

1 AN ACT

2 RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING CERTAIN
3 STATE POLICE DIVISION OFFICERS UNDER THE STATE POLICE MEMBER,
4 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER
5 MEMBER COVERAGE PLAN 1; PROVIDING FOR AN ELECTION PERTAINING
6 TO THE ADOPTION OF THE STATE POLICE MEMBER, CORRECTIONAL
7 OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER
8 COVERAGE PLAN 1; PROVIDING FOR THE ADJUSTMENT OF CERTAIN
9 SERVICE CREDIT EARNED PRIOR TO THE ADOPTION OF THE STATE
10 POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND
11 PAROLE OFFICER MEMBER COVERAGE PLAN 1.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

16 "10-11-2. DEFINITIONS.--As used in the Public Employees
17 Retirement Act:

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

22 B. "affiliated public employer" means the state
23 and any public employer affiliated with the association as
24 provided in the Public Employees Retirement Act, but does not
25 include an employer pursuant to the Magistrate Retirement

1 Act, the Judicial Retirement Act or the Educational
2 Retirement Act;

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

6 D. "coverage plan funded ratio" means the ratio of
7 the actuarial value of the assets of a coverage plan to the
8 actuarial accrued liability of the association for payments
9 from the coverage plan, as determined by the association's
10 actuaries;

11 E. "disability retired member" means a retired
12 member who is receiving a pension pursuant to the disability
13 retirement provisions of the Public Employees Retirement Act;

14 F. "disability retirement pension" means the
15 pension paid pursuant to the disability retirement provisions
16 of the Public Employees Retirement Act;

17 G. "educational retirement system" means that
18 retirement system provided for in the Educational Retirement
19 Act;

20 H. "employee" means any employee of an affiliated
21 public employer;

22 I. "federal social security program" means that
23 program or those programs created and administered pursuant
24 to the act of congress approved August 14, 1935, Chapter 531,
25 49 Stat. 620, as that act may be amended;

1 J. "final average salary" means the final average
2 salary calculated in accordance with the provisions of the
3 applicable coverage plan;

4 K. "form of payment" means the applicable form of
5 payment of a pension provided for in Section 10-11-117 NMSA
6 1978;

7 L. "former member" means a person who was
8 previously employed by an affiliated public employer, who has
9 terminated that employment and who has received a refund of
10 member contributions;

11 M. "fund" means the funds included under the
12 Public Employees Retirement Act;

13 N. "member" means a currently employed,
14 contributing employee of an affiliated public employer, or a
15 person who has been but is not currently employed by an
16 affiliated public employer, who has not retired and who has
17 not received a refund of member contributions; "member" also
18 includes the following:

19 (1) "adult correctional officer member"
20 means a member who is employed as an adult correctional
21 officer or an adult correctional officer specialist by a
22 state correctional facility of the corrections department or
23 its successor agency;

24 (2) "adult probation and parole officer
25 member" means a member who is employed as a probation and

1 parole officer by the corrections department or its successor
2 agency;

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

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

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

17 (6) "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 (7) "municipal police member" means any
22 member who is employed as a police officer by an affiliated
23 public employer, other than the state, and who has taken the
24 oath prescribed for police officers; and

25 (8) "state police member" means a member who

1 is an officer of the New Mexico state police division and who
2 has taken the oath prescribed for such officers and shall
3 include a member who is an officer of the New Mexico state
4 police division and who was certified and commissioned in the
5 former motor transportation division or the former special
6 investigations division of the department of public safety;

7 O. "membership" means membership in the
8 association;

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

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

24 R. "refund beneficiary" means a person designated
25 by the member, in writing, in the form prescribed by the

1 association, as the person who would be refunded the member's
2 accumulated member contributions payable if the member dies
3 and no survivor pension is payable or who would receive the
4 difference between pension paid and accumulated member
5 contributions if the retired member dies before receiving in
6 pension payments the amount of the accumulated member
7 contributions;

8 S. "retire" means to:

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

12 (2) receive a pension from a state system or
13 the educational retirement system;

14 T. "retired member" means a person who has met all
15 requirements for retirement and who is receiving a pension
16 from the fund;

17 U. "retirement board" means the retirement board
18 provided for in the Public Employees Retirement Act;

19 V. "salary" means the base salary or wages paid a
20 member, including longevity pay, for personal services
21 rendered an affiliated public employer. "Salary" shall not
22 include overtime pay, allowances for housing, clothing,
23 equipment or travel, payments for unused sick leave, unless
24 the unused sick leave payment is made through continuation of
25 the member on the regular payroll for the period represented

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

13 W. "state system" means the retirement programs
14 provided for in the Public Employees Retirement Act, the
15 Magistrate Retirement Act and the Judicial Retirement Act;

16 X. "state retirement system acts" means
17 collectively the Public Employees Retirement Act, the
18 Magistrate Retirement Act, the Judicial Retirement Act and
19 the Volunteer Firefighters Retirement Act; and

20 Y. "survivor beneficiary" means a person who
21 receives a pension or who has been designated to be paid a
22 pension as a result of the death of a member or retired
23 member."

24 SECTION 2. TEMPORARY PROVISION--STATE POLICE MEMBER,
25 CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER

1 MEMBER COVERAGE PLAN 1--STATE POLICE MEMBERS--ELECTION.--On
2 or before December 30, 2021, the retirement board provided
3 for in the Public Employees Retirement Act shall conduct an
4 election to submit to state police members currently
5 contributing under state general member coverage plan 3 the
6 question of adopting state police member, correctional
7 officer member and probation and parole officer member
8 coverage plan 1 and counting any credited service served
9 since July 1, 2015 under state general member coverage plan 3
10 as credited service under state police member, correctional
11 officer member and probation and parole officer member
12 coverage plan 1. The election shall be conducted in
13 accordance with procedures adopted by the retirement board,
14 and the retirement board shall certify the results of the
15 election to the secretary of state on or before
16 January 1, 2022.

17 SECTION 3. TEMPORARY PROVISION--STATE POLICE MEMBERS--
18 ADJUSTMENT OF CREDITED SERVICE.--Provided that the state
19 police members currently contributing under state general
20 member coverage plan 3 adopt the question provided in
21 Section 2 of this 2021 act, the public employees retirement
22 association shall count credited service served under state
23 general member coverage plan 3 between July 1, 2015 and the
24 date the election is certified as credited service under
25 state police member, correctional officer member and

1 probation and parole officer member coverage plan 1.

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

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25