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AN ACT

RELATING TO JUDGES; AMENDING THE JUDICIAL RETIREMENT ACT TO INCREASE MEMBER CONTRIBUTIONS; AMENDING THE MAGISTRATE RETIREMENT ACT TO INCREASE MEMBER CONTRIBUTIONS; PROVIDING FOR SALARIES OF CHIEF JUDGES.

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

Section 1. Section 10-12B-10 NMSA 1978 (being Laws 1992, Chapter 111, Section 10) is amended to read:

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

A. Members, while in office, shall contribute five and one-half percent of salary to the member contribution fund.

B. 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

1 salary for all other purposes under federal and state laws.
2 Member contributions picked up pursuant to the provisions of
3 this section shall continue to be designated member
4 contributions for all purposes of the Judicial Retirement Act
5 and shall be considered as part of the member's annual salary
6 for purposes of determining the amount of the member's
7 contribution. The provisions of this section are mandatory,
8 and the member shall have no option concerning the pickup or
9 to the receipt of the contributed amounts directly instead of
10 having the amounts paid by the employer to the retirement
11 system. Implementation occurs upon authorization by the
12 board. In no event may implementation occur other than at
13 the beginning of a pay period applicable to the member.

14 C. The increase in member contributions provided
15 for in this 2004 act is contingent upon the inclusion of not
16 less than a six percent salary increase for justices and
17 judges in legislation enacted into law by the second session
18 of the forty-sixth legislature."

19 Section 2. Section 10-12C-10 NMSA 1978 (being Laws
20 1992, Chapter 118, Section 10) is amended to read:

21 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

22 A. Members, while in office, shall contribute five
23 and one-half percent of salary to the member contribution
24 fund.

25 B. Upon implementation, the state, acting as

1 employer of members covered pursuant to the provisions of the
2 Magistrate Retirement Act, shall, solely for the purpose of
3 compliance with Section 414(h) of the Internal Revenue Code
4 of 1986, pick up for the purposes specified in that section
5 member contributions required by this section for all annual
6 salary earned by the member. Member contributions picked up
7 pursuant to the provisions of this section shall be treated
8 as employer contributions for purposes of determining income
9 tax obligations under the Internal Revenue Code of 1986;
10 however, such picked-up member contributions shall be
11 included in the determination of the member's gross annual
12 salary for all other purposes under federal and state laws.
13 Member contributions picked up pursuant to the provisions of
14 this section shall continue to be designated member
15 contributions for all purposes of the Magistrate Retirement
16 Act and shall be considered as part of the member's annual
17 salary for purposes of determining the amount of the member's
18 contribution. The provisions of this section are mandatory,
19 and the member shall have no option concerning the pick up or
20 to the receipt of the contributed amounts directly instead of
21 having the amounts paid by the employer to the retirement
22 system. Implementation occurs upon authorization by the
23 board. In no event may implementation occur other than at
24 the beginning of a pay period applicable to the member.

25 C. The increase in member contributions provided

1 for in this 2004 act is contingent upon the inclusion of not
2 less than a six percent salary increase for justices and
3 judges in legislation enacted into law by the second session
4 of the forty-sixth legislature."

5 Section 3. Section 34-1-9 NMSA 1978 (being Laws 1993,
6 Chapter 278, Section 1) is amended to read:

7 "34-1-9. SALARIES OF JUSTICES, JUDGES AND MAGISTRATES.--

8 A. Justices of the supreme court shall each
9 receive an annual salary as provided by the legislature. The
10 chief justice of the supreme court shall receive an annual
11 salary that is two thousand dollars (\$2,000) more than the
12 annual salary of a justice of the supreme court.

13 B. The chief judge of:

14 (1) the court of appeals shall receive an
15 annual salary that is ninety-five percent of the annual
16 salary of the chief justice of the supreme court;

17 (2) a district court shall receive an annual
18 salary that is ninety-five percent of the annual salary of
19 the chief judge of the court of appeals; and

20 (3) a metropolitan court shall receive an
21 annual salary that is ninety percent of the annual salary of
22 the chief judge of a district court.

23 C. The presiding magistrate of a magistrate
24 district where three or more divisions operate as a single
25 court shall receive an annual salary that is seventy-five

1 percent of the annual salary of the chief judge of a
2 metropolitan court.

3 D. Notwithstanding any other provision of law or
4 any other provision of this section, the annual salaries of
5 the following judges and magistrates shall be established as
6 follows:

7 (1) a judge of the court of appeals shall
8 receive an annual salary that is ninety-five percent of the
9 annual salary of a justice of the supreme court;

10 (2) a district court judge shall receive an
11 annual salary that is ninety-five percent of the annual
12 salary of a judge of the court of appeals;

13 (3) a metropolitan court judge shall receive
14 an annual salary that is ninety percent of the annual salary
15 of a district court judge;

16 (4) a full-time magistrate shall receive an
17 annual salary that is seventy-five percent of the annual
18 salary of a metropolitan court judge;

19 (5) a half-time magistrate shall receive an
20 annual salary that is fifty percent of the annual salary of a
21 full-time magistrate; and

22 (6) a quarter-time magistrate shall receive
23 an annual salary that is twenty-five percent of the annual
24 salary of a full-time magistrate.

25 E. For fiscal year 1995 and all subsequent fiscal

1 years, the annual salary for justices of the supreme court,
2 judges of the court of appeals, district court judges,
3 metropolitan court judges and magistrates shall be
4 established by the legislature in an appropriations act.

5 F. No additional salaries shall be paid to
6 justices, judges or magistrates on account of services
7 rendered the state. Justices of the supreme court, judges of
8 the court of appeals, district court judges, metropolitan
9 court judges and magistrates shall receive per diem and
10 mileage for necessary travel on official business of the
11 court as provided in the Per Diem and Mileage Act."

12 Section 4. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2004. _____

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