

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 246

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO THE RETIREMENT OF PUBLIC EMPLOYEES; PROVIDING A
TEMPORARY INCREASE IN CERTAIN EMPLOYEE CONTRIBUTION RATES AND A
CORRESPONDING TEMPORARY DECREASE IN THE EMPLOYER CONTRIBUTION
RATES; REQUIRING AN ACTUARIAL STUDY OF THE EFFECTS OF THE
INCREASE.

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

Section 1. Section 10-11-26.5 NMSA 1978 (being Laws 1994,
Chapter 128, Section 6, as amended) is amended to read:

"10-11-26.5. STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER
CONTRIBUTION RATE.--A member under state general member
coverage plan 3 shall contribute seven and forty-two hundredths
percent of salary starting with the first full pay period that
ends within the calendar month in which state general member
coverage plan 3 becomes applicable to the member, except that,
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1 from July 1, [~~2009~~] 2010 through June 30, 2011, for members
2 whose annual salary is greater than twenty thousand dollars
3 (\$20,000), the member contribution rate shall be [~~eight~~] nine
4 and ninety-two hundredths percent of salary."

5 Section 2. Section 10-11-26.6 NMSA 1978 (being Laws 1994,
6 Chapter 128, Section 7, as amended) is amended to read:

7 "10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE
8 CONTRIBUTION RATE.--The state shall contribute sixteen and
9 fifty-nine hundredths percent of the salary of each member
10 covered by state general member coverage plan 3 starting with
11 the first pay period that ends within the calendar month in
12 which state general member coverage plan 3 becomes applicable
13 to the member, except that, from July 1, [~~2009~~] 2010 through
14 June 30, 2011, for members whose annual salary is greater than
15 twenty thousand dollars (\$20,000), the state contribution rate
16 shall be [~~fifteen~~] fourteen and nine hundredths percent of the
17 salary of each member."

18 Section 3. Section 10-11-31 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 31, as amended) is amended to read:

20 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
21 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A
22 member under state police member and adult correctional officer
23 member coverage plan 1 shall contribute seven and six-tenths
24 percent of salary, except that, from July 1, [~~2009~~] 2010
25 through June 30, 2011, for members whose annual salary is

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1 greater than twenty thousand dollars (\$20,000), the member
2 contribution rate shall be [~~nine~~] ten and one-tenth percent of
3 salary."

4 Section 4. Section 10-11-32 NMSA 1978 (being Laws 1987,
5 Chapter 253, Section 32, as amended) is amended to read:

6 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
7 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The
8 state shall contribute twenty-five and one-tenth percent of the
9 salary of each member under state police member and adult
10 correctional officer member coverage plan 1, except that, from
11 July 1, [~~2009~~] 2010 through June 30, 2011, for members whose
12 annual salary is greater than twenty thousand dollars
13 (\$20,000), the state contribution rate shall be [~~twenty-three~~]
14 twenty-two and six-tenths percent of the salary of each
15 member."

16 Section 5. Section 10-11-38.5 NMSA 1978 (being Laws 1994,
17 Chapter 128, Section 13, as amended) is amended to read:

18 "10-11-38.5. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
19 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous
20 duty member coverage plan 2 shall contribute four and seventy-
21 eight hundredths percent of salary starting with the first full
22 pay period that ends within the calendar month in which state
23 hazardous duty member coverage plan 2 becomes applicable to the
24 member, except that, from July 1, [~~2009~~] 2010 through June 30,
25 2011, for members whose annual salary is greater than twenty

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1 thousand dollars (\$20,000), the member contribution rate shall
2 be [~~six~~] seven and twenty-eight hundredths percent of salary."

3 Section 6. Section 10-11-38.6 NMSA 1978 (being Laws 1994,
4 Chapter 128, Section 14, as amended) is amended to read:

5 "10-11-38.6. STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
6 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-
7 five and seventy-two hundredths percent of the salary of each
8 member covered by state hazardous duty member coverage plan 2
9 starting with the first pay period that ends within the
10 calendar month in which state hazardous duty member coverage
11 plan 2 becomes applicable to the member, except that, from July
12 1, [2009] 2010 through June 30, 2011, for members whose annual
13 salary is greater than twenty thousand dollars (\$20,000), the
14 state contribution rate shall be [~~twenty-four~~] twenty-three and
15 twenty-two hundredths percent of the salary of each member."

