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SENATE BILL 25

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

George K. Munoz

FOR THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; CHANGING AGE AND SERVICE
CREDIT REQUIREMENTS FOR CERTAIN RETIREES IN THE JUDICIAL
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT; CHANGING THE
WAY THE AMOUNT OF PENSION IS CALCULATED FOR CERTAIN RETIREES IN
THE JUDICIAL RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT.

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

SECTION 1. Section 10-12B-2 NMSA 1978 (being Laws 1992,
Chapter 111, Section 2, as amended) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial
Retirement Act:

A. "association" means the public employees
retirement association provided for in the Public Employees
Retirement Act;

B. "board" means the retirement board provided for

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1 in the Public Employees Retirement Act;

2 C. "current judge or justice" means a judge or
3 justice who occupied such an office on July 1, 1980 but who
4 elected to be covered under the provisions of the retirement
5 plan in effect at that time;

6 D. "dependent child" means a natural or adopted
7 child who is physically or mentally incapable of financial
8 self-support, regardless of age;

9 E. "educational retirement system" means the
10 retirement system provided for in the Educational Retirement
11 Act;

12 F. "effective date of retirement" means the first
13 day of the month following the month in which the member met
14 all requirements for retirement;

15 G. "final average salary" means one thirty-sixth
16 of the greatest amount of salary paid to a member for thirty-
17 six consecutive but not necessarily continuous months of
18 credit service;

19 [~~G.~~] H. "former judge or justice" means a judge
20 or justice who occupied such an office prior to July 1, 1980
21 but who had ceased to hold such an office prior to that date
22 and who elected to be excluded from the provisions of the
23 Judicial Retirement Act;

24 [~~H.~~] I. "former member" means a person no longer
25 in office who was previously covered pursuant to the

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1 provisions of Sections 10-12-1 through 10-12-18 NMSA 1978,
2 but who has not retired pursuant to the provisions of the
3 Judicial Retirement Act and who has received a refund of
4 member contributions pursuant to the provisions of Sections
5 10-12B-1 through 10-12B-19 NMSA 1978;

6 ~~[F.]~~ J. "fund" means the judicial retirement
7 fund;

8 ~~[J.]~~ K. "judge" means a judge of the metropolitan
9 court, district court or court of appeals of New Mexico;

10 ~~[K.]~~ L. "justice" means a justice of the supreme
11 court of New Mexico;

12 ~~[L.]~~ M. "member" means any judge or justice who
13 is in office and covered pursuant to the provisions of the
14 Judicial Retirement Act, or any person no longer in office
15 who was previously a judge or justice covered pursuant to the
16 provisions of the Judicial Retirement Act, who has not
17 retired and who has not received a refund of member
18 contributions from the fund;

19 ~~[M.]~~ N. "member contributions" means the amounts
20 deducted from the salary of a member and credited to the
21 member's individual account, together with interest, if any,
22 credited thereto;

23 ~~[N.]~~ O. "minor child" means a natural or adopted
24 child who has not reached ~~[his]~~ the child's eighteenth
25 birthday and who has not been emancipated by marriage or

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1 otherwise;

2 ~~[P-]~~ P. "new judge or justice" means:

3 (1) a judge or justice who first occupied
4 such an office after July 1, 1980; or

5 (2) a judge or justice who occupied such an
6 office on or before July 1, 1980 and who has elected to be
7 covered under the provisions of the Judicial Retirement Act;

8 ~~[P-]~~ Q. "pension" means a series of monthly
9 payments to a retired member or survivor beneficiary pursuant
10 to the provisions of the Judicial Retirement Act;

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

20 ~~[R-]~~ S. "retire" means to:

21 (1) terminate employment with all employers
22 covered by any state system or the educational retirement
23 system; and

24 (2) receive a pension from one state system
25 or the educational retirement system;

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1 ~~[S.]~~ T. "retired member" means a person who has
2 met all requirements for retirement and who is receiving a
3 pension from the fund;

4 ~~[F.]~~ U. "salary" means the base salary or wages
5 paid a member, including longevity pay, for personal services
6 rendered; provided that salary does not include overtime pay;
7 allowances for housing, clothing, equipment or travel;
8 payments for unused sick leave, unless the unused sick leave
9 payment is made through continuation of the member on the
10 regular payroll for the period represented by that payment;
11 and any other form of remuneration not specifically
12 designated by law as included in salary pursuant to the
13 provisions of the Judicial Retirement Act;

14 ~~[H.]~~ V. "state system" means the retirement
15 programs provided pursuant to the provisions of the Public
16 Employees Retirement Act, the Magistrate Retirement Act and
17 the Judicial Retirement Act;

18 ~~[V.]~~ W. "surviving spouse" means the spouse to
19 whom the member was married at the time of the member's
20 death;

21 ~~[W.]~~ X. "survivor beneficiary" means a person who
22 receives a pension or who has been designated to be paid a
23 pension as a result of the death of a member or retired
24 member; and

25 ~~[X.]~~ Y. "years of service" means a period of time

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1 beginning on the date a person commences to hold office as a
2 judge or justice because of appointment or election and
3 ending on the date a person ceases to hold office as a judge
4 or justice because of expiration of the judge's or justice's
5 term, voluntary resignation, death or disability and shall
6 include any fractions of years of service."

