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HOUSE BILL 635

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING THAT CERTAIN SEASONAL EMPLOYEES MAY PURCHASE CREDITED SERVICE.

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

Section 1. Section 10-11-4 NMSA 1978 (being Laws 1987, Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--REINSTATEMENT.--

A. Personal service rendered an affiliated public employer by a member shall be credited to the member's service credit account in accordance with retirement board rules and regulations. Service shall be credited to the nearest month. In no case shall any member be credited with a year of service for less than twelve months of service in any calendar year or, except as provided in Subsection F of Section 10-11-7 NMSA

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1 1978, more than a month of service for all service in any  
2 calendar month or more than a year of service for all service  
3 in any calendar year. In no case shall any member be allowed  
4 to purchase service credit unless the purchase is authorized in  
5 the Public Employees Retirement Act.

6 B. Personal service rendered an affiliated public  
7 employer prior to August 1, 1947 shall be credited to a member  
8 if the member acquires one year of service credit for personal  
9 service rendered an affiliated public employer.

10 C. Personal service rendered an affiliated public  
11 employer after July 31, 1947 but prior to the date the public  
12 employer became an affiliated public employer is prior service  
13 and shall be credited to a member if:

14 (1) the member acquires five years of service  
15 credit for personal service rendered an affiliated public  
16 employer; and

17 (2) the member pays the association the amount  
18 determined in accordance with Subsection D of this section.

19 D. The purchase cost for each month of service  
20 credit purchased under the provisions of this section is equal  
21 to the member's final average salary multiplied by the sum of  
22 the member contribution rate and employer contribution rate  
23 determined in accordance with the coverage plan applicable to  
24 the member at the time of the written election to purchase.

25 Full payment shall be made in a single lump-sum amount in

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1 accordance with the procedures established by the retirement  
2 board. The portion of the purchase cost derived from the  
3 employer contribution rate shall be credited to the ~~[employer]~~  
4 employer's accumulation fund and shall not be refunded to the  
5 member in the event of cessation of membership. In no case  
6 shall any member be credited with a month of service for less  
7 than the purchase cost as defined in this section.

8 E. Service credit shall be forfeited if a member  
9 terminates employment with an affiliated public employer and  
10 withdraws the member's accumulated member contributions.

11 F. A member or former member who is a member of  
12 another state system or the educational retirement system and  
13 who has forfeited service credit by withdrawal of member  
14 contributions may reinstate the forfeited service credit by  
15 repaying the amount withdrawn plus compound interest from the  
16 date of withdrawal to the date of repayment at the rate set by  
17 the retirement board. Withdrawn member contributions may be  
18 repaid in increments of one year in accordance with the  
19 procedures established by the retirement board. Full payment  
20 of each one-year increment shall be made in a single lump-sum  
21 amount in accordance with procedures established by the  
22 retirement board."

23 Section 2. Section 10-11-7 NMSA 1978 (being Laws 1987,  
24 Chapter 253, Section 7, as amended) is amended to read:

25 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

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1           A. A member who entered a uniformed service of the  
2 United States may purchase service credit for periods of active  
3 duty in the uniformed services subject to the following  
4 conditions:

5                   (1) the member pays the association the  
6 purchase cost determined according to Subsection E of this  
7 section;

8                   (2) the member has five or more years of  
9 service credit acquired as a result of personal service  
10 rendered in the employ of an affiliated public employer;

11                   (3) the aggregate amount of service credit  
12 purchased pursuant to this subsection does not exceed five  
13 years reduced by any period of service credit acquired for  
14 military service pursuant to any other provision of the Public  
15 Employees Retirement Act;

16                   (4) service credit may not be purchased for  
17 periods of service in the uniformed services that are used to  
18 obtain or increase a benefit from another retirement program;  
19 and

20                   (5) the member must not have received a  
21 discharge or separation from uniformed service under other than  
22 honorable conditions.

23           B. A member who was a civilian prisoner of war  
24 captured while in service to the United States as an employee  
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the  
2 period of internment as a civilian prisoner of war, provided  
3 that:

4 (1) the member provides proof of employment  
5 with the federal government or as a contractor to the federal  
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of  
8 internment in a form acceptable to the association;

9 (3) the member has at least five years of  
10 service credit acquired as a result of personal service  
11 rendered in the employ of an affiliated public employer;

12 (4) the aggregate amount of service credit  
13 purchased pursuant to this subsection does not exceed five  
14 years reduced by any period of service credit acquired for  
15 military service pursuant to any other provision of the Public  
16 Employees Retirement Act;

17 (5) service credit may not be purchased for  
18 periods of service in internment as a civilian prisoner of war  
19 if such periods are used to obtain or increase a benefit from  
20 another retirement program; and

21 (6) the member pays the association the  
22 purchase cost determined according to Subsection E of this  
23 section.

