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SENATE BILL 263

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

John Arthur Smith

AN ACT

RELATED TO INSURANCE; AMENDING THE RETIREE HEALTH CARE ACT TO
INCLUDE FORMER MEMBERS OF CERTAIN GOVERNING BOARDS.

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

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990,
Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS. -- As used in the Retiree Health
Care Act:

A. "active employee" means an employee of a public
institution or any other public employer participating in
either the Educational Retirement Act, the Public Employees
Retirement Act, the Judicial Retirement Act, the Magistrate
Retirement Act or the Public Employees Retirement Reciprocity
Act or an employee of an independent public employer;

B. "authority" means the retiree health care

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1 authority created pursuant to the Retiree Health Care Act;

2 C. "basic plan of benefits" means only those
3 coverages generally associated with a medical plan of benefits;

4 D. "board" means the board of the retiree health
5 care authority;

6 E. "current retiree" means an eligible retiree who
7 is receiving a disability or normal retirement benefit under
8 the Educational Retirement Act, the Public Employees Retirement
9 Act, the Judicial Retirement Act, the Magistrate Retirement
10 Act, the Public Employees Retirement Reciprocity Act or the
11 retirement program of an independent public employer on or
12 before July 1, 1990;

13 F. "eligible dependent" means a person obtaining
14 retiree health care coverage based upon that person's
15 relationship to an eligible retiree as follows:

16 (1) a spouse;

17 (2) an unmarried child under the age of
18 nineteen who is:

19 (a) a natural child;

20 (b) a legally adopted child;

21 (c) a stepchild living in the same
22 household who is primarily dependent on the eligible retiree
23 for maintenance and support;

24 (d) a child for whom the eligible
25 retiree is the legal guardian and who is primarily dependent on

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1 the eligible retiree for maintenance and support, as long as
2 evidence of the guardianship is evidenced in a court order or
3 decree; or

4 (e) a foster child living in the same
5 household;

6 (3) a child described in Subparagraphs (a)
7 through (e) of Paragraph (2) of this subsection who is between
8 the ages of nineteen and twenty-five and is a full-time student
9 at an accredited educational institution; provided that
10 "full-time student" shall be a student enrolled in and taking
11 twelve or more semester hours or its equivalent contact hours
12 in primary, secondary, undergraduate or vocational school or a
13 student enrolled in and taking nine or more semester hours or
14 its equivalent contact hours in graduate school;

15 (4) a dependent child over nineteen who is
16 wholly dependent on the eligible retiree for maintenance and
17 support and who is incapable of self-sustaining employment by
18 reason of mental retardation or physical handicap; provided
19 that proof of incapacity and dependency shall be provided
20 within thirty-one days after the child reaches the limiting age
21 and at such times thereafter as may be required by the board;

22 (5) a surviving spouse defined as follows:

23 (a) "surviving spouse" means the spouse
24 to whom a retiree was married at the time of death; or

25 (b) "surviving spouse" means the spouse

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1 to whom a deceased vested active employee was married at the
2 time of death; or

3 (6) a surviving dependent child who is the
4 dependent child of a deceased eligible retiree whose other
5 parent is also deceased;

6 G. "eligible employer" means either:

7 (1) a "retirement system employer", which
8 means an institution of higher education, a school district or
9 other entity participating in the public school insurance
10 authority, a state agency, state court, magistrate court,
11 municipality, county or public entity, each of which is
12 affiliated under or covered by the Educational Retirement Act,
13 the Public Employees Retirement Act, the Judicial Retirement
14 Act, the Magistrate Retirement Act or the Public Employees
15 Retirement Reciprocity Act; or

16 (2) an "independent public employer", which
17 means a municipality, county or public entity that is not a
18 retirement system employer;

19 H. "eligible retiree" means:

20 (1) a "nonsalaried eligible participating
21 entity governing authority member", [~~who is~~] which means a
22 person who is not a retiree and who:

23 (a) has served without salary as a
24 member of the governing authority of an employer eligible to
25 participate in the benefits of the Retiree Health Care Act and

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1 is certified to be such by the executive director of the public
2 school insurance authority;

3 (b) has maintained group health
4 insurance coverage through that member's governing authority if
5 such group health insurance coverage was available and offered
6 to the member during the member's service as a member of the
7 governing authority; and

8 (c) was participating in the group
9 health insurance program under the Retiree Health Care Act
10 prior to July 1, 1993; or

