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SENATE BILL 534

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; AMENDING SECTIONS OF
THE PUBLIC EMPLOYEES RETIREMENT ACT; INCLUDING DISTRICT
ATTORNEYS IN THE STATE POLICE MEMBER AND ADULT CORRECTIONAL
OFFICER MEMBER COVERAGE PLAN 1; MAKING CONFORMING TECHNICAL
CHANGES; MAKING AN APPROPRIATION.

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

SECTION 1. Section 10-7C-15 NMSA 1978 (being Laws 1990,
Chapter 6, Section 15, as amended by Laws 2009, Chapter 287,
Section 2 and by Laws 2009, Chapter 288, Section 3) is amended
to read:

"10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

A. Following completion of the preliminary
contribution period, each participating employer shall make
contributions to the fund pursuant to the following provisions:

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1 (1) for participating employees who are not
2 members of an enhanced retirement plan, the employer's
3 contribution shall equal:

4 (a) one and three-tenths percent of each
5 participating employee's salary for the period from July 1,
6 2002 through June 30, 2010;

7 (b) one and six hundred sixty-six
8 thousandths percent of each participating employee's salary for
9 the period from July 1, 2010 through June 30, 2011;

10 (c) one and eight hundred thirty-four
11 thousandths percent of each participating employee's salary for
12 the period from July 1, 2011 through June 30, 2012; and

13 (d) two percent of each participating
14 employee's salary beginning July 1, 2012;

15 (2) for participating employees who are
16 members of an enhanced retirement plan, the employer's
17 contribution shall equal:

18 (a) one and three-tenths percent of each
19 participating employee's salary for the period from July 1,
20 2002 through June 30, 2010;

21 (b) two and eighty-four thousandths
22 percent of each participating employee's salary for the period
23 from July 1, 2010 through June 30, 2011;

24 (c) two and two hundred ninety-two
25 thousandths percent of each participating employee's salary for

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1 the period from July 1, 2011 through June 30, 2012; and

2 (d) two and one-half percent of each
3 participating employee's salary beginning July 1, 2012; and

4 (3) each employer that chooses to become a
5 participating employer after January 1, 1998 shall make
6 contributions to the fund in the amount determined to be
7 appropriate by the board.

8 B. Following completion of the preliminary
9 contribution period, each participating employee, as a
10 condition of employment, shall contribute to the fund pursuant
11 to the following provisions:

12 (1) for a participating employee who is not a
13 member of an enhanced retirement plan, the employee's
14 contribution shall equal:

15 (a) sixty-five hundredths of one percent
16 of the employee's salary for the period from July 1, 2002
17 through June 30, 2010;

18 (b) eight hundred thirty-three
19 thousandths of one percent of the employee's salary for the
20 period from July 1, 2010 through June 30, 2011;

21 (c) nine hundred seventeen thousandths
22 of one percent of the employee's salary for the period from
23 July 1, 2011 through June 30, 2012; and

24 (d) one percent of the employee's salary
25 beginning July 1, 2012;

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1 (2) for a participating employee who is a
2 member of an enhanced retirement plan, the employee's
3 contribution shall equal:

4 (a) sixty-five hundredths of one percent
5 of the employee's salary for the period from July 1, 2002
6 through June 30, 2010;

7 (b) one and forty-two thousandths
8 percent of the employee's salary for the period from July 1,
9 2010 through June 30, 2011;

10 (c) one and one hundred forty-six
11 thousandths percent of the employee's salary for the period
12 from July 1, 2011 through June 30, 2012; and

13 (d) one and one-fourth percent of the
14 employee's salary beginning July 1, 2012; and

15 (3) as a condition of employment, each
16 participating employee of an employer that chooses to become a
17 participating employer after January 1, 1998 shall contribute
18 to the fund an amount that is determined to be appropriate by
19 the board. Each month, participating employers shall deduct
20 the contribution from the participating employee's salary and
21 shall remit it to the board as provided by any procedures that
22 the board may require.

23 C. On or after July 1, 2009, no person who has
24 obtained service credit pursuant to Subsection B of Section
25 10-11-6 NMSA 1978, Section 10-11-7 NMSA 1978 or Paragraph (3)

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1 or (4) of Subsection A of Section 22-11-34 NMSA 1978 may enroll
2 with the authority unless the person makes a contribution to
3 the fund equal to the full actuarial present value of the
4 amount of the increase in the person's health care benefit, as
5 determined by the authority.

6 D. Except for contributions made pursuant to
7 Subsection C of this section, a participating employer that
8 fails to remit before the tenth day after the last day of the
9 month all employer and employee deposits required by the
10 Retiree Health Care Act to be remitted by the employer for the
11 month shall pay to the fund, in addition to the deposits,
12 interest on the unpaid amounts at the rate of six percent per
13 year compounded monthly.

