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SENATE BILL 492

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

George K. Muñoz

AN ACT

RELATING TO PENSIONS; AMENDING THE EDUCATIONAL RETIREMENT ACT
TO ALLOW RETIRED MEMBERS TO RETURN TO EMPLOYMENT FOR A PERIOD
OF SIXTY MONTHS.

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--
CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B,
F, H and I of this section, until January 1, 2024, a retired
member who begins employment with a local administrative unit
at a level greater than one-quarter full-time employee,
regardless of salary level, is required to suspend the member's
retirement benefits until the end of that employment unless the

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1 member has not rendered service to a local administrative unit
2 for at least twelve consecutive months after the date of
3 retirement.

4 B. Until January 1, 2024, a retired member who
5 retired on or before January 1, 2001, has not suspended or been
6 required to suspend retirement benefits pursuant to the
7 Educational Retirement Act and returns to employment with a
8 local administrative unit is not required to suspend the
9 member's retirement benefits.

10 C. A retired member who returns to employment with
11 a local administrative unit in accordance with this section is
12 entitled to receive retirement benefits during that employment
13 but is not entitled to acquire or purchase service credit for
14 that employment.

15 D. A retired member may return to employment with a
16 local administrative unit only if the member submits an
17 application to return to work, on a form prescribed by the
18 board, the board approves the application and the applicant
19 complies with other application rules promulgated by the board.

20 E. A retired member who returns to employment
21 pursuant to Subsection A, B, F or I of this section shall make
22 nonrefundable contributions to the fund as would be required by
23 Section 22-11-21 NMSA 1978 if the retired member were a non-
24 retired employee. The local administrative unit employing the
25 retired member shall likewise make contributions as would be

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1 required by that section.

2 F. Until January 1, 2024, a retired member who
3 retired on or before January 1, 2001, who suspended or was
4 required to suspend retirement benefits under the Educational
5 Retirement Act is not required to suspend the member's
6 retirement benefits if the retired member has not rendered
7 service to a local administrative unit for an additional twelve
8 or more consecutive months, not including any part of a summer
9 or other scheduled break or vacation period, after the initial
10 date of retirement.

11 G. A retired member who returns to employment with
12 a local administrative unit shall make contributions to the
13 retiree health care fund during the period of that employment
14 and in the amount specified in Section 10-7C-15 NMSA 1978. The
15 local administrative unit employing the retired member shall
16 likewise make contributions during the period of that
17 employment and in the amount specified in that section.

18 H. A retired member may return to employment with a
19 local administrative unit without a suspension of the member's
20 retirement benefits; provided that:

21 (1) the retired member has not rendered
22 service to a local administrative unit for at least ninety days
23 after the date of retirement;

24 (2) prior to the date of retirement, or within
25 ninety days after the date of retirement, the retired member

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1 did not enter into any formal or informal agreement with a
2 local administrative unit or with any contractor providing
3 services to a local administrative unit to return to
4 employment; and

5 (3) the retired member earns a salary of less
6 than fifteen thousand dollars (\$15,000) per year.

7 I. A retired member may return to employment with a
8 local administrative unit without a suspension of the member's
9 retirement benefits; provided that:

10 (1) the retired member has not rendered
11 service to a local administrative unit for at least ninety days
12 after the date of retirement; and

13 (2) the retired member returns to employment
14 for a period of no more than [~~thirty-six~~] sixty consecutive or
15 nonconsecutive months pursuant to this subsection.

16 J. As used in this section:

17 (1) "rendered service" includes employment,
18 whether full or part time; substitute teaching; voluntarily
19 performing duties that would otherwise be, or in the past have
20 been, performed by a paid employee or independent contractor;
21 and performing duties as an independent contractor or an
22 employee of an independent contractor; and

23 (2) "local administrative unit" includes any
24 entity incorporated, formed or otherwise organized by, or
25 subject to the control of, a local administrative unit,

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1 regardless of whether the entity is created for profit or
2 nonprofit purposes."

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