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_____ BILL

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO JUDICIAL RETIREMENT; ALLOWING FOR THE APPROPRIATION OF MONEY INTO THE JUDICIAL RETIREMENT FUND; ADJUSTING AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT; INCREASING CERTAIN SERVICE CREDIT MULTIPLIERS PROVIDED IN THE JUDICIAL RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "judicial retirement fund". The fund [~~is comprised~~] consists of appropriations, money received from docket and jury fees of metropolitan courts, district courts, the court of appeals and

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1 the supreme court, employer and employee contributions and
2 [~~any~~] all income derived from the investment earnings [~~on fees~~
3 ~~and contributions~~] of the fund. The board is the trustee of
4 the fund and shall administer and invest the fund. Investment
5 of the fund shall be conducted pursuant to the provisions of
6 the Public Employees Retirement Act. The provisions of the
7 Judicial Retirement Act shall be administered by the board.
8 The board is authorized to promulgate rules. Expenses related
9 to the investment of the fund and administration of the
10 Judicial Retirement Act shall be paid from the fund.

11 B. For purposes of this section, the accounting
12 funds shall be known as the "member contribution fund",
13 "employer's accumulation fund", "retirement reserve fund" and
14 "income fund". The maintenance of separate accounting funds
15 shall not require the actual segregation of the assets of the
16 fund.

17 C. The accounting funds provided for in this
18 section are trust funds and shall be used only for the purposes
19 provided for in the Judicial Retirement Act.

20 D. The member contribution fund is the accounting
21 fund in which shall be accumulated contributions of members and
22 from which shall be made refunds and transfers of accumulated
23 member contributions as provided in the Judicial Retirement
24 Act. The member's court shall cause member contributions to be
25 deducted from the salary of the member and shall remit the

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1 deducted member contributions to the association in accordance
2 with procedures and schedules established by the association.
3 The association may assess an interest charge and a penalty
4 charge on any late remittance. Each member shall be deemed to
5 consent and agree to the deductions made and provided for in
6 this section. Contributions by members shall be credited to
7 the members' individual accounts in the member contribution
8 fund. A member's accumulated member contributions shall be
9 transferred to the retirement reserve fund when a pension
10 becomes payable.

11 E. The employer's accumulation fund is the
12 accounting fund in which shall be accumulated the contributions
13 paid by the state through the member's court. The state,
14 through the member's court, shall remit its contributions to
15 the association in accordance with procedures and schedules
16 established by the association. The board may assess an
17 interest charge and a penalty charge on any late remittance.

18 F. The retirement reserve fund is the accounting
19 fund from which shall be paid all pensions to retired members
20 and survivor beneficiaries and all residual refunds to refund
21 beneficiaries of retired members and survivor beneficiaries.

22 G. Each year, following receipt of the report of
23 the annual actuarial valuation, the excess, if any, of the
24 reported actuarial present value of pensions being paid and
25 likely to be paid to retired members and survivor beneficiaries

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1 and residual refunds likely to be paid to refund beneficiaries
2 of retired members and survivor beneficiaries over the balance
3 in the retirement reserve fund shall be transferred to the
4 retirement reserve fund from the employer's accumulation fund.

5 H. The income fund is the accounting fund to which
6 shall be credited all interest, dividends, rents and other
7 income from investments of the fund, all gifts and bequests,
8 all unclaimed member contributions and all other money the
9 disposition of which is not specifically provided for in the
10 Judicial Retirement Act. Expenses related to the
11 administration of the Judicial Retirement Act shall be paid for
12 from the income fund.

13 I. The association shall at least annually
14 distribute all or a portion of the balance in the income fund
15 to the member contribution fund, the retirement reserve fund
16 and the employer's accumulation fund. Distribution rates shall
17 be determined by the board and may vary for the respective
18 accounting funds."

19 SECTION 2. Section 10-12B-8 NMSA 1978 (being Laws 1992,
20 Chapter 111, Section 8, as amended) is amended to read:

21 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
22 RETIREMENT.--

23 A. For an individual who initially became a member
24 prior to July 1, 2005, the age and service credit requirements
25 for retirement provided for in the Judicial Retirement Act are:

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1 (1) age sixty-five years or older and five or
2 more years of service credit; or

3 (2) age sixty years or older and fifteen or
4 more years of service credit.

