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AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC  
EMPLOYEES RETIREMENT ACT TO ALLOW CERTAIN PUBLIC SAFETY  
EMPLOYEES TO RETURN TO WORK UNDER CERTAIN CONDITIONS.

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--RETURN TO EMPLOYMENT--  
BENEFITS CONTINUED--CONTRIBUTIONS.--

A. A member may retire upon fulfilling the  
following requirements prior to the selected date of  
retirement:

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

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

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

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

B. The amount of normal retirement pension is

1 determined in accordance with the coverage plan applicable to  
2 the member.

3 C. Except as provided in Subsections D, J and K of  
4 this section, on or after July 1, 2010, a retired member may  
5 be subsequently employed by an affiliated public employer  
6 only pursuant to the following provisions:

7 (1) the retired member has not been employed  
8 as an employee of an affiliated public employer or retained  
9 as an independent contractor by the affiliated public  
10 employer from which the retired member retired for at least  
11 twelve consecutive months from the date of retirement to the  
12 commencement of subsequent employment or reemployment with an  
13 affiliated public employer;

14 (2) the retired member's pension shall be  
15 suspended upon commencement of the subsequent employment;

16 (3) except as provided in Subsection F of  
17 this section, the retired member shall not become a member  
18 and shall not accrue service credit, and the retired member  
19 and that person's subsequent affiliated public employer shall  
20 not make contributions under any coverage plan pursuant to  
21 the Public Employees Retirement Act; and

22 (4) upon termination of the subsequent  
23 employment, the retired member's pension shall resume in  
24 accordance with the provisions of Subsection A of this  
25 section.

1           D. The provisions of Subsections C, G, H, J and K  
2 of this section do not apply to:

3                   (1) a retired member employed by the  
4 legislature for legislative session work;

5                   (2) a retired member employed temporarily as  
6 a precinct board member for a municipal election or an  
7 election covered by the Election Code; or

8                   (3) a retired member who is elected to serve  
9 a term as an elected official in an office covered pursuant  
10 to the Public Employees Retirement Act; provided that:

11                           (a) the retired member files an  
12 irrevocable exemption from membership with the association  
13 within thirty days of taking office; and

14                           (b) the irrevocable exemption shall be  
15 for the elected official's term of office.

16           E. A retired member who returns to employment  
17 during retirement pursuant to Subsection D of this section is  
18 entitled to receive retirement benefits but is not entitled  
19 to accrue service credit or to acquire or purchase service  
20 credit in the future for the period of the retired member's  
21 subsequent employment with an affiliated public employer.

22           F. At any time during a retired member's  
23 subsequent employment pursuant to Subsection C of this  
24 section, the retired member may elect to become a member and  
25 the following conditions shall apply:

1                   (1) the previously retired member and the  
2 subsequent affiliated public employer shall make the required  
3 employee and employer contributions, and the previously  
4 retired member shall accrue service credit for the period of  
5 subsequent employment; and

6                   (2) when the previously retired member  
7 terminates the subsequent employment with an affiliated  
8 public employer, the previously retired member shall retire  
9 according to the provisions of the Public Employees  
10 Retirement Act, subject to the following conditions:

11                   (a) payment of the pension shall resume  
12 in accordance with the provisions of Subsection A of this  
13 section;

14                   (b) unless the previously retired  
15 member accrued at least three years of service credit on  
16 account of the subsequent employment, the recalculation of  
17 pension shall: 1) employ the form of payment selected by  
18 the previously retired member at the time of the first  
19 retirement; and 2) use the provisions of the coverage plan  
20 applicable to the member on the date of the first retirement;  
21 and

22                   (c) the recalculated pension shall not  
23 be less than the amount of the suspended pension.

24                   G. A retired member who returned to work with an  
25 affiliated public employer prior to July 1, 2010 shall be

1 subject to the provisions of this section in effect on the  
2 date the retired member returned to work; provided that on  
3 and after July 1, 2010, the retired member shall pay the  
4 employee contribution in an amount specified in the Public  
5 Employees Retirement Act for the position in which the  
6 retired member is subsequently employed.

7 H. Effective July 1, 2014, if a retired member  
8 who, subsequent to retirement, is employed and covered  
9 pursuant to the provisions of the Magistrate Retirement Act  
10 or Judicial Retirement Act, during the period of subsequent  
11 employment:

12 (1) the member shall be entitled to receive  
13 retirement benefits;

14 (2) the retired member's cost-of-living  
15 pension adjustment shall be suspended upon commencement of  
16 the employment; and

17 (3) upon termination of the employment, the  
18 retired member's suspended cost-of-living pension adjustment  
19 shall be reinstated as provided under Section 10-11-118 NMSA  
20 1978.

