

1 HOUSE BILL 468

2 **50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

3 INTRODUCED BY

4 Donald E. Bratton

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10 AN ACT

11 RELATING TO PUBLIC EMPLOYEE RETIREMENT; CHANGING THE EMPLOYER
12 AND EMPLOYEE CONTRIBUTION RATES IN CERTAIN RETIREMENT PLANS.

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

15 SECTION 1. Section 10-11-26.5 NMSA 1978 (being Laws 1994,
16 Chapter 128, Section 6, as amended) is amended to read:

17 "10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER
18 CONTRIBUTION RATE.--A member under state general member
19 coverage plan 3 shall contribute seven and forty-two hundredths
20 percent of salary starting with the first full pay period that
21 ends within the calendar month in which state general member
22 coverage plan 3 becomes applicable to the member, except that
23 [~~from July 1, 2009 through June 30, 2011~~] for members whose
24 annual salary is greater than twenty thousand dollars
25 (\$20,000):

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1 A. from the first pay period that begins after July
2 1, 2009 through the last pay period that begins before June 30,
3 2011, the member contribution rate shall be eight and ninety-
4 two hundredths percent of salary; and

5 B. from the first pay period that begins after July
6 1, 2011 through the last pay period that begins before June 30,
7 2013, the member contribution rate shall be ten and ninety-two
8 hundredths percent of salary."

9 SECTION 2. Section 10-11-26.6 NMSA 1978 (being Laws 1994,
10 Chapter 128, Section 7, as amended) is amended to read:

11 "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE
12 CONTRIBUTION RATE.--The state shall contribute sixteen and
13 fifty-nine hundredths percent of the salary of each member
14 covered by state general member coverage plan 3 starting with
15 the first pay period that ends within the calendar month in
16 which state general member coverage plan 3 becomes applicable
17 to the member, except that [~~from July 1, 2009 through June 30,~~
18 ~~2011~~] for members whose annual salary is greater than twenty
19 thousand dollars (\$20,000):

20 A. from the first pay period that begins after July
21 1, 2009 through the last pay period that begins before June 30,
22 2011, the state contribution rate shall be fifteen and nine-
23 hundredths percent of the salary of each member; and

24 B. from the first pay period that begins after July
25 1, 2011 through the last pay period that begins before June 30,

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1 2013, the state contribution rate shall be thirteen and nine-
2 hundredths percent of the salary of each member."

3 SECTION 3. Section 10-11-31 NMSA 1978 (being Laws 1987,
4 Chapter 253, Section 31, as amended) is amended to read:

5 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
6 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
7 member under state police member and adult correctional officer
8 member coverage plan 1 shall contribute seven and six-tenths
9 percent of salary, except that [~~from July 1, 2009 through June~~
10 ~~30, 2011~~] for members whose annual salary is greater than
11 twenty thousand dollars (\$20,000):

12 A. from the first pay period that begins after July
13 1, 2009 through the last pay period that begins before June 30,
14 2011, the member contribution rate shall be nine and one-tenth
15 percent of salary; and

16 B. from the first pay period that begins after July
17 1, 2011 through the last pay period that begins before June 30,
18 2013, the member contribution rate shall be eleven and one-
19 tenth percent of salary."

20 SECTION 4. Section 10-11-32 NMSA 1978 (being Laws 1987,
21 Chapter 253, Section 32, as amended) is amended to read:

22 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
23 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
24 state shall contribute twenty-five and one-tenth percent of the
25 salary of each member under state police member and adult

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1 correctional officer member coverage plan 1, except that [~~from~~
2 ~~July 1, 2009 through June 30, 2011~~] for members whose annual
3 salary is greater than twenty thousand dollars (\$20,000):

4 A. from the first pay period that begins after July
5 1, 2009 through the last pay period that begins before June 30,
6 2011, the state contribution rate shall be twenty-three and
7 six-tenths percent of the salary of each member; and

8 B. from the first pay period that begins after July
9 1, 2011 through the last pay period that begins before June 30,
10 2013, the state contribution rate shall be twenty-one and six-
11 tenths percent of the salary of each member."

12 SECTION 5. Section 10-11-38.5 NMSA 1978 (being Laws 1994,
13 Chapter 128, Section 13, as amended) is amended to read:

14 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
15 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous
16 duty member coverage plan 2 shall contribute four and seventy-
17 eight hundredths percent of salary starting with the first full
18 pay period that ends within the calendar month in which state
19 hazardous duty member coverage plan 2 becomes applicable to the
20 member, except that [~~from July 1, 2009 through June 30, 2011~~]
21 for members whose annual salary is greater than twenty thousand
22 dollars (\$20,000):

23 A. from the first pay period that begins after July
24 1, 2009 through the last pay period that begins before June 30,
25 2011, the member contribution rate shall be six and twenty-

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1 eight hundredths percent of salary; and

2 B. from the first pay period that begins after July
3 1, 2011 through the last pay period that begins before June 30,
4 2013, the member contribution rate shall be eight and twenty-
5 eight hundredths percent of salary."