16 Section 7. Section 10-12B-10 NMSA 1978 (being Laws 1992,
17 Chapter 111, Section 10, as amended) is amended to read:

18 "10-12B-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

19 A. Members, while in office, shall contribute to
20 the member contribution fund pursuant to the following
21 schedule:

22 (1) prior to July 1, 2005, five and one-half
23 percent of salary;

24 (2) from July 1, 2005 through June 30, 2006,
25 six and one-half percent of salary; and

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1 (3) on and after July 1, 2006, seven and one-
2 half percent of salary, except that, from July 1, [~~2009~~] 2010
3 through June 30, 2011, for members whose annual salary is
4 greater than twenty thousand dollars (\$20,000), the member
5 contribution rate shall be [~~nine~~] ten percent of salary.

6 B. Upon implementation, the state, acting as
7 employer of members covered pursuant to the provisions of the
8 Judicial Retirement Act, shall, solely for the purpose of
9 compliance with Section 414(h) of the Internal Revenue Code of
10 1986, pick up for the purposes specified in that section member
11 contributions required by this section for all annual salary
12 earned by the member. Member contributions picked up pursuant
13 to the provisions of this section shall be treated as employer
14 contributions for purposes of determining income tax
15 obligations under the Internal Revenue Code of 1986; however,
16 such picked-up member contributions shall be included in the
17 determination of the member's gross annual salary for all other
18 purposes under federal and state laws. Member contributions
19 picked up pursuant to the provisions of this section shall
20 continue to be designated member contributions for all purposes
21 of the Judicial Retirement Act and shall be considered as part
22 of the member's annual salary for purposes of determining the
23 amount of the member's contribution. The provisions of this
24 section are mandatory, and the member shall have no option
25 concerning the pickup or concerning the receipt of the

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1 contributed amounts directly instead of having the amounts paid
2 by the employer to the retirement system. Implementation
3 occurs upon authorization by the board. In no event may
4 implementation occur other than at the beginning of a pay
5 period applicable to the member."

6 Section 8. Section 10-12B-11 NMSA 1978 (being Laws 1992,
7 Chapter 111, Section 11, as amended) is amended to read:

8 "10-12B-11. EMPLOYER CONTRIBUTIONS.--

9 A. The member's court shall contribute the
10 following amounts to the fund:

11 (1) prior to July 1, 2005, nine percent of
12 salary for each member in office;

13 (2) from July 1, 2005 through June 30, 2006,
14 ten and one-half percent of salary for each member in office;
15 and

16 (3) on and after July 1, 2006, twelve percent
17 of salary for each member in office, except that, from July 1,
18 [~~2009~~] 2010 through June 30, 2011, for members whose annual
19 salary is greater than twenty thousand dollars (\$20,000), the
20 member's court contribution rate shall be [~~ten~~] nine and one-
21 half percent of salary for each member in office.

22 B. Thirty-eight dollars (\$38.00) from each civil
23 case docket fee paid in the district court, twenty-five dollars
24 (\$25.00) from each civil docket fee paid in metropolitan court
25 and ten dollars (\$10.00) from each jury fee paid in

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1 metropolitan court shall be paid by the court clerk to the
2 employer's accumulation fund."

3 Section 9. Section 10-12C-10 NMSA 1978 (being Laws 1992,
4 Chapter 118, Section 10, as amended) is amended to read:

5 "10-12C-10. MEMBER CONTRIBUTIONS--TAX TREATMENT.--

6 A. Members, while in office, shall contribute the
7 following amounts to the member contribution fund:

8 (1) through June 30, 2006, six and one-half
9 percent of salary; and

10 (2) on and after July 1, 2006, seven and one-
11 half percent of salary, except that, from July 1, [~~2009~~] 2010
12 through June 30, 2011, for members whose annual salary is
13 greater than twenty thousand dollars (\$20,000), the member
14 contribution rate shall be [~~nine~~] ten percent of salary.

