

1 HOUSE BILL 336

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO PUBLIC EMPLOYEES; EXPANDING THE DEFINITION OF
12 "PEACE OFFICER" TO ALLOW RETIRED MEMBERS THAT ARE EMPLOYED BY
13 THE STATE AND WHO HAVE PEACE OFFICER POWERS TO RETURN TO WORK
14 UNDER CERTAIN CONDITIONS.
15

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

17 SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
18 Chapter 253, Section 8, as amended) is amended to read:

19 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
20 BENEFITS CONTINUED--CONTRIBUTIONS.--

21 A. A member may retire upon fulfilling the
22 following requirements prior to the selected date of
23 retirement:

24 (1) a written application for normal
25 retirement, in the form prescribed by the association, is filed

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1 with the association;

2 (2) employment is terminated with all
3 employers covered by any state system or the educational
4 retirement system;

5 (3) the member selects an effective date of
6 retirement that is the first day of a calendar month; and

7 (4) the member meets the age and service
8 credit requirement for normal retirement specified in the
9 coverage plan applicable to the member.

10 B. The amount of normal retirement pension is
11 determined in accordance with the coverage plan applicable to
12 the member.

13 C. Except as provided in Subsections D, J and K of
14 this section, on or after July 1, 2010, a retired member may be
15 subsequently employed by an affiliated public employer only
16 pursuant to the following provisions:

17 (1) the retired member has not been employed
18 as an employee of an affiliated public employer or retained as
19 an independent contractor by the affiliated public employer
20 from which the retired member retired for at least twelve
21 consecutive months from the date of retirement to the
22 commencement of subsequent employment or reemployment with an
23 affiliated public employer;

24 (2) the retired member's pension shall be
25 suspended upon commencement of the subsequent employment;

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1 (3) except as provided in Subsection F of this
2 section, the retired member shall not become a member and shall
3 not accrue service credit, and the retired member and that
4 person's subsequent affiliated public employer shall not make
5 contributions under any coverage plan pursuant to the Public
6 Employees Retirement Act; and

7 (4) upon termination of the subsequent
8 employment, the retired member's pension shall resume in
9 accordance with the provisions of Subsection A of this section.

10 D. The provisions of Subsections C, G, H, J and K
11 of this section do not apply to:

12 (1) a retired member employed by the
13 legislature for legislative session work;

14 (2) a retired member employed temporarily as a
15 precinct board member for a municipal election or an election
16 covered by the Election Code; or

17 (3) a retired member who is elected to serve a
18 term as an elected official in an office covered pursuant to
19 the Public Employees Retirement Act; provided that:

20 (a) the retired member files an
21 irrevocable exemption from membership with the association
22 within thirty days of taking office; and

23 (b) the irrevocable exemption shall be
24 for the elected official's term of office.

25 E. A retired member who returns to employment

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1 during retirement pursuant to Subsection D of this section is
2 entitled to receive retirement benefits but is not entitled to
3 accrue service credit or to acquire or purchase service credit
4 in the future for the period of the retired member's subsequent
5 employment with an affiliated public employer.

6 F. At any time during a retired member's subsequent
7 employment pursuant to Subsection C of this section, the
8 retired member may elect to become a member and the following
9 conditions shall apply:

10 (1) the previously retired member and the
11 subsequent affiliated public employer shall make the required
12 employee and employer contributions, and the previously retired
13 member shall accrue service credit for the period of subsequent
14 employment; and

15 (2) when the previously retired member
16 terminates the subsequent employment with an affiliated public
17 employer, the previously retired member shall retire according
18 to the provisions of the Public Employees Retirement Act,
19 subject to the following conditions:

20 (a) payment of the pension shall resume
21 in accordance with the provisions of Subsection A of this
22 section;

23 (b) unless the previously retired member
24 accrued at least three years of service credit on account of
25 the subsequent employment, the recalculation of pension shall:

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1 1) employ the form of payment selected by the previously
2 retired member at the time of the first retirement; and 2) use
3 the provisions of the coverage plan applicable to the member on
4 the date of the first retirement; and

5 (c) the recalculated pension shall not
6 be less than the amount of the suspended pension.

7 G. A retired member who returned to work with an
8 affiliated public employer prior to July 1, 2010 shall be
9 subject to the provisions of this section in effect on the date
10 the retired member returned to work; provided that on and after
11 July 1, 2010, the retired member shall pay the employee
12 contribution in an amount specified in the Public Employees
13 Retirement Act for the position in which the retired member is
14 subsequently employed.