14 E. Except for contributions made pursuant to
15 Subsection C of this section, the employer and employee
16 contributions shall be paid in monthly installments based on
17 the percent of payroll certified by the employer.

18 F. Except in the case of erroneously made
19 contributions or as may be otherwise provided in Subsection D
20 of Section 10-7C-9 NMSA 1978, contributions from participating
21 employers and participating employees shall become the property
22 of the fund on receipt by the board and shall not be refunded
23 under any circumstances, including termination of employment or
24 termination of the participating employer's operation or
25 participation in the Retiree Health Care Act.

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1 G. Notwithstanding any other provision in the
2 Retiree Health Care Act and at the first session of the
3 legislature following July 1, 2013, the legislature shall
4 review and adjust the distributions pursuant to Section 7-1-6.1
5 NMSA 1978 and the employer and employee contributions to the
6 authority in order to ensure the actuarial soundness of the
7 benefits provided under the Retiree Health Care Act.

8 H. As used in this section, "member of an enhanced
9 retirement plan" means:

10 (1) a member of the public employees
11 retirement association who, pursuant to the Public Employees
12 Retirement Act, is included in:

13 (a) state police member, ~~and~~ adult
14 correctional officer member and district attorney member
15 coverage plan 1;

16 (b) municipal police member coverage
17 plan 3, 4 or 5;

18 (c) municipal fire member coverage plan
19 3, 4 or 5; or

20 (d) municipal detention officer member
21 coverage plan 1; or

22 (2) a member pursuant to the provisions of the
23 Judicial Retirement Act."

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

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1 "10-11-2. DEFINITIONS.--As used in the Public Employees
2 Retirement Act:

3 A. "accumulated member contributions" means the
4 amounts deducted from the salary of a member and credited to
5 the member's individual account, together with interest, if
6 any, credited to that account;

7 B. "affiliated public employer" means the state and
8 any public employer affiliated with the association as provided
9 in the Public Employees Retirement Act, but does not include an
10 employer pursuant to the Magistrate Retirement Act, the
11 Judicial Retirement Act or the Educational Retirement Act;

12 C. "association" means the public employees
13 retirement association established under the Public Employees
14 Retirement Act;

15 D. "disability retired member" means a retired
16 member who is receiving a pension pursuant to the disability
17 retirement provisions of the Public Employees Retirement Act;

18 E. "disability retirement pension" means the
19 pension paid pursuant to the disability retirement provisions
20 of the Public Employees Retirement Act;

21 F. "educational retirement system" means that
22 retirement system provided for in the Educational Retirement
23 Act;

24 G. "employee" means any employee of an affiliated
25 public employer;

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

5 I. "final average salary" means the final average
6 salary calculated in accordance with the provisions of the
7 applicable coverage plan;

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

11 K. "former member" means a person who was
12 previously employed by an affiliated public employer, who has
13 terminated that employment and who has received a refund of
14 member contributions;

15 L. "fund" means the funds included under the Public
16 Employees Retirement Act;

17 M. "member" means a currently employed,
18 contributing employee of an affiliated public employer, or a
19 person who has been but is not currently employed by an
20 affiliated public employer, who has not retired and who has not
21 received a refund of member contributions; "member" also
22 includes the following:

23 (1) "adult correctional officer member" means
24 a member who is employed as an adult correctional officer or an
25 adult correctional officer specialist by a state correctional

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1 facility of the corrections department or its successor agency;

2 (2) "district attorney member" means a member
3 who is employed full-time as an appointed or elected district
4 attorney by an affiliated public employer;

5 [~~(2)~~] (3) "juvenile correctional officer
6 member" means a member who is employed as a juvenile
7 correctional officer by the children, youth and families
8 department or its successor agency;

9 [~~(3)~~] (4) "municipal detention officer member"
10 means a member who is employed by an affiliated public employer
11 other than the state and who has inmate custodial
12 responsibilities at a facility used for the confinement of
13 persons charged with or convicted of a violation of a law or
14 ordinance;

15 [~~(4)~~] (5) "municipal fire member" means any
16 member who is employed as a full-time nonvolunteer firefighter
17 by an affiliated public employer and who has taken the oath
18 prescribed for firefighters;

19 [~~(5)~~] (6) "municipal police member" means any
20 member who is employed as a police officer by an affiliated
21 public employer, other than the state, and who has taken the
22 oath prescribed for police officers; and

23 [~~(6)~~] (7) "state police member" means a member
24 who is an officer of the New Mexico state police and who has
25 taken the oath prescribed for such officers, except that a

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1 state police member shall not include a member who is an
2 officer of the New Mexico state police division and who was
3 certified and commissioned as of June 30, 2015 in the former
4 motor transportation division or the former special
5 investigations division of the department of public safety;

