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AN ACT

RELATING TO PUBLIC EMPLOYEE PENSIONS; CLARIFYING PROVISIONS  
RELATING TO DISABILITY PENSIONS AND SURVIVOR PENSIONS;  
ALLOWING STATE FIRE MEMBERS ELIGIBILITY FOR CERTAIN SERVICE  
CREDIT RELATING TO WORKERS' COMPENSATION LEAVE; REMOVING  
INCONSISTENCIES RELATING TO SURVIVOR PENSIONS; CLARIFYING THE  
AMOUNT OF PENSION EARNED BY CERTAIN PUBLIC REGULATION  
COMMISSION COMMISSIONERS; ALLOWING THE PUBLIC EMPLOYEES  
RETIREMENT ASSOCIATION TO SHARE CERTAIN INFORMATION WITH THE  
EDUCATIONAL RETIREMENT BOARD REGARDING CERTAIN RECIPROCITY  
RETIREEES; CLARIFYING CERTAIN PROVISIONS RELATING TO GIFTS;  
CLARIFYING THE REQUIREMENTS FOR A RETIRED MEMBER WHO FILES AN  
EXEMPTION FROM MEMBERSHIP UNDER THE MAGISTRATE RETIREMENT  
ACT; MAKING TECHNICAL CHANGES.

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

SECTION 1. Section 10-11-4 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--  
FORFEITURE--REINSTATEMENT.--

A. Personal service rendered an affiliated public  
employer by a member shall be credited to the member's  
service credit account in accordance with retirement board  
rules and regulations. Service shall be credited to the  
nearest month. In no case shall any member be credited with

1 a year of service for less than twelve months of service in  
2 any calendar year or more than a month of service for all  
3 service in any calendar month or more than a year of service  
4 for all service in any calendar year. In no case shall any  
5 member be allowed to purchase service credit unless the  
6 purchase is authorized in the Public Employees Retirement  
7 Act.

8 B. Personal service rendered an affiliated public  
9 employer prior to August 1, 1947 shall be credited to a  
10 member if the member acquires one year of service credit for  
11 personal service rendered an affiliated public employer.

12 C. Personal service rendered an affiliated public  
13 employer after July 31, 1947 but prior to the date the public  
14 employer became an affiliated public employer is prior  
15 service and shall be credited to a member if:

16 (1) the member has the applicable minimum  
17 number of years of service credit required for normal  
18 retirement. As used in this paragraph, "service credit"  
19 means only the service credit earned by the member during  
20 periods of employment with an affiliated public employer; and

21 (2) the member pays the association the  
22 amount determined in accordance with Subsection D of this  
23 section.

24 D. The purchase cost for each month of service  
25 credit purchased under the provisions of this section is

1 equal to the member's final average salary multiplied by the  
2 sum of the member contribution rate and employer contribution  
3 rate determined in accordance with the coverage plan  
4 applicable to the member at the time of the written election  
5 to purchase. Payment shall be made in accordance with the  
6 procedures established by the retirement board. The portion  
7 of the purchase cost derived from the employer contribution  
8 rate shall be credited to the employers accumulation fund and  
9 shall not be refunded to the member in the event of cessation  
10 of membership. In no case shall any member be credited with  
11 a month of service for less than the purchase cost as defined  
12 in this section.

13 E. Service credit shall be forfeited if a member  
14 terminates employment with an affiliated public employer and  
15 withdraws the member's accumulated member contributions.

16 F. A member or former member who is a member of  
17 another state system or the educational retirement system and  
18 who has forfeited service credit by withdrawal of member  
19 contributions may reinstate the forfeited service credit by  
20 repaying the amount withdrawn plus compound interest from the  
21 date of withdrawal to the date of repayment at the rate set  
22 by the retirement board. Withdrawn member contributions  
23 shall be repaid in accordance with the procedures established  
24 by the retirement board."

25 SECTION 2. Section 10-11-4.2 NMSA 1978 (being Laws

1 1993, Chapter 239, Section 1, as amended) is amended to read:

2 "10-11-4.2. CORRECTION OF ERRORS AND OMISSIONS--  
3 ESTOPPEL.--

4 A. If an error or omission results in an  
5 overpayment to a member or beneficiary of a member, the  
6 association shall correct the error or omission and adjust  
7 all future payments accordingly. The association shall  
8 recover all overpayments made for a period of up to one year  
9 prior to the date the error or omission was discovered.

10 B. A person who is paid more than the amount that  
11 is lawfully due to that person as a result of fraudulent  
12 information provided by the person shall be liable for the  
13 repayment of that amount to the association plus interest on  
14 that amount at the rate set by the retirement board plus all  
15 costs of collection, including attorney fees. Recovery of  
16 such overpayments shall extend back to the date the first  
17 payment was made based on the fraudulent information.

