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HOUSE BILL 1100

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

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING AN
ALTERNATIVE RETIREMENT PLAN FOR JUVENILE CORRECTIONAL OFFICERS;
RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN
LAWS 2003.

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

20 (2) "correctional officer member" means either
21 an adult correctional officer member or a juvenile correctional
22 officer member;

23 [+2] (3) "hazardous duty member" means a
24 member who is a juvenile correctional officer employed by the
25 children, youth and families department or its successor

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1 agency;

2 (4) "juvenile correctional officer member"
3 means a member who is a juvenile correctional officer employed
4 by the children, youth and families department or its successor
5 agency;

6 [~~(3)~~] (5) "municipal detention officer member"
7 means a member who is employed by an affiliated public employer
8 other than the state and who has inmate custodial
9 responsibilities at a facility used for the confinement of
10 persons charged with or convicted of a violation of a law or
11 ordinance;

12 [~~(4)~~] (6) "municipal fire member" means any
13 member who is employed as a full-time nonvolunteer firefighter
14 by an affiliated public employer and who has taken the oath
15 prescribed for firefighters;

16 [~~(5)~~] (7) "municipal police member" means any
17 member who is employed as a police officer by an affiliated
18 public employer, other than the state, and who has taken the
19 oath prescribed for police officers; and

20 [~~(6)~~] (8) "state police member" means any
21 member who is an officer of the New Mexico state police and who
22 has taken the oath prescribed for such officers;

23 N. "membership" means membership in the
24 association;

25 O. "pension" means a series of monthly payments to

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1 a retired member or survivor beneficiary as provided in the
2 Public Employees Retirement Act;

3 P. "public employer" means the state, any
4 municipality, city, county, metropolitan arroyo flood control
5 authority, economic development district, regional housing
6 authority, soil and water conservation district, entity created
7 pursuant to a joint powers agreement, council of government,
8 conservancy district, irrigation district, water and sanitation
9 district, water district and metropolitan water board,
10 including the boards, departments, bureaus and agencies of a
11 public employer, so long as these entities fall within the
12 meaning of governmental plan as that term is used in Section
13 414(d) of the Internal Revenue Code of 1986, as amended;

14 Q. "refund beneficiary" means a person designated
15 by the member, in writing, in the form prescribed by the
16 association, as the person who would be refunded the member's
17 accumulated member contributions payable if the member dies and
18 no survivor pension is payable or who would receive the
19 difference between pension paid and accumulated member
20 contributions if the retired member dies before receiving in
21 pension payments the amount of the accumulated member
22 contributions;

23 R. "retire" means to:

24 (1) terminate employment with all employers
25 covered by any state system or the educational retirement

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1 system; and

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

4 S. "retired member" means a person who has met all
5 requirements for retirement and who is receiving a pension from
6 the fund;

7 T. "retirement board" means the retirement board
8 provided for in the Public Employees Retirement Act;

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

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1 after December 31, 1995;

2 V. "state system" means the retirement programs
3 provided for in the Public Employees Retirement Act, the
4 Magistrate Retirement Act and the Judicial Retirement Act;

5 W. "state retirement system acts" means
6 collectively the Public Employees Retirement Act, the
7 Magistrate Retirement Act, the Judicial Retirement Act and the
8 Volunteer Firefighters Retirement Act; and

9 X. "survivor beneficiary" means a person who
10 receives a pension or who has been designated to be paid a
11 pension as a result of the death of a member or retired
12 member."

13 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
15 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
16 to read:

17 "10-11-27. STATE POLICE MEMBER AND [~~ADULT~~] CORRECTIONAL
18 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

19 A. State police member and [~~adult~~] correctional
20 officer member coverage plan 1 is applicable to state police
21 members who are not specifically covered by another coverage
22 plan and [~~adult~~] to correctional officer members. The credited
23 service of a state police member who has held the permanent
24 rank of patrolman, sergeant, lieutenant or captain and does not
25 hold an exempt rank or who is assigned to the aircraft division

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1 as a pilot, or of [~~an adult~~] a correctional officer member,
2 shall have actual credited service increased by twenty percent
3 for the purposes of state police member and correctional
4 officer member coverage plan 1.

5 B. State police member and [~~adult~~] correctional
6 officer member coverage plan 1 is applicable to:

7 (1) adult correctional officer members in the
8 first full pay period after July 1, 2004 if the retirement
9 board certifies to the secretary of state that, of those adult
10 correctional officer members to be covered under state police
11 member and [~~adult~~] correctional officer member coverage plan 1,
12 a majority of the members voting have voted to approve adoption
13 of that plan at an election conducted pursuant to [~~Section 16~~
14 of this 2003 act] Laws 2003, Chapter 268, Section 16; and

15 (2) juvenile correctional officer members in
16 the first full pay period after July 1, 2008 if the retirement
17 board certifies to the secretary of state that, of those
18 juvenile correctional officer members to be covered under state
19 police member and correctional officer member coverage plan 1,
20 a majority of the members voting have voted to approve adoption
21 of that plan at an election conducted pursuant to Section 9 of
22 this 2007 act."

23 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,
24 Chapter 268, Section 10) is amended to read:

25 "10-11-27.1. STATE POLICE MEMBER AND [~~ADULT~~] CORRECTIONAL
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1 OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--
2 Notwithstanding the provisions of Section 10-11-27 NMSA 1978,
3 to qualify for payment under state police member and [~~adult~~]
4 correctional officer member coverage plan 1:

5 A. an adult correctional officer member shall have
6 eighteen months of service credit earned under the state police
7 member and [~~adult~~] correctional officer member coverage plan 1
8 subsequent to July 1, 2004; and

9 B. a juvenile correctional officer member shall
10 have eighteen months of service credit earned under the state
11 police member and correctional officer member coverage plan 1
12 subsequent to July 1, 2008."

13 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 28, as amended) 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, as amended) 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, as amended) 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 [~~state police~~] member has less than thirty-six
3 months of credited service, the final average salary is the
4 aggregate amount of salary paid a member for the member's
5 period of credited service divided by the member's credited
6 service."

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

9 "10-11-31. STATE POLICE MEMBER AND [~~ADULT~~] CORRECTIONAL
10 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--

11 A. A state police member or an adult correctional
12 officer member under state police member and adult correctional
13 officer member coverage plan 1 shall contribute seven and
14 six-tenths percent of salary.

15 B. A juvenile correctional officer member under
16 state police member and correctional officer member coverage
17 plan 1 shall contribute ten and twenty-five hundredths percent
18 of salary."

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

21 "10-11-32. STATE POLICE MEMBER AND [~~ADULT~~] CORRECTIONAL
22 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--

23 A. The state shall contribute twenty-five and one-
24 tenth percent of the salary of each state police member and
25 adult correctional officer member under state police member and

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1 [adult] correctional officer member coverage plan 1.

2 B. The state shall contribute twenty-five and
3 seventy-two hundredths percent of the salary of each juvenile
4 correctional officer member under state police member and
5 correctional officer member coverage plan 1."

6 Section 9. TEMPORARY PROVISION--STATE POLICE MEMBER AND
7 CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTIONS.--On or
8 before October 1, 2007, the retirement board of the public
9 employees retirement association shall conduct an election to
10 submit to juvenile correctional officer members currently
11 contributing under hazardous duty coverage plan 2 the question
12 of adopting state police member and correctional officer member
13 coverage plan 1. The election shall be conducted in accordance
14 with procedures adopted by the retirement board, and the
15 retirement board shall certify the results of the election to
16 the secretary of state on or before November 1, 2007.