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HOUSE BILL 299

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

William A. Hall II and Patricia A. Lundstrom
and Joshua N. Hernandez and D. Wonda Johnson

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A STATE LAW ENFORCEMENT INSTRUCTOR MEMBER; PROVIDING A DEFINITION FOR "STATE LAW ENFORCEMENT INSTRUCTOR MEMBER"; INCLUDING STATE LAW ENFORCEMENT INSTRUCTOR MEMBERS UNDER STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1; PROVIDING FOR AN ELECTION PERTAINING TO THE ADOPTION OF STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1.

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

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees Retirement Act:

A. "accumulated member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if

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1 any, credited to that account;

2 B. "affiliated public employer" means the state and
3 any public employer affiliated with the association as provided
4 in the Public Employees Retirement Act, but does not include an
5 employer pursuant to the Magistrate Retirement Act, the
6 Judicial Retirement Act or the Educational Retirement Act;

7 C. "association" means the public employees
8 retirement association established under the Public Employees
9 Retirement Act;

10 D. "coverage plan funded ratio" means the ratio of
11 the actuarial value of the assets of a coverage plan to the
12 actuarial accrued liability of the association for payments
13 from the coverage plan, as determined by the association's
14 actuaries;

15 E. "disability retired member" means a retired
16 member who is receiving a pension pursuant to the disability
17 retirement provisions of the Public Employees Retirement Act;

18 F. "disability retirement pension" means the
19 pension paid pursuant to the disability retirement provisions
20 of the Public Employees Retirement Act;

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

24 H. "employee" means any employee of an affiliated
25 public employer;

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1 I. "federal social security program" means that
2 program or those programs created and administered pursuant to
3 the act of congress approved August 14, 1935, Chapter 531, 49
4 Stat. 620, as that act may be amended;

5 J. "final average salary" means the final average
6 salary calculated in accordance with the provisions of the
7 applicable coverage plan;

8 K. "form of payment" means the applicable form of
9 payment of a pension provided for in Section 10-11-117 NMSA
10 1978;

11 L. "former member" means a person who was
12 previously employed by an affiliated public employer, who has
13 terminated that employment and who has received a refund of
14 member contributions;

15 M. "fund" means the funds included under the Public
16 Employees Retirement Act;

17 N. "member" means a currently employed,
18 contributing employee of an affiliated public employer, or a
19 person who has been but is not currently employed by an
20 affiliated public employer, who has not retired and who has not
21 received a refund of member contributions; "member" also
22 includes the following:

23 (1) "adult correctional officer member" means
24 a member who is employed as an adult correctional officer or an
25 adult correctional officer specialist by a state correctional

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1 facility of the corrections department or its successor agency;

2 (2) "adult probation and parole officer
3 member" means a member who is employed as a probation and
4 parole officer by the corrections department or its successor
5 agency;

6 (3) "juvenile correctional officer member"
7 means a member who is employed as a juvenile correctional
8 officer by the children, youth and families department or its
9 successor agency;

10 (4) "juvenile probation and parole officer
11 member" means a member who is employed as a probation and
12 parole officer by the children, youth and families department
13 or its successor agency;

14 (5) "municipal detention officer member" means
15 a member who is employed by an affiliated public employer other
16 than the state and who has inmate custodial responsibilities at
17 a facility used for the confinement of persons charged with or
18 convicted of a violation of a law or ordinance;

19 (6) "municipal fire member" means any member
20 who is employed as a full-time nonvolunteer firefighter by an
21 affiliated public employer, other than the state, and who has
22 taken the oath prescribed for firefighters;

23 (7) "municipal police member" means any member
24 who is employed as a police officer by an affiliated public
25 employer, other than the state, and who has taken the oath

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1 prescribed for police officers;

2 (8) "state fire member" means any member who
3 is employed as a nonvolunteer firefighter of the state and who
4 has taken the oath prescribed for firefighters; ~~and~~

5 (9) "state law enforcement instructor member"
6 means a member who maintains a law enforcement certification
7 and is employed by the New Mexico law enforcement academy to
8 provide training pursuant to the Law Enforcement Training Act;
9 and

10 [~~(9)~~] (10) "state police member" means a
11 member who is an officer of the New Mexico state police
12 division and who has taken the oath prescribed for such
13 officers and shall include a member who is an officer of the
14 New Mexico state police division and who was certified and
15 commissioned in the former motor transportation division or the
16 former special investigations division of the department of
17 public safety;

18 O. "membership" means membership in the
19 association;

20 P. "pension" means a series of monthly payments to
21 a retired member or survivor beneficiary as provided in the
22 Public Employees Retirement Act;

23 Q. "public employer" means the state, any
24 municipality, city, county, metropolitan arroyo flood control
25 authority, economic development district, regional housing

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1 authority, soil and water conservation district, entity created
2 pursuant to a joint powers agreement, council of government,
3 conservancy district, irrigation district, water and sanitation
4 district, water district and metropolitan water board,
5 including the boards, departments, bureaus and agencies of a
6 public employer, so long as these entities fall within the
7 meaning of governmental plan as that term is used in Section
8 414(d) of the Internal Revenue Code of 1986, as amended;

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

18 S. "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 a state system or
23 the educational retirement system;

24 T. "retired member" means a person who has met all
25 requirements for retirement and who is receiving a pension from

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1 the fund;

