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HOUSE BILL 205

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; INCREASING RATES FOR MEMBER  
AND EMPLOYER CONTRIBUTIONS; CHANGING THE REQUIREMENTS FOR  
RETIREMENT AND PENSIONS FOR NEW MEMBERS.

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

Section 1. Section 10-12B-8 NMSA 1978 (being Laws 1992,  
Chapter 111, Section 8) is amended to read:

"10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL  
RETIREMENT.--

A. For an individual who initially became a member  
prior to July 1, 2005, the age and service credit requirements  
for retirement provided for in the Judicial Retirement Act are:

(1) age sixty-four or older and five or more  
years of service credit; or

(2) age sixty or older and fifteen or more

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1 years of service credit.

2 B. For an individual who initially became a member  
3 on or after July 1, 2005, the age and service credit  
4 requirements for retirement provided for in the Judicial  
5 Retirement Act are:

6 (1) age sixty-four or older and five or more  
7 years of service credit; or

8 (2) age fifty-five or older and sixteen or  
9 more years of service credit.

10 ~~[B.]~~ C. If a member leaves office for any reason,  
11 other than removal pursuant to Article 6, Section 32 of the  
12 constitution of New Mexico, before meeting the age and service  
13 credit requirements for retirement pursuant to the provisions  
14 of this section and if that member leaves his member  
15 contributions on deposit in the fund, that member may apply for  
16 retirement when that member meets the age and service credit  
17 requirements for retirement pursuant to the provisions of the  
18 Judicial Retirement Act or provisions of the Public Employees  
19 Retirement Reciprocity Act. ~~[if enacted by the second session~~  
20 ~~of the fortieth legislature of the state of New Mexico~~

21 ~~G.]~~ D. No member shall be eligible to receive a  
22 pension pursuant to the provisions of the Judicial Retirement  
23 Act while still in office."

24 Section 2. Section 10-12B-9 NMSA 1978 (being Laws 1992,  
25 Chapter 111, Section 9) is amended to read:

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1 "10-12B-9. AMOUNT OF PENSION.--The amount of monthly  
2 pension is equal to:

3 A. In the case of a former or current judge or  
4 justice, an amount equal to one-twelfth of:

5 seventy-five percent of salary number of years of  
6 received during last year in X service, not exceeding  
7 office prior to retirement ten years, divided  
8 by ten; [~~or~~  
9 ]

10 B. In the case of a new judge or justice who  
11 initially became a member prior to July 1, 2005, an amount  
12 equal to one-twelfth of:

13 seventy-five percent of (number of years  
14 salary received during X .05 X service, not exceeding  
15 last year in office prior fifteen years, [+] plus  
16 to retirement five years); or

17 C. In the case of a new judge or justice who  
18 initially became a member on or after July 1, 2005, an amount  
19 equal to one-twelfth of the salary received during the last  
20 year in office prior to retirement multiplied by the product of  
21 three and seventy-five hundredths percent times the sum of the  
22 number of years of service; provided that a pension calculated  
23 pursuant to this subsection shall not exceed seventy-five  
24 percent of one-twelfth of the salary received during the last  
25 year in office."

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1 Section 3. Section 10-12B-10 NMSA 1978 (being Laws 1992,  
2 Chapter 111, Section 10, as amended) is amended to read:

3 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

4 A. Members, while in office, shall contribute [~~five~~  
5 ~~and one-half percent of salary~~] to the member contribution fund  
6 pursuant to the following schedule:

7 (1) prior to July 1, 2005, five and one-half  
8 percent of salary;

9 (2) from July 1, 2005 through June 30, 2006, six  
10 and one-half percent of salary; and

11 (3) on and after July 1, 2006, seven and one-  
12 half percent of salary.

13 B. Upon implementation, the state, acting as employer  
14 of members covered pursuant to the provisions of the Judicial  
15 Retirement Act, shall, solely for the purpose of compliance  
16 with Section 414(h) of the Internal Revenue Code of 1986, pick  
17 up for the purposes specified in that section member  
18 contributions required by this section for all annual salary  
19 earned by the member. Member contributions picked up pursuant  
20 to the provisions of this section shall be treated as employer  
21 contributions for purposes of determining income tax  
22 obligations under the Internal Revenue Code of 1986; however,  
23 such picked-up member contributions shall be included in the  
24 determination of the member's gross annual salary for all other  
25 purposes under federal and state laws. Member contributions

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

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

18 Section 4. Section 10-12B-11 NMSA 1978 (being Laws 1992,  
19 Chapter 111, Section 11, as amended) is amended to read:

20 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

21 A. The member's court shall contribute ~~[nine percent~~  
22 ~~of salary for each member in office]~~ the following amounts to  
23 the fund:

24 (1) prior to July 1, 2005, nine percent of  
25 salary for each member in office;

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1                   (2) from July 1, 2005 through June 30, 2006, ten  
2 and one-half percent of salary for each member in office; and  
3                   (3) on and after July 1, 2006, twelve percent of  
4 salary for each member in office.

5                   B. Thirty-eight dollars (\$38.00) from each civil case  
6 docket fee paid in the district court, twenty-five dollars  
7 (\$25.00) from each civil docket fee paid in metropolitan court  
8 and ten dollars (\$10.00) from each jury fee paid in  
9 metropolitan court shall be paid by the court clerk to the  
10 employer's accumulation fund."

11                   Section 5. Section 10-12B-12 NMSA 1978 (being Laws 1992,  
12 Chapter 111, Section 12) is amended to read:

13                   "10-12B-12. EARLY RETIREMENT.--

14                   A. Any member ~~[with]~~ who initially became a member  
15 prior to July 1, 2005 and has not less than eighteen years of  
16 service credit may elect to retire at any time between age  
17 fifty and age sixty and receive a monthly pension that is one-  
18 twelfth of the following formula:

19                   Salary received    X    [.7 + (.005 X        Number of years  
20                   during the last                                    between age fifty  
21                   full year in office                                   and the age at  
22                   prior to retirement                                   retirement)].

23                   B. The provisions of the Public Employees Retirement  
24 Reciprocity Act ~~[if enacted by the second session of the~~  
25 ~~fortieth legislature of the state of New Mexico]~~ and the

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1 provisions of the Judicial Retirement Act regarding cost-of-  
2 living adjustments shall apply to the provisions of this  
3 section."