6 N. "membership" means membership in the
7 association;

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

11 P. "public employer" means the state, any
12 municipality, city, county, metropolitan arroyo flood control
13 authority, economic development district, regional housing
14 authority, soil and water conservation district, entity created
15 pursuant to a joint powers agreement, council of government,
16 conservancy district, irrigation district, water and sanitation
17 district, water district and metropolitan water board,
18 including the boards, departments, bureaus and agencies of a
19 public employer, so long as these entities fall within the
20 meaning of governmental plan as that term is used in Section
21 414(d) of the Internal Revenue Code of 1986, as amended;

22 Q. "refund beneficiary" means a person designated
23 by the member, in writing, in the form prescribed by the
24 association, as the person who would be refunded the member's
25 accumulated member contributions payable if the member dies and

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1 no survivor pension is payable or who would receive the
2 difference between pension paid and accumulated member
3 contributions if the retired member dies before receiving in
4 pension payments the amount of the accumulated member
5 contributions;

6 R. "retire" means to:

7 (1) terminate employment with all employers
8 covered by any state system or the educational retirement
9 system; and

10 (2) receive a pension from a state system or
11 the educational retirement system;

12 S. "retired member" means a person who has met all
13 requirements for retirement and who is receiving a pension from
14 the fund;

15 T. "retirement board" means the retirement board
16 provided for in the Public Employees Retirement Act;

17 U. "salary" means the base salary or wages paid a
18 member, including longevity pay, for personal services rendered
19 an affiliated public employer. "Salary" shall not include
20 overtime pay, allowances for housing, clothing, equipment or
21 travel, payments for unused sick leave, unless the unused sick
22 leave payment is made through continuation of the member on the
23 regular payroll for the period represented by that payment, and
24 any other form of remuneration not specifically designated by
25 law as included in salary for Public Employees Retirement Act

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1 purposes. Salary in excess of the limitations set forth in
2 Section 401(a)(17) of the Internal Revenue Code of 1986, as
3 amended, shall be disregarded. The limitation on compensation
4 for eligible employees shall not be less than the amount that
5 was allowed to be taken into account under the state retirement
6 system acts in effect on July 1, 1993. For purposes of this
7 subsection, "eligible employee" means an individual who was a
8 member of a state system before the first plan year beginning
9 after December 31, 1995;

10 V. "state system" means the retirement programs
11 provided for in the Public Employees Retirement Act, the
12 Magistrate Retirement Act and the Judicial Retirement Act;

13 W. "state retirement system acts" means
14 collectively the Public Employees Retirement Act, the
15 Magistrate Retirement Act, the Judicial Retirement Act and the
16 Volunteer Firefighters Retirement Act; and

17 X. "survivor beneficiary" means a person who
18 receives a pension or who has been designated to be paid a
19 pension as a result of the death of a member or retired
20 member."

21 SECTION 3. Section 10-11-27 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 27, as amended) is amended to read:

23 "10-11-27. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
24 OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
25 APPLICABILITY--CREDITED SERVICE.--

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1 A. State police member, [~~and~~] adult correctional
2 officer member and district attorney member coverage plan 1 is
3 applicable to state police members who are not specifically
4 covered by another coverage plan, [~~and~~] to adult correctional
5 officer members and to district attorney members.

6 B. The credited service of a state police member
7 who was a retired member or a member on June 30, 2013 and who
8 has held the permanent rank of patrolman, sergeant, lieutenant
9 or captain and does not hold an exempt rank or who is assigned
10 to the aircraft division as a pilot, or of an adult
11 correctional officer member, shall have actual credited service
12 increased by twenty percent for the purposes of state police
13 member, [~~and~~] adult correctional officer member and district
14 attorney member coverage plan 1.

15 C. Except as provided in Subsection B of this
16 section, the credited service of a member covered under state
17 police member, [~~and~~] adult correctional officer member and
18 district attorney member coverage plan 1 shall be credited as
19 provided in Section 10-11-4 NMSA 1978.

20 D. State police member, [~~and~~] adult correctional
21 officer member and district attorney member coverage plan 1 is
22 applicable to adult correctional officer members in the first
23 full pay period after July 1, 2004 if the retirement board
24 certifies to the secretary of state that, of those adult
25 correctional officer members to be covered under state police

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1 member, [~~and~~] adult correctional officer member and district
2 attorney member coverage plan 1, a majority of the members
3 voting have voted to approve adoption of that plan at an
4 election conducted pursuant to Laws 2003, Chapter 268, Section
5 16.