2 U. "retirement board" means the retirement board
3 provided for in the Public Employees Retirement Act;

4 V. "salary" means the base salary or wages paid a
5 member, including longevity pay, for personal services rendered
6 an affiliated public employer. "Salary" shall not include
7 overtime pay, unless the overtime payment is required for a
8 regular scheduled tour of duty as set forth in Section 207(k)
9 of Title 29 of the United States Code and is made on the
10 regular payroll for the period represented by that payment,
11 allowances for housing, clothing, equipment or travel, payments
12 for unused sick leave, unless the unused sick leave payment is
13 made through continuation of the member on the regular payroll
14 for the period represented by that payment, and any other form
15 of remuneration not specifically designated by law as included
16 in salary for Public Employees Retirement Act purposes. Salary
17 in excess of the limitations set forth in Section 401(a)(17) of
18 the Internal Revenue Code of 1986, as amended, shall be
19 disregarded. The limitation on compensation for eligible
20 employees shall not be less than the amount that was allowed to
21 be taken into account under the state retirement system acts in
22 effect on July 1, 1993. For purposes of this subsection,
23 "eligible employee" means an individual who was a member of a
24 state system before the first plan year beginning after
25 December 31, 1995;

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1 W. "state system" means the retirement programs
2 provided for in the Public Employees Retirement Act, the
3 Magistrate Retirement Act and the Judicial Retirement Act;

4 X. "state retirement system acts" means
5 collectively the Public Employees Retirement Act, the
6 Magistrate Retirement Act, the Judicial Retirement Act and the
7 Volunteer Firefighters Retirement Act;

8 Y. "supplemental needs trust" means a valid third-
9 party irrevocable trust that is authorized by the federal
10 Social Security Act, as amended, for the sole benefit and
11 lifetime of a trust beneficiary who is disabled and is created
12 for the purpose of providing, accounting for or receiving
13 supplemental assets that do not supplant, impair or diminish
14 any benefits or assistance of any federal, state or other
15 government entity for which the beneficiary would otherwise be
16 eligible; and

17 Z. "survivor beneficiary" means a supplemental
18 needs trust or a natural person that receives a pension or that
19 has been designated to be paid a pension as a result of the
20 death of a member or retired member."

21 SECTION 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 27, as amended) is amended to read:

23 "10-11-27. STATE PUBLIC SAFETY MEMBER COVERAGE PLAN 1--
24 APPLICABILITY--CREDITED SERVICE.--

25 A. State public safety member coverage plan 1 is
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1 applicable to:

- 2 (1) state police members who are not
3 specifically covered by another coverage plan;
4 (2) adult correctional officer members;
5 (3) adult probation and parole officer
6 members;
7 (4) juvenile probation and parole officer
8 members; ~~and~~
9 (5) state fire members; and
10 (6) state law enforcement instructor members.

11 B. The credited service of a state police member
12 who was a retired member or a member on or before June 30, 2013
13 or of an adult correctional officer member shall have actual
14 credited service increased by twenty percent for the purposes
15 of state public safety member coverage plan 1.

16 C. The credited service, accrued after July 1,
17 2021, of an adult probation and parole officer or a juvenile
18 probation and parole officer shall be increased by twenty
19 percent for the purposes of state public safety member coverage
20 plan 1.

21 D. The credited service, accrued after July 1,
22 2024, of a state fire member shall be increased by twenty
23 percent for the purposes of state public safety member coverage
24 plan 1.

25 E. The credited service, accrued after July 1,

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1 2025, of a state law enforcement instructor member shall be
2 increased by twenty percent for the purposes of state public
3 safety member coverage plan 1.

4 ~~[E.]~~ F. The increase of twenty percent to accrued
5 credited service provided by this section shall only apply to a
6 state public safety member who was a retired member or a member
7 on or before June 30, 2013.

8 ~~[F.]~~ G. Except as provided in Subsections B through
9 ~~[E]~~ F of this section, the credited service of a member covered
10 under state public safety member coverage plan 1 shall be
11 credited as provided in Section 10-11-4 NMSA 1978.

12 ~~[G.]~~ H. State public safety member coverage plan 1
13 is applicable to adult probation and parole officer members and
14 juvenile probation and parole officer members in the first full
15 pay period after July 1, 2021 if the retirement board certifies
16 to the secretary of state that, of those adult probation and
17 parole officer members and juvenile probation and parole
18 officer members to be covered under state public safety member
19 coverage plan 1, a majority of the respective members voting
20 have voted to approve adoption of that plan at an election
21 conducted pursuant to Laws 2020, Chapter 11, Sections 63
22 through 66.

23 ~~[H.]~~ I. State public safety member coverage plan 1
24 is applicable in the first full pay period after July 1, 2024
25 for:

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1 (1) state fire members who begin employment as
2 a state fire member on or after July 1, 2024; and

3 (2) state fire members who were employed in a
4 position and were subject to the definition of a "state fire
5 member" prior to July 1, 2024, if the retirement board
6 certifies to the secretary of state that, of those state fire
7 members to be covered under state public safety member coverage
8 plan 1, a majority of the respective members voting have voted
9 to approve the adoption of that plan at an election conducted
10 pursuant to [~~Section 8 of this 2024 act~~] Laws 2024, Chapter 52,
11 Section 8.

12 J. State public safety member coverage plan 1 is
13 applicable to state law enforcement instructor members in the
14 first full pay period after July 1, 2025 if the retirement
15 board certifies to the secretary of state that, of those state
16 law enforcement instructor members to be covered under state
17 public safety member coverage plan 1, a majority of the
18 respective members voting have voted to approve adoption of
19 that plan at an election conducted pursuant to Section 3 of
20 this 2025 act."

21 SECTION 3. TEMPORARY PROVISION--STATE PUBLIC SAFETY
22 MEMBER COVERAGE PLAN 1--STATE LAW ENFORCEMENT INSTRUCTOR
23 MEMBERS--ELECTION.--On or before June 30, 2025, the retirement
24 board provided for in the Public Employees Retirement Act shall
25 conduct an election to submit to state law enforcement

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1 instructor members the question of adopting state public safety
2 member coverage plan 1.

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