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**SENATE BILL 764**

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

**INTRODUCED BY**

**Roman M. Maes III**

**AN ACT**

**RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A NEW  
RETIREMENT PLAN FOR MUNICIPAL DETENTION OFFICERS EMPLOYED IN  
CERTAIN CLASS A COUNTIES; PROVIDING FOR ELECTIONS; AMENDING AND  
ENACTING CERTAIN 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;**

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

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

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

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

15           F. "educational retirement system" means that  
16 retirement system provided for in the Educational Retirement  
17 Act;

18           G. "employee" means any employee of an affiliated  
19 public employer;

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

24           I. "final average salary" means the final average  
25 salary calculated in accordance with the provisions of the

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1 applicable coverage plan;

2 J. "form of payment" means the applicable form of  
3 payment of a pension provided for in Section 10-11-117 NMSA  
4 1978;

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

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

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

17 (1) "hazardous duty member" means: [~~a state~~  
18 ~~policeman who is~~]

19 (a) a member [~~and~~] who is [~~a juvenile~~  
20 ~~or~~] an adult correctional officer employed by a corrections  
21 facility of the corrections department or its successor agency;  
22 or

23 (b) a member who is a juvenile  
24 correctional officer employed by the children, youth and  
25 families department or its successor agency;

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1                   (2) "municipal detention officer member" means  
2 a member who is employed by an affiliated public employer other  
3 than the state and who has inmate custodial responsibilities at  
4 a facility used for the confinement of persons charged with or  
5 convicted of a violation of a law or ordinance;

6                   [(-2)] (3) "municipal fire member" means [any]  
7 a member who is employed as a full-time nonvolunteer  
8 firefighter by an affiliated public employer and who has taken  
9 the oath prescribed for firefighters;

10                   [(-3)] (4) "municipal police member" means  
11 [any] a member who is employed as a police officer by an  
12 affiliated public employer, other than the state, and who has  
13 taken the oath prescribed for police officers; and

14                   [(-4)] (5) "state police member" means [any] a  
15 member who is an officer of the New Mexico state police and who  
16 has taken the oath prescribed for such officers;

17                   N. "membership" means membership in the  
18 association;

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

22                   P. "public employer" means the state, any  
23 municipality, city, county, metropolitan arroyo flood control  
24 authority, economic development district, regional housing  
25 authority, soil and water conservation district, entity created

1 pursuant to a joint powers agreement, council of government,  
2 conservancy district, water and sanitation district, water  
3 district and metropolitan water board, including the boards,  
4 departments, bureaus and agencies of a public employer, so long  
5 as these entities fall within the meaning of governmental plan  
6 as that term is used in Section 414(d) of the Internal Revenue  
7 Code of 1986, as amended;

8 Q. "refund beneficiary" means a person designated  
9 by the member, in writing, in the form prescribed by the  
10 association, as the person who would be refunded the member's  
11 accumulated member contributions payable if the member dies and  
12 no survivor pension is payable or who would receive the  
13 difference between pension paid and accumulated member  
14 contributions if the retired member dies before receiving in  
15 pension payments the amount of the accumulated member  
16 contributions;

17 R. "retire" means to:

18 (1) terminate employment with all employers  
19 covered by any state system or the educational retirement  
20 system; and

21 (2) receive a pension from a state system or  
22 the educational retirement system;

23 S. "retired member" means a person who has met all  
24 requirements for retirement and who is receiving a pension from  
25 the fund;

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1           T. "retirement board" means the retirement board  
2 provided for in the Public Employees Retirement Act;

3           U. "salary" means the base salary or wages paid a  
4 member, including longevity pay, for personal services  
5 rendered an affiliated public employer. "Salary" shall not  
6 include overtime pay, allowances for housing, clothing,  
7 equipment or travel, payments for unused sick leave, unless the  
8 unused sick leave payment is made through continuation of the  
9 member on the regular payroll for the period represented by  
10 that payment, and any other form of remuneration not  
11 specifically designated by law as included in salary for Public  
12 Employees Retirement Act purposes. Salary in excess of the  
13 limitations set forth in Section 401(a) (17) of the Internal  
14 Revenue Code of 1986, as amended, shall be disregarded. The  
15 limitation on compensation for eligible employees shall not be  
16 less than the amount that was allowed to be taken into account  
17 under the state retirement system acts in effect on July 1,  
18 1993. For purposes of this ~~[section]~~ subsection, "eligible  
19 employee" means an individual who was a member of a state  
20 system before the first plan year beginning after December 31,  
21 1995;