21 I. The pension of a member who has earned service  
22 credit under more than one coverage plan shall be determined  
23 as follows:

24 (1) the pension of a member who has three or  
25 more years of service credit earned on or before June 30,

1 2013 under each of two or more coverage plans shall be  
2 determined in accordance with the coverage plan that produces  
3 the highest pension;

4 (2) the pension of a member who has service  
5 credit earned on or before June 30, 2013 under two or more  
6 coverage plans but who has three or more years of service  
7 credit under only one of those coverage plans shall be  
8 determined in accordance with the coverage plan in which the  
9 member has three or more years of service credit. If the  
10 service credit is acquired under two different coverage plans  
11 applied to the same affiliated public employer as a  
12 consequence of an election by the members, adoption by the  
13 affiliated public employer or a change in the law that  
14 results in the application of a coverage plan with a greater  
15 pension, the greater pension shall be paid a member retiring  
16 from the affiliated public employer under which the change in  
17 coverage plan took place regardless of the amount of service  
18 credit under the coverage plan producing the greater pension;  
19 provided that the member has three or more years of  
20 continuous employment with that affiliated public employer  
21 immediately preceding or immediately preceding and  
22 immediately following the date the coverage plan changed;

23 (3) the pension of a member who has service  
24 credit earned on or before June 30, 2013 under each of two or  
25 more coverage plans and who has service credit earned under

1 any coverage plan on or after July 1, 2013 shall be equal to  
2 the sum of:

3 (a) the pension attributable to the  
4 service credit earned on or before June 30, 2013 determined  
5 pursuant to Paragraph (1) or (2) of this subsection; and

6 (b) the pension attributable to the  
7 service credit earned under each coverage plan on or after  
8 July 1, 2013;

9 (4) the pension of a member who has service  
10 credit earned only on and after July 1, 2013 shall be equal  
11 to the sum of the pension attributable to the service credit  
12 the member has accrued under each coverage plan; and

13 (5) the provisions of each coverage plan for  
14 the purpose of this subsection shall be those in effect at  
15 the time the member ceased to be covered by the coverage  
16 plan. "Service credit", for the purposes of this subsection,  
17 shall be only personal service rendered an affiliated public  
18 employer and credited to the member under the provisions of  
19 Subsection A of Section 10-11-4 NMSA 1978. Service credited  
20 under any other provision of the Public Employees Retirement  
21 Act shall not be used to satisfy the three-year service  
22 credit requirement of this subsection.

23 J. A retired member may be subsequently employed  
24 by an affiliated public employer; provided that the retired  
25 member has not been employed as an employee of an affiliated

1 public employer or retained as an independent contractor by  
2 the affiliated public employer from which the retired member  
3 retired for at least ninety consecutive days from the date of  
4 retirement to the commencement of subsequent employment or  
5 reemployment with an affiliated public employer; and further  
6 provided that the:

7 (1) retired member shall only be employed in  
8 one of the following positions:

9 (a) adult correctional officer;  
10 (b) adult detention officer;  
11 (c) courthouse security officer;  
12 (d) emergency medical dispatcher;  
13 (e) emergency medical technician or  
14 paramedic;

15 (f) firefighter;  
16 (g) juvenile correctional officer;  
17 (h) juvenile detention officer;  
18 (i) municipal police officer;  
19 (j) peace officer;  
20 (k) protective services investigator;  
21 (l) public safety telecommunicator;  
22 (m) sheriff's deputy; or  
23 (n) state police officer;

24 (2) retired member shall have retired prior  
25 to December 31, 2023;

1 (3) retired member's pension, including any  
2 cost-of-living adjustment, shall continue to be paid during  
3 the period of subsequent employment;

4 (4) retired member shall not become a member  
5 during the period of subsequent employment;

6 (5) retired member shall not accrue service  
7 credit for any portion of the period of subsequent  
8 employment;

9 (6) retired member and the retired member's  
10 subsequent affiliated public employer shall make the  
11 contributions that would be required for members and  
12 employers under the applicable coverage plan during the  
13 entire period of subsequent employment;

14 (7) contributions paid by or on behalf of  
15 the retired member during the term of subsequent employment  
16 shall not be refundable at the termination of the subsequent  
17 employment;

18 (8) retired member shall have no seniority  
19 based on pre-retirement employment for purposes of selecting  
20 shifts;

21 (9) retired member shall have no limitation  
22 on the length of time that the retired member can be  
23 subsequently employed or reemployed by an affiliated public  
24 employer; provided that the retired member shall only receive  
25 up to thirty-six consecutive months of pension payments while

1 reemployed;

2 (10) retired member shall not be hired for  
3 reemployment into an employment position with a vacancy rate  
4 that is lower than ten percent at the time of the retired  
5 member's hiring; and

6 (11) subsequent employment begins prior to  
7 July 1, 2027.