7 SECTION 2. Section 10-12B-8 NMSA 1978 (being Laws
8 1992, Chapter 111, Section 8, as amended) is amended to read:

9 "10-12B-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
10 NORMAL RETIREMENT.--

11 A. For an individual who initially became a
12 member prior to July 1, 2005, the age and service credit
13 requirements for retirement provided for in the Judicial
14 Retirement Act are:

15 (1) age sixty-four or older and five or more
16 years of service credit; or

17 (2) age sixty or older and fifteen or more
18 years of service credit.

19 B. For an individual who initially became a
20 member on or after July 1, 2005, but prior to July 1, 2013,
21 the age and service credit requirements for retirement
22 provided for in the Judicial Retirement Act are:

23 (1) age sixty-four or older and five or more
24 years of service credit; or

25 (2) age fifty-five or older and sixteen or

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1 more years of service credit.

2 C. For an individual who initially became a
3 member on or after July 1, 2013, the age and service credit
4 requirements for retirement provided for in the Judicial
5 Retirement Act are:

6 (1) age sixty-seven years or older and five
7 or more years of service credit;

8 (2) any age if the sum of the member's age
9 and years of service credit equals at least eighty; or

10 (3) any age and thirty or more years of
11 service credit.

12 ~~[G-]~~ D. If a member leaves office for any reason,
13 other than removal pursuant to Article 6, Section 32 of the
14 constitution of New Mexico, before meeting the age and
15 service credit requirements for retirement pursuant to the
16 provisions of this section and if that member leaves [~~his~~
17 ~~member~~] the member's contributions on deposit in the fund,
18 that member may apply for retirement when that member meets
19 the age and service credit requirements for retirement
20 pursuant to the provisions of the Judicial Retirement Act or
21 provisions of the Public Employees Retirement Reciprocity
22 Act.

23 ~~[D-]~~ E. No member shall be eligible to receive a
24 pension pursuant to the provisions of the Judicial Retirement
25 Act while still in office."

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1 subsection shall not exceed seventy-five percent of one-
2 twelfth of the salary received during the last year in
3 office; or

4 D. in the case of a new judge or justice who
5 initially became a member on or after July 1, 2013, an amount
6 equal to two and one-half percent of final average salary
7 multiplied by service credit. The amount shall not exceed
8 eighty percent of final average salary."

9 SECTION 4. Section 10-12C-2 NMSA 1978 (being Laws
10 1992, Chapter 118, Section 2, as amended) is amended to read:

11 "10-12C-2. DEFINITIONS.--As used in the Magistrate
12 Retirement Act:

13 A. "association" means the public employees
14 retirement association provided for in the Public Employees
15 Retirement Act;

16 B. "board" means the retirement board provided
17 for in the Public Employees Retirement Act;

18 C. "dependent child" means a natural or adopted
19 child who is physically or mentally incapable of financial
20 self-support, regardless of age;

21 D. "educational retirement system" means the
22 retirement system provided for in the Educational Retirement
23 Act;

24 E. "effective date of retirement" means the first
25 day of the month following the month in which the member met

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1 all requirements for retirement;

2 F. "final average salary" means one thirty-sixth
3 of the greatest amount of salary paid to a member for thirty-
4 six consecutive but not necessarily continuous months of
5 credit service;

6 [~~F.~~] G. "former member" means a person no longer
7 in office who was previously covered pursuant to the
8 provisions of Sections 10-12A-1 through 10-12A-13 NMSA 1978,
9 but who has not retired pursuant to the provisions of the
10 Magistrate Retirement Act and who has received a refund of
11 member contributions pursuant to the provisions of Sections
12 10-12C-1 through 10-12C-18 NMSA 1978;

13 [~~G.~~] H. "fund" means the magistrate retirement
14 fund;

15 [~~H.~~] I. "magistrate" means a magistrate judge;

16 [~~I.~~] J. "member" means any magistrate who is in
17 office and covered pursuant to the provisions of the
18 Magistrate Retirement Act, or any person no longer in office
19 who was previously a magistrate covered pursuant to the
20 provisions of the Magistrate Retirement Act, who has not
21 retired and who has not received a refund of member
22 contributions from the fund;

23 [~~J.~~] K. "member contributions" means the amounts
24 deducted from the salary of a member and credited to the
25 member's individual account, together with interest, if any,

