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HOUSE BILL 251

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mimi Stewart and Stuart Ingle

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT AND THE EDUCATIONAL RETIREMENT ACT; REDUCING COST-OF-LIVING ADJUSTMENTS AND INCREASING AGE AND SERVICE REQUIREMENTS FOR RETIREMENT OF CERTAIN LEGISLATORS AND EMPLOYEES.

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

SECTION 1. Section 10-11-26.2 NMSA 1978 (being Laws 1994, Chapter 128, Section 3, as amended) is amended to read:

"10-11-26.2. STATE GENERAL MEMBER COVERAGE PLAN 3--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--

A. Under state general member coverage plan 3:

(1) for a member who is a peace officer and for a member who is not a peace officer but was a retired member or a member on June 30, 2010, the age and service credit requirements for normal retirement are:

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

3 (b) age sixty-four years and eight or
4 more years of service credit;

5 (c) age sixty-three years and eleven or
6 more years of service credit;

7 (d) age sixty-two years and fourteen or
8 more years of service credit;

9 (e) age sixty-one years and seventeen or
10 more years of service credit;

11 (f) age sixty years and twenty or more
12 years of service credit; ~~and~~

13 (g) any age and twenty-five or more
14 years of service credit for a member eligible to retire before
15 July 1, 2014; or

16 (h) age fifty-five years or older and
17 twenty-five or more years of service credit for a member
18 eligible to retire on or after July 1, 2014; and

19 (2) for a member who is not a peace officer
20 and was not a retired member or a member on June 30, 2010, the
21 age and service requirements for normal retirement are:

22 (a) age sixty-seven years or older and
23 five or more years of service credit; or

24 (b) ~~any~~ age fifty-five years or older
25 if the sum of the member's age and years of service credit

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1 equals at least eighty [~~or~~

2 ~~(c) any age and thirty or more years of~~
3 ~~service credit].~~

4 B. As used in this section, "peace officer" means
5 any employee of the state with a duty to maintain public order
6 or to make arrests for crime, whether that duty extends to all
7 crimes or is limited to specific crimes, and who is not
8 specifically covered by another coverage plan."

9 SECTION 2. Section 10-11-40 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 40) is amended to read:

11 "10-11-40. STATE LEGISLATOR MEMBER COVERAGE PLAN 1--AGE
12 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under state
13 legislator member coverage plan 1, the age and service
14 requirements for normal retirement are:

15 A. age sixty-five years or older and five or more
16 years of credited service;

17 B. age sixty-four years or older and eight or more
18 years of credited service;

19 C. age sixty-three years or older and eleven or
20 more years of credited service;

21 D. age sixty years or older and twelve or more
22 years of credited service; [~~or~~]

23 E. any age and fourteen or more years of credited
24 service for a member eligible to retire before July 1, 2014; or

25 F. age fifty-five years or older and fourteen or

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1 more years of service credit for a member eligible to retire on
2 or after July 1, 2014."

3 SECTION 3. Section 10-11-43.2 NMSA 1978 (being Laws 2003,
4 Chapter 85, Section 8) is amended to read:

5 "10-11-43.2. STATE LEGISLATOR MEMBER COVERAGE PLAN 2--AGE
6 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under state
7 legislator member coverage plan 2, the age and service
8 requirements for normal retirement are:

9 A. age sixty-five years or older and five or more
10 years of credited service; [~~or~~]

11 B. any age and ten or more years of credited
12 service for a member eligible to retire before July 1, 2014; or

13 C. age fifty-five years or older and ten or more
14 years of service credit for a member eligible to retire on or
15 after July 1, 2014."

