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HOUSE BILL 116

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; CREATING A NEW
COVERAGE PLAN FOR HAZARDOUS DUTY MEMBERS; PROVIDING FOR AN
ELECTION; AMENDING AND ENACTING SECTIONS OF THE PUBLIC
EMPLOYEES RETIREMENT ACT.

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

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

B. "affiliated public employer" means the state and

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1 any public employer affiliated with the association as provided
2 in the Public Employees Retirement Act, but does not include an
3 employer pursuant to the Magistrate Retirement Act, the
4 Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees
6 retirement association established under the Public Employees
7 Retirement Act;

8 D. "disability retired member" means a retired
9 member who is receiving a pension pursuant to the disability
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the
12 pension paid pursuant to the disability retirement provisions
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means [~~that~~] the
15 retirement system provided for in the Educational Retirement
16 Act;

17 G. "employee" means [~~any~~] an employee of an
18 affiliated public employer;

19 H. "federal social security program" means [~~that~~]
20 the program or those programs created and administered pursuant
21 to the act of congress approved August 14, 1935, Chapter 531,
22 49 Stat. 620, as that act may be amended;

23 I. "final average salary" means the final average
24 salary calculated in accordance with the provisions of the
25 applicable coverage plan;

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1 J. "form of payment" means the applicable form of
2 payment of a pension provided for in Section 10-11-117 NMSA
3 1978;

4 K. "former member" means a person who was
5 previously employed by an affiliated public employer, who has
6 terminated that employment and who has received a refund of
7 member contributions;

8 L. "fund" means the funds included under the Public
9 Employees Retirement Act;

10 M. "member" means a currently employed,
11 contributing employee of an affiliated public employer, or a
12 person who has been but is not currently employed by an
13 affiliated public employer, who has not retired and who has not
14 received a refund of member contributions; "member" also
15 includes the following:

16 (1) "hazardous duty member" means [~~a state~~
17 ~~policeman who is a member and who is a juvenile or~~] an adult
18 correctional officer employed by a corrections facility of the
19 corrections department or its successor agency;

20 (2) "municipal fire member" means [~~any~~] a
21 member who is employed as a full-time nonvolunteer firefighter
22 by an affiliated public employer and who has taken the oath
23 prescribed for firefighters;

24 (3) "municipal police member" means [~~any~~] a
25 member who is employed as a police officer by an affiliated

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1 public employer, other than the state, and who has taken the
2 oath prescribed for police officers; and

3 (4) "state police member" means ~~any~~ a member
4 who is an officer of the New Mexico state police and who has
5 taken the oath prescribed for such officers;

6 N. "membership" means membership in the
7 association;

8 O. "pension" means a series of monthly payments to
9 a retired member or survivor beneficiary as provided in the
10 Public Employees Retirement Act;

11 P. "public employer" means the state and any
12 municipality, city, county, metropolitan arroyo flood control
13 authority, economic development district, regional housing
14 authority, soil and water conservation district, entity created
15 pursuant to a joint powers agreement, council of government,
16 conservancy district, water and sanitation district, water
17 district and metropolitan water board, including the boards,
18 departments, bureaus and agencies of a public employer, so long
19 as ~~these~~ the entities fall within the meaning of governmental
20 plan as that term is used in Section 414(d) of the Internal
21 Revenue Code of 1986, as amended;

22 Q. "refund beneficiary" means a person designated
23 by the member, in writing, in the form prescribed by the
24 association, as the person who would be refunded the member's
25 accumulated member contributions payable if the member dies and

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1 [no] a survivor pension is not payable or who would receive the
2 difference between pension paid and accumulated member
3 contributions if the retired member dies before receiving in
4 pension payments the amount of the accumulated member
5 contributions;

6 R. "retire" means to:

7 (1) terminate employment with all employers
8 covered by ~~any~~ a state system or the educational retirement
9 system; and

10 (2) receive a pension from a state system or
11 the educational retirement system;

12 S. "retired member" means a person who has met all
13 requirements for retirement and who is receiving a pension from
14 the fund;

15 T. "retirement board" means the retirement board
16 provided for in the Public Employees Retirement Act;

17 U. "salary" means the base salary or wages paid a
18 member, including longevity pay, for personal services rendered
19 an affiliated public employer. "Salary" shall not include
20 overtime pay, allowances for housing, clothing, equipment or
21 travel, payments for unused sick leave, unless the unused sick
22 leave payment is made through continuation of the member on the
23 regular payroll for the period represented by that payment, and
24 any other form of remuneration not specifically designated by
25 law as included in salary for Public Employees Retirement Act