6 SECTION 6. Section 10-11-38.6 NMSA 1978 (being Laws 1994,
7 Chapter 128, Section 14, as amended) is amended to read:

8 "10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
9 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-
10 five and seventy-two hundredths percent of the salary of each
11 member covered by state hazardous duty member coverage plan 2
12 starting with the first pay period that ends within the
13 calendar month in which state hazardous duty member coverage
14 plan 2 becomes applicable to the member, except that [~~from July~~
15 ~~1, 2009 through June 30, 2011~~] for members whose annual salary
16 is greater than twenty thousand dollars (\$20,000):

17 A. from the first pay period that begins after July
18 1, 2009 through the last pay period that begins before June 30,
19 2011, the state contribution rate shall be twenty-four and
20 twenty-two hundredths percent of the salary of each member; and

21 B. from the first pay period that begins after July
22 1, 2011 through the last pay period that begins before June 30,
23 2013, the state contribution rate shall be twenty-two and
24 twenty-two hundredths percent of the salary of each member."

25 SECTION 7. Section 10-12B-1 NMSA 1978 (being Laws 1992,

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1 Chapter 111, Section 1) is amended to read:

2 "10-12B-1. SHORT TITLE.--~~[Sections 1 through 17 of this~~
3 ~~act]~~ Chapter 10, Article 12B NMSA 1978 may be cited as the
4 "Judicial Retirement Act"."

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

7 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

8 A. Members, while in office, shall contribute to
9 the member contribution fund pursuant to the following
10 schedule:

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

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

15 (3) on and after July 1, 2006, seven and one-
16 half percent of salary, except that ~~[from July 1, 2009 through~~
17 ~~June 30, 2011]~~ for members whose annual salary is greater than
18 twenty thousand dollars (\$20,000):

19 (a) from the first pay period that
20 begins after July 1, 2009 through the last pay period that
21 begins before June 30, 2011, the member contribution rate shall
22 be nine percent of salary; and

23 (b) from the first pay period that
24 begins after July 1, 2011 through the last pay period that
25 begins before June 30, 2013, the member contribution rate shall

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1 be eleven percent of salary.

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

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1 period applicable to the member."

2 SECTION 9. Section 10-12B-11 NMSA 1978 (being Laws 1992,
3 Chapter 111, Section 11, as amended) is amended to read:

4 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

5 A. The member's court shall contribute the
6 following amounts to the fund:

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

9 (2) from July 1, 2005 through June 30, 2006,
10 ten and one-half percent of salary for each member in office;
11 and

12 (3) on and after July 1, 2006, twelve percent
13 of salary for each member in office, except that [~~from July 1,~~
14 ~~2009 through June 30, 2011~~] for members whose annual salary is
15 greater than twenty thousand dollars (\$20,000):

16 (a) from the first pay period that
17 begins after July 1, 2009 through the last pay period that
18 begins before June 30, 2011, the member's court contribution
19 rate shall be ten and one-half percent of salary for each
20 member in office; and

21 (b) from the first pay period that
22 begins after July 1, 2011 through the last pay period that
23 begins before June 30, 2013, the member's court contribution
24 rate shall be eight and one-half percent of salary for each
25 member in office.

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1 B. Thirty-eight dollars (\$38.00) from each civil
2 case docket fee paid in the district court, twenty-five dollars
3 (\$25.00) from each civil docket fee paid in metropolitan court
4 and ten dollars (\$10.00) from each jury fee paid in
5 metropolitan court shall be paid by the court clerk to the
6 employer's accumulation fund."

7 SECTION 10. Section 10-12C-1 NMSA 1978 (being Laws 1992,
8 Chapter 118, Section 1) is amended to read:

9 "10-12C-1. SHORT TITLE.--~~[Sections 1 through 16 of this~~
10 ~~act]~~ Chapter 10, Article 12C NMSA 1978 may be cited as the
11 "Magistrate Retirement Act"."