16 SECTION 4. Section 10-11-45 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 45, as amended) is amended to read:

18 "10-11-45. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AGE
19 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
20 municipal general member coverage plan 1:

21 A. for a member who was a retired member or a
22 member on June 30, 2010, the age and service requirements for
23 normal retirement are:

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

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1 (2) age sixty-four years and eight or more
2 years of service credit;

3 (3) age sixty-three years and eleven or more
4 years of service credit;

5 (4) age sixty-two years and fourteen or more
6 years of service credit;

7 (5) age sixty-one years and seventeen or more
8 years of service credit;

9 (6) age sixty years and twenty or more years
10 of service credit; ~~or~~

11 (7) any age and twenty-five or more years of
12 service credit for a member eligible to retire before July 1,
13 2014; or

14 (8) age fifty-five years or older and twenty-
15 five or more years of service credit for a member eligible to
16 retire on or after July 1, 2014; and

17 B. for a member who was not a retired member or a
18 member on June 30, 2010, the age and service requirements for
19 normal retirement are:

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

22 (2) ~~any~~ age fifty-five years or older if the
23 sum of the member's age and years of service credit equals at
24 least eighty ~~or~~

25 ~~(3) any age and thirty or more years of~~

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1 ~~service credit]."~~

2 SECTION 5. Section 10-11-51 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 51, as amended) is amended to read:

4 "10-11-51. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AGE
5 AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
6 municipal general member coverage plan 2:

7 A. for a member who was a retired member or a
8 member on June 30, 2010, the age and service requirements for
9 normal retirement are:

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

12 (2) age sixty-four years and eight or more
13 years of service credit;

14 (3) age sixty-three years and eleven or more
15 years of service credit;

16 (4) age sixty-two years and fourteen or more
17 years of service credit;

18 (5) age sixty-one years and seventeen or more
19 years of service credit;

20 (6) age sixty years and twenty or more years
21 of service credit; ~~or~~

22 (7) any age and twenty-five or more years of
23 service credit for a member eligible to retire before July 1,
24 2014; or

25 (8) age fifty-five years or older and twenty-

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1 five or more years of service credit for a member eligible to
2 retire on or after July 1, 2014; and

3 B. for a member who was not a retired member or a
4 member on June 30, 2010, the age and service requirements for
5 normal retirement are:

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

8 (2) [~~any~~] age fifty-five years or older if the
9 sum of the member's age and years of service credit equals at
10 least eighty [~~or~~

11 ~~(3) any age and thirty or more years of~~
12 ~~service credit]."~~

13 SECTION 6. Section 10-11-55.2 NMSA 1978 (being Laws 1993,
14 Chapter 58, Section 2, as amended) is amended to read:

15 "10-11-55.2. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--
16 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
17 municipal general member coverage plan 3:

18 A. for a member who was a retired member or a
19 member on June 30, 2010, the age and service requirements for
20 normal retirement are:

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

23 (2) age sixty-four years and eight or more
24 years of service credit;

25 (3) age sixty-three years and eleven or more

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1 years of service credit;

2 (4) age sixty-two years and fourteen or more
3 years of service credit;

4 (5) age sixty-one years and seventeen or more
5 years of service credit;

6 (6) age sixty years and twenty or more years
7 of service credit; ~~[or]~~

8 (7) any age and twenty-five or more years of
9 service credit for a member eligible to retire before July 1,
10 2014; or

11 (8) age fifty-five years or older and twenty-
12 five or more years of service credit for a member eligible to
13 retire on or after July 1, 2014; and

14 B. for a member who was not a retired member or a
15 member on June 30, 2010, the age and service requirements for
16 normal retirement are:

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

19 (2) ~~[any]~~ age fifty-five years or older if the
20 sum of the member's age and years of service credit equals at
21 least eighty ~~[or~~

22 ~~(3) any age and thirty or more years of~~
23 ~~service credit]."~~

24 SECTION 7. Section 10-11-55.8 NMSA 1978 (being Laws 1998,
25 Chapter 106, Section 2, as amended) is amended to read:

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1 "10-11-55.8. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--
2 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
3 municipal general member coverage plan 4:

4 A. for a member who was a retired member or a
5 member on June 30, 2010, the age and service requirements for
6 normal retirement are:

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

9 (2) age sixty-four years and eight or more
10 years of service credit;

11 (3) age sixty-three years and eleven or more
12 years of service credit;

13 (4) age sixty-two years and fourteen or more
14 years of service credit;

15 (5) age sixty-one years and seventeen or more
16 years of service credit;

17 (6) age sixty years and twenty or more years
18 of service credit; [~~or~~]

19 (7) any age and twenty-five or more years of
20 service credit for a member eligible to retire before July 1,
21 2014; or

22 (8) age fifty-five years or older and twenty-
23 five or more years of service credit for a member eligible to
24 retire on or after July 1, 2014; and

