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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; MAKING AN APPROPRIATION.

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, the age and service requirements

15   provided for in the Judicial Retirement Act are:

16   (1) age sixty-five years and [eight] five or

17   more years of service credit; or

18   (2) age sixty years and fifteen or more years

19   of service credit.

20   D. Except for a member who is retired under any

21   state system or the educational retirement system, if a member

22   leaves office for any reason, other than removal pursuant to

23   Article 6, Section 32 of the constitution of New Mexico, before

24   meeting the age and service credit requirements for retirement

25   pursuant to the provisions of this section and if that member

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1　leaves the member contributions on deposit in the fund, that

2　member may apply for retirement when that member meets the age

3　and service credit requirements for retirement pursuant to the

4　provisions of the Judicial Retirement Act or provisions of the

5　Public Employees Retirement Reciprocity Act.

6　　　　E.　No member shall be eligible to receive a pension

7　pursuant to the provisions of the Judicial Retirement Act while

8　still in office."

9　　　　**SECTION 3.** Section 10-12B-9 NMSA 1978 (being Laws 1992,

10　Chapter 111, Section 9, as amended) is amended to read:

11　　　　"10-12B-9.　AMOUNT OF PENSION.--

12　　　　A.　For a judge or justice who occupied such an

13　office prior to July 1, 1980, but who had ceased to hold such

14　an office prior to that date and who elected to be excluded

15　from the provisions of the Judicial Retirement Act; or a judge

16　or justice who occupied such an office on July 1, 1980, but who

17　elected to be covered under the provisions of the retirement

18　plan in effect at that time, the amount of monthly pension is

19　an amount equal to one-twelfth of:

20　　　　seventy-five percent

21　　　　of salary received　　　　X　　　　number of years of

22　　　　during last year in　　　　　　　　service, not exceeding

23　　　　office prior to　　　　　　　　　ten years, divided

24　　　　retirement　　　　　　　　　　　　by ten.

25　　　　B.　For a judge or justice who initially became a

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1   member before July 1, 2005 and who initially occupied such an

2   office after July 1, 1980; or a judge or justice who occupied

3   such an office on or before July 1, 1980 and who has elected to

4   be covered pursuant to the provisions of the Judicial

5   Retirement Act, the amount of monthly pension is an amount

6   equal to the sum of:

7   (1)   for service credit earned on or before

8   June 30, 2014, an amount equal to one-twelfth of:

9   seventy-five   (number of years of

10   percent of salary   service not

11   received during   X .05 X   exceeding fifteen

12   last year in office   years, plus five

13   prior to retirement   years); and

14   (2)   for service credit earned on and after

15   July 1, 2014, an amount equal to one-sixtieth of the greatest

16   aggregate amount of salary received for sixty consecutive, but

17   not necessarily continuous, months in office multiplied by the

18   product of three and one-half percent times the number of years

19   of service credit.

20   C.   For a judge or justice who initially became a

21   member after June 30, 2005 but on or before June 30, 2014, the

22   amount of monthly pension is an amount equal to the sum of:

23   (1)   for service credit earned on or before

24   June 30, 2014, an amount equal to one-twelfth of the salary

25   received during the last year in office prior to retirement

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multiplied by the product of three and seventy-five hundredths

percent times the sum of the number of years of service; [and]

(2) for service credit earned on and after

July 1, 2014 but on or before June 30, 2024, an amount equal to

one-sixtieth of the greatest aggregate amount of salary

received for sixty consecutive, but not necessarily continuous,

months in office multiplied by the product of three and one-

half percent times the number of years of service credit; and

(3) for service credit earned on or after

July 1, 2024, an amount equal to one-sixtieth of the greatest

aggregate amount of salary received for sixty consecutive, but

not necessarily continuous, months in office multiplied by the

product of the number of years of service credit times:

(a) four percent for ten years of the

judge or justice's service credit; and

(b) three and one-half percent for years

of the judge or justice's service credit exceeding ten years.

D. For a judge or justice who initially became a

member on or after July 1, 2014 but on or before June 30, 2024,

the amount of monthly pension under form of payment A is an

amount equal to the sum of:

(1) for service credit earned on or after July

1, 2014 but on or before June 30, 2024, one-sixtieth of the

greatest aggregate amount of salary received for sixty

consecutive, but not necessarily continuous, months in office

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multiplied by the product of three and one-fourth percent times the number of years of service; and

(2) for service credit earned on or after July 1, 2024, an amount equal to one-sixtieth of the greatest aggregate amount of salary for sixty consecutive, but not necessarily continuous, months in office multiplied by the product of the number of years of service credit times:

(a) four percent for ten years of the judge or justice's service credit; and

(b) three and one-half percent for years of the judge or justice's service credit exceeding ten years.

E. The amount of pension under form of payment A for a pension calculated pursuant to Subsection D of this section shall not exceed [eighty-five] one hundred percent of one-sixtieth of the greatest aggregate amount of salary received for sixty consecutive, but not necessarily continuous, months prior to the member leaving office.

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

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

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

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

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

[B.] C. Upon implementation, the state, acting as employer of members covered pursuant to the provisions of the Judicial Retirement Act, shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code of 1986, pick up, for the purposes specified in that section, member contributions required by this section for all annual salary earned by the member. Member contributions picked up pursuant to the provisions of this section shall be treated as employer contributions for purposes of determining income tax obligations under the Internal Revenue Code of 1986; however, such picked-up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up pursuant to the provisions of this section shall continue to be designated member contributions for all purposes of the Judicial Retirement Act and shall be considered as part

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1   of the member's annual salary for purposes of determining the

2   amount of the member's contribution. The provisions of this

3   section are mandatory, and the member shall have no option

4   concerning the pickup or concerning the receipt of the

5   contributed amounts directly instead of having the amounts paid

6   by the employer to the retirement system. Implementation

7   occurs upon authorization by the board. In no event may

8   implementation occur other than at the beginning of a pay

9   period applicable to the member."

10   **SECTION 5.** Section 10-12B-11 NMSA 1978 (being Laws 1992,

11   Chapter 111, Section 11, as amended) is amended to read:

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

13   A.   The member's court shall contribute [fifteen]

14   underscored twenty-one and one-half percent of salary to the fund for each

15   member in office.

16   B.   Thirty-eight dollars ($38.00) from each civil

17   case docket fee paid in the district court, twenty-five dollars

18   ($25.00) from each civil docket fee paid in metropolitan court

19   and ten dollars ($10.00) from each jury fee paid in

20   metropolitan court shall be paid by the court clerk to the

21   employer's accumulation fund."

22   **SECTION 6.** APPROPRIATION.--Three million one hundred

23   fifty thousand three hundred sixty-four dollars ($3,150,364) is

24   appropriated from the general fund to the department of finance

25   and administration for expenditure in fiscal year 2025 and

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1   subsequent fiscal years for distribution to the supreme court,

2   the court of appeals, district courts and the Bernalillo county

3   metropolitan court to pay increased employer retirement

4   contributions. Any unexpended or unencumbered balance

5   remaining at the end of a fiscal year shall not revert to the

6   general fund.

7   **SECTION 7.** EFFECTIVE DATE.--The effective date of the

8   provisions of this act is July 1, 2024.

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