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SENATE BILL 797

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

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO RETIREMENT FOR ADULT CORRECTIONAL OFFICERS;
REVISING THE STATE POLICE MEMBER COVERAGE PLAN 1 TO INCLUDE
ADULT CORRECTIONAL OFFICERS; PROVIDING FOR AN ELECTION;
AMENDING AND ENACTING 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;

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1 B. "affiliated public employer" means the state and
2 [any] a public employer affiliated with the association as
3 provided in the Public Employees Retirement Act, but does not
4 include an employer pursuant to the Magistrate Retirement Act,
5 the Judicial Retirement Act or the Educational Retirement Act;

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

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

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

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

18 G. "employee" means [any] an employee of an
19 affiliated public employer;

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

24 I. "final average salary" means the final average
25 salary calculated in accordance with the provisions of the

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1 applicable coverage plan;

2 J. "form of payment" means the applicable form of
3 payment of a pension provided for in Section 10-11-117 NMSA
4 1978;

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

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

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

17 (1) "adult correctional officer member" means
18 a member who is an adult correctional officer or an adult
19 correctional officer specialist employed by a correctional
20 facility of the corrections department or its successor agency;

21 [~~(1)~~] (2) "hazardous duty member" means [a
22 state policeman who is] a member [and] who is a juvenile [or
23 adult] correctional officer employed by [a corrections facility
24 of the corrections department or its successor agency] the
25 children, youth and families department;

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1 [~~(2)~~] (3) "municipal fire member" means [~~any~~]
2 a member who is employed as a full-time nonvolunteer
3 firefighter by an affiliated public employer and who has taken
4 the oath prescribed for firefighters;

5 [~~(3)~~] (4) "municipal police member" means
6 [~~any~~] a member who is employed as a police officer by an
7 affiliated public employer, other than the state, and who has
8 taken the oath prescribed for police officers; and

9 [~~(4)~~] (5) "state police member" means [~~any~~] a
10 member who is an officer of the New Mexico state police and who
11 has taken the oath prescribed for such officers;

12 N. "membership" means membership in the
13 association;

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

17 P. "public employer" means the state, [~~any~~] a
18 municipality, city, county, metropolitan arroyo flood control
19 authority, economic development district, regional housing
20 authority, soil and water conservation district, entity created
21 pursuant to a joint powers agreement, council of government,
22 conservancy district, water and sanitation district, water
23 district and metropolitan water board, including the boards,
24 departments, bureaus and agencies of a public employer, so long
25 as these entities fall within the meaning of governmental plan

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1 as that term is used in Section 414(d) of the Internal Revenue
2 Code of 1986, as amended;

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

12 R. "retire" means to:

13 (1) terminate employment with all employers
14 covered by ~~[any]~~ a state system or the educational retirement
15 system; and

16 (2) receive a pension from a state system or
17 the educational retirement system;

18 S. "retired member" means a person who has met all
19 requirements for retirement and who is receiving a pension from
20 the fund;

21 T. "retirement board" means the retirement board
22 provided for in the Public Employees Retirement Act;

23 U. "salary" means the base salary or wages paid a
24 member, including longevity pay, for personal services rendered
25 an affiliated public employer. "Salary" shall not include

. 145108. 1

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

16 V. "state system" means the retirement programs
17 provided for in the Public Employees Retirement Act, the
18 Magistrate Retirement Act and the Judicial Retirement Act;

19 W. "state retirement system acts" means
20 collectively the Public Employees Retirement Act, the
21 Magistrate Retirement Act, the Judicial Retirement Act and the
22 Volunteer Firefighters Retirement Act; and

23 X. "survivor beneficiary" means a person who
24 receives a pension or who has been designated to be paid a
25 pension as a result of the death of a member or retired

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1 member. "

2 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
3 Chapter 253, Section 27) is amended to read:

4 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
5 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY. --

6 A. State police member and adult correctional
7 officer member coverage plan 1 is applicable to state police
8 members who are not specifically covered by another coverage
9 plan and adult correctional officer members. The credited
10 service of a state police member who has held the permanent
11 rank of patrolman or sergeant and does not hold an exempt rank
12 or who is assigned to the aircraft division as a pilot, or of
13 an adult correctional officer member, shall have actual
14 credited service increased by twenty percent for the purposes
15 of state police member and adult correctional officer member
16 coverage plan 1.