25 B. for a member who was not a retired member or a

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1 member on June 30, 2010, the age and service requirements for
2 normal retirement are:

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

5 (2) [~~any~~] age fifty-five years or older if the
6 sum of the member's age and years of service credit equals at
7 least eighty [~~or~~

8 ~~(3) any age and thirty or more years of~~
9 ~~service credit]."~~

10 SECTION 8. Section 10-11-118 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 118, as amended) is amended to read:

12 "10-11-118. COST-OF-LIVING ADJUSTMENTS.--

13 A. For the purposes of this section:

14 (1) "adjustment factor" means a multiplicative
15 factor computed to provide a pension adjustment pursuant to the
16 provisions of Subsection C of this section;

17 (2) "consumer price index" means the average
18 of the monthly consumer price indexes for a calendar year for
19 the entire United States for all items as published by the
20 United States;

21 (3) "next preceding calendar year" means the
22 full calendar year immediately prior to the preceding calendar
23 year; and

24 [~~(1)~~] (4) "preceding calendar year" means the
25 twelve-month period ending on the December 31 preceding the

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1 July 1 in which pensions are being adjusted [~~and~~

2 ~~(2) "second preceding calendar year" means the~~
3 ~~full calendar year prior to the preceding calendar year].~~

4 B. The amount of pension payable to a qualified
5 pension recipient eligible to retire before July 1, 2014 shall
6 be increased three percent each July 1. The amount of the
7 increase shall be determined by multiplying the amount of
8 pension inclusive of all prior adjustments by three percent.

9 C. The amount of pension payable to a qualified
10 pension recipient eligible to retire on or after July 1, 2014
11 shall be increased each July 1. The amount of the increase
12 shall be determined by applying an adjustment factor that
13 results in an adjustment equal to three-fourths of the
14 percentage increase of the consumer price index between the
15 next preceding calendar year and the preceding calendar year,
16 except that the adjustment shall not exceed three percent nor
17 shall it be less than zero percent. The amount of pension
18 payable shall not be decreased in the event that there is a
19 decrease in the consumer price index between the next preceding
20 calendar year and the preceding calendar year.

21 [~~G.~~] D. A qualified pension recipient is:

22 (1) a normal retired member who is eligible to
23 retire before July 1, 2014 and who has been retired for at
24 least two full calendar years from the effective date of the
25 latest retirement prior to July 1 of the year in which the

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1 pension is being adjusted;

2 (2) a normal retired member who has attained
3 age sixty-five years and been retired for at least one full
4 calendar year from the effective date of the latest retirement
5 prior to July 1 of the year in which the pension is being
6 adjusted;

7 (3) a disability retired member who has been
8 retired for at least one full calendar year from the effective
9 date of the latest retirement prior to July 1 of the year in
10 which the pension is being adjusted;

11 (4) a survivor beneficiary who has received a
12 survivor pension for at least two full calendar years; or

13 (5) a survivor beneficiary of a deceased
14 retired member who otherwise would have been retired at least
15 two full calendar years from the effective date of the latest
16 retirement prior to July 1 of the year in which the pension is
17 being adjusted.

18 [~~D-~~] E. A qualified pension recipient may decline
19 an increase in a pension by giving the association written
20 notice of the decision to decline the increase at least thirty
21 days prior to the date the increase would take effect."

22 SECTION 9. Section 22-11-23 NMSA 1978 (being Laws 1981,
23 Chapter 293, Section 2, as amended by Laws 2009, Chapter 286,
24 Section 1 and by Laws 2009, Chapter 288, Section 14) is amended
25 to read:

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1 "22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
2 PRIOR TO JULY 1, 2010.--

3 A. The retirement eligibility for a member who
4 either was a member on June 30, 2010, or was a member at any
5 time prior to that date and had not, on that date, been
6 refunded all member contributions pursuant to Subsection A of
7 Section 22-11-15 NMSA 1978, is as follows:

8 (1) a member shall be eligible for retirement
9 benefits pursuant to the Educational Retirement Act when either
10 of the following conditions occurs:

11 (a) for a member eligible to retire
12 before July 1, 2014, the sum of the member's age and years of
13 earned service credit equals seventy-five; [~~or~~]

