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HOUSE BILL 141

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC
EMPLOYEES RETIREMENT ACT TO CHANGE THE REQUIREMENTS FOR
RETURNING TO PUBLIC EMPLOYMENT AFTER RETIREMENT.

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] July 1, 2012, if a member retires and is~~
11 ~~subsequently employed by any affiliated public employer, the~~
12 ~~retired member's pension shall be suspended effective the first~~
13 ~~day of the month following the month in which the previously~~
14 ~~retired member has earned fifteen thousand dollars (\$15,000) or~~
15 ~~more during a calendar year. When the pension is suspended,~~
16 ~~the following conditions shall apply:~~

17 ~~(1) the retired member who is subsequently~~
18 ~~employed by an affiliated public employer shall become a~~
19 ~~member. The previously retired member and the subsequent~~
20 ~~affiliated public employer shall make the required employee and~~
21 ~~employer contributions, and the previously retired member shall~~
22 ~~accrue service credit for the period of subsequent employment;~~
23 ~~and~~

24 ~~(2) when a previously retired member~~
25 ~~terminates the subsequent employment with an affiliated public~~

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1 employer, the member shall retire according to the provisions
2 of the Public Employees Retirement Act, subject to the
3 following conditions:

4 (a) payment of the pension shall resume
5 in accordance with the provisions of Subsection A of this
6 section;

7 (b) unless the previously retired member
8 accrued at least three years of service credit on account of
9 the subsequent employment, the recalculation of pension shall:
10 1) employ the form of payment selected by the previously
11 retired member at the time of the first retirement; and 2) use
12 the provisions of the coverage plan applicable to the member on
13 the date of the first retirement; and

14 (c) the recalculated pension shall not
15 be less than the amount of the suspended pension.

16 D. The provisions of Subsection C of this section
17 do not apply to:

18 (1) a retired member employed by the
19 legislature for legislative session work; or

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

22 (a) the retired member files an
23 irrevocable exemption from membership with the association
24 within thirty days of taking office; and

25 (b) the irrevocable exemption shall be

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1 for the elected official's term of office.

2 E. A retired member who returns to employment
3 during retirement pursuant to Subsection D of this section is
4 entitled to receive retirement benefits but is not entitled to
5 accrue service credit or to acquire or purchase service credit
6 in the future for the period of the previously retired member's
7 reemployment with an affiliated public employer.

8 ~~[F. At any time during a previously retired~~
9 ~~member's subsequent employment pursuant to Subsection C of this~~
10 ~~section, the previously retired member may elect to become a~~
11 ~~member and the following conditions shall apply:~~

12 ~~(1) the previously retired member and the~~
13 ~~subsequent affiliated public employer shall make the required~~
14 ~~employee and employer contributions, and the previously retired~~
15 ~~member shall accrue service credit for the period of subsequent~~
16 ~~employment; and~~

17 ~~(2) when the previously retired member~~
18 ~~terminates the subsequent employment with an affiliated public~~
19 ~~employer, the previously retired member shall retire according~~
20 ~~to the provisions of the Public Employees Retirement Act,~~
21 ~~subject to the following conditions:~~

22 ~~(a) payment of the pension shall resume~~
23 ~~in accordance with the provisions of Subsection A of this~~
24 ~~section;~~

25 ~~(b) unless the previously retired member~~

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1 ~~accrued at least three years of service credit on account of~~
2 ~~the subsequent employment, the recalculation of pension shall:~~
3 ~~1) employ the form of payment selected by the previously~~
4 ~~retired member at the time of the first retirement; and 2) use~~
5 ~~the provisions of the coverage plan applicable to the member on~~
6 ~~the date of the first retirement; and~~

7 ~~(c) the recalculated pension shall not~~
8 ~~be less than the amount of the suspended pension.~~

9 ~~G.] F.~~ A previously retired member who returned to
10 work with an affiliated public employer prior to July 1, 2010
11 shall be subject to the provisions of this section in effect on
12 the date the previously retired member returned to work;
13 provided that, on and after July 1, 2010, the previously
14 retired member shall pay the employee contribution in an amount
15 specified in the Public Employees Retirement Act for the
16 position in which the previously retired member is employed;
17 and provided further that the affiliated public employer's
18 contributions as specified in that act or as adjusted for full
19 actuarial cost at the determination of the association shall be
20 paid to the fund.

21 ~~[H.] G.~~ The pension of a member who has three or
22 more years of service credit under each of two or more coverage
23 plans shall be determined in accordance with the coverage plan
24 that produces the highest pension. The pension of a member who
25 has service credit under two or more coverage plans but who has

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1 three or more years of service credit under only one of those
2 coverage plans shall be determined in accordance with the
3 coverage plan in which the member has three or more years of
4 service credit. If the service credit is acquired under two
5 different coverage plans applied to the same affiliated public
6 employer as a consequence of an election by the members,
7 adoption by the affiliated public employer or a change in the
8 law that results in the application of a coverage plan with a
9 greater pension, the greater pension shall be paid a member
10 retiring from the affiliated public employer under which the
11 change in coverage plan took place regardless of the amount of
12 service credit under the coverage plan producing the greater
13 pension; provided the member has three or more years of
14 continuous employment with that affiliated public employer
15 immediately preceding or immediately preceding and immediately
16 following the date the coverage plan changed. The provisions
17 of each coverage plan for the purpose of this subsection shall
18 be those in effect at the time the member ceased to be covered
19 by the coverage plan. "Service credit", for the purposes of
20 this subsection, shall be only personal service rendered an
21 affiliated public employer and credited to the member under the
22 provisions of Subsection A of Section 10-11-4 NMSA 1978.
23 Service credited under any other provision of the Public
24 Employees Retirement Act shall not be used to satisfy the
25 three-year service credit requirement of this subsection."

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SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2012.