8 K. An affiliated public employer that employs a  
9 retired member provided in Subsection J of this section  
10 shall:

11 (1) track and document:

12 (a) the date of hire and date of  
13 separation for each reemployed retired member;

14 (b) the retired member's employment  
15 position prior to retirement;

16 (c) the salary of each reemployed  
17 retired member; and

18 (d) the monthly vacancy rate for each  
19 employment position at the affiliated public employer; and

20 (2) if the affiliated public employer has to  
21 lay off employees due to budgetary restrictions, lay off  
22 reemployed retired members before laying off any members.

23 L. For the purposes of this section:

24 (1) "adult correctional officer" means a  
25 person who is employed as an adult correctional officer or an

1 adult correctional officer specialist by a state correctional  
2 facility of the corrections department or its successor  
3 agency;

4 (2) "adult detention officer" means a person  
5 who is employed by an affiliated public employer other than  
6 the state and who has inmate custodial responsibilities at a  
7 facility used for the confinement of adults charged with or  
8 convicted of a violation of a law or ordinance;

9 (3) "courthouse security officer" means a  
10 person who is employed by the administrative office of the  
11 courts who provides security or protective services for a  
12 courthouse;

13 (4) "emergency medical dispatcher" means a  
14 person who is trained and licensed pursuant to the Emergency  
15 Medical Services Act and who receives calls for emergency  
16 medical assistance, provides pre-arrival medical  
17 instructions, dispatches emergency medical assistance and  
18 coordinates its response;

19 (5) "emergency medical technician" means a  
20 person who is licensed as an emergency medical technician or  
21 paramedic and who provides patient care pursuant to the  
22 Emergency Medical Services Act;

23 (6) "firefighter" means a person who is  
24 employed as a full-time non-volunteer firefighter by an  
25 affiliated public employer who has taken the oath for

1 firefighters and who serves in a non-management position  
2 serving or supporting the delivery of emergency services in a  
3 front line capacity;

4 (7) "juvenile correctional officer" means a  
5 person who is employed as a juvenile correctional officer by  
6 the children, youth and families department or its successor  
7 agency;

8 (8) "juvenile detention officer" means a  
9 person who is employed as a juvenile detention officer or  
10 youth program officer by an affiliated public employer other  
11 than the state;

12 (9) "municipal police officer" means a  
13 person who is employed by an affiliated public employer other  
14 than the state or a county and who is a law enforcement  
15 officer who serves in a uniformed patrol capacity responding  
16 to dispatched calls for service;

17 (10) "peace officer" means a person who is  
18 appointed by the attorney general or district attorney and  
19 who is a certified law enforcement officer who investigates  
20 and enforces state laws, rules and regulations, including the  
21 execution of warrants;

22 (11) "protective services investigator"  
23 means a person who is an employee of the protective services  
24 division of the children, youth and families department who  
25 investigates child abuse referrals, assesses the risk and

1 safety of the child and takes appropriate action or prepares  
2 cases for transfer to child protective services permanency  
3 planning;

4 (12) "public safety telecommunicator" means  
5 a person who is an employee of a safety agency who receives  
6 calls or dispatches the appropriate personnel or equipment in  
7 response to calls for police, fire or medical services and  
8 makes decisions affecting the life, health or welfare of the  
9 public or safety employees and who has qualified for the  
10 certification set forth in the Public Safety Telecommunicator  
11 Training Act;

12 (13) "sheriff's deputy" means a person who  
13 is employed by a county and who is a law enforcement officer  
14 who serves in a uniformed patrol capacity responding to  
15 dispatched calls for service or serves as a courthouse  
16 security officer employed by a county; and

17 (14) "state police officer" means a person  
18 who is an officer of the New Mexico state police division of  
19 the department of public safety, who has taken the oath  
20 prescribed for such officers and who serves in a uniformed  
21 patrol capacity responding to dispatched calls for service."

22 SECTION 2. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2024. \_\_\_\_\_