

SENATE BILL 21

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Roberto "Bobby" J. Gonzales and Natalie Figueroa

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO RETIREE HEALTH CARE; AMENDING CERTAIN DEFINITIONS IN THE RETIREE HEALTH CARE ACT TO CONFORM TO THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT; REPEALING PROVISIONS OF LAW RELATING TO THE DISCOUNT PRESCRIPTION DRUG PROGRAM.

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

SECTION 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

.218423.2AIC February 3, 2021 (10:04am)

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"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "authority" means the retiree health care authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those coverages generally associated with a medical plan of benefits;

D. "board" means the board of the retiree health care authority;

E. "current retiree" means an eligible retiree who is receiving a disability or normal retirement benefit under the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the Public Employees Retirement Reciprocity Act or the retirement program of an independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care coverage based upon that person's relationship to an eligible retiree as follows:

- (1) a spouse;

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(2) [~~an unmarried~~] a child under the age of
[~~nineteen~~] twenty-six who is:

(a) a natural child;

(b) a legally adopted child;

(c) a stepchild living in the same
household who is primarily dependent on the eligible retiree
for maintenance and support;

(d) a child for whom the eligible
retiree is the legal guardian and who is primarily dependent on
the eligible retiree for maintenance and support, as long as
evidence of the guardianship is evidenced in a court order or
decree; or

(e) a foster child living in the same
household;

~~[(3) a child described in Subparagraphs (a)
through (e) of Paragraph (2) of this subsection who is between
the ages of nineteen and twenty-five and is a full-time student
at an accredited educational institution; provided that "full-
time student" shall be a student enrolled in and taking twelve
or more semester hours or its equivalent contact hours in
primary, secondary, undergraduate or vocational school or a
student enrolled in and taking nine or more semester hours or
its equivalent contact hours in graduate school;~~

~~(4)]~~ (3) a dependent child over [~~nineteen~~]
twenty-six who is wholly dependent on the eligible retiree for

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maintenance and support and who is incapable of self-sustaining employment by reason of [~~mental retardation~~] intellectual disability or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;

[~~(5)~~] (4) a surviving spouse defined as follows:

(a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or

(b) "surviving spouse" means the spouse to whom a deceased vested active employee was married at the time of death; or

[~~(6)~~] (5) a surviving dependent child who is the dependent child of a deceased eligible retiree and whose other parent is also deceased;

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees

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Retirement Reciprocity Act; or

(2) an "independent public employer", which means a municipality, county or public entity that is not a retirement system employer;

H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and has applied before August 1, 1993 to the authority to participate in the program;

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(2) a "salaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served with salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act;

(b) has maintained group health insurance through that member's governing authority, if such group health insurance was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph, is eligible under Subparagraph (a) of this paragraph and has applied before August 1, 1993 to the authority to participate in the program;

(3) an "eligible participating retiree", which means a person who:

(a) falls within the definition of a retiree, has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that

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person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(b) falls within the definition of a retiree, retired prior to July 1, 1990 and is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement association or the governing authority of an independent public employer; but this paragraph does not include a retiree who was an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act and did not after January 1, 1993 elect to become a participating employer; unless the retiree: 1) retired on or before June 30, 1990; and 2) at the time of retirement, did not have a retirement health plan or retirement health insurance coverage available from the retiree's employer; or

(c) is a retiree who: 1) was at the time of retirement an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act, but which eligible employer subsequently elected after January 1, 1993 to become a

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participating employer; 2) has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires prior to the eligible employer's election to become a participating employer or less than five years after the date participation begins when the participation date begins before July 1, 2009, in which event the time period required for employee and employer contributions shall become the period of time, if any, between the date participation begins and the date of retirement or when the participation date begins on or after July 1, 2009, in which event the person and employer shall contribute to the fund an amount equal to the full actuarial present value of the accrued benefits as determined by the authority; and 3) is certified to be a retiree by the educational retirement director, the executive director of the public employees retirement board or the governing authority of an independent public employer;

(4) a "legislative member", which means a person who is not a retiree and who served as a member of the New Mexico legislature for at least two years, but is no longer a member of the legislature and is certified to be such by the legislative council service; or

(5) a "former participating employer governing

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authority member", which means a person, other than a nonsalaried eligible participating entity governing authority member or a salaried eligible participating entity governing authority member, who is not a retiree and who served as a member of the governing authority of a participating employer for at least four years but is no longer a member of the governing authority and whose length of service is certified by the chief executive officer of the participating employer;

I. "fund" means the retiree health care fund;

J. "group health insurance" means coverage that includes but is not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices, medicare supplement, medicare carveout, medicare coordination and other benefits, supplies and services through the vehicles of indemnity coverages, health maintenance organizations, preferred provider organizations and other health care delivery systems as provided by the Retiree Health Care Act and other coverages considered by the board to be advisable;

K. "ineligible dependents" includes:

(1) those dependents created by common law relationships;

(2) dependents while in active military

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service;

(3) parents, aunts, uncles, brothers, sisters, grandchildren and other family members left in the care of an eligible retiree without evidence of legal guardianship; and

(4) anyone not specifically referred to as an eligible dependent pursuant to the rules adopted by the board;

L. "participating employee" means an employee of a participating employer, which employee has not been expelled from participation in the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

M. "participating employer" means an eligible employer who has satisfied the conditions for participating in the benefits of the Retiree Health Care Act, including the requirements of Subsection M of Section 10-7C-7 NMSA 1978 and Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

N. "public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit pursuant to the Educational Retirement Act;

(b) a disability or normal retirement

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benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act."

SHPAC→SECTION 2. Section 10-7C-5 NMSA 1978 (being Laws 1990, Chapter 6, Section 5, as amended by Laws 2002, Chapter 75, Section 1 and by Laws 2002, Chapter 80, Section 1) is amended to read:

"10-7C-5. AUTHORITY CREATED.--[A-] There is created the "retiree health care authority", which is established to provide for comprehensive group health insurance programs under the Retiree Health Care Act. [The authority shall be administratively attached to the public school insurance authority until December 31, 1993. The director of the public school insurance authority shall be the executive director of

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~~the retiree health care authority until December 31, 1993. The board created by Section 10-7C-6 NMSA 1978 shall remain fully independent of the board of the public school insurance authority.~~

~~B. The authority shall also administer the senior prescription drug program in conjunction with or through the consolidated purchasing process pursuant to the Health Care Purchasing Act.]"←SHPAC~~

SECTION SHPAC→2.←SHPAC SHPAC→3.←SHPAC REPEAL.--Sections 10-7C-17 through 10-7C-19 NMSA 1978 (being Laws 2002, Chapter 75, Section 2 and Laws 2002, Chapter 80, Section 2; Laws 2002, Chapter 75, Section 3 and Laws 2002, Chapter 80, Section 3; and Laws 2002, Chapter 75, Section 4 and Laws 2002, Chapter 80, Section 4, as amended) are repealed.

SECTION SHPAC→3.←SHPAC SHPAC→4.←SHPAC EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.