18 C. Statements of fact or law made by retirement  
19 board members or employees of the retirement board or the  
20 association shall not estop the retirement board or the  
21 association from acting in accordance with the applicable  
22 statutes."

23 **SECTION 3.** Section 10-11-6.1 NMSA 1978 (being Laws  
24 2016, Chapter 39, Section 2) is amended to read:

25 "10-11-6.1. SERVICE CREDIT FOR CERTAIN INJURED MEMBERS

1 ON APPROVED WORKERS' COMPENSATION LEAVE.--

2 A. A member whose affiliated public employer has  
3 provided written certification to the association, in the  
4 form and manner prescribed by the association, that the  
5 employee was injured while performing a work-related function  
6 or duty in an inherently dangerous location or under  
7 inherently dangerous circumstances and that the member is  
8 absent from work and has been placed on approved workers'  
9 compensation leave as a result of the injury shall accrue  
10 service credit for the period of absence from work while on  
11 workers' compensation leave; provided that:

12 (1) the member is a peace officer covered  
13 pursuant to state general member coverage plan 3; a state  
14 police member; a state fire member; an adult correctional  
15 officer member; a municipal fire member; a municipal police  
16 member; or a municipal detention officer member;

17 (2) the member retains membership in the  
18 association during the period of absence from work on  
19 approved workers' compensation leave; and

20 (3) the member's affiliated public employer  
21 pays the injured employee's member contributions as well as  
22 the employer contributions and remits to the association the  
23 total amount of employee and employer contributions that  
24 would have been paid if the member had not been absent from  
25 work while on approved workers' compensation leave. The

1 contribution amounts shall be calculated based upon a salary  
2 equal to the member's salary at the time of the injury.

3 B. The affiliated public employer shall provide an  
4 appeal process for an injured employee on approved workers'  
5 compensation leave who is determined by the affiliated public  
6 employer not to meet the criteria in Subsection A of this  
7 section."

8 SECTION 4. Section 10-11-10.1 NMSA 1978 (being Laws  
9 1993, Chapter 160, Section 3, as amended) is amended to read:

10 "10-11-10.1. DISABILITY RETIREMENT.--

11 A. There is created a "disability review  
12 committee" of the retirement board. The disability review  
13 committee shall consist of at least three but not more than  
14 five retirement board members and at least one licensed  
15 physician appointed by the retirement board. The board shall  
16 give preference to a physician licensed in New Mexico. The  
17 disability review committee shall review all applications for  
18 disability retirement, review reports required under this  
19 section and approve or deny applications for disability  
20 retirement.

21 B. The disability review committee may retire a  
22 member on account of disability before the time the member  
23 would otherwise be eligible for retirement if the following  
24 requirements are satisfied:

25 (1) the member applying for disability

1 retirement was a member at the time the disability was  
2 incurred;

3 (2) a written application for disability  
4 retirement, in the form and containing the information  
5 prescribed by the association, has been filed with the  
6 association by the member, the member's representative or the  
7 member's affiliated public employer;

8 (3) employment is terminated within forty-  
9 five days of the date of approval of the application for  
10 disability retirement;

11 (4) if:

12 (a) the member has the applicable  
13 minimum number of years of service credit required for normal  
14 retirement. For the purposes of this subparagraph, "service  
15 credit" means only the service credit earned by the member  
16 during periods of employment with an affiliated public  
17 employer; or

18 (b) the disability review committee  
19 finds the disability to have been the natural and proximate  
20 result of causes arising solely and exclusively out of and in  
21 the course of the member's performance of duty with an  
22 affiliated public employer;

23 (5) the member submits to all medical  
24 examinations and tests and furnishes copies of all medical  
25 reports requested by the association or disability review

1 committee; provided that if the disability review committee  
2 requires independent medical or other examinations, those  
3 examinations shall be performed at the association's expense;  
4 and

5 (6) the disability review committee makes  
6 the determination required under Subsection C of this  
7 section.

8 C. The disability review committee shall review  
9 applications for disability retirement to determine whether:

10 (1) if the member is a currently employed,  
11 contributing employee of an affiliated public employer:

12 (a) the member is mentally or  
13 physically totally incapacitated for continued employment  
14 with an affiliated public employer; and

15 (b) the incapacity is likely to be  
16 permanent; or

17 (2) if the member is not a currently  
18 employed, contributing employee of an affiliated public  
19 employer:

20 (a) the member is mentally or  
21 physically totally incapacitated for any gainful employment;  
22 and

23 (b) the incapacity is likely to be  
24 permanent.

25 D. The disability retirement pension shall be paid

1 for a period of one year after approval of the initial  
2 application unless the disability review committee for good  
3 cause shown grants disability retirement for a longer period  
4 of time. Payment shall be effective commencing the first of  
5 the month following approval of the initial application and  
6 termination of employment.

