

AN ACT

RELATING TO INSURANCE; AMENDING THE RETIREE HEALTH CARE ACT TO INCLUDE FORMER LEGISLATORS AND FORMER MEMBERS OF CERTAIN BOARDS; AMENDING THE PUBLIC SCHOOL INSURANCE AUTHORITY ACT TO INCLUDE LEGISLATORS AND PRIVATE SCHOOLS; CHANGING PROVISIONS AFFECTING SCHOOL BOARD MEMBERS IN THE PUBLIC SCHOOL INSURANCE AUTHORITY ACT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "authority" means the retiree health care authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those coverages generally associated with a medical plan of benefits;

D. "board" means the board of the retiree health care authority;

E. "current retiree" means an eligible retiree who is receiving a disability or normal retirement benefit under the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the Public Employees Retirement Reciprocity Act or the retirement program of an independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care coverage based upon that person's relationship to an eligible retiree as follows:

(1) a spouse;

(2) an unmarried child under the age of nineteen who is:

(a) a natural child;

(b) a legally adopted child;

(c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;

(d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or

(e) a foster child living in the same household;

(3) a child described in Subparagraphs (a) through (e) of Paragraph (2) of this subsection who is between the ages of nineteen and twenty-five and is a full-time student at an accredited educational institution; provided that "full-time student" shall be a student enrolled in and taking twelve or more semester hours or its equivalent contact hours in primary, secondary, undergraduate or vocational school or a student enrolled in and taking nine or more semester hours or its equivalent contact hours in graduate school;

(4) a dependent child over nineteen who is wholly dependent on the eligible retiree for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;

(5) a surviving spouse defined as follows:

(a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or

(b) "surviving spouse" means the spouse to whom a deceased vested active employee was married

at the time of death; or

(6) a surviving dependent child who is the dependent child of a deceased eligible retiree whose other parent is also deceased;

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county or public entity, each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(2) an "independent public employer", which means a municipality, county or public entity that is not a retirement system employer;

H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the

public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program pursuant to the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible pursuant to Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(2) a "salaried eligible participating entity governing authority member", which means a person who is not a retiree and who:

(a) has served with salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act;

(b) has maintained group health insurance through that member's governing authority, if such group health insurance was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program pursuant to the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible pursuant to Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(3) an "eligible participating retiree", which means a person who:

(a) falls within the definition of a retiree, has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(b) falls within the definition of a retiree, retired prior to July 1, 1990 and is certified to be a retiree by the educational retirement director, the

executive secretary of the public employees retirement association or the governing authority of an independent public employer; but this paragraph does not include a retiree who was an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act and did not after January 1, 1993 elect to become a participating employer; unless the retiree: 1) retired on or before June 30, 1990; and 2) at the time of retirement did not have a retirement health plan or retirement health insurance coverage available from his employer; or

(c) is a retiree who: 1) was at the time of retirement an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act, but which eligible employer subsequently elected after January 1, 1993 to become a participating employer; 2) has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires less than five years after the date participation begins, in which event the time period required for employee and employer contributions shall become the period of time between the date participation begins and the date of retirement; and 3)

is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(4) a "legislative member", which means a person who is not a retiree and who served as a member of the New Mexico legislature for at least four years but is no longer a member of the legislature and is certified to be a former member by the legislative council service; or

(5) a "former salaried or nonsalaried eligible participating entity governing authority member", which means a person who is not a retiree and who served with or without salary as a member of the governing authority of a participating entity for at least four years but is no longer a member of the governing authority and is certified to be a former member by the chief executive officer of the eligible participating entity;

I. "fund" means the retiree health care fund;

J. "group health insurance" means coverage that includes but is not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices, medicare supplement, medicare carveout, medicare coordination and other benefits, supplies



and services through the vehicles of indemnity coverages, health maintenance organizations, preferred provider organizations and other health care delivery systems as provided by the Retiree Health Care Act and other coverages considered by the board to be advisable;

K. "ineligible dependents" include but are not limited to:

(1) those dependents created by common law relationships;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers, sisters, grandchildren and other family members left in the care of an eligible retiree without evidence of legal guardianship; and

(4) anyone not specifically referred to as an eligible dependent pursuant to the rules and regulations adopted by the board;

L. "participating employee" means an employee of a participating employer, which employee has not been excluded from participation in the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

M. "participating employer" means an eligible employer who has satisfied the conditions for participating in the benefits of the Retiree Health Care Act, including the

requirements of Subsection M of Section 10-7C-7 NMSA 1978 and Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

N. "public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit pursuant to the Educational Retirement Act;

(b) a disability or normal retirement benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement

Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act."

Section 2. Section 10-7C-13 NMSA 1978 (being Laws 1990, Chapter 6, Section 13, as amended) is amended to read:

"10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS.--

A. Each eligible retiree shall pay a monthly premium for the basic plan in an amount set by the board not to exceed the sum of fifty dollars (\$50.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed three percent in any fiscal year. In addition to the monthly premium for the basic plan, each current retiree and nonsalaried eligible participating entity governing authority member who becomes an eligible retiree shall also pay monthly an additional participation fee set by the board. That fee shall be five dollars (\$5.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed three percent in any fiscal year. A legislative member or former salaried or nonsalaried eligible participating entity governing authority member shall pay monthly an amount equal to one-twelfth of the cost allocation by the board to the member of the claims and administrative costs of the selected plan. The additional monthly participation fee paid by the current retirees, legislative members and nonsalaried eligible participating entity

governing authority members who become eligible retirees shall be a consideration and a condition for being permitted to participate in the Retiree Health Care Act. Eligible dependents shall pay monthly premiums in amounts that with other money appropriated to the fund shall cover the cost of the basic plan for the eligible dependents.

