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HOUSE BILL 78

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES  
RETIREMENT ACT AND PUBLIC EMPLOYER GROUP INSURANCE PROVISIONS;  
DEFINING "PUBLIC SAFETY EMPLOYEE"; REQUIRING THAT THE STATE OR  
ANY OTHER AFFILIATED PUBLIC EMPLOYER PAY PUBLIC SAFETY  
EMPLOYEES' MEMBER CONTRIBUTIONS AND ALL GROUP INSURANCE  
CONTRIBUTIONS IF SUCH AN EMPLOYEE SUSTAINS A NON-ADMINISTRATIVE  
WORK-RELATED INJURY RENDERING THE EMPLOYEE ABSENT FROM WORK ON  
APPROVED WORKERS' COMPENSATION LEAVE.

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

SECTION 1. Section 10-7-4 NMSA 1978 (being Laws 1941,  
Chapter 188, Section 1, as amended) is amended to read:

"10-7-4. GROUP INSURANCE--CAFETERIA PLAN--CONTRIBUTIONS  
FROM PUBLIC FUNDS.--

A. All state departments and institutions and all

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1 political subdivisions of the state, excluding municipalities,  
2 counties and political subdivisions of the state with twenty-  
3 five employees or fewer, shall cooperate in providing group  
4 term life, medical or disability income insurance for the  
5 benefit of eligible employees or salaried officers of the  
6 respective departments, institutions and subdivisions.

7 B. The group insurance contributions of the state  
8 or any of its departments or institutions, including  
9 institutions of higher education and the public schools, shall  
10 be made as follows:

11 (1) at least seventy-five percent of the cost  
12 of the insurance of an employee whose annual salary is less  
13 than fifteen thousand dollars (\$15,000);

14 (2) at least seventy percent of the cost of  
15 the insurance of an employee whose annual salary is fifteen  
16 thousand dollars (\$15,000) or more but less than twenty  
17 thousand dollars (\$20,000);

18 (3) at least sixty-five percent of the cost of  
19 the insurance of an employee whose annual salary is twenty  
20 thousand dollars (\$20,000) or more but less than twenty-five  
21 thousand dollars (\$25,000); and

22 (4) at least sixty percent of the cost of the  
23 insurance of an employee whose annual salary is twenty-five  
24 thousand dollars (\$25,000) or more.

25 C. Effective July 1, 2004, the group insurance

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1 contributions of the state or any of its executive, judicial or  
2 legislative departments, including agencies, boards or  
3 commissions, shall be made as follows; provided that the  
4 contribution percentage shall be the same for all affected  
5 public employees in a given salary bracket:

6 (1) up to eighty percent of the cost of the  
7 insurance of an employee whose annual salary is less than  
8 thirty thousand dollars (\$30,000);

9 (2) up to seventy percent of the cost of the  
10 insurance of an employee whose annual salary is thirty thousand  
11 dollars (\$30,000) or more but less than forty thousand dollars  
12 (\$40,000); and

13 (3) up to sixty percent of the cost of the  
14 insurance of an employee whose annual salary is forty thousand  
15 dollars (\$40,000) or more.

16 D. Except as provided in Subsection G of this  
17 section, effective July 1, 2005, the group insurance  
18 contributions of the state or any of its executive, judicial or  
19 legislative departments, including agencies, boards or  
20 commissions, shall be made as follows; provided that the  
21 contribution percentage shall be the same for all affected  
22 public employees in a given salary bracket:

23 (1) up to eighty percent of the cost of the  
24 insurance of an employee whose annual salary is less than fifty  
25 thousand dollars (\$50,000);

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1 (2) up to seventy percent of the cost of the  
2 insurance of an employee whose annual salary is fifty thousand  
3 dollars (\$50,000) or more but less than sixty thousand dollars  
4 (\$60,000); and

5 (3) up to sixty percent of the cost of the  
6 insurance of an employee whose annual salary is sixty thousand  
7 dollars (\$60,000) or more.

8 E. Effective July 1, 2013, the employer shall pay  
9 one hundred percent of basic life insurance premiums for  
10 employees, and employees who choose to carry disability  
11 insurance shall pay one hundred percent of the premium.

12 F. The state shall not make any group insurance  
13 contributions for legislators. A legislator shall be eligible  
14 for group benefits only if the legislator contributes one  
15 hundred percent of the cost of the insurance.