24 C. A member who was employed by a utility company,  
25 library, museum, transit company or nonprofit organization

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1 administering federally funded public service programs, which  
2 utility company, library, museum, transit company or nonprofit  
3 organization administering federally funded public service  
4 programs or federally funded public service programs  
5 administered by a nonprofit organization are subsequently taken  
6 over by an affiliated public employer, or a member who was  
7 employed by an entity created pursuant to a joint powers  
8 agreement between two or more affiliated public employers for  
9 the purpose of administering or providing drug or alcohol  
10 addiction treatment services irrespective of whether the entity  
11 is subsequently taken over by an affiliated public employer,  
12 may purchase credited service for the period of employment  
13 subject to the following conditions:

14 (1) the member pays the association the  
15 purchase cost determined according to Subsection E of this  
16 section;

17 (2) the member has five or more years of  
18 credited service acquired as a result of personal service  
19 rendered in the employ of an affiliated public employer; and

20 (3) the aggregate amount of credited service  
21 purchased pursuant to this subsection does not exceed five  
22 years.

23 D. A member who was appointed to participate in a  
24 cooperative work study training program established jointly by  
25 the ~~[state highway and]~~ department of transportation

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1 [department] and the university of New Mexico or New Mexico  
2 state university may purchase credited service for the period  
3 of participation subject to the following conditions:

4 (1) the member pays the association the  
5 purchase cost determined according to Subsection E of this  
6 section;

7 (2) the member has five or more years of  
8 credited service acquired as a result of personal service  
9 rendered in the employ of an affiliated public employer; and

10 (3) the aggregate amount of credited service  
11 purchased pursuant to this subsection does not exceed five  
12 years.

13 E. Except for service to be used under a state  
14 legislator coverage plan, the purchase cost for each month of  
15 credited service purchased pursuant to the provisions of this  
16 section is equal to the member's final average salary  
17 multiplied by the sum of the member contribution rate and  
18 employer contribution rate, determined in accordance with the  
19 coverage plan applicable to the member at the time of the  
20 written election to purchase. The purchase cost for each year  
21 of credited service to be used under a state legislator  
22 coverage plan is equal to three times the normal member  
23 contribution per year of credited service under the state  
24 legislator coverage plan applicable to the member. Full  
25 payment shall be made in a single lump sum within sixty days of

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1 the date the member is informed of the amount of the payment.  
2 The portion of the purchase cost derived from the employer  
3 contribution rate shall be credited to the employer's  
4 accumulation fund and shall not be paid out of the association  
5 in the event of cessation of membership. In no case shall a  
6 member be credited with a month of service for less than the  
7 purchase cost as defined in this section.

8 F. A member who was employed by the legislative  
9 branch during a regular session of the legislature and who did  
10 not acquire service credit solely because the affiliated public  
11 employer designated the employee as seasonal pursuant to  
12 Section 10-11-3 NMSA 1978 may purchase credited service subject  
13 to the following conditions:

14 (1) the member pays the association the  
15 purchase cost determined according to Subsection E of this  
16 section; and

17 (2) the member may purchase three months of  
18 credited service for each regular sixty-day session in which  
19 the member was employed and may purchase two months of credited  
20 service for each regular thirty-day session in which the member  
21 was employed.

22 ~~[F.]~~ G. A member shall be refunded, upon written  
23 request filed with the association, the portion of the purchase  
24 cost of credited service purchased pursuant to this section  
25 that the association determines to have been unnecessary to

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1 provide the member with the maximum pension applicable to the  
2 member. The association shall not pay interest on the portion  
3 of the purchase cost refunded to the member.

4 ~~[G.]~~ H. A member of the magistrate retirement  
5 system who during ~~[his]~~ the member's service as a magistrate  
6 was eligible to become a member of the public employees  
7 retirement system and elected not to become a member of that  
8 system may purchase service credit pursuant to the public  
9 employees retirement system for the period for which the  
10 magistrate elected not to become a public employees  
11 retirement system member, by paying the amount of the  
12 increase in the actuarial present value of the magistrate  
13 pension as a consequence of the purchase as determined by the  
14 association. Full payment shall be made in a single lump-sum  
15 amount in accordance with procedures established by the  
16 retirement board. Except as provided in Subsection ~~[F]~~ G of  
17 this section, seventy-five percent of the purchase cost shall  
18 be considered to be employer contributions and shall not be  
19 refunded to the member in the event of cessation of  
20 membership.

21 ~~[H.]~~ I. At any time prior to retirement, any  
22 member may purchase service credit in monthly increments,  
23 subject to the following conditions:

24 (1) the member has at least five years of  
25 service credit acquired as a result of personal service

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1 rendered in the employ of an affiliated public employer;

2 (2) the aggregate amount of service credit  
3 purchased pursuant to this subsection does not exceed one  
4 year;

5 (3) the member pays full actuarial present  
6 value of the amount of the increase in the employee's pension  
7 as a consequence of the purchase as determined by the  
8 association;

9 (4) the member pays the full cost of the  
10 purchase within sixty days of the date the member is informed  
11 of the amount of the payment; and

12 (5) the purchase of service under this  
13 subsection cannot be used to determine the final average  
14 salary or the pension factor or be used to exceed the pension  
15 maximum."

16 Section 3. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2008.