

1 AN ACT

2 RELATING TO PUBLIC EMPLOYEE RETIREMENT; AMENDING THE PUBLIC
3 EMPLOYEES RETIREMENT ACT AND THE EDUCATIONAL RETIREMENT ACT
4 TO ALLOW A RETIRED MEMBER TO DESIGNATE ANOTHER BENEFICIARY
5 UPON THE DEATH OF THE INITIAL DESIGNATED BENEFICIARY;
6 AMENDING THE EDUCATIONAL RETIREMENT ACT TO ALLOW A
7 DESELECTION AND A DESIGNATION OF ANOTHER BENEFICIARY UNDER
8 CERTAIN CIRCUMSTANCES.

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

11 SECTION 1. Section 10-11-116 NMSA 1978 (being Laws
12 1987, Chapter 253, Section 116, as amended) is amended to
13 read:

14 "10-11-116. ELECTION OF FORM OF PAYMENT OF A PENSION.--

15 A. Except as otherwise provided in Section
16 10-11-136 NMSA 1978, a member may elect to have pension
17 payments made under any one of the forms of payment provided
18 in Section 10-11-117 NMSA 1978. The election of form of
19 payment and naming of survivor pension beneficiary shall be
20 made on a form furnished by and filed with the association
21 prior to the date the first pension payment is made. An
22 election of form of payment may not be changed after the date
23 the first pension payment is made. If the member is married,
24 the association shall obtain the consent of the member's
25 spouse to the election of the form of payment and any

1 designation of survivor pension beneficiary before the
2 election or designation is effective. Except as provided in
3 Subsection C, D or E of this section, a named survivor
4 pension beneficiary may not be changed after the date the
5 first pension payment is made if form of payment B or C is
6 elected. Except as otherwise provided in Section 10-11-136
7 NMSA 1978, payment shall be made:

8 (1) under form of payment A if the member is
9 not married at the time of retirement and if there is not a
10 timely election of another form of payment; or

11 (2) under form of payment C with the
12 member's spouse as survivor pension beneficiary if the member
13 is married at the time of retirement and there is not a
14 timely election of another form of payment.

15 B. The amount of pension under forms of payment B,
16 C and D shall have the same actuarial present value, computed
17 as of the effective date of the pension, as the amount of
18 pension under form of payment A.

19 C. A retired member who is being paid a pension
20 under form of payment B or C with the member's spouse as the
21 designated survivor pension beneficiary may, upon becoming
22 divorced from the named spouse and subject to an order of a
23 court as provided for in Section 10-11-136 NMSA 1978, elect
24 to have future payments made under form of payment A.

25 D. A retired member who was previously being paid

1 a pension under form of payment B or C but, because of the
2 death of the designated survivor pension beneficiary, is
3 currently receiving a pension under form of payment A may
4 exercise a one-time irrevocable option to designate another
5 individual as the survivor pension beneficiary and may select
6 either form of payment B or form of payment C; provided that:

7 (1) the amount of the pension under the form
8 of payment selected shall be recalculated and have the same
9 actuarial present value, computed on the effective date of
10 the designation, as the amount of pension under form of
11 payment A;

12 (2) the designation and the amount of the
13 pension shall be subject to a court order as provided for in
14 Section 10-11-136 NMSA 1978; and

15 (3) the retired member shall pay one hundred
16 dollars (\$100) to the retirement board to defray the cost of
17 determining the new pension amount.

18 E. A retired member who is being paid a pension
19 under form of payment B or C with a living designated
20 survivor pension beneficiary other than the retired member's
21 spouse or former spouse may exercise a one-time irrevocable
22 option to deselect the designated beneficiary and elect to:

23 (1) designate another survivor pension
24 beneficiary, provided that:

25 (a) the retired member shall not have

1 an option to change from the current form of payment;

2 (b) the amount of the pension under the
3 form of payment shall be recalculated and shall have the same
4 actuarial present value, computed as of the effective date of
5 the designation, as the amount of pension under form of
6 payment A; and

7 (c) the retired member shall pay one
8 hundred dollars (\$100) to the retirement board to defray the
9 cost of determining the new pension amount; or

10 (2) have future payments made under form of
11 payment A."

12 SECTION 2. Section 22-11-29 NMSA 1978 (being Laws 1967,
13 Chapter 16, Section 152, as amended) is amended to read:

14 "22-11-29. RETIREMENT BENEFIT OPTIONS.--

15 A. Upon retirement pursuant to the Educational
16 Retirement Act, a member may elect, and, except as provided
17 in Subsection D or E of this section, such election shall be
18 irrevocable, to receive the actuarial equivalent of the
19 member's retirement benefit, as provided in Section 22-11-30
20 NMSA 1978, to be effective on the member's retirement in any
21 one of the following optional forms:

22 (1) OPTION B. A reduced annuity payable
23 during the member's life with provision that upon the
24 member's death the same annuity shall be continued during the
25 life of and paid to the beneficiary designated by the member

1 in writing at the time of electing this option; or

2 (2) OPTION C. A reduced annuity payable
3 during the member's life with provision that upon the
4 member's death one-half of this same annuity shall be
5 continued during the life of and paid to the beneficiary
6 designated by the member in writing at the time of electing
7 this option.