7 E. At the end of the first year that a disability  
8 retirement pension is paid, the disability retired member's  
9 condition shall be reevaluated to determine eligibility for  
10 continuation of payment of a disability retirement pension.  
11 If the disability retired member has applied for disability  
12 benefits under the federal social security program, the  
13 member shall submit copies of the member's application. The  
14 association shall continue payment of the state disability  
15 retirement pension if the disability retired member presents  
16 a written final determination from the federal social  
17 security administration that the disability retired member  
18 qualifies, based on the same conditions as presented in the  
19 application for a state disability retirement pension, for  
20 federal disability benefits.

21 F. If the disability retired member applied for  
22 federal disability benefits within thirty days of receiving  
23 approval for a state disability retirement pension but the  
24 federal social security administration has not made a written  
25 final determination of entitlement by the end of the first

1 year that the disability retired member has received a state  
2 disability retirement pension, eligibility for continued  
3 payment of the state disability retirement pension shall be  
4 determined by the disability review committee. The state  
5 disability retirement pension shall be discontinued if the  
6 disability review committee finds that the disability retired  
7 member is capable of any gainful employment.

8 G. The disability retired member shall notify the  
9 association of the federal social security administration's  
10 final determination within fifteen working days of the date  
11 of issuance of the final written determination. If the  
12 federal social security administration denies federal  
13 disability benefits, the state disability retirement pension  
14 shall be discontinued effective the first of the month  
15 following the month in which the written final determination  
16 of the federal social security administration was issued. If  
17 the federal social security administration grants federal  
18 disability benefits, the state disability retirement pension  
19 shall be continued so long as the disability retired member  
20 provides annually, on or before the anniversary date of  
21 commencement of payment of the state disability retirement  
22 pension, written evidence of continuation of payment of  
23 federal disability benefits. If the disability review  
24 committee has denied continuation of payment of a state  
25 disability retirement pension and the disability retired

1 member is later granted federal disability benefits, the  
2 state disability retirement pension shall be reinstated  
3 effective the first of the month following the month in which  
4 the state disability retirement pension was discontinued.

5 H. If, at the time of reevaluation under  
6 Subsection E of this section, the disability retired member  
7 has applied for and has qualified for federal disability  
8 benefits, but for a different condition than was reviewed by  
9 the disability review committee, the disability review  
10 committee shall review the disability retired member's  
11 condition as described by the application for federal  
12 disability benefits. The process set forth in Subsection I  
13 of this section shall be followed to determine whether  
14 payment of a state disability retirement pension should be  
15 continued.

16 I. If the disability retired member is not  
17 eligible to apply for federal disability benefits or is not a  
18 member of the federal social security program, the disability  
19 review committee annually shall determine eligibility for  
20 continuation of payment of a state disability retirement  
21 pension. To make its determination of continued entitlement,  
22 the disability review committee shall use the guidelines  
23 established by the federal social security administration for  
24 determination of eligibility for federal disability benefits.  
25 The determination shall be based on:

1                   (1) the medical and all other information  
2 provided by the disability retired member;

3                   (2) at least one independent medical or  
4 other examination performed at the association's expense if  
5 required by the disability review committee; and

6                   (3) any medical, vocational or other  
7 information related to the disability compiled during the  
8 period of disability by any medical or other practitioner  
9 consulted by the disability retired member regarding the  
10 disability that was not paid for by the association.

11                  J. Each disability retired member annually shall  
12 submit to the association, prior to July 1, a statement of  
13 earnings from gainful employment during the preceding  
14 calendar year. The statement of earnings shall be in the  
15 form prescribed by the association. Payment of the state  
16 disability retirement pension shall be discontinued if the  
17 amount of earnings from gainful employment is one hundred  
18 percent or more of the amount that causes a decrease or  
19 suspension of an old age benefit under the federal social  
20 security program. Payment of the state disability retirement  
21 pension shall be discontinued starting with the month of July  
22 if the statement of earnings is not received by the  
23 association prior to July 1.

24                  K. Upon prior approval by the association, a  
25 disability retired member may return to employment with an

1 affiliated public employer or other employer for a trial  
2 period not to exceed one hundred twenty calendar days without  
3 becoming a member or causing suspension or discontinuation of  
4 payment of a state disability retirement pension. If the  
5 trial period of employment is successfully completed, payment  
6 of the disability retirement pension shall be discontinued  
7 beginning the first of the month following the one hundred  
8 twentieth day of the trial period of employment. Trial  
9 periods of employment shall be limited to two in any five-  
10 year period following disability retirement.