B. Eligible retirees and eligible dependents shall pay monthly premiums to cover the cost of the optional plans that they elect to receive, and the board shall adopt rules for the collection of additional premiums from eligible retirees and eligible dependents participating in the optional plans. An eligible retiree or eligible dependent may authorize the authority in writing to deduct the amount of these premiums from the monthly annuity payments, if applicable.

C. The participating employers, active employees and retirees are responsible for the financial viability of the program. The overall financial viability is not an additional financial obligation of the state."

Section 3. Section 22-2-6.2 NMSA 1978 (being Laws 1986, Chapter 94, Section 2) is amended to read:

"22-2-6.2. PURPOSE OF ACT.--The purpose of the Public School Insurance Authority Act is to provide comprehensive core insurance programs for all participating private or public schools, charter schools, school board members,

legislators and private or public school employees and retirees by expanding the pool of subscribers to maximize cost-containment opportunities for required insurance coverage."

Section 4. Section 22-2-6.3 NMSA 1978 (being Laws 1986, Chapter 94, Section 3, as amended) is amended to read:

"22-2-6.3. DEFINITIONS.--As used in the Public School Insurance Authority Act:

A. "authority" means the public school insurance authority;

B. "board" means the board of directors of the public school insurance authority;

C. "director" means the director of the authority;

D. "educational entities" means state educational institutions as enumerated in Article 12, Section 11 of the constitution of New Mexico and other diploma-granting, degree-granting and certificate-granting elementary, secondary and post-secondary educational institutions;

E. "fund" means the public school insurance fund;

F. "group health insurance" means coverage that includes but is not limited to life insurance, accidental death and dismemberment, medical care and treatment, dental care, eye care and other coverages as determined by the authority;

G. "legislator" means a person certified by the legislative council service to be a member of the New Mexico legislature;

H. "risk-related coverage" means coverage that includes but is not limited to property and casualty, general liability, auto and fleet, workers' compensation and other casualty insurance;

I. "school board member" means a person serving as a member of the governing board of a school district and certified to be a member by the superintendent of that school district; and

J. "school district" means a school district as defined in Subsection K of Section 22-1-2 NMSA 1978, excluding any school district with a student enrollment in excess of sixty thousand students."

Section 5. Section 22-2-6.5 NMSA 1978 (being Laws 1986, Chapter 94, Section 5, as amended) is amended to read:

"22-2-6.5. BOARD CREATED--MEMBERSHIP--DUTIES.--

A. There is created the "board of directors of the public school insurance authority". The board shall be composed of eleven members, consisting of the following:

(1) one member to be selected by the state board;

(2) one school business official to be selected by the New Mexico school administrators;

(3) one board member of the New Mexico school boards association to be selected by the association;

(4) one superintendent to be selected by the New Mexico superintendents' association;

(5) three members to be selected by the New Mexico national education association and the New Mexico federation of teachers with the intent that representation be proportional to their respective membership, provided that each of these three members be currently employed as public school teachers employed by participating entities;

(6) one member to be selected by the board from lists submitted by the participating educational entities; and

(7) three members to be appointed by and serve at the pleasure of the governor. Such members shall not be employed by or on behalf of or be contracting with an employer participating in or eligible to participate in the authority.

B. Each member of the board shall serve at the pleasure of the party by which he has been appointed for a term not to exceed three years. Any board member who has been appointed and who misses four meetings of the board during a fiscal year shall be replaced and shall forfeit his position on the board, and his replacement shall be made by the organization affected. The board shall set minimum terms

of appointment and shall elect from its membership a president, vice president and secretary.

C. The board has the authority to hire a director and appoint such other officers and employees as it may deem necessary and has the authority to contract with consultants or other professional persons or firms as may be necessary to carry out the provisions of the Public School Insurance Authority Act. The board has the authority to provide for its full- and part-time employees, as it deems necessary, employee benefits insurance on the same basis as a member public school district may provide such employee benefits. In addition, the board has the authority to provide to members of the board and the employees risk coverages of the same scope and limitations as are allowed its member school districts to be provided to their local school boards. The board has the authority to provide employees an irrevocable option of qualifying for coverage pursuant to either the Educational Retirement Act or the Public Employees Retirement Act.

D. The members of the board shall receive per diem and mileage as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

Section 6. Section 22-2-6.7 NMSA 1978 (being Laws 1986, Chapter 94, Section 7, as amended) is amended to read:



"22-2-6.7. AUTHORITY--DUTIES.--In order to effectuate the purposes of the Public School Insurance Authority Act, the authority has the power to:

A. employ the services of the state fiscal agent or select its own fiscal agent pursuant to regulations adopted by the board; provided that for the purposes of disbursing all money other than that in the fund, the secretary of finance and administration shall be the fiscal agent for the authority;

B. enter into professional services and consulting contracts or agreements as necessary;

C. collect, provide for the investment of and disburse money in the fund;

D. collect all current and historical claims and financial information necessary for effective procurement of lines of insurance coverage;

E. promulgate necessary rules and procedures for implementation of the Public School Insurance Authority Act;

F. negotiate new insurance policies covering additional or lesser benefits as determined appropriate by the authority, but the authority shall maintain all coverage levels required by federal and state law for each participating member. In the event it is practical to wholly self-insure a particular line of coverage, the authority may do so;

G. procure lines of insurance coverage in compliance with the provisions of the Health Care Purchasing Act and the competitive sealed proposal process of the Procurement Code; provided that any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The board shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection;

H. purchase, renovate, equip and furnish a building for the board;

I. determine annually the monthly premiums for health care benefits coverage for legislators and school board members that shall be an amount equal to one-twelfth of the annual prevailing employer and employee contribution percentage; and

J. establish a central purchasing office to perform all procurement of goods and services."