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SENATE BILL 380

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Phillip A. Griego

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A NEW STATE
HAZARDOUS DUTY MEMBER COVERAGE PLAN FOR CORRECTIONAL
OFFICERS; CLARIFYING THE DEFINITION OF HAZARDOUS DUTY MEMBER.

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

Section 1. A new section of the Public Employees
Retirement Act is enacted to read:

"[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
PLAN 3--APPLICABILITY.--State hazardous duty member coverage
plan 3 is applicable to state hazardous duty members in the
first full pay period after July 1, 2000 if the retirement
board certifies to the secretary of state that a majority of
the members voting of those members to be covered under the
plan has voted to approved adoption of the plan. The
election shall be conducted by the retirement board in
accordance with procedures adopted by the retirement board."

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1 Section 2. A new section of the Public Employees
2 Retirement Act is enacted to read:

3 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
4 PLAN 3--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--

5 Under state hazardous duty member coverage plan 3, the age
6 and service requirements for normal retirement are:

7 A. age sixty-five years or older and five or more
8 years of credited service;

9 B. age sixty-four years and eight or more years of
10 credited service;

11 C. age sixty-three years and eleven or more years
12 of credited service;

13 D. age sixty-two years and fourteen or more years
14 of credited service;

15 E. age sixty-one years and seventeen or more years
16 of credited service; or

17 F. any age and twenty or more years of credited
18 service."

19 Section 3. A new section of the Public Employees
20 Retirement Act is enacted to read:

21 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
22 PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state

23 hazardous duty member coverage plan 3, the amount of pension
24 under form of payment A is equal to three and one-half
25 percent of final average salary multiplied by credited
service. The amount shall not exceed eighty percent of the
final average salary."

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1 Section 4. A new section of the Public Employees
2 Retirement Act is enacted to read:

3 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
4 PLAN 3--FINAL AVERAGE SALARY.--Under state hazardous duty
5 member coverage plan 3, the final average salary is one
6 thirty-sixth of the greatest aggregate amount of salary paid
7 a member for thirty-six consecutive months of credited
8 service. Under state hazardous duty member coverage plan 3,
9 if a member has less than thirty-six months of credited
10 service, the final average salary is the aggregate amount of
11 salary paid a member for the member's period of credited
12 service divided by the member's credited service."

13 Section 5. A new section of the Public Employees
14 Retirement Act is enacted to read:

15 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
16 PLAN 3--MEMBER CONTRIBUTION RATE.--A member under state
17 hazardous duty member coverage plan 3 shall contribute
18 seventeen and eight one-hundredths percent of salary starting
19 with the first full pay period that ends within the calendar
20 month in which state hazardous duty member coverage plan 3
21 becomes applicable to the member."

22 Section 6. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
25 PLAN 3--STATE CONTRIBUTION RATE.--The state shall contribute
twenty-five and seventy-two hundredths percent of the salary
of each member under state hazardous duty member coverage

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1 plan 3 starting with the first pay period that ends within
2 the calendar month in which state hazardous duty member
3 coverage plan 3 becomes applicable to the member."

4 Section 7. A new section of the Public Employees
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE
7 PLAN 3--SERVICE CREDIT UNDER THIS PLAN REQUIRED.--

8 Notwithstanding the provisions of Section 2 of this act, to
9 qualify for payment under state hazardous duty member
10 coverage plan 3, a member shall have three years of service
11 credit earned under the state hazardous duty member coverage
12 plan 3 subsequent to July 1, 2000."

