

BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; PROVIDING AN EXCEPTION
TO THE SUSPENSION OF RETIREMENT BENEFITS AND THE TWELVE-MONTH
WAITING PERIOD FOR RETIRED PEACE OFFICERS WHO RETURN TO WORK AS
COURT SECURITY OFFICERS OR BAILIFFS.

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

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

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

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

(1) a written application for normal
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 Subsection D of this
14 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 employment or reemployment with an affiliated
23 public employer;

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

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1 (3) except as provided in Subsection F of this
2 section, the previously retired member shall not become a
3 member and thus the previously retired member shall accrue no
4 service credit and the previously retired member and that
5 person's affiliated public employer shall make no contributions
6 under any coverage plan pursuant to the Public Employees
7 Retirement Act; and

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

12 D. The provisions of Subsection C of this section
13 do not apply to:

14 (1) a retired member employed by the
15 legislature for legislative session work;

16 (2) a retired member who was a peace officer
17 and is employed by a court, the administrative office of the
18 courts or a law enforcement agency as a court security officer
19 or a court security bailiff;

20 [~~2~~] (3) a retired member employed
21 temporarily as a precinct board member for a municipal election
22 or an election covered by the Election Code; or

23 [~~3~~] (4) a retired member who is elected to
24 serve a term as an elected official; provided that:

25 (a) the retired member files an

1 irrevocable exemption from membership with the association
2 within thirty days of taking office; and

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

5 E. A retired member who returns to employment
6 during retirement pursuant to Subsection D of this section is
7 entitled to receive retirement benefits but is not entitled to
8 accrue service credit or to acquire or purchase service credit
9 in the future for the period of the previously retired member's
10 reemployment with an affiliated public employer.

11 F. At any time during a previously retired member's
12 subsequent employment pursuant to Subsection C of this section,
13 the previously retired member may elect to become a member and
14 the following conditions shall apply:

15 (1) the previously retired member and the
16 subsequent affiliated public employer shall make the required
17 employee and employer contributions, and the previously retired
18 member shall accrue service credit for the period of subsequent
19 employment; and

20 (2) when the previously retired member
21 terminates the subsequent employment with an affiliated public
22 employer, the previously retired member shall retire according
23 to the provisions of the Public Employees Retirement Act,
24 subject to the following conditions:

25 (a) payment of the pension shall resume

1 in accordance with the provisions of Subsection A of this
2 section;

3 (b) unless the previously retired member
4 accrued at least three years of service credit on account of
5 the subsequent employment, the recalculation of pension shall:
6 1) employ the form of payment selected by the previously
7 retired member at the time of the first retirement; and 2) use
8 the provisions of the coverage plan applicable to the member on
9 the date of the first retirement; and

10 (c) the recalculated pension shall not
11 be less than the amount of the suspended pension.

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

20 H. The pension of a member who has three or more
21 years of service credit under each of two or more coverage
22 plans shall be determined in accordance with the coverage plan
23 that produces the highest pension. The pension of a member who
24 has service credit under two or more coverage plans but who has
25 three or more years of service credit under only one of those

1 coverage plans shall be determined in accordance with the
2 coverage plan in which the member has three or more years of
3 service credit. If the service credit is acquired under two
4 different coverage plans applied to the same affiliated public
5 employer as a consequence of an election by the members,
6 adoption by the affiliated public employer or a change in the
7 law that results in the application of a coverage plan with a
8 greater pension, the greater pension shall be paid a member
9 retiring from the affiliated public employer under which the
10 change in coverage plan took place regardless of the amount of
11 service credit under the coverage plan producing the greater
12 pension; provided that the member has three or more years of
13 continuous employment with that affiliated public employer
14 immediately preceding or immediately preceding and immediately
15 following the date the coverage plan changed. The provisions
16 of each coverage plan for the purpose of this subsection shall
17 be those in effect at the time the member ceased to be covered
18 by the coverage plan. "Service credit", for the purposes of
19 this subsection, shall be only personal service rendered an
20 affiliated public employer and credited to the member under the
21 provisions of Subsection A of Section 10-11-4 NMSA 1978.
22 Service credited under any other provision of the Public
23 Employees Retirement Act shall not be used to satisfy the
24 three-year service credit requirement of this subsection."

25 SECTION 2. EFFECTIVE DATE.--The effective date of the

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underscored material = new
[bracketed material] = delete

provisions of this act is July 1, 2013.

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