15 H. Effective July 1, 2014, if a retired member who,
16 subsequent to retirement, is employed and covered pursuant to
17 the provisions of the Magistrate Retirement Act or Judicial
18 Retirement Act, during the period of subsequent employment:

19 (1) the member shall be entitled to receive
20 retirement benefits;

21 (2) the retired member's cost-of-living
22 pension adjustment shall be suspended upon commencement of the
23 employment; and

24 (3) upon termination of the employment, the
25 retired member's suspended cost-of-living pension adjustment

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1 shall be reinstated as provided under Section 10-11-118 NMSA
2 1978.

3 I. The pension of a member who has earned service
4 credit under more than one coverage plan shall be determined as
5 follows:

6 (1) the pension of a member who has three or
7 more years of service credit earned on or before June 30, 2013
8 under each of two or more coverage plans shall be determined in
9 accordance with the coverage plan that produces the highest
10 pension;

11 (2) the pension of a member who has service
12 credit earned on or before June 30, 2013 under two or more
13 coverage plans but who has three or more years of service
14 credit under only one of those coverage plans shall be
15 determined in accordance with the coverage plan in which the
16 member has three or more years of service credit. If the
17 service credit is acquired under two different coverage plans
18 applied to the same affiliated public employer as a consequence
19 of an election by the members, adoption by the affiliated
20 public employer or a change in the law that results in the
21 application of a coverage plan with a greater pension, the
22 greater pension shall be paid a member retiring from the
23 affiliated public employer under which the change in coverage
24 plan took place regardless of the amount of service credit
25 under the coverage plan producing the greater pension; provided

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1 that the member has three or more years of continuous
2 employment with that affiliated public employer immediately
3 preceding or immediately preceding and immediately following
4 the date the coverage plan changed;

5 (3) the pension of a member who has service
6 credit earned on or before June 30, 2013 under each of two or
7 more coverage plans and who has service credit earned under any
8 coverage plan on or after July 1, 2013 shall be equal to the
9 sum of:

10 (a) the pension attributable to the
11 service credit earned on or before June 30, 2013 determined
12 pursuant to Paragraph (1) or (2) of this subsection; and

13 (b) the pension attributable to the
14 service credit earned under each coverage plan on or after July
15 1, 2013;

16 (4) the pension of a member who has service
17 credit earned only on and after July 1, 2013 shall be equal to
18 the sum of the pension attributable to the service credit the
19 member has accrued under each coverage plan; and

20 (5) the provisions of each coverage plan for
21 the purpose of this subsection shall be those in effect at the
22 time the member ceased to be covered by the coverage plan.

23 "Service credit", for the purposes of this subsection, shall be
24 only personal service rendered an affiliated public employer
25 and credited to the member under the provisions of Subsection A

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1 of Section 10-11-4 NMSA 1978. Service credited under any other
2 provision of the Public Employees Retirement Act shall not be
3 used to satisfy the three-year service credit requirement of
4 this subsection.

5 J. A retired member may be subsequently employed by
6 an affiliated public employer; provided that the retired member
7 has not been employed as an employee of an affiliated public
8 employer or retained as an independent contractor by the
9 affiliated public employer from which the retired member
10 retired for at least ninety consecutive days from the date of
11 retirement to the commencement of subsequent employment or
12 reemployment with an affiliated public employer; and further
13 provided that the:

14 (1) retired member shall only be employed in
15 one of the following positions:

- 16 (a) adult correctional officer;
- 17 (b) adult detention officer;
- 18 (c) courthouse security officer;
- 19 (d) emergency medical dispatcher;
- 20 (e) emergency medical technician or
21 paramedic;
- 22 (f) firefighter;
- 23 (g) juvenile correctional officer;
- 24 (h) juvenile detention officer;
- 25 (i) municipal police officer;

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- 1 (j) peace officer;
- 2 (k) protective services investigator;
- 3 (l) public safety telecommunicator;
- 4 (m) sheriff's deputy; or
- 5 (n) state police officer;
- 6 (2) retired member shall have retired prior to
- 7 December 31, 2023;
- 8 (3) retired member's pension, including any
- 9 cost-of-living adjustment, shall continue to be paid during the
- 10 period of subsequent employment;
- 11 (4) retired member shall not become a member
- 12 during the period of subsequent employment;
- 13 (5) retired member shall not accrue service
- 14 credit for any portion of the period of subsequent employment;
- 15 (6) retired member and the retired member's
- 16 subsequent affiliated public employer shall make the
- 17 contributions that would be required for members and employers
- 18 under the applicable coverage plan during the entire period of
- 19 subsequent employment;
- 20 (7) contributions paid by or on behalf of the
- 21 retired member during the term of subsequent employment shall
- 22 not be refundable at the termination of the subsequent
- 23 employment;
- 24 (8) retired member shall have no seniority
- 25 based on pre-retirement employment for purposes of selecting

