

AN ACT

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RELATING TO PUBLIC EMPLOYEES RETIREMENT; INCREASING THE ANNUAL
EARNINGS CAP FOR PUBLIC EMPLOYEE RETIREES RETURNING TO WORK WITH
AN AFFILIATED PUBLIC EMPLOYER; AMENDING A SECTION OF THE NMSA 1978.

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

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Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253,
Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT --SUSPENSION.--

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form
prescribed by the association, is filed with the association prior to the selected date of
retirement;

(2) employment is terminated with all employers covered by any
state system or the educational retirement system prior to the selected date of
retirement;

(3) the member selects an effective date of retirement that is
the first day of a calendar month; and

(4) the member meets the age and service credit requirement
for normal retirement specified in the coverage plan applicable to the member.

B. The amount of normal retirement pension is determined in
accordance with the coverage plan applicable to the member.

C. A retired member who is receiving a normal retirement pension and
is subsequently employed by an affiliated public employer shall have his pension

suspended when he earns twenty-five thousand dollars (\$25,000) or more with the affiliated public employer in one year. The suspension shall take effect the first day of the month following the month in which the retired member's year-to-date earnings are equal to or greater than twenty-five thousand dollars (\$25,000). When the pension is suspended, the following conditions shall apply:

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(1) the retired member who is subsequently employed by an affiliated public employer shall become a member. The previously retired member and the subsequent affiliated public employer shall make the required employee and employer contributions, and the previously retired member shall accrue service credit for the period of subsequent employment; and

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(2) when a previously retired member terminates the subsequent employment with an affiliated public employer, he shall retire according to the provisions of the Public Employees Retirement Act, subject to the following conditions:

(a) payment of the pension shall resume in accordance with the provisions of Subsection A of this section;

(b) unless the previously retired member accrued at least three years of service credit on account of the subsequent employment, the recalculation of pension shall: 1) employ the form of payment selected by the previously retired member at the time of the first retirement; and 2) use the provisions of the coverage plan applicable to the member on the date of the first retirement; and

(c) the recalculated pension shall not be less than the amount of the suspended pension.

D. The provisions of Subsection C of this section shall not apply to a

retired member who is appointed chief of police of an affiliated public employer, other than of the affiliated public employer from which retired, or who is appointed undersheriff if the retired member files an irrevocable exemption from membership with the association within thirty days of appointment. For purposes of this subsection, each sheriff's office shall be limited to one undersheriff. The irrevocable exemption shall be for the chief of police's or the undersheriff's term of office. Filing of an irrevocable exemption shall irrevocably bar the retired member from acquiring service credit for the period of exemption from membership.

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E. The provisions of Subsection C of this section shall not apply to any retired member who is subsequently employed by an employer who is not an affiliated public employer.

F. The provisions of Subsection C of this section do not apply to a retired member who has been retired for twelve consecutive months and who subsequently is employed by:

(1) the state in a position that is exempt from the Personnel Act; or

(2) a municipality or a county in a position that is exempt from that local government's personnel ordinance.

G. The provisions of Subsection C of this section shall not apply to a retired member who is elected to serve a term as an elected official if the retired member files an irrevocable exemption from membership with the association within thirty days of taking office. Filing of an irrevocable exemption shall irrevocably bar the retired member from acquiring service credit for the period of exemption from membership.

H. The pension of a member who has three or more years of service credit under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension. The pension of a member who has service credit under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension, provided the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed. The provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

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Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2003.

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