12 SECTION 11. Section 10-12C-10 NMSA 1978 (being Laws 1992,
13 Chapter 118, Section 10, as amended) is amended to read:

14 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

15 A. Members, while in office, shall contribute the
16 following amounts to the member contribution fund:

17 (1) through June 30, 2006, six and one-half
18 percent of salary; and

19 (2) on and after July 1, 2006, seven and one-
20 half percent of salary, except that ~~[from July 1, 2009 through~~
21 ~~June 30, 2011]~~ for members whose annual salary is greater than
22 twenty thousand dollars (\$20,000):

23 (a) from the first pay period that
24 begins after July 1, 2009 through the last pay period that
25 begins before June 30, 2011, the member contribution rate shall

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1 be nine percent of salary; and

2 (b) from the first pay period that
3 begins after July 1, 2011 through the last pay period that
4 begins before June 30, 2013, the member contribution rate shall
5 be eleven percent of salary.

6 B. Upon implementation, the state, acting as
7 employer of members covered pursuant to the provisions of the
8 Magistrate Retirement Act, shall, solely for the purpose of
9 compliance with Section 414(h) of the Internal Revenue Code of
10 1986, pick up for the purposes specified in that section member
11 contributions required by this section for all annual salary
12 earned by the member. Member contributions picked up pursuant
13 to the provisions of this section shall be treated as employer
14 contributions for purposes of determining income tax
15 obligations under the Internal Revenue Code of 1986; however,
16 such picked-up member contributions shall be included in the
17 determination of the member's gross annual salary for all other
18 purposes under federal and state laws. Member contributions
19 picked up pursuant to the provisions of this section shall
20 continue to be designated member contributions for all purposes
21 of the Magistrate Retirement Act and shall be considered as
22 part of the member's annual salary for purposes of determining
23 the amount of the member's contribution. The provisions of
24 this section are mandatory, and the member shall have no option
25 concerning the pick up or concerning the receipt of the

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1 contributed amounts directly instead of having the amounts paid
2 by the employer to the retirement system. Implementation
3 occurs upon authorization by the board. In no event may
4 implementation occur other than at the beginning of a pay
5 period applicable to the member."

6 SECTION 12. Section 10-12C-11 NMSA 1978 (being Laws 1992,
7 Chapter 118, Section 11, as amended) is amended to read:

8 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

9 A. The state, through the administrative office of
10 the courts, shall contribute the following amounts to the fund:

11 (1) through June 30, 2006, ten percent of
12 salary for each member in office; and

13 (2) on and after July 1, 2006, eleven percent
14 of salary for each member in office, except that [~~from July 1,~~
15 ~~2009 through June 30, 2011~~] for members whose annual salary is
16 greater than twenty thousand dollars (\$20,000):

17 (a) from the first pay period that
18 begins after July 1, 2009 through the last pay period that
19 begins before June 30, 2011, the state contribution rate shall
20 be nine and one-half percent of salary for each member in
21 office; and

22 (b) from the first pay period that
23 begins after July 1, 2011 through the last pay period that
24 begins before June 30, 2013, the state contribution rate shall
25 be seven and one-half percent of salary for each member in

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1 office.

2 B. Twenty-five dollars (\$25.00) from each civil
3 case docket fee paid in magistrate court and ten dollars
4 (\$10.00) from each civil jury fee paid in magistrate court
5 shall be paid by the court clerk to the employer's accumulation
6 fund."

7 SECTION 13. Section 22-11-21 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 144, as amended) is amended to read:

9 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
10 UNITS.--

11 A. Except as provided in Subsection C of this
12 section, each member shall make contributions to the fund
13 according to the following schedule:

14 (1) through June 30, 2005, an amount equal to
15 seven and six-tenths percent of the member's annual salary;

16 (2) from July 1, 2005 through June 30, 2006,
17 an amount equal to seven and six hundred seventy-five
18 thousandths percent of the member's annual salary;

19 (3) from July 1, 2006 through June 30, 2007,
20 an amount equal to seven and seventy-five hundredths percent of
21 the member's annual salary;

22 (4) from July 1, 2007 through June 30, 2008,
23 an amount equal to seven and eight hundred twenty-five
24 thousandths percent of the member's annual salary; and

25 (5) on and after July 1, 2008, an amount equal

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1 to seven and nine-tenths percent of the member's annual salary,
2 except that:

3 (a) from July 1, 2009 through June 30,
4 2011, for members whose annual salary is greater than twenty
5 thousand dollars (\$20,000), the member contribution rate shall
6 be nine and four-tenths percent of the member's annual salary;

7 (b) from July 1, 2011 through June 30,
8 2013, for a member who is not an educational assistant,
9 licensed by the department and working in a grade level from
10 pre-kindergarten through grade twelve, or a teacher and whose
11 annual salary is greater than twenty thousand dollars
12 (\$20,000), the contribution rate shall be eleven and four-
13 tenths percent of the member's annual salary; and

14 (c) from July 1, 2011 through June 30,
15 2013, for a member who is an educational assistant, licensed by
16 the department and working in a grade level from pre-
17 kindergarten through grade twelve, or a teacher and whose
18 annual salary is greater than twenty thousand dollars
19 (\$20,000), the contribution rate shall be nine and four-tenths
20 percent of the member's annual salary.

