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REFERENCE TITLE: **PSPRS; compensation; definition**

State of Arizona  
Senate  
Forty-sixth Legislature  
Second Regular Session  
2004

## **SB 1297**

Introduced by  
Senators Mead: Binder, Giffords, Hellon, Miranda, Mitchell; Representative  
Jayne

**AN ACT**

**AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL 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 38-842, Arizona Revised Statutes, is amended to  
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition which  
7 the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's job  
9 classification and was incurred in the performance of the employee's duty. A  
10 finding of accidental disability shall be based on medical evidence by a  
11 doctor or clinic appointed by the local board pursuant to section 38-847,  
12 subsection D, paragraph 9 which establishes an accidental disability.  
13 Material conflicts in medical evidence shall be resolved by the findings of  
14 the local board.

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

21 3. "Actuarial equivalent" means equality in present value of the  
22 aggregate amounts expected to be received under two different forms of  
23 payment, based on mortality and interest assumptions adopted by the fund  
24 manager. The fund manager may from time to time change the mortality and  
25 interest assumptions.

26 4. "Average monthly benefit compensation" means the result obtained by  
27 dividing the total compensation paid to an employee during a considered  
28 period by the number of months, including fractional months, in which such  
29 compensation was received. The considered period shall be the three  
30 consecutive years within the last twenty completed years of credited service  
31 which yield the highest average. In the computation under this paragraph a  
32 period of nonpaid or partially paid industrial leave shall be considered  
33 based on the compensation the employee would have received in the employee's  
34 job classification if the employee was not on industrial leave.

35 5. "Certified peace officer" means a peace officer certified by the  
36 Arizona peace officers standards and training board.

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

39 7. "Compensation" means, for the purpose of computing retirement  
40 benefits, base salary, overtime pay, shift differential pay and holiday pay  
41 paid to an employee on a regular monthly, semimonthly or biweekly payroll  
42 basis, ~~and~~ longevity pay **THAT IS** paid to an employee at least every six  
43 months **AND PAYMENT FOR COMPENSATORY TIME** for which contributions are made to  
44 the system pursuant to section 38-843, subsection D. Compensation does not  
45 include, for the purpose of computing retirement benefits, payment for unused

1 sick leave, payment in lieu of vacation, ~~payment for compensatory time~~ or any  
2 other payment for fringe benefits.

3 8. "Credited service" means the member's total period of service prior  
4 to the member's effective date of participation, plus those compensated  
5 periods of the member's service thereafter for which the member made  
6 contributions to the fund.

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

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

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

16 12. "Eligible child" means the unmarried child of a deceased member who  
17 is under the age of eighteen or a full-time student who is under the age of  
18 twenty-three or under a disability which began before the child attained the  
19 age of twenty-three and who remains a dependent of the surviving spouse or  
20 guardian.

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

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

24 (b) Municipal fire fighters.

25 (c) Paid full-time fire fighters employed directly by a fire district  
26 organized pursuant to section 48-803 or 48-804 with three or more full-time  
27 fire fighters, but not including fire fighters employed by a fire district  
28 pursuant to a contract with a corporation.

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

30 (e) State fire fighters.

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

32 (g) Fish and game wardens who are certified peace officers.

33 (h) Police officers who are certified peace officers and fire fighters  
34 of a nonprofit corporation operating a public airport pursuant to sections  
35 28-8423 and 28-8424. A police officer shall be designated pursuant to  
36 section 28-8426 to aid and supplement state and local law enforcement  
37 agencies and a fire fighter's sole duty shall be to perform fire fighting  
38 services, including services required by federal regulations.

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

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

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

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

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

3 (n) Fire fighters who are employed by an Indian reservation fire  
4 fighting agency.

5 (o) Police officers who are certified peace officers and who are  
6 appointed by the department of administration.

7 (p) Department of liquor licenses and control investigators who are  
8 certified peace officers.

9 (q) Arizona department of agriculture officers who are certified peace  
10 officers.

11 (r) Arizona state parks board rangers and managers who are certified  
12 peace officers.

13 (s) County park rangers who are certified peace officers.

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

20 15. "Employers" means:

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

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

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

31 (d) The state, or any political subdivision thereof, including but not  
32 limited to towns, cities, fire districts, counties and nonprofit corporations  
33 operating public airports pursuant to sections 28-8423 and 28-8424, which has  
34 elected to participate in the system on behalf of an eligible group of public  
35 safety personnel pursuant to a joinder agreement entered into after July 1,  
36 1968.

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

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

43 17. "Fund manager" means the fund manager of the system, who are the  
44 persons appointed to invest and operate the fund.

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

4           19. "Member" means any employee who meets all of the following  
5 qualifications:

6           (a) Who is either a full-time paid municipal police officer, a  
7 full-time paid fire fighter, a law enforcement officer who is employed by the  
8 state including the director thereof, a state fire fighter who is primarily  
9 assigned to fire fighting duties, a fire fighter or police officer of a  
10 nonprofit corporation operating a public airport pursuant to sections 28-8423  
11 and 28-8424, all ranks designated by the Arizona law enforcement merit system  
12 council, a state attorney general investigator who is a certified peace  
13 officer, a county attorney investigator who is a certified peace officer, a  
14 police officer who is appointed by the department of administration and who  
15 is a certified peace officer, a department of liquor licenses and control  
16 investigator who is a certified peace officer, an Arizona department of  
17 agriculture officer who is a certified peace officer, an Arizona state parks  
18 board ranger or manager who is a certified peace officer, a county park  
19 ranger who is a certified peace officer, a person who is a certified peace  
20 officer and who is employed by an Indian reservation police agency, a fire  
21 fighter who is employed by an Indian reservation fire fighting agency or an  
22 employee included in a group designated as eligible employees under a joinder  
23 agreement entered into by their employer after July 1, 1968 and who is or was  
24 regularly assigned to hazardous duty.