11 L. If the disability retired member meets the  
12 minimum age and service credit requirements for normal  
13 retirement while receiving a disability retirement pension,  
14 the disability retirement pension shall be reclassified by  
15 the association as a normal retirement pension, and no  
16 further determinations of eligibility for continuation of  
17 payment of the disability retirement pension shall be made.  
18 Upon reclassification as a normal retirement pension, all the  
19 provisions of the Public Employees Retirement Act regarding  
20 normal retirement shall be applicable.

21 M. If the disability review committee found the  
22 disability to be the natural and proximate result of causes  
23 arising solely and exclusively out of and in the course of  
24 the member's employment with an affiliated public employer,  
25 service credit shall continue to accrue during the disability

1 retirement period as though the disability retired member was  
2 actively employed.

3 N. The amount of a disability retirement pension  
4 shall be calculated according to the provisions of the  
5 coverage plan applicable to the member at the time of  
6 application, except that the service credit requirement shall  
7 be waived and the actual amount of service credit shall be  
8 used instead. If the disability is the natural and proximate  
9 result of causes arising solely and exclusively out of and in  
10 the course of the member's performance of duty for an  
11 affiliated public employer, the amount of disability  
12 retirement pension shall be calculated according to the  
13 provisions of the coverage plan applicable to the member,  
14 imputing the amount of service credit necessary to meet the  
15 minimum service credit requirements for normal retirement.

16 O. For the purposes of this section, the following  
17 definitions apply:

18 (1) "continued employment with the  
19 affiliated public employer" means the ability of the member  
20 to fulfill the required duties of the position in which the  
21 member was last employed by an affiliated public employer;

22 (2) "gainful employment" means remunerative  
23 employment or self-employment that is commensurate with the  
24 applicant's background, age, education, experience and any  
25 new skills or training the applicant may have acquired after

1 terminating public employment or incurring the disability;

2 (3) "state disability retirement pension"  
3 means the pension paid pursuant to the provisions of this  
4 section; and

5 (4) "federal disability benefits" means  
6 those benefits paid by the federal social security program."

7 SECTION 5. Section 10-11-14.5 NMSA 1978 (being Laws  
8 1993, Chapter 160, Section 4, as amended) is amended to read:

9 "10-11-14.5. DEATH BEFORE RETIREMENT--SURVIVOR  
10 PENSIONS.--

11 A. A survivor pension may be paid to certain  
12 persons related to or designated by a member who dies before  
13 normal or disability retirement if a written application for  
14 the pension, in the form prescribed by the association, is  
15 filed with the association by the potential survivor  
16 beneficiary or beneficiaries within one year of the death of  
17 the member. Applications may be filed on behalf of the  
18 potential survivor beneficiary or beneficiaries or by a  
19 person legally authorized to represent them.

20 B. If the retirement board finds the death to have  
21 been the natural and proximate result of causes arising  
22 solely and exclusively out of and in the course of the  
23 member's performance of duty with an affiliated public  
24 employer, a survivor pension shall be payable to the  
25 designated survivor beneficiary. If there is no designated

1 survivor beneficiary, a survivor pension shall be payable to  
2 the eligible surviving spouse. The amount of the survivor  
3 pension shall be the greater of:

4 (1) the amount as calculated under the  
5 coverage plan applicable to the deceased member at the time  
6 of death as though the deceased member had retired the day  
7 preceding death under form of payment B using the actual  
8 amount of service credit attributable to the deceased member  
9 at the time of death; or

10 (2) fifty percent of the deceased member's  
11 final average salary.

12 C. A survivor pension shall also be payable to  
13 eligible surviving children if the retirement board finds the  
14 death to have been the natural and proximate result of causes  
15 arising solely and exclusively out of and in the course of  
16 the member's performance of duty with an affiliated public  
17 employer. The survivor pension shall be payable to and  
18 divided equally among all eligible surviving children, if  
19 any. The total amount of survivor pension payable for all  
20 eligible surviving children shall be either:

21 (1) fifty percent of the deceased member's  
22 final average salary if an eligible surviving spouse or  
23 designated survivor beneficiary is not paid a pension; or

24 (2) twenty-five percent of the deceased  
25 member's final average salary if an eligible surviving spouse

1 or designated survivor beneficiary is paid a pension.

2 D. If the member had the applicable minimum number  
3 of years of service credit required for normal retirement,  
4 but the retirement board did not find the death to have been  
5 the natural and proximate result of causes arising solely and  
6 exclusively out of and in the course of the member's  
7 performance of duty with an affiliated public employer, a  
8 survivor pension shall be payable to the designated survivor  
9 beneficiary. If there is no designated survivor beneficiary,  
10 a survivor pension shall be payable to the eligible surviving  
11 spouse. The amount of the survivor pension shall be the  
12 greater of:

13 (1) the amount as calculated under the  
14 coverage plan applicable to the deceased member at the time  
15 of death as though the deceased member had retired the day  
16 preceding death under form of payment B using the total  
17 amount of actual service credit attributable to the deceased  
18 member at the time of death; or

19 (2) thirty percent of the deceased member's  
20 final average salary.