16 G. An affiliated public employer, as defined  
17 pursuant to the Public Employees Retirement Act, in addition to  
18 paying the employer portion of the group insurance  
19 contributions, shall be responsible for one hundred percent of  
20 the employee group insurance contributions due and payable on  
21 or after July 1, 2015 and applicable to an injured public  
22 safety employee as provided in Section 3 of this 2015 act. The  
23 group insurance contributions paid by the employer pursuant to  
24 this subsection shall be paid for the duration of the  
25 employee's approved leave.

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1           ~~[G-]~~ H. As used in this section, "cost of the  
2 insurance" means the premium required to be paid to provide  
3 coverages. Any contributions of the political subdivisions of  
4 the state, except the public schools and political subdivisions  
5 of the state with twenty-five employees or fewer, shall not  
6 exceed sixty percent of the cost of the insurance.

7           ~~[H-]~~ I. When a public employee elects to  
8 participate in a cafeteria plan as authorized by the Cafeteria  
9 Plan Act and enters into a salary reduction agreement with the  
10 governmental employer, the provisions of Subsections B through  
11 ~~[F]~~ G of this section with respect to the maximum contributions  
12 that can be made by the employer are not violated and will  
13 still apply. The employer percentage or dollar contributions  
14 as provided in Subsections B through D of this section shall be  
15 determined by the employee's gross salary prior to any salary  
16 reduction agreement.

17           ~~[I-]~~ J. Any group medical insurance plan offered  
18 pursuant to this section shall include effective cost-  
19 containment measures to control the growth of health care  
20 costs. The responsible public body that administers a plan  
21 offered pursuant to this section shall report annually by  
22 September 1 to appropriate interim legislative committees on  
23 the effectiveness of the cost-containment measures required by  
24 this subsection.

25           ~~[J-]~~ K. Within available revenue, school districts,

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1 charter schools, participating entities pursuant to the Public  
2 School Insurance Authority Act and institutions of higher  
3 education may contribute up to eighty percent of the cost of  
4 the insurance of all employees."

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

7 "10-11-2. DEFINITIONS.--As used in the Public Employees  
8 Retirement Act:

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

13 B. "affiliated public employer" means the state and  
14 any public employer affiliated with the association as provided  
15 in the Public Employees Retirement Act, but does not include an  
16 employer pursuant to the Magistrate Retirement Act, the  
17 Judicial Retirement Act or the Educational Retirement Act;

18 C. "association" means the public employees  
19 retirement association established under the Public Employees  
20 Retirement Act;

21 D. "disability retired member" means a retired  
22 member who is receiving a pension pursuant to the disability  
23 retirement provisions of the Public Employees Retirement Act;

24 E. "disability retirement pension" means the  
25 pension paid pursuant to the disability retirement provisions

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1 of the Public Employees Retirement Act;

2 F. "educational retirement system" means that  
3 retirement system provided for in the Educational Retirement  
4 Act;

5 G. "employee" means any employee of an affiliated  
6 public employer;

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

11 I. "final average salary" means the final average  
12 salary calculated in accordance with the provisions of the  
13 applicable coverage plan;

14 J. "form of payment" means the applicable form of  
15 payment of a pension provided for in Section 10-11-117 NMSA  
16 1978;

17 K. "former member" means a person who was  
18 previously employed by an affiliated public employer, who has  
19 terminated that employment and who has received a refund of  
20 member contributions;

21 L. "fund" means the funds included under the Public  
22 Employees Retirement Act;

23 M. "member" means a currently employed,  
24 contributing employee of an affiliated public employer, or a  
25 person who has been but is not currently employed by an

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1 affiliated public employer, who has not retired and who has not  
2 received a refund of member contributions; "member" also  
3 includes the following:

4 (1) "adult correctional officer member" means  
5 a member who is employed as an adult correctional officer or an  
6 adult correctional officer specialist by a state correctional  
7 facility of the corrections department or its successor agency;

8 (2) "juvenile correctional officer member"  
9 means a member who is employed as a juvenile correctional  
10 officer by the children, youth and families department or its  
11 successor agency;

12 (3) "municipal detention officer member" means  
13 a member who is employed by an affiliated public employer other  
14 than the state and who has inmate custodial responsibilities at  
15 a facility used for the confinement of persons charged with or  
16 convicted of a violation of a law or ordinance;

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

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

25 (6) "state police member" means any member who

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1 is an officer of the New Mexico state police and who has taken  
2 the oath prescribed for such officers;