6 E. State police member, adult correctional officer
7 member and district attorney member coverage plan 1 is
8 applicable to district attorney members on the first day of the
9 calendar month following certification of the election adopting
10 state police member, adult correctional officer member and
11 district attorney member coverage plan 1 by an affirmative vote
12 of the majority of district attorney members. The election
13 shall be conducted by the retirement board in fiscal year 2020,
14 and the board shall certify the results. The election
15 procedures shall afford all district attorney members an
16 opportunity to vote. An election adopting state police member,
17 adult correctional officer member and district attorney member
18 coverage plan 1 is irrevocable for the purpose of subsequently
19 adopting a coverage plan that would decrease employer or
20 employee contributions with respect to all current and future
21 district attorney members."

22 SECTION 4. Section 10-11-27.1 NMSA 1978 (being Laws 2003,
23 Chapter 268, Section 10) is amended to read:

24 "10-11-27.1. STATE POLICE MEMBER, [~~AND~~] ADULT
25 CORRECTIONAL OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER

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1 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--Notwithstanding the
2 provisions of Section 10-11-27 NMSA 1978, to qualify for
3 payment under state police member, [~~and~~] adult correctional
4 officer member and district attorney member coverage plan 1, an
5 adult correctional officer member shall have eighteen months of
6 service credit earned under the state police member, [~~and~~]
7 adult correctional officer member and district attorney member
8 coverage plan 1 subsequent to July 1, 2004."

9 SECTION 5. Section 10-11-28 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 28, as amended) is amended to read:

11 "10-11-28. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
12 OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
13 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
14 state police member, [~~and~~] adult correctional officer member
15 and district attorney member coverage plan 1:

16 A. for a member who was a retired member or a
17 member on June 30, 2013, the age and service requirements for
18 normal retirement are:

19 (1) age sixty-five years or older and five or
20 more years of credited service;

21 (2) age sixty-four years and eight or more
22 years of credited service;

23 (3) age sixty-three years and eleven or more
24 years of credited service;

25 (4) age sixty-two years and fourteen or more

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1 years of credited service;

2 (5) age sixty-one years and seventeen or more
3 years of credited service;

4 (6) age sixty years and twenty or more years
5 of credited service; or

6 (7) any age and twenty-five or more years of
7 credited service; and

8 B. for a member who was not a retired member or a
9 member on June 30, 2013, the age and service requirements for
10 normal retirement are:

11 (1) age sixty years or older and six or more
12 years of service credit; or

13 (2) any age and twenty-five or more years of
14 service credit."

15 SECTION 6. Section 10-11-29 NMSA 1978 (being Laws 1987,
16 Chapter 253, Section 29, as amended) is amended to read:

17 "10-11-29. STATE POLICE MEMBER, ~~[AND]~~ ADULT CORRECTIONAL
18 OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
19 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state police
20 member, ~~[and]~~ adult correctional officer member and district
21 attorney member coverage plan 1, the amount of pension under
22 form of payment A is equal to three percent of final average
23 salary multiplied by credited service. The amount shall not
24 exceed ninety percent of the final average salary."

25 SECTION 7. Section 10-11-31 NMSA 1978 (being Laws 1987,

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1 Chapter 253, Section 31, as amended) is amended to read:

2 "10-11-31. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
3 OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
4 MEMBER CONTRIBUTION RATE.--A member under state police member,
5 [~~and~~] adult correctional officer member and district attorney
6 member coverage plan 1 shall contribute seven and six-tenths
7 percent of salary, except that a member whose annual salary is
8 greater than twenty thousand dollars (\$20,000) shall contribute
9 nine and one-tenth percent of salary."

10 SECTION 8. Section 10-11-32 NMSA 1978 (being Laws 1987,
11 Chapter 253, Section 32, as amended) is amended to read:

12 "10-11-32. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
13 OFFICER MEMBER AND DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
14 STATE CONTRIBUTION RATE--AFFILIATED PUBLIC EMPLOYER
15 CONTRIBUTION RATE.--The state or other affiliated public
16 employer shall contribute twenty-five and one-half percent of
17 the salary of each member under state police member, [~~and~~]
18 adult correctional officer member and district attorney member
19 coverage plan 1, except that, from July 1, 2013 through June
20 30, 2014, the state contribution rate shall be twenty-five and
21 one-tenth percent of the salary of each member."

22 SECTION 9. APPROPRIATION.--Two million dollars
23 (\$2,000,000) is appropriated from the general fund to the
24 public employees retirement association for expenditure in
25 fiscal year 2020 and subsequent fiscal years for accrued

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1 liability for district attorney member coverage under state
2 police member, adult correctional officer member and district
3 attorney member coverage plan 1. Any unexpended or
4 unencumbered balance remaining at the end of a fiscal year
5 shall not revert to the general fund; provided that the
6 appropriation shall revert at the end of fiscal year 2020 if a
7 majority of the district attorney members do not elect to adopt
8 state police member, adult correctional officer member and
9 district attorney member coverage plan 1 in fiscal year 2020 as
10 provided in Subsection E of Section 10-11-27 NMSA 1978.

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