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SENATE BILL 1083

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

R. L. STOCKARD

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; PROVIDING FOR EXEMPTION FROM MEMBERSHIP FOR CERTAIN RETIRED MEMBERS WHO ARE EMPLOYED TO PROVIDE SECURITY SERVICES TO LEGISLATIVE BUILDINGS.

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

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION.--

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association prior to the selected date of retirement;

(2) employment is terminated with all employers covered by any state system or the educational retirement system

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1 prior to the selected date of retirement;

2 (3) the member selects an effective date of  
3 retirement that is the first day of a calendar month; and

4 (4) the member meets the age and service credit  
5 requirement for normal retirement specified in the coverage plan  
6 applicable to the member.

7 B. The amount of normal retirement pension is  
8 determined in accordance with the coverage plan applicable to  
9 the member.

10 C. If a member retires and is subsequently employed  
11 by any affiliated public employer, the retired member's pension  
12 will be suspended effective the first day of the month following  
13 the month in which the previously retired member earns one  
14 hundred percent or more of the amount that causes a decrease or  
15 suspension of an old age benefit under the federal social  
16 security program or fifteen thousand dollars (\$15,000),  
17 whichever is less. When the pension is suspended, the following  
18 conditions shall apply:

19 (1) the retired member who is subsequently  
20 employed by an affiliated public employer shall become a member.  
21 The previously retired member and the subsequent affiliated  
22 public employer shall make the required employee and employer  
23 contributions, and the previously retired member shall accrue  
24 service credit for the period of subsequent employment; and

25 (2) when a previously retired member terminates

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1 the subsequent employment with an affiliated public employer, he  
2 shall retire according to the provisions of the Public Employees  
3 Retirement Act, subject to the following conditions:

4 (a) payment of the pension shall resume  
5 in accordance with the provisions of Subsection A of this  
6 section;

7 (b) unless the previously retired member  
8 accrued at least three years of service credit on account of the  
9 subsequent employment, the recalculation of pension shall: 1)  
10 employ the form of payment selected by the previously retired  
11 member at the time of the first retirement; and 2) use the  
12 provisions of the coverage plan applicable to the member on the  
13 date of the first retirement; and

14 (c) the recalculated pension shall not be  
15 less than the amount of the suspended pension.

16 D. The provisions of Subsection C of this section  
17 shall not apply to a retired member who is appointed chief of  
18 police of an affiliated public employer, other than of the  
19 affiliated public employer from which retired, ~~[or]~~ who is  
20 appointed undersheriff or who is a former state police member  
21 employed to provide security services to buildings controlled by  
22 the New Mexico legislative council pursuant to Sections 2-3-4  
23 and 2-3-6 NMSA 1978, if the retired member files an irrevocable  
24 exemption from membership with the association within thirty  
25 days of appointment or employment. For purposes of this

. 114614. 1

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1 subsection, each sheriff's office shall be limited to one  
2 undersheriff. The irrevocable exemption shall be for the chief  
3 of police's or the undersheriff's term of office or the former  
4 state police member's term of employment. Filing of an  
5 irrevocable exemption shall irrevocably bar the retired member  
6 from acquiring service credit for the period of exemption from  
7 membership.

8 E. The provisions of Subsection C of this section  
9 shall not apply to any retired member who is subsequently  
10 employed by an employer who is not an affiliated public  
11 employer.

12 F. The provisions of Subsection C of this section  
13 shall not apply to a retired member who is elected to serve a  
14 term as an elected official if the retired member files an  
15 irrevocable exemption from membership with the association  
16 within thirty days of taking office. Filing of an irrevocable  
17 exemption shall irrevocably bar the retired member from  
18 acquiring service credit for the period of exemption from  
19 membership.

20 G. The pension of a member who has three or more  
21 years of service credit under each of two or more coverage plans  
22 shall be determined in accordance with the coverage plan that  
23 produces the highest pension. The pension of a member who has  
24 service credit under two or more coverage plans but who has  
25 three or more years of service credit under only one of those

. 114614. 1

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1 coverage plans shall be determined in accordance with the  
2 coverage plan in which the member has three or more years of  
3 service credit. If the service credit is acquired under two  
4 different coverage plans applied to the same affiliated public  
5 employer as a consequence of an election by the members,  
6 adoption by the affiliated public employer or a change in the  
7 law that results in the application of a coverage plan with a  
8 greater pension, the greater pension shall be paid a member  
9 retiring from the affiliated public employer under which the  
10 change in coverage plan took place regardless of the amount of  
11 service credit under the coverage plan producing the greater  
12 pension, provided the member has three or more years of  
13 continuous employment with that affiliated public employer  
14 immediately preceding or immediately preceding and immediately  
15 following the date the coverage plan changed. The provisions of  
16 each coverage plan for the purpose of this subsection shall be  
17 those in effect at the time the member ceased to be covered by  
18 the coverage plan. "Service credit", for the purposes of this  
19 subsection, shall be only personal service rendered an  
20 affiliated public employer and credited to the member under the  
21 provisions of Subsection A of Section 10-11-4 NMSA 1978.  
22 Service credited under any other provision of the Public  
23 Employees Retirement Act shall not be used to satisfy the  
24 three-year service credit requirement of this subsection."

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1 FORTY-THIRD LEGISLATURE  
2 FIRST SESSION, 1997  
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5 March 10, 1997  
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7 Mr. President:  
8

9 Your PUBLIC AFFAIRS COMMITTEE, to whom has been  
10 referred

11  
12 SENATE BILL 1083  
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14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.  
16

17 Respectfully submitted,  
18

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22 Shannon Robinson, Chairman  
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25 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

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The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Adair, Boitano, Vernon, Smith

Absent: None

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