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HOUSE BILL 453

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT TO PROVIDE CONDITIONS FOR ACQUIRING CERTAIN
ALLOWED SERVICE CREDIT.

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

Section 1. Section 22-11-34 NMSA 1978 (being Laws 1967,
Chapter 16, Section 157, as amended) is amended to read:

"22-11-34. ALLOWED SERVICE CREDIT.--

A. A member shall be certified to have acquired
allowed service credit pursuant to the Internal Revenue Code of
1986 for those periods of time when ~~[he]~~ the member was:

(1) employed prior to July 1, 1967 in a
federal educational program within New Mexico, including United
States Indian schools and civilian conservation corps camps.

This service credit shall be allowed without contribution;

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underscoring material = new
[bracketed material] = delete

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1 (2) engaged in military service that
2 interrupted [~~his~~] the member's employment in New Mexico if [~~he~~]
3 the member returned to [~~his~~] employment within eighteen months
4 following honorable discharge. This service credit shall be
5 allowed without contribution;

6 (3) engaged in United States military service
7 or the commissioned corps of the public health service from
8 which [~~he~~] the member was honorably discharged [~~if he~~
9 ~~contributes to the fund a sum equal to ten and one-half percent~~
10 ~~of his average annual salary for that period of time for which~~
11 ~~he has acquired earned service credit pursuant to the~~
12 ~~Educational Retirement Act and subject to the federal Uniformed~~
13 ~~Services Employment and Reemployment Rights Act of 1994 for~~
14 ~~each year of service credit he desires to purchase. Average~~
15 ~~annual salary shall be determined in accordance with rules~~
16 ~~promulgated by the board but shall always be based on actual~~
17 ~~salaries earned by the member where the actual salaries can be~~
18 ~~ascertained by the board. The employer's contributions for~~
19 ~~service credit shall not be paid by the employer. The purchase~~
20 ~~of service credit provided in this section shall be carried out~~
21 ~~by the member within three years after the date of the member's~~
22 ~~employment following]; provided that:~~

23 (a) the member shall have five years or
24 more of contributory employment to be eligible to purchase
25 allowed service credit pursuant to this paragraph;

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1 (b) the member shall contribute to the
2 fund, for each year of service credit the member elects to
3 purchase, a sum equal to the member's average annual actual
4 salary for the five years preceding the date of the
5 contribution multiplied by the sum of the member contribution
6 rate and the employer contribution rate in effect at the time
7 of the member's written election to purchase, subject to the
8 federal Uniformed Services Employment and Reemployment Rights
9 Act of 1994;

10 (c) full payment shall be made in a
11 single lump sum within sixty days of the date that the member
12 is informed of the amount of the payment; and

13 (d) the portion of the purchase cost
14 derived from the employer's contribution rate shall be credited
15 to the fund and, in the event that a member requests a refund
16 of contributions pursuant to Section 22-11-15 NMSA 1978, the
17 member shall not be entitled to a refund of that portion of the
18 purchase cost derived from the employer contribution rate; or

19 (4) employed:

20 (a) in a public school or public
21 institution of higher learning in another state, territory or
22 possession of the United States;

23 (b) in a United States military
24 dependents' school operated by a branch of the armed forces of
25 the United States;

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1 (c) as provided in Paragraph (1) of this
2 subsection after July 1, 1967; or

3 (d) in a private school or institution
4 of higher learning in New Mexico whose education program is
5 accredited or approved by the [~~state board~~] department at the
6 time of employment.

7 B. Effective July 1, 2001, the member or employer
8 under Paragraph (4) of Subsection A of this section shall
9 contribute to the fund for each year of allowed service credit
10 desired an amount equal to the actuarial value of the service
11 purchased as defined by the board. Payment pursuant to
12 Paragraph (4) of Subsection A of this section may be made in
13 installments, at the discretion of the board, over a period not
14 to exceed one year and, if the sum paid does not equal the
15 amount required for any full year of allowed service credit,
16 the member shall acquire allowed service credit for that period
17 of time that is proportionate to the payment made. Half credit
18 may be allowed without contribution for not more than ten years
19 of the educational service described by Subparagraph (a) of
20 Paragraph (4) of Subsection A of this section if that service
21 was prior to June 13, 1953 and if the member was employed in
22 New Mexico prior to June 13, 1953 in a position covered by the
23 Educational Retirement Act or a law repealed by that act. No
24 allowed service credit shall be purchased pursuant to Paragraph
25 (4) of Subsection A of this section unless the member is

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1 currently employed by a local administrative unit.

2 C. No member shall be certified to have acquired
3 allowed service credit:

4 (1) under any single paragraph or the
5 combination of only Paragraphs (1) and (4) or only Paragraphs
6 (2) and (3) of Subsection A of this section in excess of five
7 years; or

8 (2) in excess of ten years for any other
9 combination of Paragraphs (1) through (4) of Subsection A of
10 this section.

11 D. The provisions of this section are made
12 applicable to the services described prior to as well as after
13 the effective date of the Educational Retirement Act."

14 Section 2. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2009.

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