3 N. "membership" means membership in the  
4 association;

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

8 P. "public employer" means the state, any  
9 municipality, city, county, metropolitan arroyo flood control  
10 authority, economic development district, regional housing  
11 authority, soil and water conservation district, entity created  
12 pursuant to a joint powers agreement, council of government,  
13 conservancy district, irrigation district, water and sanitation  
14 district, water district and metropolitan water board,  
15 including the boards, departments, bureaus and agencies of a  
16 public employer, so long as these entities fall within the  
17 meaning of governmental plan as that term is used in Section  
18 414(d) of the Internal Revenue Code of 1986, as amended;

19 Q. "public safety duty" means a function or duty  
20 that is performed by a public safety employee while on duty and  
21 that occurs in an inherently dangerous location or under  
22 inherently dangerous circumstances;

23 R. "public safety employee" means a member who  
24 retired from, or an individual who is employed in, a job that,  
25 when held by a member, is covered under a Public Employees

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1 Retirement Act member coverage plan applicable to a:

2 (1) state police member and adult correctional  
3 officer member;

4 (2) juvenile correctional officer member;

5 (3) municipal detention officer member;

6 (4) municipal fire member;

7 (5) municipal police member; or

8 (6) peace officer member;

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

18 [R-] T. "retire" means to:

19 (1) terminate employment with all employers  
20 covered by any state system or the educational retirement  
21 system; and

22 (2) receive a pension from a state system or  
23 the educational retirement system;

24 [S-] U. "retired member" means a person who has met  
25 all requirements for retirement and who is receiving a pension

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1 from the fund;

2 [F.] V. "retirement board" means the retirement  
3 board provided for in the Public Employees Retirement Act;

4 [H.] W. "salary" means the base salary or wages  
5 paid a member, including longevity pay, for personal services  
6 rendered an affiliated public employer. "Salary" shall not  
7 include overtime pay, allowances for housing, clothing,  
8 equipment or travel, payments for unused sick leave, unless the  
9 unused sick leave payment is made through continuation of the  
10 member on the regular payroll for the period represented by  
11 that payment, and any other form of remuneration not  
12 specifically designated by law as included in salary for Public  
13 Employees Retirement Act purposes. Salary in excess of the  
14 limitations set forth in Section 401(a)(17) of the Internal  
15 Revenue Code of 1986, as amended, shall be disregarded. The  
16 limitation on compensation for eligible employees shall not be  
17 less than the amount that was allowed to be taken into account  
18 under the state retirement system acts in effect on July 1,  
19 1993. For purposes of this subsection, "eligible employee"  
20 means an individual who was a member of a state system before  
21 the first plan year beginning after December 31, 1995;

22 [V.] X. "state system" means the retirement  
23 programs provided for in the Public Employees Retirement Act,  
24 the Magistrate Retirement Act and the Judicial Retirement Act;

25 [W.] Y. "state retirement system acts" means

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1 collectively the Public Employees Retirement Act, the  
2 Magistrate Retirement Act, the Judicial Retirement Act and the  
3 Volunteer Firefighters Retirement Act; and

4 ~~[X.]~~ Z. "survivor beneficiary" means a person who  
5 receives a pension or who has been designated to be paid a  
6 pension as a result of the death of a member or retired  
7 member."

8 SECTION 3. A new section of the Public Employees  
9 Retirement Act is enacted to read:

10 "[NEW MATERIAL] CREDITED SERVICE--PAYMENT OF INJURED  
11 PUBLIC SAFETY EMPLOYEES' MEMBER CONTRIBUTIONS.--

12 A. An affiliated public employer, in addition to  
13 paying the applicable employer contributions, shall be  
14 responsible for one hundred percent of the member contributions  
15 due and payable for service credit earned on or after July 1,  
16 2015 and applicable to a public safety employee who is injured  
17 while performing a public safety duty and the injury renders  
18 the employee absent from work pursuant to approved workers'  
19 compensation leave.

20 B. The member contributions paid by the affiliated  
21 public employer pursuant to Subsection A of this section shall  
22 be paid for the duration of the public safety employee's  
23 workers' compensation leave.

24 C. A pension payable to a member whose affiliated  
25 public employer pays the member contributions pursuant to this

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1 section shall be an amount equal to the pension payment the  
2 member would receive if all member contributions had been paid  
3 by the member."

4 SECTION 4. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2015.