17 B. State police member and adult correctional
18 officer member coverage plan 1 is applicable to adult
19 correctional officer members in the first full pay period after
20 July 1, 2004 if the retirement board certifies to the secretary
21 of state that, of those adult correctional officer members to
22 be covered under state police member and adult correctional
23 officer member coverage plan 1, a majority of the members
24 voting have voted to approve adoption of that plan at an
25 election conducted pursuant to Section 9 of this 2003 act."

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1 Section 3. A new section of the Public Employees
2 Retirement Act, Section 10-11-27.1 NMSA 1978, is enacted to
3 read:

4 "10-11-27.1. [NEW MATERIAL] STATE POLICE MEMBER AND ADULT
5 CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT
6 REQUIRED. --Notwithstanding the provisions of Section 10-11-27
7 NMSA 1978, to qualify for payment under state police member and
8 adult correctional officer member coverage plan 1, an adult
9 correctional officer member shall have three years of service
10 credit earned under the state police member and adult
11 correctional officer member coverage plan 1 subsequent to July
12 1, 2004. "

13 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 28) is amended to read:

15 "10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL
16 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
17 FOR NORMAL RETIREMENT. --Under state police member and adult
18 correctional officer member coverage plan 1, the age and
19 service requirements for normal retirement are:

20 A. age sixty-five years or older and five or more
21 years of credited service;

22 B. age sixty-four years and eight or more years of
23 credited service;

24 C. age sixty-three years and eleven or more years
25 of credited service;

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1 D. age sixty-two years and fourteen or more years
2 of credited service;

3 E. age sixty-one years and seventeen or more years
4 of credited service;

5 F. age sixty years and twenty or more years of
6 credited service; or

7 G. any age and twenty-five or more years of
8 credited service. "

9 Section 5. Section 10-11-29 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 29) is amended to read:

11 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL
12 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
13 PAYMENT A.--Under state police member and adult correctional
14 officer member coverage plan 1, the amount of pension under
15 form of payment A is equal to three percent of final average
16 salary multiplied by credited service. The amount shall not
17 exceed eighty percent of the final average salary. "

18 Section 6. Section 10-11-30 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 30) is amended to read:

20 "10-11-30. STATE POLICE MEMBER AND ADULT CORRECTIONAL
21 OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under
22 state police member and adult correctional officer member
23 coverage plan 1, the final average salary is one thirty-sixth
24 of the greatest aggregate amount of salary paid a member for
25 thirty-six consecutive months of credited service. Under state

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1 police member and adult correctional officer member coverage
2 plan 1, if a member has less than thirty-six months of credited
3 service, the final average salary is the aggregate amount of
4 salary paid a member for the member's period of credited
5 service divided by the member's credited service. "

6 Section 7. Section 10-11-31 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 31) is amended to read:

8 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
9 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE. --A
10 member under state police member and adult correctional officer
11 member coverage plan 1 shall contribute seven and six-tenths
12 percent of salary. "

13 Section 8. Section 10-11-32 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 32) is amended to read:

15 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
16 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE. --The
17 state shall contribute twenty-five and one-tenth percent of the
18 salary of each member under state police member and adult
19 correctional officer member coverage plan 1. "

20 Section 9. TEMPORARY PROVISION--STATE POLICE MEMBER AND
21 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTIONS. --
22 On or before October 1, 2003, the retirement board shall
23 conduct an election to submit to adult correctional officer
24 members currently contributing under hazardous duty coverage
25 plan 2 the question of adopting a state police member and adult

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1 correctional officer member coverage plan 1. The election
2 shall be conducted in accordance with procedures adopted by the
3 retirement board, and the retirement board shall certify the
4 results of the election to the secretary of state on or before
5 November 1, 2003.

6 Section 10. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2003.

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