21 B. Except as provided in Subsection C of this
22 section, each local administrative unit shall make an annual
23 contribution to the fund according to the following schedule:

24 (1) through June 30, 2005, a sum equal to
25 eight and sixty-five hundredths percent of the annual salary of

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1 each member employed by the local administrative unit;

2 (2) from July 1, 2005 through June 30, 2006, a
3 sum equal to nine and forty-hundredths percent of the annual
4 salary of each member employed by the local administrative
5 unit;

6 (3) from July 1, 2006 through June 30, 2007, a
7 sum equal to ten and fifteen-hundredths percent of the annual
8 salary of each member employed by the local administrative
9 unit;

10 (4) from July 1, 2007 through June 30, 2008, a
11 sum equal to ten and ninety-hundredths percent of the annual
12 salary of each member employed by the local administrative
13 unit;

14 (5) from July 1, 2008 through June 30, 2009, a
15 sum equal to eleven and sixty-five hundredths percent of the
16 annual salary of each member employed by the local
17 administrative unit;

18 (6) from July 1, 2009 through June 30, 2011, a
19 sum equal to ten and nine-tenths percent of the annual salary
20 of each member employed by the local administrative unit,
21 except that for members whose annual salary is twenty thousand
22 dollars (\$20,000) or less, the local administrative unit shall
23 contribute twelve and four-tenths percent of the member's
24 annual salary;

25 (7) from July 1, 2011 through June 30, ~~[2012]~~

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1 2013, a sum equal to [~~thirteen and fifteen-hundredths~~] eight
2 and nine-tenths percent of the annual salary of each member
3 employed by the local administrative unit, [~~and~~] except that
4 the local administrative unit shall contribute:

5 (a) twelve and four-tenths percent of
6 the annual salary of each member employed by the local
7 administrative unit whose annual salary is twenty thousand
8 dollars (\$20,000) or less; and

9 (b) ten and nine-tenths percent of the
10 annual salary of each member employed by the local
11 administrative unit who is an educational assistant, licensed
12 by the department and working in a grade level from pre-
13 kindergarten through grade twelve, or a teacher and whose
14 annual salary is greater than twenty thousand dollars
15 (\$20,000);

16 (8) from July 1, 2013 through June 30, 2014, a
17 sum equal to thirteen and fifteen-hundredths percent of the
18 annual salary of each member employed by the local
19 administrative unit; and

20 [~~(8)~~] (9) on and after July 1, [~~2012~~] 2014, a
21 sum equal to thirteen and nine-tenths percent of the annual
22 salary of each member employed by the local administrative
23 unit.

24 C. If, in a calendar year, the salary of a member,
25 initially employed by a local administrative unit on or after

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1 July 1, 1996, equals the annual compensation limit set pursuant
2 to Section 401(a)(17) of the Internal Revenue Code of 1986, as
3 amended, then:

4 (1) for the remainder of that calendar year,
5 no additional member contributions or local administrative unit
6 contributions for that member shall be made pursuant to this
7 section; provided that no member shall be denied service credit
8 solely because contributions are not made by the member or on
9 behalf of the member pursuant to the provisions of this
10 subsection; and

11 (2) the amount of the annual compensation
12 limit shall be divided into four equal portions, and, for
13 purposes of attributing contributory employment and crediting
14 service credit, each portion shall be attributable to one of
15 the four quarters of the calendar year."

16 SECTION 14. TEMPORARY PROVISION--DETERMINATION OF ANNUAL
17 SALARY FOR PURPOSES OF CALCULATING EMPLOYEE AND EMPLOYER
18 CONTRIBUTIONS.--For the purposes of calculating employee and
19 employer contributions due after June 30, 2011, in determining
20 whether an employee has an annual salary greater or less than
21 twenty thousand dollars (\$20,000), the employee's annual salary
22 shall be the employee's base hourly rate at the time the
23 contribution is made multiplied by the number of compensable
24 hours for a full-time-equivalent in the employee's position at
25 the time the contribution is made as determined by the

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1 employer; provided that the department of finance and
2 administration shall determine the number of compensable hours
3 for a full-time-equivalent in the employee's position for
4 employees who are members in a retirement program provided for
5 in the Public Employees Retirement Act, the Magistrate
6 Retirement Act or the Judicial Retirement Act.

7 SECTION 15. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2011.

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