15 B. Upon implementation, the state, acting as
16 employer of members covered pursuant to the provisions of the
17 Magistrate Retirement Act, shall, solely for the purpose of
18 compliance with Section 414(h) of the Internal Revenue Code of
19 1986, pick up for the purposes specified in that section member
20 contributions required by this section for all annual salary
21 earned by the member. Member contributions picked up pursuant
22 to the provisions of this section shall be treated as employer
23 contributions for purposes of determining income tax
24 obligations under the Internal Revenue Code of 1986; however,
25 such picked-up member contributions shall be included in the

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1 determination of the member's gross annual salary for all other
2 purposes under federal and state laws. Member contributions
3 picked up pursuant to the provisions of this section shall
4 continue to be designated member contributions for all purposes
5 of the Magistrate Retirement Act and shall be considered as
6 part of the member's annual salary for purposes of determining
7 the amount of the member's contribution. The provisions of
8 this section are mandatory, and the member shall have no option
9 concerning the pickup or concerning the receipt of the
10 contributed amounts directly instead of having the amounts paid
11 by the employer to the retirement system. Implementation
12 occurs upon authorization by the board. In no event may
13 implementation occur other than at the beginning of a pay
14 period applicable to the member."

15 Section 10. Section 10-12C-11 NMSA 1978 (being Laws 1992,
16 Chapter 118, Section 11, as amended) is amended to read:

17 "10-12C-11. EMPLOYER CONTRIBUTIONS.--

18 A. The state, through the administrative office of
19 the courts, shall contribute the following amounts to the fund:

20 (1) through June 30, 2006, ten percent of
21 salary for each member in office; and

22 (2) on and after July 1, 2006, eleven percent
23 of salary for each member in office, except that, from July 1,
24 [2009] 2010 through June 30, 2011, for members whose annual
25 salary is greater than twenty thousand dollars (\$20,000), the

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1 state contribution rate shall be [~~nine~~] eight and one-half
2 percent of salary for each member in office.

3 B. Twenty-five dollars (\$25.00) from each civil
4 case docket fee paid in magistrate court and ten dollars
5 (\$10.00) from each civil jury fee paid in magistrate court
6 shall be paid by the court clerk to the employer's accumulation
7 fund."

8 Section 11. Section 22-11-21 NMSA 1978 (being Laws 1967,
9 Chapter 16, Section 144, as amended) is amended to read:

10 "22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE
11 UNITS.--

12 A. Except as provided in Subsection C of this
13 section, each member shall make contributions to the fund
14 according to the following schedule:

15 (1) through June 30, 2005, an amount equal to
16 seven and six-tenths percent of the member's annual salary;

17 (2) from July 1, 2005 through June 30, 2006,
18 an amount equal to seven and six hundred seventy-five
19 thousandths percent of the member's annual salary;

20 (3) from July 1, 2006 through June 30, 2007,
21 an amount equal to seven and seventy-five hundredths percent of
22 the member's annual salary;

23 (4) from July 1, 2007 through June 30, 2008,
24 an amount equal to seven and eight hundred twenty-five
25 thousandths percent of the member's annual salary; and

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1 (5) on and after July 1, 2008, an amount equal
2 to seven and nine-tenths percent of the member's annual salary,
3 except that, from July 1, [~~2009~~] 2010 through June 30, 2011,
4 for members whose annual salary is greater than twenty thousand
5 dollars (\$20,000), the member contribution rate shall be [~~nine~~
6 ten] and four-tenths percent of the member's annual salary.