5 B. For an individual who initially became a member
6 after June 30, 2005 but on or before June 30, 2014, the age and
7 service credit requirements for retirement provided for in the
8 Judicial Retirement Act are:

9 (1) age sixty-five years or older and five or
10 more years of service credit; or

11 (2) age fifty-five years or older and sixteen
12 or more years of service credit.

13 C. For an individual who initially became a member
14 on or after July 1, 2014 but on or before June 30, 2024, the
15 age and service requirements provided for in the Judicial
16 Retirement Act are:

17 (1) age sixty-five years and eight or more
18 years of service credit; or

19 (2) age sixty years and fifteen or more years
20 of service credit.

21 D. For an individual who initially became a member
22 on or after July 1, 2024, the age and service requirements
23 provided for in the Judicial Retirement Act are:

24 (1) age sixty-five years and five or more
25 years of service credit; or

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1 plan in effect at that time, the amount of monthly pension is
2 an amount equal to one-twelfth of:

3 seventy-five percent
4 of salary received X number of years of
5 during last year in service, not exceeding
6 office prior to ten years, divided
7 retirement by ten.

8 B. For a judge or justice who initially became a
9 member before July 1, 2005 and who initially occupied such an
10 office after July 1, 1980; or a judge or justice who occupied
11 such an office on or before July 1, 1980 and who has elected to
12 be covered pursuant to the provisions of the Judicial
13 Retirement Act, the amount of monthly pension is an amount
14 equal to the sum of:

15 (1) for service credit earned on or before
16 June 30, 2014, an amount equal to one-twelfth of:

17 seventy-five (number of years of
18 percent of salary service not
19 received during X .05 X exceeding fifteen
20 last year in office years, plus five
21 prior to retirement years); ~~and~~

22 (2) for service credit earned on and after
23 July 1, 2014 but on or before June 30, 2024, an amount equal to
24 one-sixtieth of the greatest aggregate amount of salary
25 received for sixty consecutive, but not necessarily continuous,

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1 months in office multiplied by the product of three and one-
2 half percent times the number of years of service credit; and
3 (3) for service credit earned on or after July
4 1, 2024:

5 (a) if the judge or justice has occupied
6 that office for less than ten years, an amount equal to one-
7 sixtieth of the greatest aggregate amount of salary received
8 for sixty consecutive, but not necessarily continuous, months
9 in office multiplied by the product of four percent times the
10 number of years of service credit; or

11 (b) if the judge or justice has occupied
12 that office for ten years or more, an amount equal to one-
13 sixtieth of the greatest aggregate amount of salary received
14 for sixty consecutive, but not necessarily continuous, months
15 in office multiplied by the product of three and one-half
16 percent times the number of years of service credit.

17 C. For a judge or justice who initially became a
18 member after June 30, 2005 but on or before June 30, 2014, the
19 amount of monthly pension is an amount equal to the sum of:

20 (1) for service credit earned on or before
21 June 30, 2014, an amount equal to one-twelfth of the salary
22 received during the last year in office prior to retirement
23 multiplied by the product of three and seventy-five hundredths
24 percent times the sum of the number of years of service; ~~and~~

25 (2) for service credit earned on and after

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1 July 1, 2014 but on or before June 30, 2024, an amount equal to
2 one-sixtieth of the greatest aggregate amount of salary
3 received for sixty consecutive, but not necessarily continuous,
4 months in office multiplied by the product of three and one-
5 half percent times the number of years of service credit; and
6 (3) for service credit earned on or after
7 July 1, 2024:

8 (a) if the judge or justice has occupied
9 that office for less than ten years, an amount equal to one-
10 sixtieth of the greatest aggregate amount of salary received
11 for sixty consecutive, but not necessarily continuous, months
12 in office multiplied by the product of four percent times the
13 number of years of service credit; or

14 (b) if the judge or justice has occupied
15 that office for ten years or more, an amount equal to one-
16 sixtieth of the greatest aggregate amount of salary received
17 for sixty consecutive, but not necessarily continuous, months
18 in office multiplied by the product of three and one-half
19 percent times the number of years of service credit.

