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HOUSE BILL 388

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Dennis J. Roch and Pete Campos

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC  
EMPLOYEES RETIREMENT ACT TO ALLOW MEMBERS EMPLOYED BY A  
HOSPITAL OR MEDICAL CENTER THAT IS SUBSEQUENTLY TAKEN OVER BY  
AN AFFILIATED PUBLIC EMPLOYER TO PURCHASE UP TO FIVE YEARS OF  
SERVICE CREDIT.

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

**SECTION 1.** Section 10-11-7 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. SERVICE CREDIT--PURCHASE OF SERVICE.--

A. A member who entered a uniformed service of the  
United States may purchase service credit for periods of active  
duty in the uniformed services subject to the following  
conditions:

- (1) the member pays the association the

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1 purchase cost determined according to Subsection E of this  
2 section;

3 (2) the member has five or more years of  
4 service credit acquired as a result of personal service  
5 rendered in the employ of an affiliated public employer;

6 (3) the aggregate amount of service credit  
7 purchased pursuant to this subsection does not exceed five  
8 years reduced by any period of service credit acquired for  
9 military service pursuant to any other provision of the Public  
10 Employees Retirement Act;

11 (4) service credit may not be purchased for  
12 periods of service in the uniformed services that are used to  
13 obtain or increase a benefit from another retirement program;  
14 and

15 (5) the member must not have received a  
16 discharge or separation from uniformed service under other than  
17 honorable conditions.

18 B. A member who was a civilian prisoner of war  
19 captured while in service to the United States as an employee  
20 of the federal government or as an employee of a contractor  
21 with the federal government may purchase service credit for the  
22 period of internment as a civilian prisoner of war, provided  
23 that:

24 (1) the member provides proof of employment  
25 with the federal government or as a contractor to the federal

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1 government in a form acceptable to the association;

2 (2) the member provides proof of the period of  
3 internment in a form acceptable to the association;

4 (3) the member has at least five years of  
5 service credit acquired as a result of personal service  
6 rendered in the employ of an affiliated public employer;

7 (4) the aggregate amount of service credit  
8 purchased pursuant to this subsection does not exceed five  
9 years reduced by any period of service credit acquired for  
10 military service pursuant to any other provision of the Public  
11 Employees Retirement Act;

12 (5) service credit may not be purchased for  
13 periods of service in internment as a civilian prisoner of war  
14 if such periods are used to obtain or increase a benefit from  
15 another retirement program; and

16 (6) the member pays the association the  
17 purchase cost determined according to Subsection E of this  
18 section.

19 C. A member who was employed by a utility company,  
20 hospital or medical center, library, museum, transit company or  
21 nonprofit organization administering federally funded public  
22 service programs, which utility company, hospital or medical  
23 center, library, museum, transit company or nonprofit  
24 organization administering federally funded public service  
25 programs or federally funded public service programs

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1 administered by a nonprofit organization are subsequently taken  
2 over by an affiliated public employer, or a member who was  
3 employed by an entity created pursuant to a joint powers  
4 agreement between two or more affiliated public employers for  
5 the purpose of administering or providing drug or alcohol  
6 addiction treatment services irrespective of whether the entity  
7 is subsequently taken over by an affiliated public employer,  
8 may purchase service credit for the period of employment  
9 subject to the following conditions:

10 (1) the member pays the association the  
11 purchase cost determined according to Subsection E of this  
12 section, except that for a member who was employed by a  
13 hospital or medical center that was subsequently taken over by  
14 an affiliated public employer, the employer's share of the  
15 purchase cost of the first year of service credit purchased  
16 pursuant to this subsection shall be paid by the employer;

17 (2) the member has five or more years of  
18 service credit acquired as a result of personal service  
19 rendered in the employ of an affiliated public employer; and

20 (3) the aggregate amount of service credit  
21 purchased pursuant to this subsection does not exceed five  
22 years.

