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HOUSE BILL 152

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Sheryl Stapelton Williams

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; PROVIDING FOR RETURN TO
EMPLOYMENT; CONTINUING RETIREMENT BENEFITS; AMENDING THE
EDUCATIONAL RETIREMENT ACT; MAKING AN APPROPRIATION.

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

Section 1. Section 22-11-2 NMSA 1978 (being Laws 1967,
Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS. --As used in the Educational
Retirement Act:

A. "member" means [~~any~~] an employee, except for a
participant or a retired member, coming within the provisions
of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed as a teaching,
nursing or administrative employee of a state educational

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1 institution, except for:

2 (a) a participant; or

3 (b) all employees of a general hospital
4 or outpatient clinics thereof operated by a state educational
5 institution named in Article 12, Section 11 of the constitution
6 of New Mexico;

7 (2) a person regularly employed as a teaching,
8 nursing or administrative employee of a junior college or
9 community college created pursuant to Chapter 21, Article 13
10 NMSA 1978, except for a participant;

11 (3) a person regularly employed as a teaching,
12 nursing or administrative employee of a technical and
13 vocational institute created pursuant to the Technical and
14 Vocational Institute Act, except for a participant;

15 (4) a person regularly employed as a teaching,
16 nursing or administrative employee of the New Mexico boys'
17 school, the New Mexico girls' school, the Los Lunas medical
18 center or a school district or as a certified school instructor
19 of a state institution or agency providing an educational
20 program and holding a standard or substandard certificate
21 issued by the state board, except for a participant;

22 (5) a person regularly employed by the
23 department of education or the board holding a standard or
24 substandard certificate issued by the state board at the time
25 of commencement of such employment;

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1 (6) a member classified as a regular member in
2 accordance with the [~~regulations~~] rules of the board;

3 (7) a person regularly employed by the New
4 Mexico activities association holding a standard certificate
5 issued by the state board at the time of commencement of such
6 employment; or

7 (8) a person regularly employed by a regional
8 education cooperative holding a standard certificate issued by
9 the state board at the time of commencement of such employment;

10 C. "provisional member" means a person not eligible
11 to be a regular member but who is employed by a local
12 administrative unit designated in Subsection B of this section;
13 provided, however, that employees of a general hospital or
14 outpatient clinics thereof operated by a state educational
15 institution named in Article 12, Section 11 of the constitution
16 of New Mexico are not provisional members;

17 D. "local administrative unit" means an employing
18 agency however constituted that is directly responsible for the
19 payment of compensation for the employment of members or
20 participants;

21 E. "beneficiary" means a person having an insurable
22 interest in the life of a member or a participant designated by
23 written instrument duly executed by the member or participant
24 and filed with the director to receive a benefit pursuant to
25 the Educational Retirement Act that may be received by someone

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1 other than the member or participant;

2 F. "employment" means employment by a local
3 administrative unit that qualifies a person to be a member or
4 participant;

5 G. "service employment" means employment that
6 qualifies a person to be a regular member;

7 H. "provisional service employment" means
8 employment that qualifies a person to be a provisional member;

9 I. "prior employment" means employment performed
10 prior to the effective date of the Educational Retirement Act
11 that would be service employment or provisional service
12 employment if performed thereafter;

13 J. "service credit" means that period of time with
14 which a member is accredited for the purpose of determining his
15 eligibility for and computation of retirement or disability
16 benefits;

17 K. "earned service credit" means that period of
18 time during which a member was engaged in employment or prior
19 employment with which he is accredited for the purpose of
20 determining his eligibility for retirement or disability
21 benefits;

22 L. "allowed service credit" means that period of
23 time during which a member has performed certain nonservice
24 employment with which he may be accredited, as provided in the
25 Educational Retirement Act, for the purpose of computing

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1 retirement or disability benefits;

2 M. "retirement benefit" means an annuity paid
3 monthly to members whose employment has been terminated by
4 reason of their age;

5 N. "disability benefit" means an annuity paid
6 monthly to members whose employment has been terminated by
7 reason of a disability;

8 O. "board" means the educational retirement board;

9 P. "fund" means the educational retirement fund;

10 Q. "director" means the educational retirement
11 director;

12 R. "medical authority" means a medical doctor
13 within the state or as provided in Subsection D of Section
14 22-11-36 NMSA 1978 either designated or employed by the board
15 to examine and report on the physical condition of applicants
16 for or recipients of disability benefits;