14 (b) the member is at least fifty-five
15 years of age and has twenty or more years of earned service
16 credit; or

17 (c) upon completion of five years of
18 earned service credit and upon becoming sixty-five years of
19 age;

20 (2) a member under sixty years of age eligible
21 to retire under Paragraph (1) of this subsection may retire and
22 receive retirement benefits pursuant to the Educational
23 Retirement Act that the member would be eligible to receive if
24 the member were to retire at the age of sixty years reduced by
25 six-tenths of one percent for each one-fourth, or portion

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1 thereof, year that retirement occurs prior to the member's
2 sixtieth birthday but after the fifty-fifth birthday and one
3 and eight-tenths percent for each one-fourth, or portion
4 thereof, year that retirement occurs prior to age fifty-five;
5 or

6 (3) through July 1, 2014, a member under sixty
7 years of age acquiring twenty-five or more years of earned and
8 allowed service credit may retire and receive retirement
9 benefits pursuant to the Educational Retirement Act computed on
10 the same basis as if the member were sixty years of age.

11 B. A member shall be subject to the provisions of
12 Paragraphs (2) and (3) of Subsection A of this section as they
13 existed at the beginning of the member's last cumulated four
14 quarters of earned service credit, regardless of later
15 amendment."

16 **SECTION 10.** Section 22-11-23.1 NMSA 1978 (being Laws
17 2009, Chapter 286, Section 2 and Laws 2009, Chapter 288,
18 Section 15) is amended to read:

19 "22-11-23.1. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
20 ON OR AFTER JULY 1, 2010.--

21 A. A member who initially became a member on or
22 after July 1, 2010 or a member who was a member at any time
23 prior to that date and had, before that date, been refunded all
24 member contributions pursuant to Subsection A of Section
25 22-11-15 NMSA 1978, shall be eligible for retirement benefits

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1 pursuant to the Educational Retirement Act when one of the
2 following conditions occurs:

3 (1) the member is [~~any~~] age fifty-five years
4 or older and has thirty or more years of earned service credit;

5 (2) the member is at least sixty-seven years
6 of age and has five or more years of earned service credit; or

7 (3) the sum of the member's age and years of
8 earned service credit equals at least eighty; provided that a
9 member who retires pursuant to this paragraph shall be subject
10 to the benefit reductions provided in Paragraphs (1) and (2) of
11 Subsection H of Section 22-11-30 NMSA 1978.

12 B. A member shall be subject to the provisions of
13 this section as they existed at the beginning of the member's
14 last cumulated four quarters of earned service credit,
15 regardless of later amendment."

16 SECTION 11. Section 22-11-27 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 150, as amended) is amended to read:

18 "22-11-27. DEFERRED RETIREMENT--RESTRICTION.--

19 A. A member eligible for retirement may continue in
20 employment and shall continue to pay contributions as provided
21 by the Educational Retirement Act.

22 B. A member eligible to retire before July 1, 2014
23 may terminate [~~his~~] employment and retire at any time after
24 [~~his~~] the member's age and [~~his~~] earned service credit equal
25 the sum of seventy-five if the contributions [~~he~~] the member

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1 has made are left in the fund.

2 C. A member eligible to retire on or after July 1,
3 2014 may terminate employment and retire at any time after the
4 member is at least fifty-five years of age and has twenty or
5 more years of earned service credit if the contributions the
6 member has made are left in the fund.

7 [~~G.~~] D. A member who was a member on or before June
8 30, 2010 having five years or more of earned service credit may
9 terminate [~~his~~] employment and retire at any time after
10 reaching the age of sixty-five years if the contributions [~~he~~]
11 the member has made are left in the fund.

12 E. A member who initially became a member on or
13 after July 1, 2010 having five years or more of earned service
14 credit may terminate employment and retire at any time after
15 reaching the age of sixty-seven years if the contributions the
16 member has made are left in the fund.

17 [~~D.~~] F. No member shall be on a retirement status
18 while engaged in employment unless the employment falls within
19 exceptions established by statute or rule of the board."

20 **SECTION 12. EFFECTIVE DATE.**--The effective date of the
21 provisions of this act is July 1, 2011.