21 E. If the member had the applicable minimum number  
22 of years of service credit required for normal retirement,  
23 but the retirement board did not find the death to have been  
24 the natural and proximate result of causes arising solely and  
25 exclusively out of and in the course of the member's

1 performance of duty with an affiliated public employer and  
2 there is no designated survivor beneficiary, and if there is  
3 no eligible surviving spouse at the time of death, a survivor  
4 pension shall be payable to and divided equally among all  
5 eligible surviving children, if any. The total amount of  
6 survivor pension payable for all eligible surviving children  
7 shall be the greater of:

8 (1) the amount as calculated under the  
9 coverage plan applicable to the deceased member at the time  
10 of death as though the deceased member had retired the day  
11 preceding death under form of payment B with the oldest  
12 eligible surviving child as the survivor beneficiary using  
13 the total amount of actual service credit attributable to the  
14 deceased member at the time of death; or

15 (2) thirty percent of the deceased member's  
16 final average salary.

17 F. An eligible surviving spouse is the spouse to  
18 whom the deceased member was married at the time of death.  
19 An eligible surviving child is a child under the age of  
20 eighteen years and who is an unmarried, natural or adopted  
21 child of the deceased member and who is not the designated  
22 survivor beneficiary of the deceased member.

23 G. An eligible surviving spouse's pension shall  
24 terminate upon death. An eligible surviving child's pension  
25 shall terminate upon death or marriage or reaching age

1 eight years, whichever comes first.

2 H. If there is no eligible surviving child, the  
3 designated survivor beneficiary or eligible surviving spouse  
4 may elect to be refunded the deceased member's accumulated  
5 member contributions instead of receiving a survivor pension.

6 I. A member may designate a survivor beneficiary  
7 to receive a pre-retirement survivor pension, subject to the  
8 following conditions:

9 (1) a written designation, in the form  
10 prescribed by the association, is filed by the member with  
11 the association;

12 (2) if the member is married at the time of  
13 designation, the designation shall only be made with the  
14 consent of the member's spouse, in the form prescribed by the  
15 association;

16 (3) if the member is married subsequent to  
17 the time of designation, any prior designations shall  
18 automatically be revoked upon the date of the marriage;

19 (4) if the member is divorced subsequent to  
20 the time of designation, any prior designation of the former  
21 spouse as survivor beneficiary shall automatically be revoked  
22 upon the date of divorce; and

23 (5) a designation of survivor beneficiary  
24 may be changed, with the member's spouse's consent if the  
25 member is married, by the member at any time prior to the

1 member's death.

2 J. If all pension payments permanently terminate  
3 before there is paid an aggregate amount equal to the  
4 deceased member's accumulated member contributions at time of  
5 death, the difference between the amount of accumulated  
6 member contributions and the aggregate amount of pension paid  
7 shall be paid to the deceased member's refund beneficiary.  
8 If no refund beneficiary survives the survivor beneficiary,  
9 the difference shall be paid to the estate of the deceased  
10 member.

11 K. For purposes of this section, "service credit"  
12 means only the service credit earned by a member during  
13 periods of employment with an affiliated public employer."

14 **SECTION 6.** Section 10-11-26.3 NMSA 1978 (being Laws  
15 1994, Chapter 128, Section 4, as amended) is amended to read:

16 "10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--  
17 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state general  
18 member coverage plan 3:

19 A. for a member with age and service requirements  
20 provided under Paragraph (1) or (3) of Subsection A of  
21 Section 10-11-26.2 NMSA 1978, the amount of pension under  
22 form of payment A is equal to three percent of final average  
23 salary multiplied by service credit. The amount shall not  
24 exceed one hundred percent of the final average salary; and

25 B. for a member with age and service requirements

1 provided under Paragraph (2) or (4) of Subsection A of  
2 Section 10-11-26.2 NMSA 1978, the amount of pension under  
3 form of payment A is equal to two and one-half percent of the  
4 final average salary multiplied by service credit. The  
5 amount shall not exceed one hundred percent of the final  
6 average salary."

