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SENATE BILL 506

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

INTRODUCED BY

Stuart Ingle

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC  
EMPLOYEES RETIREMENT ACT TO REINSTATE PROVISIONS RELATING TO  
RETURN TO WORK OF CERTAIN LAW ENFORCEMENT OFFICIALS.

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

**SECTION 1.** Section 10-11-8 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--  
BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

A. A member may retire upon fulfilling the  
following requirements prior to the selected date of  
retirement:

(1) a written application for normal  
retirement, in the form prescribed by the association, is filed  
with the association;

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1 (2) employment is terminated with all  
2 employers covered by any state system or the educational  
3 retirement system;

4 (3) the member selects an effective date of  
5 retirement that is the first day of a calendar month; and

6 (4) the member meets the age and service  
7 credit requirement for normal retirement specified in the  
8 coverage plan applicable to the member.

9 B. The amount of normal retirement pension is  
10 determined in accordance with the coverage plan applicable to  
11 the member.

12 C. Except as provided in Subsection D of this  
13 section, on or after July 1, 2010, a retired member may be  
14 subsequently employed by an affiliated public employer only  
15 pursuant to the following provisions:

16 (1) the retired member has not been employed  
17 as an employee of an affiliated public employer or retained as  
18 an independent contractor by the affiliated public employer  
19 from which the retired member retired for at least twelve  
20 consecutive months from the date of retirement to the  
21 commencement of employment or reemployment with an affiliated  
22 public employer;

23 (2) the retired member's pension shall be  
24 suspended upon commencement of the employment;

25 (3) except as provided in Subsection F of this

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1 section, the previously retired member shall not become a  
2 member and thus the previously retired member shall accrue no  
3 service credit and the previously retired member and that  
4 person's affiliated public employer shall make no contributions  
5 under any coverage plan pursuant to the Public Employees  
6 Retirement Act; and

7 (4) upon termination of the subsequent  
8 employment, the previously retired member's pension shall  
9 resume in accordance with the provisions of Subsection A of  
10 this section.

11 D. The provisions of Subsection C of this section  
12 do not apply to:

13 (1) a retired member employed by the  
14 legislature for legislative session work; ~~[or]~~

15 (2) a retired member who is elected to serve a  
16 term as an elected official; provided that:

17 (a) the retired member files an  
18 irrevocable exemption from membership with the association  
19 within thirty days of taking office; and

20 (b) the irrevocable exemption shall be  
21 for the elected official's term of office; or

22 (3) a retired member who is appointed chief of  
23 police of an affiliated public employer, other than the  
24 affiliated public employer from which the retired member  
25 retired, or who is appointed undersheriff; provided that:

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1                   (a) the retired member files an  
2 irrevocable exemption from membership with the association  
3 within thirty days of appointment;

4                   (b) each sheriff's office shall be  
5 limited to one undersheriff qualifying pursuant to this  
6 paragraph;

7                   (c) the irrevocable exemption shall be  
8 for the chief of police's or the undersheriff's term of office;

9                   (d) filing an irrevocable exemption  
10 shall irrevocably bar the retired member from acquiring service  
11 credit for the period of exemption from membership; and

12                   (e) the retired member shall have earned  
13 sufficient service credit for the maximum pension available  
14 under the retired member's coverage plan.

15                   E. A retired member who returns to employment  
16 during retirement pursuant to Subsection D of this section is  
17 entitled to receive retirement benefits but is not entitled to  
18 accrue service credit or to acquire or purchase service credit  
19 in the future for the period of the previously retired member's  
20 reemployment with an affiliated public employer.

21                   F. At any time during a previously retired member's  
22 subsequent employment pursuant to Subsection C of this section,  
23 the previously retired member may elect to become a member and  
24 the following conditions shall apply:

25                   (1) the previously retired member and the

1 subsequent affiliated public employer shall make the required  
2 employee and employer contributions, and the previously retired  
3 member shall accrue service credit for the period of subsequent  
4 employment; and

5 (2) when the previously retired member  
6 terminates the subsequent employment with an affiliated public  
7 employer, the previously retired member shall retire according  
8 to the provisions of the Public Employees Retirement Act,  
9 subject to the following conditions:

10 (a) payment of the pension shall resume  
11 in accordance with the provisions of Subsection A of this  
12 section;

13 (b) unless the previously retired member  
14 accrued at least three years of service credit on account of  
15 the subsequent employment, the recalculation of pension shall:  
16 1) employ the form of payment selected by the previously  
17 retired member at the time of the first retirement; and 2) use  
18 the provisions of the coverage plan applicable to the member on  
19 the date of the first retirement; and

20 (c) the recalculated pension shall not  
21 be less than the amount of the suspended pension.

22 G. A previously retired member who returned to work  
23 with an affiliated public employer prior to July 1, 2010 shall  
24 be subject to the provisions of this section in effect on the  
25 date the previously retired member returned to work; provided

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1 that, on and after July 1, 2010, the previously retired member  
2 shall pay the employee contribution in an amount specified in  
3 the Public Employees Retirement Act for the position in which  
4 the previously retired member is employed.

5 H. The pension of a member who has three or more  
6 years of service credit under each of two or more coverage  
7 plans shall be determined in accordance with the coverage plan  
8 that produces the highest pension. The pension of a member who  
9 has service credit under two or more coverage plans but who has  
10 three or more years of service credit under only one of those  
11 coverage plans shall be determined in accordance with the  
12 coverage plan in which the member has three or more years of  
13 service credit. If the service credit is acquired under two  
14 different coverage plans applied to the same affiliated public  
15 employer as a consequence of an election by the members,  
16 adoption by the affiliated public employer or a change in the  
17 law that results in the application of a coverage plan with a  
18 greater pension, the greater pension shall be paid a member  
19 retiring from the affiliated public employer under which the  
20 change in coverage plan took place regardless of the amount of  
21 service credit under the coverage plan producing the greater  
22 pension; provided the member has three or more years of  
23 continuous employment with that affiliated public employer  
24 immediately preceding or immediately preceding and immediately  
25 following the date the coverage plan changed. The provisions

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1 of each coverage plan for the purpose of this subsection shall  
2 be those in effect at the time the member ceased to be covered  
3 by the coverage plan. "Service credit", for the purposes of  
4 this subsection, shall be only personal service rendered an  
5 affiliated public employer and credited to the member under the  
6 provisions of Subsection A of Section 10-11-4 NMSA 1978.  
7 Service credited under any other provision of the Public  
8 Employees Retirement Act shall not be used to satisfy the  
9 three-year service credit requirement of this subsection."

10 SECTION 2. EFFECTIVE DATE.--The effective date of the  
11 provisions of this act is July 1, 2011.