

REFERENCE TITLE: PSPRS; employer liability; death benefits

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2693

Introduced by
Representatives Tobin: Fann

AN ACT

AMENDING SECTIONS 38-845 AND 38-846, 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 38-845, Arizona Revised Statutes, is amended to
3 read:

4 38-845. Amount of retirement benefit; purchase of firearm

5 A. A member who meets the requirements for a normal pension, who
6 becomes a member of the system before January 1, 2012 and who has twenty
7 years of credited service shall receive a monthly amount that equals fifty
8 per cent of the member's average monthly benefit compensation. If the member
9 retires with other than twenty years of credited service, the foregoing
10 amount shall be:

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

13 2. Increased by a monthly amount equal to two per cent of the member's
14 average monthly benefit compensation multiplied by the number of the member's
15 years of credited service in excess of twenty years, with pro rata increase
16 for any fractional year, except that if a member retires with twenty-five or
17 more years of credited service the amount shall be increased by a monthly
18 amount equal to two and one-half per cent of the member's average monthly
19 benefit compensation multiplied by the number of the member's years of
20 credited service in excess of twenty years, with pro rata increase for any
21 fractional year. Notwithstanding the provisions of this subsection, the
22 maximum amount payable as a normal pension shall be eighty per cent of the
23 average monthly benefit compensation.

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

29 C. A member who meets the requirements for an ordinary disability
30 pension shall receive a monthly amount that is equal to a fraction times the
31 member's normal pension that is computed according to subsection A or G **OF**
32 **THIS SECTION** if the member had twenty years of credited service. The
33 fraction is the result obtained by dividing the member's actual years of
34 credited service, not to exceed twenty years of credited service, by twenty.

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

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

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

43 2. After sixty months, sixty-two and one-half per cent of the member's
44 average monthly benefit compensation before termination of employment or
45 computed in the same manner as a normal pension using the member's average

1 monthly benefit compensation before termination of employment and the
2 member's actual credited service, whichever is greater. FOR ACTUARIAL
3 VALUATION PURPOSES, THE AMOUNT COMPUTED UNDER THIS SUBSECTION SHALL BE
4 CHARGED AGAINST THE INVESTMENT EARNINGS OF THE FUND BEFORE THOSE EARNINGS ARE
5 DISTRIBUTED TO EACH EMPLOYER.

6 F. A member who was employed before September 15, 1989 by an employer
7 participating in the system and who retires on or after November 1, 2001 is
8 entitled to receive a tax equity benefit allowance consisting of a permanent
9 increase of two per cent of the member's base benefit retroactive to the day
10 of retirement.

11 G. A member who meets the requirements for a normal pension, who
12 becomes a member of the system on or after January 1, 2012 and who has
13 twenty-five years of credited service shall receive a monthly amount that
14 equals sixty-two and one-half per cent of the member's average monthly
15 benefit compensation. If the member retires with other than twenty-five
16 years of credited service, the foregoing amount shall be:

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

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

25 H. In addition to the amounts received under subsection A, B, C, D, E
26 or G OF THIS SECTION and subject to the approval of the employer, the pension
27 includes the ability of a member to purchase the handgun or shotgun issued by
28 the employer to the member at less than fair market value.

29 Sec. 2. Section 38-846, Arizona Revised Statutes, is amended to read:
30 38-846. Death benefits

31 A. The surviving spouse of a deceased retired member shall be paid a
32 surviving spouse's pension if the spouse was married to the member for a
33 period of at least two consecutive years at the time of the member's death.
34 Payment of a surviving spouse's pension shall commence as of the last day of
35 the month following the retired member's date of death. The last payment
36 shall be made as of the last day of the month in which the surviving spouse's
37 death occurs.

38 B. The surviving spouse of a deceased member shall be paid a surviving
39 spouse's pension if the spouse was married to the member on the date of the
40 member's death. Payment of a surviving spouse's pension commences as of the
41 last day of the month following the member's date of death. The last payment
42 shall be made as of the last day of the month in which the surviving spouse's
43 death occurs.

1 C. The surviving spouse of a deceased retired member is entitled to
2 receive a monthly amount equal to four-fifths of the monthly amount of
3 pension that the decedent would have received immediately before death.