7 SECTION 7. Section 10-11-130 NMSA 1978 (being Laws  
8 1987, Chapter 253, Section 130, as amended) is amended to  
9 read:

10 "10-11-130. RETIREMENT BOARD--AUTHORITY--MEMBERSHIP.--

11 A. The "retirement board" is created and is the  
12 trustee of the association and the funds created by the state  
13 retirement system acts and has all the powers necessary or  
14 convenient to carry out and effectuate the purposes and  
15 provisions of the state retirement system acts, including, in  
16 addition to any specific powers provided for in the Public  
17 Employees Retirement Act but without limiting the generality  
18 of the foregoing, the power to:

19 (1) administer the state retirement system  
20 acts, including the management of the association and making  
21 effective the provisions of those acts, as well as to  
22 administer and manage any other employee benefit acts as  
23 provided by law;

24 (2) in addition to utilizing services of the  
25 attorney general and notwithstanding any other provision of

1 law, employ or contract with and compensate competent legal  
2 counsel to handle the legal matters and litigation of the  
3 retirement board and the association and to give advice and  
4 counsel in regard to any matter connected with the duties of  
5 the retirement board;

6 (3) administer oaths;

7 (4) adopt and use a seal for authentication  
8 of records, processes and proceedings;

9 (5) create and maintain records relating to  
10 all members, affiliated public employers and all activities  
11 and duties required of the retirement board;

12 (6) issue subpoenas and compel the  
13 production of evidence and attendance of witnesses in  
14 connection with any hearings or proceedings of the retirement  
15 board;

16 (7) make and execute contracts;

17 (8) purchase, acquire or hold land adjacent  
18 to the state capitol grounds or other suitable location and  
19 build thereon a building to house the association and its  
20 employees and, in the event additional office space is  
21 available in the building after the retirement board and its  
22 employees have been housed, to rent or lease the additional  
23 space to any public agency or private person; provided that  
24 first priority for the rental or leasing shall be to public  
25 agencies; and further provided that for the purpose of

1 purchasing, acquiring or holding the land and the building  
2 thereon, the retirement board may use funds from the income  
3 fund and any other funds controlled by the retirement board  
4 the use of which for such purposes is not prohibited by law;

5 (9) after the sale of the land and building  
6 acquired pursuant to Paragraph (8) of this subsection,  
7 acquire land and build thereon a new building to house the  
8 association and its employees and hold the building and land  
9 in fee simple in the name of the association. In order to  
10 acquire the land and plan, design and construct the building,  
11 the retirement board may expend the proceeds of the sale of  
12 the land and building acquired pursuant to Paragraph (8) of  
13 this subsection or any funds controlled by the board, the use  
14 of which for such purposes is not otherwise prohibited by  
15 law;

16 (10) make and adopt such reasonable rules as  
17 may be necessary or convenient to carry out the duties of the  
18 retirement board and activities of the association, including  
19 any rules necessary to preserve the status of the association  
20 as a qualified pension plan under the provisions of the  
21 Internal Revenue Code of 1986, as amended, or under successor  
22 or related provisions of law;

23 (11) designate committees and designate  
24 committee members, including individuals who may not be  
25 members of the association; and

1                   (12) select and contract for the services of  
2 one or more custodian banks for all funds under the  
3 retirement board's management. For the purpose of this  
4 paragraph, "custodian bank" means a financial institution  
5 with the general fiduciary duties to manage, control and  
6 collect the assets of an investment fund, including receiving  
7 all deposits and paying all disbursements as directed by  
8 staff, safekeeping of assets, coordination of asset  
9 transfers, timely settlement of securities transactions and  
10 accurate and timely reporting of the assets by individual  
11 account and in total.

12                   B. The retirement board consists of:

- 13                   (1) the secretary of state;  
14                   (2) the state treasurer;  
15                   (3) four members under a state coverage plan  
16 to be elected by the members under state coverage plans;  
17                   (4) four members under a municipal coverage  
18 plan to be elected by the members under municipal coverage  
19 plans; provided that one member shall be a municipal member  
20 employed by a county; and  
21                   (5) two retired members to be elected by the  
22 retired members of the association.

23                   C. The results of elections of elected members of  
24 the retirement board shall be certified at the annual meeting  
25 of the association. Elections shall be conducted according

1 to rules the retirement board adopts from time to time.

2 D. The regular term of office of the elected  
3 members of the retirement board is four years. The term of  
4 one retirement board member under a state coverage plan  
5 expires annually on December 31. The terms of retirement  
6 board members under a municipal coverage plan expire on  
7 December 31 of noncoinciding years in the pattern set by the  
8 retirement board. Members of the retirement board serve  
9 until their successors have qualified.

10 E. A member elected to the retirement board who  
11 fails to attend four consecutively scheduled meetings of the  
12 retirement board, unless in each case excused for cause by  
13 the retirement board members in attendance, is considered to  
14 have resigned from the retirement board, and the retirement  
15 board shall by resolution declare the office vacated as of  
16 the date of adoption of the resolution. A vacancy occurring  
17 on the retirement board, except in the case of an elected  
18 official, shall be filled by the remaining retirement board  
19 members, without requirement that a quorum be present. The  
20 member appointed to fill the vacancy serves for the remainder  
21 of the vacated term.