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1 shifts;

2 (9) retired member shall have no limitation on
3 the length of time that the retired member can be subsequently
4 employed or reemployed by an affiliated public employer;
5 provided that the retired member shall only receive up to
6 thirty-six consecutive months of pension payments while
7 reemployed;

8 (10) retired member shall not be hired for
9 reemployment into an employment position with a vacancy rate
10 that is lower than ten percent at the time of the retired
11 member's hiring; and

12 (11) subsequent employment begins prior to
13 July 1, 2027.

14 K. An affiliated public employer that employs a
15 retired member provided in Subsection J of this section shall:

16 (1) track and document:

17 (a) the date of hire and date of
18 separation for each reemployed retired member;

19 (b) the retired member's employment
20 position prior to retirement;

21 (c) the salary of each reemployed
22 retired member; and

23 (d) the monthly vacancy rate for each
24 employment position at the affiliated public employer; and

25 (2) if the affiliated public employer has to

1 lay off employees due to budgetary restrictions, lay off
2 reemployed retired members before laying off any members.

3 L. For the purposes of this section:

4 (1) "adult correctional officer" means a
5 person 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) "adult detention officer" means a person
9 who is employed by an affiliated public employer other than the
10 state and who has inmate custodial responsibilities at a
11 facility used for the confinement of adults charged with or
12 convicted of a violation of a law or ordinance;

13 (3) "courthouse security officer" means a
14 person who is employed by the administrative office of the
15 courts who provides security or protective services for a
16 courthouse;

17 (4) "emergency medical dispatcher" means a
18 person who is trained and licensed pursuant to the Emergency
19 Medical Services Act and who receives calls for emergency
20 medical assistance, provides pre-arrival medical instructions,
21 dispatches emergency medical assistance and coordinates its
22 response;

23 (5) "emergency medical technician" means a
24 person who is licensed as an emergency medical technician or
25 paramedic and who provides patient care pursuant to the

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1 Emergency Medical Services Act;

2 (6) "firefighter" means a person who is
3 employed as a full-time non-volunteer firefighter by an
4 affiliated public employer who has taken the oath for
5 firefighters and who serves in a non-management position
6 serving or supporting the delivery of emergency services in a
7 front line capacity;

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

12 (8) "juvenile detention officer" means a
13 person who is employed as a juvenile detention officer or youth
14 program officer by an affiliated public employer other than the
15 state;

16 (9) "municipal police officer" means a person
17 who is employed by an affiliated public employer other than the
18 state or a county and who is a law enforcement officer who
19 serves in a uniformed patrol capacity responding to dispatched
20 calls for service;

21 (10) "peace officer" means:

22 (a) a person who is appointed by the
23 attorney general or district attorney and who is a certified
24 law enforcement officer who investigates and enforces state
25 laws, rules and regulations, including the execution of

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1 warrants; or

2 (b) an employee of the state with a duty
3 to maintain public order or to make arrests for crime, whether
4 that duty extends to all crimes or is limited to specific
5 crimes;

6 (11) "protective services investigator" means
7 a person who is an employee of the protective services division
8 of the children, youth and families department who investigates
9 child abuse referrals, assesses the risk and safety of the
10 child and takes appropriate action or prepares cases for
11 transfer to child protective services permanency planning;

12 (12) "public safety telecommunicator" means a
13 person who is an employee of a safety agency who receives calls
14 or dispatches the appropriate personnel or equipment in
15 response to calls for police, fire or medical services and
16 makes decisions affecting the life, health or welfare of the
17 public or safety employees and who has qualified for the
18 certification set forth in the Public Safety Telecommunicator
19 Training Act;

20 (13) "sheriff's deputy" means a person who is
21 employed by a county and who is a law enforcement officer who
22 serves in a uniformed patrol capacity responding to dispatched
23 calls for service or serves as a courthouse security officer
24 employed by a county; and

25 (14) "state police officer" means a person who

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1 is an officer of the New Mexico state police division of the
2 department of public safety, who has taken the oath prescribed
3 for such officers and who serves in a uniformed patrol capacity
4 responding to dispatched calls for service."

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