11 (d) notwithstanding the provisions of
12 Subparagraphs (b) and (c) of this paragraph, is eligible under
13 Subparagraph (a) of this paragraph and has applied before
14 August 1, 1993 to the authority to participate in the program;

15 (2) a "salaried eligible participating entity
16 governing authority member", [~~who is~~] which means a person who
17 is not a retiree and who:

18 (a) has served with salary as a member
19 of the governing authority of an employer eligible to
20 participate in the benefits of the Retiree Health Care Act;

21 (b) has maintained group health
22 insurance through that member's governing authority, if such
23 group health insurance was available and offered to the member
24 during the member's service as a member of the governing
25 authority; and

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1 (c) was participating in the group
2 health insurance program under the Retiree Health Care Act
3 prior to July 1, 1993; or

4 (d) notwithstanding the provisions of
5 Subparagraphs (b) and (c) of this paragraph, is eligible under
6 Subparagraph (a) of this paragraph and has applied before
7 August 1, 1993 to the authority to participate in the program;

8 (3) an "eligible participating retiree", ~~who~~
9 ~~is~~ which means a person who:

10 (a) falls within the definition of a
11 retiree, has made contributions to the fund for at least five
12 years prior to retirement and whose eligible employer during
13 that period of time made contributions as a participant in the
14 Retiree Health Care Act on the person's behalf, unless that
15 person retires on or before July 1, 1995, in which event the
16 time period required for employee and employer contributions
17 shall become the period of time between July 1, 1990 and the
18 date of retirement, and who is certified to be a retiree by the
19 educational retirement director, the executive secretary of the
20 public employees retirement board or the governing authority of
21 an independent public employer;

22 (b) falls within the definition of a
23 retiree, retired prior to July 1, 1990 and is certified to be a
24 retiree by the educational retirement director, the executive
25 secretary of the public employees retirement association or the

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1 governing authority of an independent public employer; but this
2 paragraph does not include a retiree who was an employee of an
3 eligible employer who exercised the option not to be a
4 participating employer pursuant to the Retiree Health Care Act
5 and did not after January 1, 1993 elect to become a
6 participating employer; unless the retiree: 1) retired on or
7 before June 30, 1990; and 2) at the time of retirement did not
8 have a retirement health plan or retirement health insurance
9 coverage available from his employer; or

10 (c) is a retiree who: 1) was at the
11 time of retirement an employee of an eligible employer who
12 exercised the option not to be a participating employer
13 pursuant to the Retiree Health Care Act, but which eligible
14 employer subsequently elected after January 1, 1993 to become a
15 participating employer; 2) has made contributions to the fund
16 for at least five years prior to retirement and whose eligible
17 employer during that period of time made contributions as a
18 participant in the Retiree Health Care Act on the person's
19 behalf, unless that person retires less than five years after
20 the date participation begins, in which event the time period
21 required for employee and employer contributions shall become
22 the period of time between the date participation begins and
23 the date of retirement; and 3) is certified to be a retiree by
24 the educational retirement director, the executive director of
25 the public employees retirement board or the governing

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1 authority of an independent public employer; [or]

2 (4) a "legislative member", which means a
3 person who is not a retiree and who served as a member of the
4 New Mexico legislature for at least two years, but is no longer
5 a member of the legislature and is certified to be such by the
6 legislative council service; or

7 (5) a "former participating employer governing
8 authority member", which means a person, other than a
9 nonsalaried eligible participating entity governing authority
10 member or a salaried eligible participating entity governing
11 authority member, who is not a retiree and who served as a
12 member of the governing authority of a participating employer
13 for at least four years but is no longer a member of the
14 governing authority and is certified to be such by the chief
15 executive officer of the participating employer;

16 I. "fund" means the retiree health care fund;

17 J. "group health insurance" means coverage that
18 includes but is not limited to life insurance, accidental death
19 and dismemberment, hospital care and benefits, surgical care
20 and treatment, medical care and treatment, dental care, eye
21 care, obstetrical benefits, prescribed drugs, medicines and
22 prosthetic devices, medicare supplement, medicare carveout,
23 medicare coordination and other benefits, supplies and services
24 through the vehicles of indemnity coverages, health maintenance
25 organizations, preferred provider organizations and other

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1 health care delivery systems as provided by the Retiree Health
2 Care Act and other coverages considered by the board to be
3 advisable;