17 S. "actuary" means a person trained and regularly
18 engaged in the occupation of calculating present and projected
19 monetary assets and liabilities under annuity or insurance
20 programs;

21 T. "actuarial equivalent" means a sum paid as a
22 current or deferred benefit that is equal in value to a regular
23 benefit, computed upon the basis of interest rates and
24 mortality tables;

25 U. "contributory employment" means employment for

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1 which contributions have been made by both a member and a local
2 administrative unit pursuant to the Educational Retirement Act;

3 V. "qualifying state educational institution" means
4 the university of New Mexico, New Mexico state university, New
5 Mexico institute of mining and technology, New Mexico highlands
6 university, eastern New Mexico university, western New Mexico
7 university, Albuquerque technical-vocational institute, Clovis
8 community college, Luna vocational-technical institute, Mesa
9 technical college, New Mexico junior college, northern New
10 Mexico state school, San Juan college and Santa Fe community
11 college;

12 W. "participant" means:

13 (1) a person regularly employed as a faculty
14 or professional employee of the university of New Mexico, New
15 Mexico state university, New Mexico institute of mining and
16 technology, New Mexico highlands university, eastern New Mexico
17 university or western New Mexico university who first becomes
18 employed with such an educational institution on or after July
19 1, 1991, or a person regularly employed as a faculty or
20 professional employee of the Albuquerque technical-vocational
21 institute, Clovis community college, Luna vocational-technical
22 institute, Mesa technical college, New Mexico junior college,
23 northern New Mexico state school, San Juan college or Santa Fe
24 community college who is first employed by the institution on
25 or after July 1, 1999 and who elects, pursuant to Section 22-
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1 11-47 NMSA 1978, to participate in the alternative retirement
2 plan; and

3 (2) a person regularly employed who performs
4 research or other services pursuant to a contract between a
5 qualifying state educational institution and the United States
6 government or any of its agencies who elects, pursuant to
7 Section 22-11-47 NMSA 1978, to participate in the alternative
8 retirement plan, provided that the research or other services
9 are performed outside the state;

10 X. "salary" means the compensation or wages paid to
11 a member or participant by any local administrative unit for
12 services rendered; [~~and~~]

13 Y. "alternative retirement plan" means the
14 retirement plan provided for in Sections 22-11-47 through
15 22-11-52 NMSA 1978; and

16 Z. "retired member" means a person whose employment
17 has been terminated by reason of age and who is receiving or is
18 eligible to receive retirement benefits."

19 Section 2. A new section of the Educational Retirement
20 Act is enacted to read:

21 "[NEW MATERIAL] RETURN TO EMPLOYMENT-- BENEFITS CONTINUED--
22 ADMINISTRATIVE UNIT CONTRIBUTIONS. --

23 A. Effective January 1, 2002, a retired member may
24 begin employment at a local administrative unit and shall not
25 be required to suspend retirement benefits if the member has

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1 not been employed as an employee or independent contractor by a
2 local administrative unit for at least twelve consecutive
3 months from the date of retirement to the commencement of
4 employment or re-employment with a local administrative unit.

5 If the retired member returns to employment without first
6 completing twelve consecutive months of retirement, the retired
7 member shall remove himself from retirement.

8 B. A retired member who returns to employment
9 during retirement pursuant to Subsection A of this section is
10 entitled to continue to receive retirement benefits but is not
11 entitled to acquire service credit or to acquire or purchase
12 service credit in the future for the period of the retired
13 member's re-employment with a local administrative unit.

14 C. A retired member who returns to employment shall
15 not make contributions to the fund as specified in the
16 Educational Retirement Act; however, the administrative unit's
17 contributions as specified in that act shall be paid to the
18 fund as if the retired member was a non-retired employee. "

19 Section 3. APPROPRIATION. -- One hundred twenty-one
20 thousand five hundred dollars (\$121,500) is appropriated from
21 the general fund to the educational retirement board for
22 expenditure in fiscal year 2002 to fund three full-time-
23 equivalent employees to carry out the provisions of this act.
24 Any unexpended or unencumbered balance remaining at the end of
25 fiscal year 2002 shall revert to the general fund.

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