22           V. "state system" means the retirement programs  
23 provided for in the Public Employees Retirement Act, the  
24 Magistrate Retirement Act and the Judicial Retirement Act;

25           W. "state retirement system acts" means

1 collectively the Public Employees Retirement Act, the  
2 Magistrate Retirement Act, the Judicial Retirement Act and the  
3 Volunteer Firefighters Retirement Act; and

4 X. "survivor beneficiary" means a person who  
5 receives a pension or who has been designated to be paid a  
6 pension as a result of the death of a member or retired  
7 member. "

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

10 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
11 COVERAGE PLAN 1--APPLICABILITY. --Municipal detention officer  
12 member coverage plan 1 is applicable to municipal detention  
13 officer members employed in a class A county with a population  
14 greater than four hundred thousand and is effective on the  
15 first day of the calendar month following certification of the  
16 election adopting municipal detention officer member coverage  
17 plan 1 by an affirmative vote of the majority of the affiliated  
18 public employer's municipal detention officer members. The  
19 election shall be conducted by the affiliated public employer.  
20 The certification shall be in the form prescribed by the  
21 retirement board. The election procedures shall afford all  
22 municipal detention officer members of the affiliated public  
23 employer an opportunity to vote. An election adopting  
24 municipal detention officer member coverage plan 1 for a given  
25 affiliated public employer is irrevocable for the purpose of

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1 subsequently adopting a coverage plan that would decrease  
2 employer or employee contributions with respect to all current  
3 and future municipal detention officer members of that  
4 affiliated public employer. "

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

7 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
8 COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL  
9 RETIREMENT.--Under municipal detention officer member coverage  
10 plan 1, the age and service requirements for normal retirement  
11 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 fourteen or more years  
19 of credited service;

20 E. age sixty-one years and seventeen or more years  
21 of credited service; or

22 F. any age and twenty or more years of credited  
23 service. "

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

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1           "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
2 COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under  
3 municipal detention officer member coverage plan 1, the amount  
4 of pension under form of payment A is equal to three and one-  
5 half percent of the final average salary multiplied by credited  
6 service. The amount shall not exceed eighty percent of the  
7 final average salary."

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

10           "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
11 COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under municipal  
12 detention officer member coverage plan 1, the final average  
13 salary is one thirty-sixth of the greatest aggregate amount of  
14 salary paid a member for thirty-six consecutive months of  
15 credited service."

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

18           "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
19 COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under  
20 municipal detention officer member coverage plan 1 shall  
21 contribute seventeen and two-tenths percent of salary starting  
22 with the first full pay period that ends within the calendar  
23 month in which municipal detention officer member coverage plan  
24 1 becomes applicable to the member."

25           Section 7. A new section of the Public Employees

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1 Retirement Act is enacted to read:

2 " [NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
3 COVERAGE PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated  
4 public employer shall contribute seventeen and two-tenths  
5 percent of the salary of each member under municipal detention  
6 officer member coverage plan 1 starting with the first pay  
7 period that ends within the calendar month in which municipal  
8 detention officer member coverage plan 1 becomes applicable to  
9 the member. "

10 Section 8. A new section of the Public Employees  
11 Retirement Act is enacted to read:

12 " [NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
13 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED FOR MUNICIPAL  
14 DETENTION OFFICER MEMBERS.--Notwithstanding other provisions of  
15 the Public Employees Retirement Act, to qualify for retirement  
16 pursuant to municipal detention officer member coverage plan 1,  
17 a municipal detention officer member shall be employed as a  
18 municipal detention officer in a class A county with a  
19 population greater than four hundred thousand for three years  
20 immediately preceding the date of retirement. "

21 Section 9. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2003.