4 K. "ineligible dependents" include:

5 (1) those dependents created by common law
6 relationships;

7 (2) dependents while in active military
8 service;

9 (3) parents, aunts, uncles, brothers, sisters,
10 grandchildren and other family members left in the care of an
11 eligible retiree without evidence of legal guardianship; and

12 (4) anyone not specifically referred to as an
13 eligible dependent pursuant to the rules and regulations
14 adopted by the board;

15 L. "participating employee" means an employee of
16 a participating employer, which employee has not been expelled
17 from participation in the Retiree Health Care Act pursuant to
18 Section 10-7C-10 NMSA 1978;

19 M. "participating employer" means an eligible
20 employer who has satisfied the conditions for participating in
21 the benefits of the Retiree Health Care Act, including the
22 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
23 Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

24 N. "public entity" means a flood control authority,
25 economic development district, council of governments, regional

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1 housing authority, conservancy district or other special
2 district or special purpose government; and

3 0. "retiree" means a person who:

4 (1) is receiving:

5 (a) a disability or normal retirement
6 benefit or survivor's benefit pursuant to the Educational
7 Retirement Act;

8 (b) a disability or normal retirement
9 benefit or survivor's benefit pursuant to the Public Employees
10 Retirement Act, the Judicial Retirement Act, the Magistrate
11 Retirement Act or the Public Employees Retirement Reciprocity
12 Act; or

13 (c) a disability or normal retirement
14 benefit or survivor's benefit pursuant to the retirement
15 program of an independent public employer to which that
16 employer has made periodic contributions; or

17 (2) is not receiving a survivor's benefit but
18 is the eligible dependent of a person who received a disability
19 or normal retirement benefit pursuant to the Educational
20 Retirement Act, the Public Employees Retirement Act, the
21 Judicial Retirement Act, the Magistrate Retirement Act or the
22 Public Employees Retirement Reciprocity Act. "

23 Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990,
24 Chapter 6, Section 13, as amended) is amended to read:

25 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE

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1 PLANS. --

2 A. Except as otherwise provided in this section,
3 each eligible retiree shall pay a monthly premium for the basic
4 plan in an amount set by the board not to exceed fifty dollars
5 (\$50.00) plus the amount, if any, of the compounded annual
6 increases authorized by the board, which increases shall not
7 exceed nine percent until fiscal year 2008 after which the
8 increases shall not exceed the authority's group health care
9 trend. In addition to the monthly premium for the basic plan,
10 each current retiree and nonsalaried eligible participating
11 entity governing authority member who becomes an eligible
12 retiree shall also pay monthly an additional participation fee
13 set by the board. That fee shall be five dollars (\$5.00) plus
14 the amount, if any, of the compounded annual increases
15 authorized by the board, which increases shall not exceed nine
16 percent until fiscal year 2008 after which the increases shall
17 not exceed the authority's group health care trend. The
18 additional monthly participation fee paid by the current
19 retirees and nonsalaried eligible participating entity
20 governing authority members who become eligible retirees shall
21 be a consideration and a condition for being permitted to
22 participate in the Retiree Health Care Act. A legislative
23 member or a former participating employer governing authority
24 member shall pay a monthly premium for any selected plan equal
25 to one-twelfth of the annual cost of the claims and

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1 administrative costs of that plan allocated to the member by
2 the board. In addition, a legislative member or a former
3 participating employer governing authority member shall pay the
4 additional monthly participation fee set by the board pursuant
5 to this subsection as a consideration and condition for
6 participation in the Retiree Health Care Act. Eligible
7 dependents shall pay monthly premiums in amounts that with
8 other money appropriated to the fund shall cover the cost of
9 the basic plan for the eligible dependents.

10 B. Eligible retirees and eligible dependents shall
11 pay monthly premiums to cover the cost of the optional plans
12 that they elect to receive, and the board shall adopt rules for
13 the collection of additional premiums from eligible retirees
14 and eligible dependents participating in the optional plans.
15 An eligible retiree or eligible dependent may authorize the
16 authority in writing to deduct the amount of these premiums
17 from the monthly annuity payments, if applicable.

18 C. The participating employers, active employees
19 and retirees are responsible for the financial viability of the
20 program. The overall financial viability is not an additional
21 financial obligation of the state.

22 D. For eligible retirees who become eligible for
23 participation on or after July 1, 2001, the board may determine
24 monthly premiums based on the retirees' years of credited
25 service with participating employers. "