4 D. The surviving spouse of a deceased member who was not killed in the
5 line of duty or did not die from injuries suffered in the line of duty is
6 entitled to receive a monthly amount calculated in the same manner as an
7 accidental disability pension is calculated pursuant to section 38-845,
8 subsection B. The surviving spouse of a deceased member who is killed in the
9 line of duty or dies from injuries suffered in the line of duty is entitled
10 to receive a monthly amount equal to the deceased member's average monthly
11 benefit compensation less any amount payable for an eligible child under this
12 section. A member who was eligible for or receiving a temporary disability
13 pension at the time of the member's death is not deemed to be retired for the
14 purposes of this subsection. For the purposes of this subsection, "killed in
15 the line of duty" means the decedent's death was the direct and proximate
16 result of the performance of the decedent's public safety duties and does not
17 include suicide. FOR ACTUARIAL VALUATION PURPOSES, THE AMOUNT COMPUTED UNDER
18 THIS SUBSECTION FOR A SURVIVING SPOUSE OF A DECEASED MEMBER WHO IS KILLED IN
19 THE LINE OF DUTY OR WHO DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY, PLUS
20 ANY AMOUNT PAYABLE FOR AN ELIGIBLE CHILD UNDER THIS SECTION, SHALL BE CHARGED
21 AGAINST THE INVESTMENT EARNINGS OF THE FUND BEFORE THOSE EARNINGS ARE
22 DISTRIBUTED TO EACH EMPLOYER.

23 E. A surviving spouse shall file a written application with the system
24 in order to receive a survivor benefit.

25 F. If at least one eligible child is surviving at the death of a
26 member or retired member, but no surviving spouse's pension then becomes
27 payable, a guardian's or conservator's pension shall be payable to the person
28 who is serving, or who is deemed by the local board to be serving, as the
29 legally appointed guardian or custodian of the eligible child. If an
30 eligible child of a member or retired member is surviving at the member's or
31 retired member's death, the eligible child is entitled to receive a child's
32 pension payable to the person who is serving or who is deemed by the local
33 board to be serving as the legally appointed guardian or custodian of the
34 eligible child until the eligible child reaches eighteen years of age, at
35 which time the eligible child's pension shall be paid directly to the
36 eligible child if the person remains eligible to receive the pension and is
37 not subject to a guardianship or conservatorship due to disability or
38 incapacity. The pension of a disabled child who is eighteen years of age or
39 older and who is subject to a guardianship or conservatorship due to
40 disability or incapacity shall continue to be paid to the guardian or
41 conservator if the child remains eligible for the pension payment. A child's
42 pension or a guardian's or conservator's pension terminates if the child is
43 adopted. In the case of a disabled child, the child's pension or the
44 guardian's or conservator's pension terminates if the child ceases to be
45 under a disability or ceases to be a dependent of the surviving spouse or

1 guardian. The member may also direct by designation to the local board that
2 the guardian or conservator pension or child's pension be paid to the trustee
3 of a trust created for the benefit of the eligible child. A guardian's or
4 conservator's pension shall also become payable if at least one eligible
5 child is surviving when a surviving spouse's pension terminates. The
6 guardian or conservator shall file a written application with the system in
7 order to receive the guardian's or conservator's pension and child's pension.

8 G. The board shall pay a guardian's or conservator's pension during
9 the same period in which a pension is payable to at least one eligible child.
10 The guardian, conservator or designated trustee is entitled to receive the
11 same monthly amount as would have been payable to the decedent's surviving
12 spouse had a surviving spouse's pension become payable on the decedent's
13 death.

14 H. Each eligible child is entitled to a monthly amount equal to
15 one-tenth of the monthly amount of pension that the deceased member or
16 retired member would have received immediately before death. The pension for
17 a child of a deceased member shall be calculated in the same manner as an
18 accidental disability is calculated pursuant to section 38-845, subsection B.
19 A deceased member shall be assumed to be retired for reasons of accidental
20 disability immediately before the member's death. If there are three or more
21 children eligible for a child's pension, a maximum of two shares of the
22 child's pension shall be payable, the aggregate of such shares to be
23 apportioned in equal measure to each eligible child.

24 I. If a member has accumulated contributions remaining in the system
25 at the date of death of the last beneficiary, a lump sum refund of such
26 accumulated contributions shall be payable to the person whom the member has
27 designated to the local board as the member's refund beneficiary, or if the
28 member's refund beneficiary is not then surviving, to the designated
29 contingent refund beneficiary, or if the designated contingent refund
30 beneficiary is not then surviving or if the surviving designated beneficiary
31 does not apply for the benefit within twelve months from the date of the
32 member's death, at the election of the local board to the person's nearest of
33 kin as determined by the local board or to the estate of the deceased member.
34 The amount of the lump sum refund shall be the remaining accumulated
35 contributions. The beneficiary or person who is claiming to be the nearest
36 of kin shall file a written application in order to receive the refund.

37 J. In calculating the right to and the amount of the surviving
38 spouse's pension, the law in effect on the date of the death of the member or
39 retired member controls, unless the law under which the member retired
40 provides for a greater benefit amount for a surviving spouse.