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SENATE BILL 435

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

INTRODUCED BY

Billy J. McKibben

AN ACT

**RELATING TO INSURANCE; AMENDING THE RETIREE HEALTH CARE ACT
TO INCLUDE FORMER LEGISLATORS, FORMER MEMBERS OF CERTAIN
BOARDS AND CERTAIN FORMER COUNTY AND MUNICIPAL OFFICERS;
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**

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1 Retirement Act or the Public Employees Retirement Reciprocity
2 Act or an employee of an independent public employer;

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

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

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

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

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

20 (1) a spouse;

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

23 (a) a natural child;

24 (b) a legally adopted child;

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

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

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

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

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

5 (5) a surviving spouse defined as follows:

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

8 (b) "surviving spouse" means the spouse
9 to whom a deceased vested active employee was married at the
10 time of death; or

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

14 G. "eligible employer" means either:

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

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

3 H. "eligible retiree" means:

4 (1) a "nonsalaried eligible participating
5 entity governing authority member", [~~who is~~] which means a
6 person who is not a retiree and who:

7 (a) has served without salary as a
8 member of the governing authority of an employer eligible to
9 participate in the benefits of the Retiree Health Care Act
10 and is certified to be such by the executive director of the
11 public school insurance authority;

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

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

20 (d) if a person eligible under
21 Subparagraph (a) of this paragraph applies before August 1,
22 1993 to the authority to participate in the program, then he
23 will be eligible to participate notwithstanding the
24 provisions of Subparagraphs (b) and (c) of this paragraph;

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

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

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

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

15 (d) if a person eligible under
16 Subparagraph (a) of this paragraph applies before August 1,
17 1993 to the authority to participate in the program, then he
18 will be eligible to participate notwithstanding the
19 provisions of Subparagraphs (b) and (c) of this paragraph;
20 [~~or~~]

21 (3) an "eligible participating retiree",
22 [~~who is~~] which means a person who:

23 (a) falls within the definition of a
24 retiree, has made contributions to the fund for at least five
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1 years prior to retirement and whose eligible employer during
2 that period of time made contributions as a participant in
3 the Retiree Health Care Act on the person's behalf, unless
4 that person retires on or before July 1, 1995, in which event
5 the time period required for employee and employer
6 contributions shall become the period of time between July 1,
7 1990 and the date of retirement, and who is certified to be a
8 retiree by the educational retirement director, the executive
9 secretary of the public employees retirement board or the
10 governing authority of an independent public employer;

11 (b) falls within the definition of a
12 retiree, retired prior to July 1, 1990 and is certified to be
13 a retiree by the educational retirement director, the
14 executive secretary of the public employees retirement
15 association or the governing authority [~~or~~] of an independent
16 public employer; but this paragraph does not include a
17 retiree who was an employee of an eligible employer who
18 exercised the option not to be a participating employer
19 pursuant to the Retiree Health Care Act and did not after
20 January 1, 1993 elect to become a participating employer;
21 unless the retiree: 1) retired on or before June 30, 1990;
22 and 2) at the time of retirement did not have a retirement
23 health plan or retirement health insurance coverage available
24 from his employer; or
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1 (c) is a retiree who: 1) was at the
2 time of retirement an employee of an eligible employer who
3 exercised the option not to be a participating employer
4 pursuant to the Retiree Health Care Act, but which eligible
5 employer subsequently elected after January 1, 1993 to become
6 a participating employer; 2) has made contributions to the
7 fund for at least five years prior to retirement and whose
8 eligible employer during that period of time made
9 contributions as a participant in the Retiree Health Care Act
10 on the person's behalf, unless that person retires less than
11 five years after the date participation begins, in which
12 event the time period required for employee and employer
13 contributions shall become the period of time between the
14 date participation begins and the date of retirement; and 3)
15 is certified to be a retiree by the educational retirement
16 director, the executive secretary of the public employees
17 retirement board or the governing authority of an independent
18 public employer;

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

24 (5) a "former eligible participating entity
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1 governing authority member", which means a person who is not
2 a retiree and who served as a member of the governing
3 authority of an eligible participating entity for at least
4 four years but is no longer a member of the governing
5 authority and is certified to be such by the chief executive
6 officer of the eligible participating entity;

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

8 J. "group health insurance" means coverage that
9 includes but is not limited to life insurance, accidental
10 death and dismemberment, hospital care and benefits, surgical
11 care and treatment, medical care and treatment, dental care,
12 eye care, obstetrical benefits, prescribed drugs, medicines
13 and prosthetic devices, medicare supplement, medicare
14 carveout, medicare coordination and other benefits, supplies
15 and services through the vehicles of indemnity coverages,
16 health maintenance organizations, preferred provider
17 organizations and other health care delivery systems as
18 provided by the Retiree Health Care Act and other coverages
19 considered by the board to be advisable;

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

22 (1) those dependents created by common law
23 relationships;

24 (2) dependents while in active military
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1 service;

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

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

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

13 M "participating employer" means an eligible
14 employer who has satisfied the conditions for participating
15 in the benefits of the Retiree Health Care Act, including the
16 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
17 Subsection D or E [~~or G~~] of Section 10-7C-9 NMSA 1978, as
18 applicable;

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

23 O. "retiree" means a person who:

24 (1) is receiving:
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1 (a) a disability or normal retirement
2 benefit or survivor's benefit under the Educational
3 Retirement Act;

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

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

13 (2) is not receiving a survivor's benefit
14 but is the eligible dependent of a person who received a
15 disability or normal retirement benefit pursuant to the
16 Educational Retirement Act, the Public Employees Retirement
17 Act, the Judicial Retirement Act, the Magistrate Retirement
18 Act or the Public Employees Retirement Reciprocity Act. "

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

21 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS. --

22 A. Each eligible retiree shall pay a monthly
23 premium for the basic plan in an amount set by the board not
24 to exceed [the sum of] fifty dollars (\$50.00) plus the
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1 amount, if any, of the compounded annual increases authorized
2 by the board, which increases shall not exceed nine percent
3 in any fiscal year. In addition to the monthly premium for
4 the basic plan, each current retiree and nonsalaried eligible
5 participating entity governing authority member who becomes
6 an eligible retiree shall also pay monthly an additional
7 participation fee set by the board. That fee shall be five
8 dollars (\$5.00) plus the amount, if any, of the compounded
9 annual increases authorized by the board, which increases
10 shall not exceed nine percent in any fiscal year. The
11 additional monthly participation fee paid by the current
12 retirees and nonsalaried eligible participating entity
13 governing authority members who become eligible retirees
14 shall be a consideration and a condition for being permitted
15 to participate in the Retiree Health Care Act. A legislative
16 member and a former eligible participating entity governing
17 authority member shall pay a monthly premium for any selected
18 plan equal to one-twelfth of the annual cost of the claims
19 and administrative costs of that plan allocated to the member
20 by the board. In addition, a legislative member and a former
21 eligible participating entity governing authority member
22 shall pay the additional monthly participation fee set by the
23 board pursuant to this subsection as a consideration and
24 condition for participation in the Retiree Health Care Act.
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1 Eligible dependents shall pay monthly premiums in amounts
2 that with other money appropriated to the fund shall cover
3 the cost of the basic plan for the eligible dependents.

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

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