20 D. For a judge or justice who initially became a
21 member on or after July 1, 2014 but on or before June 30, 2024,
22 the amount of monthly pension under form of payment A is an
23 amount equal to one-sixtieth of the greatest aggregate amount
24 of salary received for sixty consecutive, but not necessarily
25 continuous, months in office multiplied by the product of three

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1 and one-fourth percent times the number of years of service.

2 E. For a judge or justice who initially became a
3 member on or after July 1, 2024, the amount of monthly pension
4 under form of payment A is an amount equal to the sum of:

5 (1) one-sixtieth of the greatest aggregate
6 amount of salary received for sixty consecutive, but not
7 necessarily continuous, months in office multiplied by the
8 product of three and one-fourth percent times the number of
9 years of service;

10 (2) provided that the judge or justice has
11 occupied that office for less than ten years, an amount equal
12 to one-sixtieth of the greatest aggregate amount of salary
13 received for sixty consecutive, but not necessarily continuous,
14 months in office multiplied by the product of four percent
15 times the number of years of service credit; or

16 (3) provided that the judge or justice has
17 occupied that office for ten years or more, an amount equal to
18 one-sixtieth of the greatest aggregate amount of salary
19 received for sixty consecutive, but not necessarily continuous,
20 months in office multiplied by the product of three and one-
21 half percent times the number of years of service credit.

22 [~~E.~~] F. The amount of pension under form of payment
23 A for a pension calculated pursuant to Subsection D or E of
24 this section shall not exceed [~~eighty-five~~] one hundred percent
25 of one-sixtieth of the greatest aggregate amount of salary

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1 received for sixty consecutive, but not necessarily continuous,
2 months prior to the member leaving office.

3 ~~[F-]~~ G. The amount of pension payable for a pension
4 calculated pursuant to Subsection A, B or C of this section
5 shall not exceed eighty-five percent of one-sixtieth of the
6 greatest aggregate amount of salary received for sixty
7 consecutive, but not necessarily continuous, months prior to
8 the member leaving office. A pension benefit determined
9 pursuant to this subsection shall not be less than the benefit
10 earned as of June 30, 2014."

11 SECTION 4. Section 10-12B-10 NMSA 1978 (being Laws 1992,
12 Chapter 111, Section 10, as amended) is amended to read:

13 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

14 A. On and after July 1, 2014 but on or before June
15 30, 2024, members, while in office, shall contribute ten and
16 one-half percent of salary to the member contribution fund.

17 B. On and after July 1, 2024, members, while in
18 office, shall contribute twelve and one-half percent of salary
19 to the member contribution fund.

20 ~~[B-]~~ C. Upon implementation, the state, acting as
21 employer of members covered pursuant to the provisions of the
22 Judicial Retirement Act, shall, solely for the purpose of
23 compliance with Section 414(h) of the Internal Revenue Code of
24 1986, pick up, for the purposes specified in that section,
25 member contributions required by this section for all annual

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1 salary earned by the member. Member contributions picked up
2 pursuant to the provisions of this section shall be treated as
3 employer contributions for purposes of determining income tax
4 obligations under the Internal Revenue Code of 1986; however,
5 such picked-up member contributions shall be included in the
6 determination of the member's gross annual salary for all other
7 purposes under federal and state laws. Member contributions
8 picked up pursuant to the provisions of this section shall
9 continue to be designated member contributions for all purposes
10 of the Judicial Retirement Act and shall be considered as part
11 of the member's annual salary for purposes of determining the
12 amount of the member's contribution. The provisions of this
13 section are mandatory, and the member shall have no option
14 concerning the pickup or concerning the receipt of the
15 contributed amounts directly instead of having the amounts paid
16 by the employer to the retirement system. Implementation
17 occurs upon authorization by the board. In no event may
18 implementation occur other than at the beginning of a pay
19 period applicable to the member."

20 SECTION 5. Section 10-12B-11 NMSA 1978 (being Laws 1992,
21 Chapter 111, Section 11, as amended) is amended to read:

22 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

23 A. The member's court shall contribute [~~fifteen~~]
24 twenty-one and one-half percent of salary to the fund for each
25 member in office.

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