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1 credited thereto;

2 ~~[K-]~~ L. "minor child" means a natural or adopted
3 child who has not reached ~~[his]~~ the natural or adopted
4 child's eighteenth birthday and who has not been emancipated
5 by marriage or otherwise;

6 ~~[L-]~~ M. "pension" means a series of monthly
7 payments to a retired member or survivor beneficiary pursuant
8 to the provisions of the Magistrate Retirement Act;

9 ~~[M-]~~ N. "refund beneficiary" means a person
10 designated by the member, in writing in the form prescribed
11 by the association, as the person who would be refunded the
12 member's accumulated member contributions payable if the
13 member dies and no survivor pension is payable, or as the
14 person who would receive the difference between pension paid
15 and accumulated member contributions if the retired member
16 dies before receiving in pension payments the amount of the
17 accumulated member contributions;

18 ~~[N-]~~ O. "retire" means to:

19 (1) terminate employment with all employers
20 covered by any state system or the educational retirement
21 system; and

22 (2) receive a pension from one state system
23 or the educational retirement system;

24 ~~[O-]~~ P. "retired member" means a person who has
25 met all requirements for retirement and who is receiving a

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1 pension from the fund;

2 ~~[P-]~~ Q. "salary" means the base salary or wages
3 paid a member, including longevity pay, for personal services
4 rendered; provided that salary does not include overtime pay;
5 allowances for housing, clothing, equipment or travel;
6 payments for unused sick leave, unless the unused sick leave
7 payment is made through continuation of the member on the
8 regular payroll for the period represented by that payment;
9 and any other form of remuneration not specifically
10 designated by law as included in salary pursuant to the
11 provisions of the Magistrate Retirement Act;

12 ~~[Q-]~~ R. "state system" means the retirement
13 programs provided pursuant to the provisions of the Public
14 Employees Retirement Act, the Magistrate Retirement Act and
15 the Judicial Retirement Act;

16 ~~[R-]~~ S. "surviving spouse" means the spouse to
17 whom the member was married at the time of the member's
18 death;

19 ~~[S-]~~ T. "survivor beneficiary" means a person who
20 receives a pension or who has been designated to be paid a
21 pension as a result of the death of a member or retired
22 member; and

23 ~~[T-]~~ U. "years of service" means a period of time
24 beginning on the date a person commences to hold office as a
25 magistrate because of appointment or election and ending on

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1 the date a person ceases to hold office as a magistrate
2 because of expiration of the magistrate's term, voluntary
3 resignation, death or disability and shall include any
4 fractions of years of service."

5 SECTION 5. Section 10-12C-8 NMSA 1978 (being Laws
6 1992, Chapter 118, Section 8) is amended to read:

7 "10-12C-8. AGE AND SERVICE CREDIT REQUIREMENTS FOR
8 NORMAL RETIREMENT.--

9 A. For an individual who initially became a
10 member prior to July 1, 2013, the age and service credit
11 requirements for retirement provided for in the Magistrate
12 Retirement Act are:

13 (1) age sixty-four or older and five or more
14 years of service credit;

15 (2) age sixty or older and fifteen or more
16 years of service credit; or

17 (3) any age and twenty-four or more years of
18 service credit.

19 B. For an individual who initially became a
20 member on or after July 1, 2013, the age and service credit
21 requirements for retirement provided for in the Magistrate
22 Retirement Act are:

23 (1) age sixty-seven years or older and five
24 or more years of service credit;

25 (2) any age if the sum of the member's age

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1 and years of service credit equals at least eighty; or

2 (3) any age and thirty or more years of
3 service credit.

4 ~~[B.]~~ C. If a member leaves office for any reason,
5 other than removal pursuant to Article 6, Section 32 of the
6 constitution of New Mexico before meeting the age and service
7 credit requirements for retirement pursuant to the provisions
8 of this section and if that member leaves ~~[his member]~~ the
9 member's contributions on deposit in the fund, that member
10 may apply for retirement when that member meets the age and
11 service credit requirements for retirement pursuant to the
12 provisions of the Magistrate Retirement Act or provisions of
13 the Public Employees Retirement Reciprocity Act. ~~[if enacted~~
14 ~~by the second session of the fortieth legislature of the~~
15 ~~state of New Mexico.~~

16 ~~G.]~~ D. No member shall be eligible to receive a
17 pension pursuant to the provisions of the Magistrate
18 Retirement Act while still in office."

19 **SECTION 6.** Section 10-12C-9 NMSA 1978 (being Laws
20 1992, Chapter 118, Section 9) is amended to read:

21 "10-12C-9. AMOUNT OF PENSION.--The amount of monthly
22 pension:

23 A. in the case of a magistrate who initially
24 became a member prior to July 1, 2013, is equal to
25 one-twelfth of:

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