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SENATE BILL 380

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

INTRODUCED BY

Clinton D. Harden

AN ACT

RELATING TO PUBLIC EMPLOYEES; INCLUDING SPECIAL HOSPITAL
DISTRICTS AS PUBLIC EMPLOYERS PURSUANT TO THE PUBLIC EMPLOYEES
RETIREMENT ACT; PROVIDING THAT THE PURCHASE COST OF SERVICE
CREDIT SHALL BE AT THE ACTUAL ACTUARIAL VALUE.

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

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees
Retirement Act:

A. "accumulated member contributions" means the
amounts deducted from the salary of a member and credited to
the member's individual account, together with interest, if
any, credited to that account;

B. "affiliated public employer" means the state and

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1 any public employer affiliated with the association as provided
2 in the Public Employees Retirement Act, but does not include an
3 employer pursuant to the Magistrate Retirement Act, the
4 Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees
6 retirement association established under the Public Employees
7 Retirement Act;

8 D. "disability retired member" means a retired
9 member who is receiving a pension pursuant to the disability
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the
12 pension paid pursuant to the disability retirement provisions
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means that
15 retirement system provided for in the Educational Retirement
16 Act;

17 G. "employee" means any employee of an affiliated
18 public employer;

19 H. "federal social security program" means that
20 program or those programs created and administered pursuant to
21 the act of congress approved August 14, 1935, Chapter 531, 49
22 Stat. 620, as that act may be amended;

23 I. "final average salary" means the final average
24 salary calculated in accordance with the provisions of the
25 applicable coverage plan;

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1 J. "form of payment" means the applicable form of
2 payment of a pension provided for in Section 10-11-117 NMSA
3 1978;

4 K. "former member" means a person who was
5 previously employed by an affiliated public employer, who has
6 terminated that employment and who has received a refund of
7 member contributions;

8 L. "fund" means the funds included under the Public
9 Employees Retirement Act;

10 M. "member" means a currently employed,
11 contributing employee of an affiliated public employer, or a
12 person who has been but is not currently employed by an
13 affiliated public employer, who has not retired and who has not
14 received a refund of member contributions; "member" also
15 includes the following:

16 (1) "adult correctional officer member" means
17 a member who is an adult correctional officer or an adult
18 correctional officer specialist employed by a correctional
19 facility of the corrections department or its successor agency;

20 (2) "hazardous duty member" means a member who
21 is a juvenile correctional officer employed by the children,
22 youth and families department or its successor agency;

23 (3) "municipal detention officer member" means
24 a member who is employed by an affiliated public employer other
25 than the state and who has inmate custodial responsibilities at

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1 a facility used for the confinement of persons charged with or
2 convicted of a violation of a law or ordinance;

3 (4) "municipal fire member" means any member
4 who is employed as a full-time nonvolunteer firefighter by an
5 affiliated public employer and who has taken the oath
6 prescribed for firefighters;

7 (5) "municipal police member" means any member
8 who is employed as a police officer by an affiliated public
9 employer, other than the state, and who has taken the oath
10 prescribed for police officers; and

11 (6) "state police member" means any member who
12 is an officer of the New Mexico state police and who has taken
13 the oath prescribed for such officers;

14 N. "membership" means membership in the
15 association;

16 O. "pension" means a series of monthly payments to
17 a retired member or survivor beneficiary as provided in the
18 Public Employees Retirement Act;

19 P. "public employer" means the state, any
20 municipality, city, county, metropolitan arroyo flood control
21 authority, economic development district, special hospital
22 district, regional housing authority, soil and water
23 conservation district, entity created pursuant to a joint
24 powers agreement, council of government, conservancy district,
25 irrigation district, water and sanitation district, water

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1 district and metropolitan water board, including the boards,
2 departments, bureaus and agencies of a public employer, so long
3 as these entities fall within the meaning of governmental plan
4 as that term is used in Section 414(d) of the Internal Revenue
5 Code of 1986, as amended;

6 Q. "refund beneficiary" means a person designated
7 by the member, in writing, in the form prescribed by the
8 association, as the person who would be refunded the member's
9 accumulated member contributions payable if the member dies and
10 no survivor pension is payable or who would receive the
11 difference between pension paid and accumulated member
12 contributions if the retired member dies before receiving in
13 pension payments the amount of the accumulated member
14 contributions;