23 D. A member who was appointed to participate in a  
24 cooperative work study training program established jointly by  
25 a state agency and a state post-secondary educational

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1 institution may purchase service credit for the period of  
2 participation subject to the following conditions:

3 (1) the member pays the association the full  
4 actuarial present value of the amount of the increase in the  
5 employee's pension as a consequence of the purchase as  
6 determined by the association;

7 (2) the member pays the full cost of the  
8 purchase within sixty days of the date the member is informed  
9 of the amount of the payment;

10 (3) the member has five or more years of  
11 service credit acquired as a result of personal service  
12 rendered in the employ of an affiliated public employer; and

13 (4) the aggregate amount of service credit  
14 purchased pursuant to this subsection does not exceed five  
15 years.

16 E. Except for service to be used under a state  
17 legislator coverage plan, the purchase cost for each month of  
18 service credit purchased pursuant to the provisions of this  
19 section is equal to the member's final average salary  
20 multiplied by the sum of the member contribution rate and  
21 employer contribution rate, determined in accordance with the  
22 coverage plan applicable to the member at the time of the  
23 written election to purchase. The purchase cost for each year  
24 of service credit to be used under a state legislator coverage  
25 plan is equal to three times the normal member contribution per

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1 year of service credit under the state legislator coverage plan  
2 applicable to the member. Full payment shall be made in a  
3 single lump sum within sixty days of the date the member is  
4 informed of the amount of the payment. The portion of the  
5 purchase cost derived from the employer contribution rate shall  
6 be credited to the employer's accumulation fund and shall not  
7 be paid out of the association in the event of cessation of  
8 membership. In no case shall a member be credited with a month  
9 of service for less than the purchase cost as defined in this  
10 section.

11 F. A member shall be refunded, upon written request  
12 filed with the association, the portion of the purchase cost of  
13 service credit purchased pursuant to this section that the  
14 association determines to have been unnecessary to provide the  
15 member with the maximum pension applicable to the member. The  
16 association shall not pay interest on the portion of the  
17 purchase cost refunded to the member.

18 G. A member of the magistrate retirement system who  
19 during the member's service as a magistrate was eligible to  
20 become a member of the public employees retirement system and  
21 elected not to become a member of that system may purchase  
22 service credit pursuant to the public employees retirement  
23 system for the period for which the magistrate elected not to  
24 become a public employees retirement system member by paying  
25 the amount of the increase in the actuarial present value of

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1 the magistrate pension as a consequence of the purchase as  
2 determined by the association. Full payment shall be made in a  
3 single lump-sum amount in accordance with procedures  
4 established by the retirement board. Except as provided in  
5 Subsection F of this section, seventy-five percent of the  
6 purchase cost shall be considered to be employer contributions  
7 and shall not be refunded to the member in the event of  
8 cessation of membership.

9 H. At any time prior to retirement, any member may  
10 purchase service credit in monthly increments, subject to the  
11 following conditions:

12 (1) the member has at least five years of  
13 service credit acquired as a result of personal service  
14 rendered in the employ of an affiliated public employer;

15 (2) the aggregate amount of service credit  
16 purchased pursuant to this subsection does not exceed one  
17 year;

18 (3) the member pays full actuarial present  
19 value of the amount of the increase in the employee's pension  
20 as a consequence of the purchase as determined by the  
21 association;

22 (4) the member pays the full cost of the  
23 purchase within sixty days of the date the member is informed  
24 of the amount of the payment; and

25 (5) the purchase of service credit under this

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1 subsection cannot be used to determine the final average salary  
2 or the pension factor or be used to exceed the pension maximum.

3 I. A member receiving service credit under this  
4 section who enrolls in the retiree health care authority shall  
5 make contributions pursuant to Subsection C of Section 10-7C-15  
6 NMSA 1978."

7 SECTION 2. EFFECTIVE DATE.--The effective date of the  
8 provisions of this act is July 1, 2013.