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**SENATE BILL 591**

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

**INTRODUCED BY**

**Roman M.. Maes III**

**AN ACT**

**RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A NEW  
RETIREMENT PLAN FOR MUNICIPAL DETENTION OFFICERS; PROVIDING FOR  
ELECTIONS; AMENDING AND ENACTING CERTAIN SECTIONS OF THE PUBLIC  
EMPLOYEES RETIREMENT ACT.**

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

**Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987,  
Chapter 253, Section 2, as amended) is amended to read:**

**"10-11-2. DEFINITIONS.--As used in the Public Employees  
Retirement Act:**

**A. "accumulated member contributions" means the  
amounts deducted from the salary of a member and credited to  
the member's individual account, together with interest, if  
any, credited to that account;**

**B. "affiliated public employer" means the state and**

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1 any public employer affiliated with the association as provided  
2 in the Public Employees Retirement Act, but does not include an  
3 employer pursuant to the Magistrate Retirement Act, the  
4 Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees  
6 retirement association established under the Public Employees  
7 Retirement Act;

8 D. "disability retired member" means a retired  
9 member who is receiving a pension pursuant to the disability  
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the  
12 pension paid pursuant to the disability retirement provisions  
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means that  
15 retirement system provided for in the Educational Retirement  
16 Act;

17 G. "employee" means any employee of an affiliated  
18 public employer;

19 H. "federal social security program" means that  
20 program or those programs created and administered pursuant to  
21 the act of congress approved August 14, 1935, Chapter 531, 49  
22 Stat. 620, as that act may be amended;

23 I. "final average salary" means the final average  
24 salary calculated in accordance with the provisions of the  
25 applicable coverage plan;

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1 J. "form of payment" means the applicable form of  
2 payment of a pension provided for in Section 10-11-117 NMSA  
3 1978;

4 K. "former member" means a person who was  
5 previously employed by an affiliated public employer, who has  
6 terminated that employment and who has received a refund of  
7 member contributions;

8 L. "fund" means the funds included under the Public  
9 Employees Retirement Act;

10 M "member" means a currently employed,  
11 contributing employee of an affiliated public employer, or a  
12 person who has been but is not currently employed by an  
13 affiliated public employer, who has not retired and who has not  
14 received a refund of member contributions; "member" also  
15 includes the following:

16 (1) "hazardous duty member" means: [~~a state~~  
17 ~~policeman who is~~]

18 (a) a member [~~and~~] who is [~~a juvenile~~  
19 ~~or~~] an adult correctional officer employed by a corrections  
20 facility of the corrections department or its successor agency;  
21 or

22 (b) a member who is a juvenile  
23 correctional officer employed by the children, youth and  
24 families department or its successor agency;

25 (2) "municipal detention officer member" means

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1 a member who is employed by an affiliated public employer other  
2 than the state and who has inmate custodial responsibilities at  
3 a facility used for the confinement of persons charged with or  
4 convicted of a violation of a law or ordinance;

5 [~~(2)~~] (3) "municipal fire member" means [any]  
6 a member who is employed as a full-time nonvolunteer  
7 firefighter by an affiliated public employer and who has taken  
8 the oath prescribed for firefighters;

9 [~~(3)~~] (4) "municipal police member" means  
10 [any] a member who is employed as a police officer by an  
11 affiliated public employer, other than the state, and who has  
12 taken the oath prescribed for police officers; and

13 [~~(4)~~] (5) "state police member" means [any] a  
14 member who is an officer of the New Mexico state police and who  
15 has taken the oath prescribed for such officers;

16 N. "membership" means membership in the  
17 association;

18 O. "pension" means a series of monthly payments to  
19 a retired member or survivor beneficiary as provided in the  
20 Public Employees Retirement Act;

21 P. "public employer" means the state, any  
22 municipality, city, county, metropolitan arroyo flood control  
23 authority, economic development district, regional housing  
24 authority, soil and water conservation district, entity created  
25 pursuant to a joint powers agreement, council of government,

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1 conservancy district, water and sanitation district, water  
2 district and metropolitan water board, including the boards,  
3 departments, bureaus and agencies of a public employer, so long  
4 as these entities fall within the meaning of governmental plan  
5 as that term is used in Section 414(d) of the Internal Revenue  
6 Code of 1986, as amended;

7 Q. "refund beneficiary" means a person designated  
8 by the member, in writing, in the form prescribed by the  
9 association, as the person who would be refunded the member's  
10 accumulated member contributions payable if the member dies and  
11 no survivor pension is payable or who would receive the  
12 difference between pension paid and accumulated member  
13 contributions if the retired member dies before receiving in  
14 pension payments the amount of the accumulated member  
15 contributions;

16 R. "retire" means to:

17 (1) terminate employment with all employers  
18 covered by any state system or the educational retirement  
19 system; and

20 (2) receive a pension from a state system or  
21 the educational retirement system;

22 S. "retired member" means a person who has met all  
23 requirements for retirement and who is receiving a pension from  
24 the fund;

25 T. "retirement board" means the retirement board

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1 provided for in the Public Employees Retirement Act;