7 B. Except as provided in Subsection C of this
8 section, each local administrative unit shall make an annual
9 contribution to the fund according to the following schedule:

10 (1) through June 30, 2005, a sum equal to
11 eight and sixty-five hundredths percent of the annual salary of
12 each member employed by the local administrative unit;

13 (2) from July 1, 2005 through June 30, 2006, a
14 sum equal to nine and forty-hundredths percent of the annual
15 salary of each member employed by the local administrative
16 unit;

17 (3) from July 1, 2006 through June 30, 2007, a
18 sum equal to ten and fifteen-hundredths percent of the annual
19 salary of each member employed by the local administrative
20 unit;

21 (4) from July 1, 2007 through June 30, 2008, a
22 sum equal to ten and ninety-hundredths percent of the annual
23 salary of each member employed by the local administrative
24 unit;

25 (5) from July 1, 2008 through June 30, 2009, a
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1 sum equal to eleven and sixty-five hundredths percent of the
 2 annual salary of each member employed by the local
 3 administrative unit;

4 (6) from July 1, [2009] 2010 through June 30,
 5 [2010] 2011, a sum equal to [~~ten~~] nine and nine-tenths percent
 6 of the annual salary of each member employed by the local
 7 administrative unit, except that, for members whose annual
 8 salary is twenty thousand dollars (\$20,000) or less, the local
 9 administrative unit shall contribute twelve and four-tenths
 10 percent of the member's annual salary;

11 (7) from July 1, [2010] 2011 through June 30,
 12 [2011] 2012, a sum equal to [~~eleven and sixty-five hundredths~~]
 13 thirteen and fifteen-hundredths percent of the annual salary of
 14 each member employed by the local administrative unit [~~except~~
 15 ~~that, for members whose annual salary is twenty thousand~~
 16 ~~dollars (\$20,000) or less, the local administrative unit shall~~
 17 ~~contribute thirteen and fifteen-hundredths percent of the~~
 18 ~~member's annual salary~~]; and

19 (8) on and after July 1, [2011] 2012, a sum
 20 equal to thirteen and nine-tenths percent of the annual salary
 21 of each member employed by the local administrative unit.

22 C. If, in a calendar year, the salary of a member,
 23 initially employed by a local administrative unit on or after
 24 July 1, 1996, equals the annual compensation limit set pursuant
 25 to Section 401(a)(17) of the Internal Revenue Code of 1986, as

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1 amended, then:

2 (1) for the remainder of that calendar year,
3 no additional member contributions or local administrative unit
4 contributions for that member shall be made pursuant to this
5 section; provided that no member shall be denied service credit
6 solely because contributions are not made by the member or on
7 behalf of the member pursuant to the provisions of this
8 subsection; and

9 (2) the amount of the annual compensation
10 limit shall be divided into four equal portions, and, for
11 purposes of attributing contributory employment and crediting
12 service credit, each portion shall be attributable to one of
13 the four quarters of the calendar year."

14 Section 12. TEMPORARY PROVISION--ACTUARIAL STUDY--
15 SUPPLEMENTAL APPROPRIATION REQUEST.--

16 A. No later than September 30, 2013 the retirement
17 board of the public employees retirement association and the
18 educational retirement board shall cause an actuarial study to
19 be conducted for each retirement system administered by each
20 board. Each study shall analyze whether the higher employee
21 contribution rates and lower employer contribution rates
22 required by this act and Laws 2009, Chapter 127 have had or
23 will have an adverse actuarial effect on the retirement system
24 in violation of Subsection C of Section 22 of Article 20 of the
25 constitution of New Mexico. The results of each study shall be
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1 submitted to the legislative finance committee, the legislative
2 education study committee and the governor.

3 B. If a study concludes that a retirement system
4 has had or will have an adverse actuarial effect as a result of
5 the higher employee contribution rates and lower employer
6 contribution rates required by this act and Laws 2009, Chapter
7 127, the applicable retirement board shall submit a request for
8 a supplemental appropriation to the second session of the
9 fifty-first legislature in an amount that will rectify the
10 adverse actuarial effect.

11 Section 13. TEMPORARY PROVISION.--For purposes of this
12 act, no employee shall be deemed to have an annual salary
13 greater than twenty thousand dollars (\$20,000) unless the
14 employee's full-time-equivalent base annual salary is greater
15 than that amount or unless the employee's base hourly wage is
16 greater than nine dollars fifty-seven and nine-tenths cents
17 (\$9.579).

18 Section 14. EFFECTIVE DATE.--The effective date of the
19 provisions of this act is July 1, 2010.

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