support duties such as secretaries, stenographers, clerical personnel, clerks, cooks, maintenance personnel, mechanics and dispatchers are not assigned to hazardous duty regardless of their position classification title. Since the normal duties of those jobs described in this paragraph are constantly changing, questions as to whether a person is or was previously regularly assigned to hazardous duty shall be resolved by the local board on a case-by-case basis. Resolutions by local boards are subject to rehearing and appeal.

43. "Retirement" or "retired" means termination of employment after a member has fulfilled all requirements for a pension, for an employee who becomes a member of the system on or after January 1, 2012 and before July 1, 2017, attains the age and service requirements for a normal retirement date or for an employee who becomes a member of the system on or after July 1, 2017 attains the age and credited service requirements for a normal retirement date. Retirement shall be considered as commencing on

the first day of the month immediately following a member's last day of employment or authorized leave of absence, if later.

44. "Segregated funds" means the amount of benefits that would currently be payable to an alternate payee pursuant to a domestic relations order under review by the system, or a domestic relations order submitted to the system that failed to qualify as a plan approved domestic relations order, if the domestic relations order were determined to be a plan approved domestic relations order.

45. "Service" means the last period of continuous employment of an employee by the employers before the employee's retirement, except that if such period includes employment during which the employee would not have qualified as a member had the system then been effective, such as employment as a volunteer firefighter, then only twenty-five percent of such noncovered employment shall be considered as service. Any absence that is authorized by an employer shall not be considered as interrupting continuity of employment if the employee returns within the period of authorized absence. Transfers between employers also shall not be considered as interrupting continuity of employment. Any period during which a member is receiving sick leave payments or a temporary disability pension shall be considered as service. Notwithstanding any other provision of this paragraph, any period during which a person was employed as a full-time paid firefighter for a corporation that contracted with an employer to provide firefighting services on behalf of the employer shall be considered as service if the employer has elected at its option to treat part or all of the period the firefighter worked for the company as service in its applicable joinder agreement. Any reference in this system to the number of years of service of an employee shall be deemed to include fractional portions of a year.

46. "State" means the state of Arizona, including any department, office, board, commission, agency or other instrumentality of the state.

47. "System" means the public safety personnel retirement system established by this article.

48. "Temporary disability" means a physical or mental condition that the local board finds totally and temporarily prevents an employee from performing a reasonable range of duties within the employee's department and that was incurred in the performance of the employee's duty.

Sec. 2. Section 38-845, Arizona Revised Statutes, is amended to read:

38-845. Amount of retirement benefit

A. A member who meets the requirements for a normal pension, who becomes a member of the system before January 1, 2012 and who has twenty years of credited service shall receive a monthly amount that equals fifty percent of the member's average monthly benefit compensation. If the

member retires with other than twenty years of credited service, the foregoing amount shall be:

1. Reduced by four percent for each year of credited service under twenty years, with pro rata reduction for any fractional year.

2. Increased by a monthly amount equal to two percent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year, except that if a member retires with twenty-five or more years of credited service the amount shall be increased by a monthly amount equal to two and one-half percent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty years, with pro rata increase for any fractional year. ~~Notwithstanding this subsection, the maximum amount payable as a normal pension shall be eighty percent of the average monthly benefit compensation.~~

B. A member who meets the requirements for an accidental disability pension shall receive a monthly amount, which shall be computed in the same manner as a normal pension, using the member's average monthly benefit compensation before termination of employment and the member's actual credited service or twenty years of credited service, whichever is greater.

C. A member who meets the requirements for an ordinary disability pension shall receive a monthly amount that is equal to a fraction times the member's normal pension that is computed according to subsection A, G or H of this section if the member had twenty years of credited service. The fraction is the result obtained by dividing the member's actual years of credited service, not to exceed twenty years of credited service, by twenty.

D. A member who meets the requirements for a temporary disability pension shall receive a monthly amount that is equal to one-twelfth of fifty percent of the member's annual compensation received immediately prior to the date on which the member's disability was incurred.

E. A member who meets the requirements for a catastrophic disability pension is entitled to receive a monthly amount computed as follows:

1. For the first sixty months, ninety percent of the member's average monthly benefit compensation before termination of employment.

2. After sixty months, sixty-two and one-half percent of the member's average monthly benefit compensation before termination of employment or computed in the same manner as a normal pension using the member's average monthly benefit compensation before termination of employment and the member's actual credited service, whichever is greater.

F. A member who was employed before September 15, 1989 by an employer participating in the system and who retires on or after November 1, 2001 is entitled to receive a tax equity benefit allowance consisting

of a permanent increase of two percent of the member's base benefit retroactive to the day of retirement.

G. A member who meets the requirements for a normal pension, who becomes a member of the system on or after January 1, 2012 and before July 1, 2017 and who has twenty-five years of credited service shall receive a monthly amount that equals sixty-two and one-half percent of the member's average monthly benefit compensation. IF THE MEMBER HAS AT LEAST FIFTEEN YEARS OF CREDITED SERVICE, BUT LESS THAN TWENTY-FIVE YEARS OF SERVICE, THE MONTHLY AMOUNT SHALL BE EQUAL TO THE MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION MULTIPLIED BY THE NUMBER OF WHOLE AND FRACTIONAL YEARS OF CREDITED SERVICE MULTIPLIED BY THE APPROPRIATE PERCENTAGE SPECIFIED IN SUBSECTION H OF THIS SECTION. If the member HAS TWENTY-FIVE YEARS OF SERVICE AND retires with other than twenty-five years of credited service, the foregoing amount shall be:

1. Reduced by four percent for each year of credited service under twenty-five years, with pro rata reduction for any fractional year.

2. Increased by a monthly amount equal to two and one-half percent of the member's average monthly benefit compensation multiplied by the number of the member's years of credited service in excess of twenty-five years, with pro rata increase for any fractional year. ~~Notwithstanding this subsection, the maximum amount payable as a normal pension shall be eighty percent of the average monthly benefit compensation.~~

H. A member who becomes a member of the system on or after July 1, 2017 and who retires on or after the member's normal retirement date shall receive a monthly amount equal to the member's average monthly benefit compensation multiplied by the number of whole and fractional years of credited service multiplied by the following:

1. 1.50 percent if the member has at least fifteen years of credited service but less than seventeen years of credited service.

2. 1.75 percent if the member has at least seventeen years of credited service but less than nineteen years of credited service.

3. 2.00 percent if the member has at least nineteen years of credited service but less than twenty-two years of credited service.

4. 2.25 percent if the member has at least twenty-two years of credited service but less than twenty-five years of credited service.

5. 2.50 percent if the member has at least twenty-five years of credited service.

I. Notwithstanding ~~subsection~~ SUBSECTIONS A, G AND H of this section, the maximum amount payable as a normal pension is eighty percent of the average monthly benefit compensation.

APPROVED BY THE GOVERNOR MAY 2, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2017.

Passed the House April 25, 2017, by the following vote: 55 Ayes, 0 Nays, 4 Not Voting (1 Vacant)

Speaker of the House

Pro Tempore

Chief Clerk of the House

Passed the Senate March 6, 2017, by the following vote: 30 Ayes, 0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 26th day of April, 2017, at 10:30 o'clock A M.

Secretary to the Governor

Approved this 2nd day of May, 2017, at 4:12 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 2 day of May, 2017, at 4:57 o'clock P M.

Michele Reagan
Secretary of State

S.B. 1115