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AN ACT

RELATING TO PRECINCT BOARD MEMBERS; ALLOWING SEASONAL
EMPLOYEES TO WORK TEMPORARILY AS PRECINCT BOARD MEMBERS
WITHOUT SUSPENDING THEIR PENSION BENEFITS; DECLARING AN
EMERGENCY.

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

SECTION 1. Section 1-2-16 NMSA 1978 (being Laws 1969,
Chapter 240, Section 36, as amended) is amended to read:

"1-2-16. PRECINCT BOARD--COMPENSATION.--

A. Members of a precinct board shall be
compensated for their services at the rate of not less than
the federal minimum hourly wage rate nor more than two
hundred dollars (\$200) for an election day.

B. Members of a precinct board assigned to
alternate voting locations or absent voter precincts may be
compensated at an hourly rate set by the county clerk.

C. Compensation shall be paid within thirty days
following the date of election.

D. For purposes of determining eligibility for
membership in the public employees retirement association and
pursuant to the provisions of Subsection B of Section 10-11-3
NMSA 1978, precinct board members are designated as seasonal
employees."

SECTION 2. Section 10-11-8 NMSA 1978 (being Laws 1987,

1 Chapter 253, Section 8, as amended) is amended to read:

2 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
3 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

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

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

10 (2) employment is terminated with all
11 employers covered by any state system or the educational
12 retirement system;

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

15 (4) the member meets the age and service
16 credit requirement for normal retirement specified in the
17 coverage plan applicable to the member.

18 B. The amount of normal retirement pension is
19 determined in accordance with the coverage plan applicable to
20 the member.

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

25 (1) the retired member has not been employed

1 as an employee of an affiliated public employer or retained
2 as an independent contractor by the affiliated public
3 employer from which the retired member retired for at least
4 twelve consecutive months from the date of retirement to the
5 commencement of employment or reemployment with an affiliated
6 public employer;

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

9 (3) except as provided in Subsection F of
10 this section, the previously retired member shall not become
11 a member and thus the previously retired member shall accrue
12 no service credit and the previously retired member and that
13 person's affiliated public employer shall make no
14 contributions under any coverage plan pursuant to the Public
15 Employees Retirement Act; and

16 (4) upon termination of the subsequent
17 employment, the previously retired member's pension shall
18 resume in accordance with the provisions of Subsection A of
19 this section.

20 D. The provisions of Subsection C of this section
21 do not apply to:

22 (1) a retired member employed by the
23 legislature for legislative session work;

24 (2) a retired member employed temporarily as
25 a precinct board member for a municipal election or an

1 election covered by the Election Code; or

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

4 (a) the retired member files an
5 irrevocable exemption from membership with the association
6 within thirty days of taking office; and

7 (b) the irrevocable exemption shall be
8 for the elected official's term of office.

9 E. A retired member who returns to employment
10 during retirement pursuant to Subsection D of this section is
11 entitled to receive retirement benefits but is not entitled
12 to accrue service credit or to acquire or purchase service
13 credit in the future for the period of the previously retired
14 member's reemployment with an affiliated public employer.

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

19 (1) the previously retired member and the
20 subsequent affiliated public employer shall make the required
21 employee and employer contributions, and the previously
22 retired member shall accrue service credit for the period of
23 subsequent employment; and

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

1 public employer, the previously retired member shall retire
2 according to the provisions of the Public Employees
3 Retirement Act, subject to the 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
8 member accrued at least three years of service credit on
9 account of the subsequent employment, the recalculation of
10 pension shall: 1) employ the form of payment selected by the
11 previously retired member at the time of the first
12 retirement; and 2) use the provisions of the coverage plan
13 applicable to the member on the date of the first retirement;
14 and

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

17 G. A previously retired member who returned to
18 work with an affiliated public employer prior to July 1, 2010
19 shall be subject to the provisions of this section in effect
20 on the date the previously retired member returned to work;
21 provided that, on and after July 1, 2010, the previously
22 retired member shall pay the employee contribution in an
23 amount specified in the Public Employees Retirement Act for
24 the position in which the previously retired member is
25 employed.

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

1 this subsection, shall be only personal service rendered an
2 affiliated public employer and credited to the member under
3 the provisions of Subsection A of Section 10-11-4 NMSA 1978.
4 Service credited under any other provision of the Public
5 Employees Retirement Act shall not be used to satisfy the
6 three-year service credit requirement of this subsection."

7 SECTION 3. EMERGENCY.--It is necessary for the public
8 peace, health and safety that this act take effect
9 immediately.

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