

1 SENATE BILL 186

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO PUBLIC EMPLOYEES; INCLUDING SPECIAL HOSPITAL
12 DISTRICTS AS PUBLIC EMPLOYERS PURSUANT TO THE PUBLIC EMPLOYEES
13 RETIREMENT ACT.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 2, as amended) is amended to read:

18 "10-11-2. DEFINITIONS.--As used in the Public Employees
19 Retirement Act:

20 A. "accumulated member contributions" means the
21 amounts deducted from the salary of a member and credited to
22 the member's individual account, together with interest, if
23 any, credited to that account;

24 B. "affiliated public employer" means the state and
25 any public employer affiliated with the association as provided

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1 in the Public Employees Retirement Act, but does not include an
2 employer pursuant to the Magistrate Retirement Act, the
3 Judicial Retirement Act or the Educational Retirement Act;

4 C. "association" means the public employees
5 retirement association established under the Public Employees
6 Retirement Act;

7 D. "disability retired member" means a retired
8 member who is receiving a pension pursuant to the disability
9 retirement provisions of the Public Employees Retirement Act;

10 E. "disability retirement pension" means the
11 pension paid pursuant to the disability retirement provisions
12 of the Public Employees Retirement Act;

13 F. "educational retirement system" means that
14 retirement system provided for in the Educational Retirement
15 Act;

16 G. "employee" means any employee of an affiliated
17 public employer;

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

22 I. "final average salary" means the final average
23 salary calculated in accordance with the provisions of the
24 applicable coverage plan;

25 J. "form of payment" means the applicable form of

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1 payment of a pension provided for in Section 10-11-117 NMSA
2 1978;

3 K. "former member" means a person who was
4 previously employed by an affiliated public employer, who has
5 terminated that employment and who has received a refund of
6 member contributions;

7 L. "fund" means the funds included under the Public
8 Employees Retirement Act;

9 M. "member" means a currently employed,
10 contributing employee of an affiliated public employer, or a
11 person who has been but is not currently employed by an
12 affiliated public employer, who has not retired and who has not
13 received a refund of member contributions; "member" also
14 includes the following:

15 (1) "adult correctional officer member" means
16 a member who is employed as an adult correctional officer or an
17 adult correctional officer specialist by a state correctional
18 facility of the corrections department or its successor agency;

19 (2) "juvenile correctional officer member"
20 means a member who is employed as a juvenile correctional
21 officer by the children, youth and families department or its
22 successor agency;

23 (3) "municipal detention officer member" means
24 a member who is employed by an affiliated public employer other
25 than the state and who has inmate custodial responsibilities at

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1 a facility used for the confinement of persons charged with or
2 convicted of a violation of a law or ordinance;

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

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

11 (6) "state police member" means a member who
12 is an officer of the New Mexico state police and who has taken
13 the oath prescribed for such officers, except that a state
14 police member shall not include a member who is an officer of
15 the New Mexico state police division and who was certified and
16 commissioned as of June 30, 2015 in the former motor
17 transportation division or the former special investigations
18 division of the department of public safety;

19 N. "membership" means membership in the
20 association;

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

24 P. "public employer" means the state, any
25 municipality, city, county, metropolitan arroyo flood control

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1 authority, economic development district, special hospital
2 district, regional housing authority, soil and water
3 conservation district, entity created pursuant to a joint
4 powers agreement, council of government, conservancy district,
5 irrigation district, water and sanitation district, water
6 district and metropolitan water board, including the boards,
7 departments, bureaus and agencies of a public employer, so long
8 as these entities fall within the meaning of governmental plan
9 as that term is used in Section 414(d) of the Internal Revenue
10 Code of 1986, as amended;

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

20 R. "retire" means to:

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

24 (2) receive a pension from a state system or
25 the educational retirement system;

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1 S. "retired member" means a person who has met all
2 requirements for retirement and who is receiving a pension from
3 the fund;

4 T. "retirement board" means the retirement board
5 provided for in the Public Employees Retirement Act;

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

24 V. "state system" means the retirement programs
25 provided for in the Public Employees Retirement Act, the

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1 Magistrate Retirement Act and the Judicial Retirement Act;
2 W. "state retirement system acts" means
3 collectively the Public Employees Retirement Act, the
4 Magistrate Retirement Act, the Judicial Retirement Act and the
5 Volunteer Firefighters Retirement Act; and
6 X. "survivor beneficiary" means a person who
7 receives a pension or who has been designated to be paid a
8 pension as a result of the death of a member or retired
9 member."