2 U. "salary" means the base salary or wages paid a  
3 member, including longevity pay, for personal services  
4 rendered an affiliated public employer. "Salary" shall not  
5 include overtime pay, allowances for housing, clothing,  
6 equipment or travel, payments for unused sick leave, unless the  
7 unused sick leave payment is made through continuation of the  
8 member on the regular payroll for the period represented by  
9 that payment, and any other form of remuneration not  
10 specifically designated by law as included in salary for Public  
11 Employees Retirement Act purposes. Salary in excess of the  
12 limitations set forth in Section 401(a) (17) of the Internal  
13 Revenue Code of 1986, as amended, shall be disregarded. The  
14 limitation on compensation for eligible employees shall not be  
15 less than the amount that was allowed to be taken into account  
16 under the state retirement system acts in effect on July 1,  
17 1993. For purposes of this ~~[section]~~ subsection, "eligible  
18 employee" means an individual who was a member of a state  
19 system before the first plan year beginning after December 31,  
20 1995;

21 V. "state system" means the retirement programs  
22 provided for in the Public Employees Retirement Act, the  
23 Magistrate Retirement Act and the Judicial Retirement Act;

24 W. "state retirement system acts" means  
25 collectively the Public Employees Retirement Act, the

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1 Magistrate Retirement Act, the Judicial Retirement Act and the  
2 Volunteer Firefighters Retirement Act; and

3 X. "survivor beneficiary" means a person who  
4 receives a pension or who has been designated to be paid a  
5 pension as a result of the death of a member or retired  
6 member. "

7 Section 2. A new section of the Public Employees  
8 Retirement Act is enacted to read:

9 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
10 COVERAGE PLAN 1--APPLICABILITY. --Municipal detention officer  
11 member coverage plan 1 is applicable to municipal detention  
12 officer members on the first day of the calendar month  
13 following certification of the election adopting municipal  
14 detention officer member coverage plan 1 by an affirmative vote  
15 of the majority of the affiliated public employer's municipal  
16 detention officer members. The election shall be conducted by  
17 the affiliated public employer. The certification shall be in  
18 the form prescribed by the retirement board. The election  
19 procedures shall afford all municipal detention officer members  
20 of the affiliated public employer an opportunity to vote. An  
21 election adopting municipal detention officer member coverage  
22 plan 1 for a given affiliated public employer is irrevocable  
23 for the purpose of subsequently adopting a coverage plan that  
24 would decrease employer or employee contributions with respect  
25 to all current and future municipal detention officer members

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1 of that affiliated public employer."

2 Section 3. A new section of the Public Employees  
3 Retirement Act is enacted to read:

4 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
5 COVERAGE PLAN 1-- AGE AND SERVICE REQUIREMENTS FOR NORMAL  
6 RETIREMENT. --

7 A. Under municipal detention officer member  
8 coverage plan 1, the age and service requirements for normal  
9 retirement are:

10 (1) age sixty-five years or older and five or  
11 more years of credited service;

12 (2) age sixty-four years and eight or more  
13 years of credited service;

14 (3) age sixty-three years and eleven or more  
15 years of credited service;

16 (4) age sixty-two years and fourteen or more  
17 years of credited service;

18 (5) age sixty-one years and seventeen or more  
19 years of credited service;

20 (6) age sixty years and twenty or more years  
21 of credited service; or

22 (7) any age and twenty-five or more years of  
23 credited service.

24 B. In calculating credited service pursuant to  
25 Subsection A of this section, the credited service of a

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1 municipal detention officer member shall have actual credited  
2 service increased by twenty percent for the purposes of  
3 municipal detention officer member coverage plan 1. "

4 Section 4. A new section of the Public Employees  
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
7 COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A. -- Under  
8 municipal detention officer member coverage plan 1, the amount  
9 of pension under form of payment A is equal to three percent of  
10 the final average salary multiplied by credited service. The  
11 amount shall not exceed eighty percent of the final average  
12 salary. "

13 Section 5. A new section of the Public Employees  
14 Retirement Act is enacted to read:

15 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
16 COVERAGE PLAN 1--FINAL AVERAGE SALARY. -- Under municipal  
17 detention officer member coverage plan 1, the final average  
18 salary is one thirty-sixth of the greatest aggregate amount of  
19 salary paid a member for thirty-six consecutive months of  
20 credited service. "

21 Section 6. A new section of the Public Employees  
22 Retirement Act is enacted to read:

23 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
24 COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE. -- A member under  
25 municipal detention officer member coverage plan 1 shall

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1 contribute sixteen and sixty-five hundredths percent of salary  
2 starting with the first full pay period that ends within the  
3 calendar month in which municipal detention officer member  
4 coverage plan 1 becomes applicable to the member. "

5 Section 7. A new section of the Public Employees  
6 Retirement Act is enacted to read:

7 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
8 COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The affiliated  
9 public employer shall contribute sixteen and sixty-five  
10 hundredths percent of the salary of each member under municipal  
11 detention officer member coverage plan 1 starting with the  
12 first pay period that ends within the calendar month in which  
13 municipal detention officer member coverage plan 1 becomes  
14 applicable to the member. "

15 Section 8. A new section of the Public Employees  
16 Retirement Act is enacted to read:

17 "[NEW MATERIAL] MUNICIPAL DETENTION OFFICER MEMBER  
18 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED FOR MUNICIPAL  
19 DETENTION OFFICER MEMBERS.--Notwithstanding other provisions of  
20 the Public Employees Retirement Act, to qualify for retirement  
21 pursuant to municipal detention officer member coverage plan 1,  
22 a municipal detention officer member shall have three years of  
23 service credit earned under that coverage plan. "

24 Section 9. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2003.