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HOUSE BILL 224

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO MAGISTRATE RETIREMENT; AMENDING THE MAGISTRATE
RETIREMENT ACT TO PROVIDE FOR PURCHASE OF SERVICE CREDIT OF ONE
YEAR BY ANY MEMBER.

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

Section 1. Section 10-12C-5 NMSA 1978 (being Laws 1992,
Chapter 118, Section 5, as amended) is amended to read:

"10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED
SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

A. Personal service rendered by a member shall be
credited to the member's service credit account in accordance
with board rules and regulations. Service shall be credited to
the nearest month. In no case shall any member be credited
with a year of service for less than twelve months of service
in any calendar year or more than a month of service for all

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1 service in any calendar month or more than a year of service
2 for all service in any calendar year.

3 B. Service credit shall be forfeited if a member
4 leaves office and withdraws the member's accumulated member
5 contributions. A member or former member who is a member of
6 another state system or the educational retirement system who
7 has forfeited service credit by withdrawal of member
8 contributions may reinstate the forfeited service credit by
9 repaying the amount withdrawn plus compound interest from the
10 date of withdrawal to the date of repayment at a rate set by
11 the board. Withdrawn member contributions may be repaid in
12 increments of one year in accordance with procedures
13 established by the board. Full payment of each one-year
14 increment shall be made in a single lump-sum amount in
15 accordance with procedures established by the board.

16 C. Service credit that a member would have earned
17 if the member had not elected to be excluded from membership
18 may be purchased if the member pays the purchase cost
19 determined pursuant to the provisions of Subsection F of this
20 section.

21 D. A member who during a term of office enters a
22 uniformed service of the United States shall be given service
23 credit for periods of service in the uniformed services subject
24 to the following conditions:

25 (1) the member returns to office within ninety

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1 days following termination of the period of intervening service
2 in the uniformed services or the affiliated employer certifies
3 in writing to the association that the member is entitled to
4 reemployment rights under the Uniformed Services Employment and
5 Reemployment Rights Act of 1994;

6 (2) the member retains membership in the
7 association during the period of service in the uniformed
8 services;

9 (3) free service credit shall not be given for
10 periods of intervening service in the uniformed services
11 following voluntary reenlistment. Service credit for such
12 periods shall only be given after the member pays the
13 association the sum of the contributions that the person would
14 have been required to contribute had the person remained
15 continuously employed throughout the period of intervening
16 service following voluntary reenlistment, which payment shall
17 be made during the period beginning with the date of
18 reemployment and whose duration is three times the period of
19 the person's intervening service in the uniformed services
20 following voluntary reenlistment, not to exceed five years;

21 (4) service credit shall not be given for
22 periods of intervening service in the uniformed services that
23 are used to obtain or increase a benefit from another state
24 system or the retirement program provided under the Educational
25 Retirement Act; and

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1 (5) the member must not have received a
2 discharge or separation from uniformed service under other than
3 honorable conditions.

4 Notwithstanding any provision of this plan to the
5 contrary, contributions, benefits and service credit with
6 respect to qualified military service will be provided in
7 accordance with Section 414(u) of the Internal Revenue Code of
8 1986, as amended.

9 E. A member who entered a uniformed service of the
10 United States may purchase service credit for periods of active
11 duty in the uniformed services, subject to the following
12 conditions:

13 (1) the member pays the purchase cost
14 determined pursuant to the provisions of Subsection F of this
15 section;

16 (2) the member has five or more years of
17 service credit accrued according to the provisions of the
18 Magistrate Retirement Act;

19 (3) the aggregate amount of service credit
20 purchased pursuant to the provisions of this subsection does
21 not exceed five years, reduced by any period of service credit
22 acquired for military service under any other provision of the
23 Magistrate Retirement Act;

24 (4) service credit may not be purchased for
25 periods of service in the uniformed services that are used to

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1 obtain or increase a benefit from another retirement program;
2 and

3 (5) the member must not have received a
4 discharge or separation from uniformed service under other than
5 honorable conditions.

6 F. The purchase cost for each year of service
7 credit purchased pursuant to the provisions of this section
8 shall be the increase in the actuarial present value of the
9 pension of the member under the Magistrate Retirement Act as a
10 consequence of the purchase, as determined by the association.
11 Full payment shall be made in a single lump-sum amount in
12 accordance with procedures established by the board. Except as
13 provided in Subsection G of this section, seventy-five percent
14 of the purchase cost shall be considered to be employer
15 contributions and shall not be refunded to the member in the
16 event of cessation of membership.

17 G. A member shall be refunded, after retirement and
18 upon written request filed with the association, the portion of
19 the purchase cost of service credit purchased pursuant to the
20 provisions of this section that the association determines to
21 have been unnecessary to provide the member with the maximum
22 pension applicable to the member. The association shall not
23 pay interest on the portion of the purchase cost refunded to
24 the member.

25 H. At any time prior to retirement, a member may

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1 purchase service credit in monthly increments, subject to the
2 following conditions:

3 (1) the member has at least five years of
4 service credit acquired as a result of personal service
5 rendered under the Magistrate Retirement Act;

6 (2) the aggregate amount of service credit
7 purchased pursuant to this subsection does not exceed one year;

8 (3) the member pays full actuarial present
9 value of the amount of the increase in the member's pension as
10 a consequence of the purchase, as determined by the
11 association;

12 (4) the member pays the full cost of the
13 purchase within sixty days of the date the member is informed
14 of the amount of the payment; and

15 (5) the purchase of service credit under this
16 subsection cannot be used to exceed the pension maximum."