8 B. In the case of Options B and C of Subsection A
9 of this section, the actuarial equivalent of the member's
10 retirement benefit shall be computed on the basis of the
11 lives of both the member and the beneficiary.

12 C. In the event that the named beneficiary of a
13 retired member who elected Option B or C of Subsection A of
14 this section at the time of retirement predeceases the
15 retired member, the annuity of the retired member shall be
16 adjusted by adding an amount equal to the amount by which the
17 annuity of the retired member was reduced at retirement as a
18 result of the election of Option B or C. The adjustment
19 authorized in this subsection shall be made as follows:

20 (1) beginning on the first month following
21 the month in which the named beneficiary of a retiree dies
22 applicable to an annuity received by a retiree who retires
23 after June 30, 1987; or

24 (2) beginning on July 1, 1987 applicable to
25 an annuity received by a retiree who retired prior to

1 July 1, 1987 and otherwise qualifies for the adjustment;
2 provided, however, no adjustment shall be made retroactively.

3 D. A retired member who is being paid an adjusted
4 annuity pursuant to Subsection C of this section because of
5 the death of the named beneficiary may exercise a one-time
6 irrevocable option to designate another individual as the
7 beneficiary and may select either Option B or Option C of
8 Subsection A of this section; provided that:

9 (1) the amount of the annuity under the
10 option selected shall be recalculated and have the same
11 actuarial present value, computed on the effective date of
12 the designation, as the annuity being paid to the retired
13 member prior to the designation;

14 (2) the designation and the amount of the
15 annuity shall be subject to a court order as provided for in
16 Subsection B of Section 22-11-42 NMSA 1978; and

17 (3) the retired member shall pay one hundred
18 dollars (\$100) to the board to defray the cost of determining
19 the new annuity amount.

20 E. A retired member who is being paid an annuity
21 under Option B or C of Subsection A of this section with a
22 living designated beneficiary other than the retired member's
23 spouse or former spouse may exercise a one-time irrevocable
24 option to deselect the designated beneficiary and elect to:

25 (1) designate another beneficiary, provided

1 that:

2 (a) the retired member shall not have
3 an option to change from the current form of payment;

4 (b) the amount of the annuity under the
5 form of payment shall be recalculated and shall have the same
6 actuarial present value, computed as of the effective date of
7 the designation, as the amount of annuity paid prior to the
8 designation; and

9 (c) the retired member shall pay one
10 hundred dollars (\$100) to the board to defray the cost of
11 determining the new annuity amount; or

12 (2) have future annuity payments made
13 without a reduction as a result of Option B or C.

14 F. In the event of the death of the member who has
15 not retired and who has completed at least five years' earned
16 service credit, the member shall be considered as retiring on
17 the first day of the month following the date of death, and
18 the benefits due the surviving beneficiary, computed as of
19 that date, shall, except as provided in Subsection I of this
20 section, be commenced effective on the first day of such
21 month in accordance with the terms of Option B of Subsection
22 A of this section. In lieu of the provisions of Option B,
23 the surviving beneficiary may elect to receive payment of all
24 the contributions made by the member, plus interest at the
25 rate set by the board reduced by the sum of any disability

1 benefits previously received by the member, or the surviving
2 beneficiary may choose to defer receipt of the survivor's
3 benefit to whatever age the beneficiary chooses up to the
4 time the member would have attained age sixty. If the
5 benefit is thus deferred, it shall be calculated as though
6 the member had retired on the first day of the month in which
7 the beneficiary elects to receive the benefit. In the event
8 of the death of the beneficiary after the death of the member
9 and prior to the date on which the beneficiary has elected to
10 receive the beneficiary's benefit, the estate of the
11 beneficiary shall be entitled to a refund of the member's
12 contributions plus interest at the rate earned by the fund
13 during the preceding fiscal year, reduced by the sum of any
14 disability benefits previously received by the member.

15 G. In the case of death of a retired member who
16 did not elect either Option B or C of Subsection A of this
17 section and before the benefits paid to the member have
18 equaled the sum of the member's accumulated contributions to
19 the fund plus accumulated interest at the rate set by the
20 board, the balance shall be paid to the beneficiary
21 designated in writing to the director by the member or, if no
22 beneficiary was designated, to the estate of the member.

23 H. No benefit shall be paid pursuant to this
24 section if the member's contributions have been refunded
25 pursuant to Section 22-11-15 NMSA 1978.

1 I. In the case of death of a member with less than
2 five years' earned service credit or death of a member who
3 has filed with the director a notice rejecting the provisions
4 of Subsection F of this section, which notice shall be
5 revocable by the member at any time prior to retirement, the
6 member's contributions to the fund plus interest at the rate
7 set by the board shall be paid to the beneficiary designated
8 in writing to the director by the member or, if no
9 beneficiary was designated, to the estate of the member.

10 J. Any elections of either Option B or C of
11 Subsection A of this section on file with the director on
12 June 30, 1984 by members who have not retired prior to
13 June 30, 1984 are void."

14 SECTION 3. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2011. _____

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