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SENATE BILL 537

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING A NURSE  
EMPLOYMENT EXCEPTION; AMENDING A SECTION OF THE PUBLIC  
EMPLOYEES RETIREMENT ACT.

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--SUSPENSION.--

A. A member may retire upon fulfilling the  
following requirements:

(1) a written application for normal  
retirement, in the form prescribed by the association, is filed  
with the association prior to the selected date of retirement;

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

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1 retirement system prior to the selected date of retirement;

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

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

7 B. The amount of normal retirement pension is  
8 determined in accordance with the coverage plan applicable to  
9 the member.

10 C. If a member retires and is subsequently employed  
11 by any affiliated public employer, the retired member's pension  
12 will be suspended effective the first day of the month  
13 following the month in which the previously retired member  
14 earns one hundred percent or more of the amount that causes a  
15 decrease or suspension of an old age benefit under the federal  
16 social security program or fifteen thousand dollars (\$15,000),  
17 whichever is less. When the pension is suspended, the  
18 following conditions shall apply:

19 (1) the retired member who is subsequently  
20 employed by an affiliated public employer shall become a  
21 member. The previously retired member and the subsequent  
22 affiliated public employer shall make the required employee and  
23 employer contributions, and the previously retired member shall  
24 accrue service credit for the period of subsequent employment;  
25 and

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1 (2) when a previously retired member  
2 terminates the subsequent employment with an affiliated public  
3 employer, he shall retire according to the provisions of the  
4 Public Employees Retirement Act, subject to the following  
5 conditions:

6 (a) payment of the pension shall resume  
7 in accordance with the provisions of Subsection A of this  
8 section;

9 (b) unless the previously retired member  
10 accrued at least three years of service credit on account of  
11 the subsequent employment, the recalculation of pension shall:  
12 1) employ the form of payment selected by the previously  
13 retired member at the time of the first retirement; and 2) use  
14 the provisions of the coverage plan applicable to the member on  
15 the date of the first retirement; and

16 (c) the recalculated pension shall not  
17 be less than the amount of the suspended pension.

18 D. The provisions of Subsection C of this section  
19 shall not apply to a retired member who is appointed chief of  
20 police of an affiliated public employer, other than of the  
21 affiliated public employer from which retired, or who is  
22 appointed undersheriff if the retired member files an  
23 irrevocable exemption from membership with the association  
24 within thirty days of appointment. For purposes of this  
25 subsection, each sheriff's office shall be limited to one

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1 undersheriff. The irrevocable exemption shall be for the chief  
2 of police's or the undersheriff's term of office. Filing of an  
3 irrevocable exemption shall irrevocably bar the retired member  
4 from acquiring service credit for the period of exemption from  
5 membership.

6 E. The provisions of Subsection C of this section  
7 shall not apply to any retired member who is subsequently  
8 employed by an employer who is not an affiliated public  
9 employer.

10 F. The provisions of Subsection C of this section  
11 shall not apply to a retired member who is elected to serve a  
12 term as an elected official if the retired member files an  
13 irrevocable exemption from membership with the association  
14 within thirty days of taking office. Filing of an irrevocable  
15 exemption shall irrevocably bar the retired member from  
16 acquiring service credit for the period of exemption from  
17 membership.

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

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

23 H. The provisions of Subsection C of this section  
24 shall not apply to a retired member who is subsequently  
25 employed by an affiliated public employer if he is a registered

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1 nurse or licensed practical nurse in a position that requires  
2 clinical practice as a registered nurse or licensed practical  
3 nurse. Retired members eligible under this subsection shall  
4 not be subject to a waiting period that may otherwise apply  
5 pursuant to the Public Employees Retirement Act. "

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