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HOUSE BILL 129

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; REQUIRING RETIRED MEMBERS WHO RETURN TO WORK TO MAKE CERTAIN PAYMENTS TO THE EDUCATIONAL RETIREMENT FUND; REDUCING THE PAYMENTS MADE TO THE FUND BY THE LOCAL ADMINISTRATIVE UNITS THAT EMPLOY RETIRED MEMBERS.

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

SECTION 1. Section 22-11-25.1 NMSA 1978 (being Laws 2001, Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS CONTINUED-- ADMINISTRATIVE UNIT CONTRIBUTIONS.--

A. Except as provided in Subsections B and F of this section, beginning January 1, 2002 and continuing until January 1, 2022, a retired member may begin employment at a local administrative unit and shall not be required to suspend retirement benefits if the member has not rendered service to a

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1 local administrative unit for at least twelve consecutive
2 months after the date of retirement. If the retired member
3 returns to employment without first completing twelve
4 consecutive months of retirement, the retired member shall
5 remove himself or herself from retirement.

6 B. A retired member who was retired on or before
7 January 1, 2001 and has not since suspended or been required to
8 suspend retirement benefits pursuant to the Educational
9 Retirement Act may, at any time prior to January 1, 2022,
10 return to employment for a local administrative unit and shall
11 not be required to suspend retirement benefits.

12 C. A retired member who returns to employment
13 during retirement pursuant to Subsection A, B or F of this
14 section is entitled to continue to receive retirement benefits
15 but is not entitled to acquire service credit or to acquire or
16 purchase service credit in the future for the period of the
17 retired member's reemployment with a local administrative unit.

18 D. A retired member shall not be eligible to return
19 to employment pursuant to Subsection A, B or F of this section
20 unless an application to return to work, on a form prescribed
21 by the board, has been submitted to, and approved by, the board
22 and the applicant has complied with such other rules as
23 promulgated by the board.

24 E. A retired member who returns to employment
25 pursuant to Subsection A, B or F of this section shall ~~not~~

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1 ~~make contributions to the fund as specified in the Educational~~
2 ~~Retirement Act; however]~~ pay to the fund an amount equal to the
3 member contributions that would be required pursuant to Section
4 22-11-21 NMSA 1978 if the retired member was a non-retired
5 employee and the local administrative unit employing the
6 retired member shall pay to the fund an amount equal to [~~the~~
7 ~~total of the member contributions and]~~ the local administrative
8 unit contributions that would be required pursuant to [~~Section~~
9 ~~22-11-21 NMSA 1978 if the retired member was a non-retired~~
10 ~~employee]~~ that section.

11 F. Beginning July 1, 2003 and continuing until
12 January 1, 2022, a retired member who retired on or before
13 January 1, 2001, who subsequently voluntarily suspended or was
14 required to suspend retirement benefits and who has not
15 rendered service to a local administrative unit for at least
16 ninety days may begin employment at a local administrative unit
17 without suspending retirement benefits if the retired member
18 was not employed by a local administrative unit for an
19 additional twelve or more consecutive months after the initial
20 date of the retirement; provided that the ninety-day period
21 shall not include any part of a summer or other scheduled break
22 or vacation period.

23 G. Both the retired member who returns to
24 employment and the local administrative unit that employs the
25 retired member shall make contributions to the retiree health

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1 care fund in the amount specified in Subsections A and B of
2 Section 10-7C-15 NMSA 1978.

3 H. As used in Subsections A and F of this section:

4 (1) "rendered service to a local
5 administrative unit" includes employment by a local
6 administrative unit, whether full or part time; substitute
7 teaching; voluntarily performing duties for a local
8 administrative unit that would otherwise be, or in the past
9 have been, performed by a paid employee or independent
10 contractor; or performing duties for a local administrative
11 unit as an independent contractor or an employee of an
12 independent contractor; and

13 (2) "local administrative unit" includes any
14 entity incorporated, formed or otherwise organized by, or
15 subject to the control of a local administrative unit, whether
16 or not the entity is created for profit or nonprofit purposes."

17 SECTION 2. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2011.