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1 purposes. Salary in excess of the limitations set forth in
2 Section 401(a) (17) of the Internal Revenue Code of 1986, as
3 amended, shall be disregarded. The limitation on compensation
4 for eligible employees shall not be less than the amount that
5 was allowed to be taken into account under the state retirement
6 system acts in effect on July 1, 1993. For purposes of this
7 ~~[section]~~ subsection, "eligible employee" means an individual
8 who was a member of a state system before the first plan year
9 beginning after December 31, 1995;

10 V. "state system" means the retirement programs
11 provided for in the Public Employees Retirement Act, the
12 Magistrate Retirement Act and the Judicial Retirement Act;

13 W. "state retirement system acts" means
14 collectively the Public Employees Retirement Act, the
15 Magistrate Retirement Act, the Judicial Retirement Act and the
16 Volunteer Firefighters Retirement Act; and

17 X. "survivor beneficiary" means a person who
18 receives a pension or who has been designated to be paid a
19 pension as a result of the death of a member or retired
20 member. "

21 Section 2. A new section of the Public Employees
22 Retirement Act is enacted to read:

23 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
24 3--APPLICABILITY.--State hazardous duty member coverage plan 3
25 is applicable to hazardous duty members in the first full pay

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1 period after July 1, 2004 if the retirement board certifies to
2 the secretary of state that, of those members to be covered
3 under state hazardous duty member coverage plan 3, a majority
4 of the members voting has voted to approve adoption of the plan
5 at an election conducted pursuant to Section 9 of this act. "

6 Section 3. A new section of the Public Employees
7 Retirement Act is enacted to read:

8 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
9 3-- AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT. --
10 Under state hazardous duty member coverage plan 3, the age and
11 service credit requirements for normal retirement are:

12 A. age sixty-five years or older and five or more
13 years of credited service;

14 B. age sixty-four years and eight or more years of
15 credited service;

16 C. age sixty-three years and eleven or more years
17 of credited service;

18 D. age sixty-two years and seventeen or more years
19 of credited service; or

20 E. any age and twenty or more years of credited
21 service. "

22 Section 4. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
25 3-- AMOUNT OF PENSION-- FORM OF PAYMENT A. -- Under state hazardous

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1 duty member coverage plan 3, the amount of pension under form
2 of payment A is equal to three and one-half percent of final
3 average salary multiplied by service credit. The amount shall
4 not exceed eighty percent of the final average salary."

5 Section 5. A new section of the Public Employees
6 Retirement Act is enacted to read:

7 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
8 3--FINAL AVERAGE SALARY.--Under state hazardous duty member
9 coverage plan 3, the final average salary is one thirty-sixth
10 of the greatest aggregate amount of salary paid to a member for
11 thirty-six consecutive but not necessarily continuous months of
12 service credit. Under state hazardous duty member coverage
13 plan 3, if a member has less than thirty-six months of service
14 credit, the final average salary is the aggregate amount of
15 salary paid a member for the member's period of service credit
16 divided by the member's service credit."

17 Section 6. A new section of the Public Employees
18 Retirement Act is enacted to read:

19 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
20 3--MEMBER CONTRIBUTION RATE.--A member under state hazardous
21 duty member coverage plan 3 shall contribute four and seventy-
22 eight hundredths percent of salary starting with the first full
23 pay period that ends within the calendar month in which state
24 hazardous duty member coverage plan 3 becomes applicable to the
25 member."

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1 Section 7. A new section of the Public Employees

2 Retirement Act is enacted to read:

3 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
4 3--STATE CONTRIBUTION RATE. --The state shall contribute thirty-
5 eight and two-hundredths percent of the salary of each member
6 covered by state hazardous duty member coverage plan 3 starting
7 with the first full pay period that ends within the calendar
8 month in which state hazardous duty member coverage plan 3
9 becomes applicable to the member. "

10 Section 8. A new section of the Public Employees

11 Retirement Act is enacted to read:

12 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
13 3--SERVICE CREDIT UNDER THIS PLAN REQUIRED. --Notwithstanding
14 the provisions of Section 2 of this act, to qualify for payment
15 under state hazardous duty member coverage plan 3, a member
16 shall have three years of service credit earned under state
17 hazardous duty member coverage plan 3 subsequent to July 1,
18 2004. "

19 Section 9. A new section of the Public Employees

20 Retirement Act is enacted to read:

21 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
22 3--ELECTION. --On or before October 2003, the retirement board
23 shall conduct an election to submit to members currently
24 contributing under state hazardous duty member coverage plan 2
25 the question of adopting a state hazardous duty member coverage

1 plan 3. The election shall be conducted in accordance with
2 procedures adopted by the retirement board, and the retirement
3 board shall certify the results of the election to the
4 secretary of state on or before November 1, 2003. "

5 Section 10. EFFECTIVE DATE. --The effective date of the
6 provisions of this act is July 1, 2003.

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