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

28           (c) Whose employment with an employer commenced prior to attainment of  
29 age fifty.

30           (d) Whose customary employment is at least forty hours per week and  
31 for more than six months in a calendar year.

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

36           20. "Normal retirement date" means the first day of the calendar month  
37 immediately following an employee's completion of twenty years of service or  
38 the employee's sixty-second birthday and the employee's completion of fifteen  
39 years of service.

40           21. "Ordinary disability" means a physical condition which the local  
41 board determines will prevent an employee totally and permanently from  
42 performing a reasonable range of duties within the employee's department or a  
43 mental condition which the local board determines will prevent an employee  
44 totally and permanently from engaging in any substantial gainful activity. A  
45 finding of ordinary disability shall be based on medical evidence by a doctor

1 or clinic appointed by the local board pursuant to section 38-847, subsection  
2 D, paragraph 9 satisfactory to the local board which establishes an ordinary  
3 disability. Material conflicts in medical evidence shall be resolved by the  
4 findings of the local board.

5 22. "Pension" means a series of monthly amounts which are payable to a  
6 person who is entitled to receive benefits under the plan.

7 23. "Regularly assigned to hazardous duty" means regularly assigned to  
8 duties of the type normally expected of municipal police officers, municipal  
9 or state fire fighters, eligible fire district fire fighters, state highway  
10 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
11 fighters and police officers of a nonprofit corporation operating a public  
12 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
13 appointed by the Arizona board of regents or a community college district  
14 governing board, state attorney general investigators who are certified peace  
15 officers, county attorney investigators who are certified peace officers,  
16 police officers who are appointed by the department of administration and who  
17 are certified peace officers, department of liquor licenses and control  
18 investigators who are certified peace officers, Arizona department of  
19 agriculture officers who are certified peace officers, Arizona state parks  
20 board rangers and managers who are certified peace officers, county park  
21 rangers who are certified peace officers, police officers who are certified  
22 peace officers and are employed by an Indian reservation police agency or  
23 fire fighters who are employed by an Indian reservation fire fighting  
24 agency. Those individuals who are assigned solely to support duties such as  
25 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
26 personnel, mechanics and dispatchers are not assigned to hazardous duty  
27 regardless of their position classification title. Since the normal duties  
28 of municipal police officers, municipal or state fire fighters, eligible fire  
29 district fire fighters, state highway patrol officers, county sheriffs and  
30 deputies, fish and game wardens, fire fighters and police officers of a  
31 nonprofit corporation operating a public airport pursuant to sections 28-8423  
32 and 28-8424, police officers who are appointed by the Arizona board of  
33 regents or a community college district governing board, state attorney  
34 general investigators who are certified peace officers, county attorney  
35 investigators who are certified peace officers, police officers who are  
36 appointed by the department of administration and who are certified peace  
37 officers, department of liquor licenses and control investigators who are  
38 certified peace officers, Arizona department of agriculture officers who are  
39 certified peace officers, Arizona state parks board rangers and managers who  
40 are certified peace officers, county park rangers who are certified peace  
41 officers, police officers who are certified peace officers and are employed  
42 by an Indian reservation police agency and fire fighters who are employed by  
43 an Indian reservation fire fighting agency are constantly changing, questions  
44 as to whether a person is or was previously regularly assigned to hazardous

1 duty shall be resolved by the local board on a case-by-case basis.  
2 Resolutions by local boards are subject to rehearing and appeal.

3 24. "Retirement" means termination of employment after a member has  
4 fulfilled all requirements for a pension. Retirement shall be considered as  
5 commencing on the first day of the month immediately following a member's  
6 last day of employment or authorized leave of absence, if later.

7 25. "Service" means the last period of continuous employment of an  
8 employee by the employers prior to the employee's retirement or the  
9 employee's sixty-fifth birthday, whichever first occurs, except that if such  
10 period includes employment during which the employee would not have qualified  
11 as a member had the system then been effective, such as employment as a  
12 volunteer fire fighter, then only twenty-five per cent of such noncovered  
13 employment shall be considered as service. Any absence which is authorized  
14 by an employer shall not be considered as interrupting continuity of  
15 employment if the employee returns within the period of authorized absence.  
16 Transfers between employers also shall not be considered as interrupting  
17 continuity of employment. Any period during which a member is receiving sick  
18 leave payments or a temporary disability pension shall be considered as  
19 service. Any period during which a person was employed as a full-time paid  
20 fire fighter by a fire district pursuant to a contract with a corporation  
21 within that fire district shall be considered as service if it is part of the  
22 person's last period of continuous employment with that corporation in that  
23 fire district and the fire district has elected to treat the period as  
24 service in its applicable joinder agreement. Any reference in this system to  
25 the number of years of service of an employee shall be deemed to include  
26 fractional portions of a year.

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

29 27. "System" means the public safety personnel retirement system  
30 established by this article.

31 28. "Temporary disability" means a physical or mental condition which  
32 the local board finds totally and temporarily prevents an employee from  
33 performing a reasonable range of duties within the employee's department and  
34 which was incurred in the performance of the employee's duty. A finding of  
35 disability shall be based on medical evidence by a doctor or clinic appointed  
36 by the local board pursuant to section 38-847, subsection D, paragraph 9  
37 which establishes a temporary disability. Material conflicts in medical  
38 evidence shall be resolved by the findings of the local board.