22 F. Members of the retirement board serve without  
23 salary for their services as retirement board members, but  
24 they shall receive those amounts authorized under the Per  
25 Diem and Mileage Act.

1           G. The retirement board shall hold four regular  
2 meetings each year and shall designate in advance the time  
3 and place of the meetings. Special meetings and emergency  
4 meetings of the retirement board may be held upon call of the  
5 chair or any three members of the retirement board. Written  
6 notice of special meetings shall be sent to each member of  
7 the retirement board at least seventy-two hours in advance of  
8 the special meeting. Verbal notice of emergency meetings  
9 shall be given to as many members as is feasible at least  
10 eight hours before the emergency meeting, and the meeting  
11 shall commence with a statement of the nature of the  
12 emergency. The retirement board shall adopt its own rules of  
13 procedure and shall keep a record of its proceedings. All  
14 meetings of the retirement board shall comply with the Open  
15 Meetings Act. A majority of retirement board members shall  
16 constitute a quorum. Each attending member of the retirement  
17 board is entitled to one vote on each question before the  
18 retirement board, and at least a majority of a quorum shall  
19 be necessary for a decision by the retirement board.

20           H. Annual meetings of the members of the  
21 association shall be held in Santa Fe at such time and place  
22 as the retirement board shall from time to time determine.  
23 Special meetings of the members of the association shall be  
24 held in Santa Fe upon call of any seven retirement board  
25 members. The retirement board shall send a written notice to

1 the last known residence address of each member currently  
2 employed by an affiliated public employer at least ten days  
3 prior to any meeting of the members of the association. The  
4 notice shall contain the call of the meeting and the  
5 principal purpose of the meeting. All meetings of the  
6 association shall be public and shall be conducted according  
7 to procedures the retirement board shall from time to time  
8 adopt. The retirement board shall keep a record of the  
9 proceedings of each meeting of the association.

10 I. Except as provided in Subsection J of this  
11 section, neither the retirement board nor the association  
12 shall allow public inspection of, or disclosure of, the  
13 following information:

14 (1) information from any member or retiree  
15 file unless a prior release and consent, in the form  
16 prescribed by the association, has been executed by the  
17 member or retiree; or

18 (2) information otherwise protected by law.

19 J. Notwithstanding the provisions of Paragraph (1)  
20 of Subsection I of this section, the association may disclose  
21 the following information:

22 (1) applicable coverage plans, amounts of  
23 retirement plan contributions made by members and affiliated  
24 public employers and aggregate pension amounts paid;

25 (2) the names and addresses of members or

1 retirees that are requested solely for election purposes by  
2 candidates for election to the retirement board; and

3 (3) member file information to the  
4 educational retirement board for the purpose of administering  
5 the provisions of the Public Employees Retirement Reciprocity  
6 Act."

7 **SECTION 8.** Section 10-11-130.1 NMSA 1978 (being Laws  
8 1999, Chapter 153, Section 1) is amended to read:

9 "10-11-130.1. RESTRICTIONS ON RECEIPT OF GIFTS--  
10 RESTRICTION ON CAMPAIGN CONTRIBUTIONS--REQUIRED REPORTING.--

11 A. Members of the retirement board and employees  
12 of the association shall comply with the provisions of the  
13 Gift Act.

14 B. No person who is a candidate in a primary or  
15 general election for a position that qualifies the person for  
16 ex-officio membership on the retirement board, no member  
17 serving ex officio on the retirement board and no person who  
18 is a nominee for retirement board membership by election by  
19 some or all of the members of the association pursuant to the  
20 Public Employees Retirement Act shall accept anything of a  
21 value of more than twenty-five dollars (\$25.00) as a  
22 contribution to an ex-officio member's statewide campaign in  
23 a primary or general election or as a contribution to the  
24 campaign of a nominee for membership on the board as a member  
25 elected by all or some of the members of the association from

1 a person who:

2 (1) has a current contract with the  
3 retirement board or association;

4 (2) is a potential bidder, offeror or  
5 contractor for the provision of services or personal property  
6 to the retirement board or association;

7 (3) is authorized to invest public funds  
8 pursuant to state or federal law or is an employee or agent  
9 of such a person; or

10 (4) is an organization, association or other  
11 entity having a membership that includes persons described in  
12 Paragraphs (1) through (3) of this subsection.

13 C. Within ten days after an election in which one  
14 or more board members are elected by some or all of the  
15 members of the association pursuant to the Public Employees  
16 Retirement Act, all persons who were candidates for board  
17 membership in that election shall file with the association a  
18 report disclosing all contributions to their respective  
19 campaigns whether made directly to the candidate, a political  
20 action committee or to some other entity supporting the  
21 candidate's election. The contributions shall be reported by  
22 amount and specific source. Within sixty days after the  
23 election, the association shall publish the reports required  
24 by this subsection."