13 Section 8. Section 10-11-2 NMSA 1978 (being Laws 1987,
14 Chapter 253, Section 2, as amended) is amended to read:

15 "10-11-2. DEFINITIONS.--As used in the Public Employees
16 Retirement Act:

17 A. "accumulated member contributions" means the
18 amounts deducted from the salary of a member and credited to
19 the member's individual account, together with interest, if
20 any, credited to that account;

21 B. "affiliated public employer" means the state
22 and any public employer affiliated with the association as
23 provided in the Public Employees Retirement Act, but does not
24 include an employer pursuant to the Magistrate Retirement
25 Act, the Judicial Retirement Act or the Educational
Retirement Act;

C. "association" means the public employees

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1 retirement association established under the Public Employees
2 Retirement Act;

3 D. "disability retired member" means a retired
4 member who is receiving a pension pursuant to the disability
5 retirement provisions of the Public Employees Retirement Act;

6 E. "disability retirement pension" means the
7 pension paid pursuant to the disability retirement provisions
8 of the Public Employees Retirement Act;

9 F. "educational retirement system" means that
10 retirement system provided for in the Educational Retirement
11 Act;

12 G. "employee" means any employee of an affiliated
13 public employer;

14 H. "federal social security program" means that
15 program or those programs created and administered pursuant
16 to the act of congress approved August 14, 1935, Chapter 531,
17 49 Stat. 620, as that act may be amended;

18 I. "final average salary" means the final average
19 salary calculated in accordance with the provisions of the
20 applicable coverage plan;

21 J. "form of payment" means the applicable form of
22 payment of a pension provided for in Section 10-11-117 NMSA
23 1978;

24 K. "former member" means a person who was
25 previously employed by an affiliated public employer, who has
terminated that employment and who has received a refund of
member contributions;

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- 1 L. "fund" means the funds included under the
- 2 Public Employees Retirement Act;
- 3 M. "member" means a currently employed,
- 4 contributing employee of an affiliated public employer, or a
- 5 person who has been but is not currently employed by an
- 6 affiliated public employer, who has not retired and who has
- 7 not received a refund of member contributions; "member" also
- 8 includes the following:
- 9 (1) "hazardous duty member" means ~~[a state~~
- 10 ~~policeman who is]~~ a member ~~[and]~~ who is a juvenile or adult
- 11 correctional officer employed by a corrections facility of
- 12 the corrections department or its successor agency;
- 13 (2) "municipal fire member" means any member
- 14 who is employed as a full-time nonvolunteer firefighter by an
- 15 affiliated public employer and who has taken the oath
- 16 prescribed for firefighters;
- 17 (3) "municipal police member" means any
- 18 member who is employed as a police officer by an affiliated
- 19 public employer, other than the state, and who has taken the
- 20 oath prescribed for police officers; and
- 21 (4) "state police member" means any member
- 22 who is an officer of the New Mexico state police and who has
- 23 taken the oath prescribed for such officers;
- 24 N. "membership" means membership in the
- 25 association;
- O. "pension" means a series of monthly payments to
a retired member or survivor beneficiary as provided in the

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1 Public Employees Retirement Act;

2 P. "public employer" means the state, any
3 municipality, city, county, metropolitan arroyo flood control
4 authority, economic development district, regional housing
5 authority, soil and water conservation district, entity
6 created pursuant to a joint powers agreement, council of
7 government, conservancy district, water and sanitation
8 district, water district and metropolitan water board,
9 including the boards, departments, bureaus and agencies of a
10 public employer, so long as these entities fall within the
11 meaning of governmental plan as that term is used in Section
12 414(d) of the Internal Revenue Code of 1986, as amended;

13 Q. "refund beneficiary" means a person designated
14 by the member, in writing, in the form prescribed by the
15 association, as the person who would be refunded the member's
16 accumulated member contributions payable if the member dies
17 and no survivor pension is payable or who would receive the
18 difference between pension paid and accumulated member
19 contributions if the retired member dies before receiving in
20 pension payments the amount of the accumulated member
21 contributions;

22 R. "retire" means to:

23 (1) terminate employment with all employers
24 covered by any state system or the educational retirement
25 system; and

(2) receive a pension from a state system or
the educational retirement system;

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1 S. "retired member" means a person who has met all
2 requirements for retirement and who is receiving a pension
3 from the fund;

4 T. "retirement board" means the retirement board
5 provided for in the Public Employees Retirement Act;

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

25 V. "state system" means the retirement programs
provided for in the Public Employees Retirement Act, the
Magistrate Retirement Act and the Judicial Retirement Act;

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W. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act; and

X. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member."