15 R. "retire" means to:

16 (1) terminate employment with all employers
17 covered by any state system or the educational retirement
18 system; and

19 (2) receive a pension from a state system or
20 the educational retirement system;

21 S. "retired member" means a person who has met all
22 requirements for retirement and who is receiving a pension from
23 the fund;

24 T. "retirement board" means the retirement board
25 provided for in the Public Employees Retirement Act;

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1 U. "salary" means the base salary or wages paid a
2 member, including longevity pay, for personal services rendered
3 an affiliated public employer. "Salary" shall not include
4 overtime pay, allowances for housing, clothing, equipment or
5 travel, payments for unused sick leave, unless the unused sick
6 leave payment is made through continuation of the member on the
7 regular payroll for the period represented by that payment, and
8 any other form of remuneration not specifically designated by
9 law as included in salary for Public Employees Retirement Act
10 purposes. Salary in excess of the limitations set forth in
11 Section 401(a) (17) of the Internal Revenue Code of 1986, as
12 amended, shall be disregarded. The limitation on compensation
13 for eligible employees shall not be less than the amount that
14 was allowed to be taken into account under the state retirement
15 system acts in effect on July 1, 1993. For purposes of this
16 subsection, "eligible employee" means an individual who was a
17 member of a state system before the first plan year beginning
18 after December 31, 1995;

19 V. "state system" means the retirement programs
20 provided for in the Public Employees Retirement Act, the
21 Magistrate Retirement Act and the Judicial Retirement Act;

22 W. "state retirement system acts" means
23 collectively the Public Employees Retirement Act, the
24 Magistrate Retirement Act, the Judicial Retirement Act and the
25 Volunteer Firefighters Retirement Act; and

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1 X. "survivor beneficiary" means a person who
2 receives a pension or who has been designated to be paid a
3 pension as a result of the death of a member or retired
4 member."

5 SECTION 2. Section 10-11-4 NMSA 1978 (being Laws 1987,
6 Chapter 253, Section 4, as amended) is amended to read:

7 "10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--
8 REINSTATEMENT.--

9 A. Personal service rendered an affiliated public
10 employer by a member shall be credited to the member's service
11 credit account in accordance with retirement board rules and
12 regulations. Service shall be credited to the nearest month.
13 In no case shall any member be credited with a year of service
14 for less than twelve months of service in any calendar year or
15 more than a month of service for all service in any calendar
16 month or more than a year of service for all service in any
17 calendar year. In no case shall any member be allowed to
18 purchase service credit unless the purchase is authorized in
19 the Public Employees Retirement Act.

20 B. Personal service rendered an affiliated public
21 employer prior to August 1, 1947 shall be credited to a member
22 if the member acquires one year of service credit for personal
23 service rendered an affiliated public employer.

24 C. Personal service rendered an affiliated public
25 employer after July 31, 1947 but prior to the date the public

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1 employer became an affiliated public employer is prior service
2 and shall be credited to a member if:

3 (1) the member acquires five years of service
4 credit for personal service rendered an affiliated public
5 employer; and

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

8 D. The purchase cost for each month of service
9 credit purchased under the provisions of this section is equal
10 to the ~~[member's final average salary multiplied by the sum of~~
11 ~~the member contribution rate and employer contribution rate~~
12 ~~determined in accordance with the coverage plan applicable to~~
13 ~~the member at the time of the written election to purchase]~~
14 full actuarial present value of the amount of the increase in
15 the employee's pension as a consequence of the purchase as
16 determined by the association. Full payment shall be made in a
17 single lump-sum amount in accordance with the procedures
18 established by the retirement board. The portion of the
19 purchase cost ~~[derived from]~~ allocated by the board to the
20 employer contribution rate shall be credited to the ~~[employer]~~
21 employer's accumulation fund and shall not be refunded to the
22 member in the event of cessation of membership. In no case
23 shall any member be credited with a month of service for less
24 than the purchase cost as defined in this section.

25 E. Service credit shall be forfeited if a member

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1 terminates employment with an affiliated public employer and
2 withdraws the member's accumulated member contributions.

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

15 SECTION 3. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2011.