25 SECTION 9. Section 10-11-135 NMSA 1978 (being Laws

1 1987, Chapter 253, Section 135, as amended) is amended to  
2 read:

3 "10-11-135. FUNDS NOT SUBJECT TO PROCESS.--Except as  
4 provided in Sections 10-11-136 and 10-11-136.1 NMSA 1978,  
5 none of the money, pensions or other benefits mentioned in  
6 the Public Employees Retirement Act shall be assignable  
7 either in law or in equity or be subject to execution, levy,  
8 attachment, garnishment or other legal process, except as  
9 required by federal law or pursuant to federal action or  
10 order of a federal court or federal agency."

11 SECTION 10. Section 10-11A-7 NMSA 1978 (being Laws  
12 1983, Chapter 263, Section 7, as amended) is amended to read:

13 "10-11A-7. RETIREMENT ANNUITY--SURVIVING BENEFICIARY.--  
14 A member may designate a spouse or dependent child as a  
15 beneficiary. In the event a retirement annuitant dies, the  
16 surviving beneficiary shall receive an annuity equal to two-  
17 thirds of the retirement annuity being paid to the retirement  
18 annuitant at the time of death; provided that the annuity  
19 paid to a beneficiary spouse shall cease upon the surviving  
20 spouse's death and the annuity paid to a beneficiary  
21 dependent child shall cease upon the child reaching eighteen  
22 years of age or upon the child's death, whichever comes  
23 first."

24 SECTION 11. Section 10-12C-4 NMSA 1978 (being Laws  
25 1992, Chapter 118, Section 4, as amended by Laws 2014,

1 Chapter 39, Section 3 and by Laws 2014, Chapter 43, Section  
2 3) is amended to read:

3 "10-12C-4. MEMBERSHIP.--Unless an irrevocable exemption  
4 is filed pursuant to Subsection C of Section 10-12C-16 NMSA  
5 1978, every magistrate while in office shall become a member  
6 and shall be subject to the provisions of the Magistrate  
7 Retirement Act. A magistrate who is retired under any state  
8 system or the educational retirement system, including a  
9 magistrate who is otherwise exempt from the provisions of the  
10 Magistrate Retirement Act, shall:

11 A. pay the applicable member contributions and the  
12 state, through the administrative office of the courts, shall  
13 pay the applicable employer contributions as provided  
14 pursuant to the Magistrate Retirement Act; and

15 B. not accrue a service credit and shall not be  
16 eligible to purchase service credit nor to retire pursuant to  
17 the Magistrate Retirement Act."

18 **SECTION 12.** Section 10-12C-8 NMSA 1978 (being Laws  
19 1992, Chapter 118, Section 8, as amended by Laws 2014,  
20 Chapter 39, Section 5 and by Laws 2014, Chapter 43, Section  
21 5) is amended to read:

22 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR  
23 NORMAL RETIREMENT.--

24 A. For a magistrate who was a member on June 30,  
25 2014, the age and service credit requirements for retirement

1 provided for in the Magistrate Retirement Act are:

2 (1) age sixty-five years or older and five  
3 or more years of service credit;

4 (2) age sixty years or older and fifteen or  
5 more years of service credit; or

6 (3) any age and twenty-four or more years of  
7 service credit.

8 B. For a magistrate who initially became a member  
9 on or after July 1, 2014, the age and service requirements  
10 for normal retirement provided for in the Magistrate  
11 Retirement Act are:

12 (1) age sixty-five years or older and eight  
13 or more years of service credit;

14 (2) age sixty years or older and fifteen or  
15 more years of service credit; or

16 (3) any age and twenty-four or more years of  
17 service credit.

18 C. Except for a member who is retired under any  
19 state system or the educational retirement system, if a  
20 member leaves office for any reason, other than removal  
21 pursuant to Article 6, Section 32 of the constitution of New  
22 Mexico before meeting the age and service credit requirements  
23 for retirement pursuant to the provisions of this section and  
24 if that member leaves the member contributions on deposit in  
25 the fund, that member may apply for retirement when that

1 member meets the age and service credit requirements for  
2 retirement pursuant to the provisions of the Magistrate  
3 Retirement Act or provisions of the Public Employees  
4 Retirement Reciprocity Act.

5 D. No member shall be eligible to receive a  
6 pension pursuant to the provisions of the Magistrate  
7 Retirement Act while serving a term of office for which  
8 service credit is accrued."

9 SECTION 13. APPLICABILITY.--The provisions of Section 3  
10 of this act shall apply to approved workers' compensation  
11 leave that was taken by a member prior to or after the  
12 effective date of this act. \_\_\_\_\_

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