

AN ACT

RELATING TO RETIREMENT FOR LOCAL GOVERNMENT HAZARDOUS DUTY MEMBERS; CREATING A NEW COVERAGE PLAN FOR LOCAL GOVERNMENT HAZARDOUS DUTY MEMBERS; PROVIDING FOR AN ELECTION; AMENDING AND ENACTING SECTIONS OF THE PUBLIC EMPLOYEES RETIREMENT ACT.

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

Section 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended) is amended to read:

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

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

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

C. "association" means the public employees retirement association established under the Public Employees Retirement Act;

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

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

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

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

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

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

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

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

L. "fund" means the funds included under the Public Employees Retirement Act;

M. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "hazardous duty member" means a correctional officer employed by a corrections facility of the corrections department or its successor agency;

(2) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

(3) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers;

(4) "state police member" means any member who is an officer of the New Mexico state police and who has taken the oath prescribed for such officers; and

(5) "local government hazardous duty member" means a county or municipal corrections employee in a class A county;

N. "membership" means membership in the

association;

O. "pension" means a series of monthly payments to a retired member or survivor beneficiary as provided in the Public Employees Retirement Act;

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

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

R. "retire" means to:

(1) terminate employment with all employers

covered by any state system or the educational retirement system; and

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

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

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

U. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a) (17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this section, "eligible employee" means an

individual who was a member of a state system before the first plan year beginning after December 31, 1995;

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

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. "

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

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN-- APPLICABILITY. --

A. Local government hazardous duty member coverage plan is applicable to hazardous duty members in the first full pay period after July 1, 2002 if the municipality or county certifies to the retirement board that, of those members to be covered under local government hazardous duty member coverage plan, a majority of the members voting has voted to approve adoption of this plan at an election conducted pursuant to Section 9 of this act.

B. Local government hazardous duty member

coverage plan may be applicable to a designated group of municipal or county hazardous duty members. A designated group may be local government hazardous duty members who opt in to the designated group, employed by the affiliated public employer, an organizational group whose compensation is established by negotiated contract or all members employed by the affiliated public employer, whose compensation is not established by negotiated contract. "

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

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN--  
AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--  
Under local government hazardous duty member coverage plan,  
the age and service credit requirements for normal  
retirement are:

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

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

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

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

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

F. any age and twenty or more years of credited

service. "

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

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN-- AMOUNT OF PENSION-- FORM OF PAYMENT A. -- Under local government hazardous duty member coverage plan, the amount of pension under form of payment A is equal to three and one-half percent of final average salary multiplied by service credit. The amount shall not exceed eighty percent of the final average salary. "

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

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN-- FINAL AVERAGE SALARY. -- Under local government hazardous duty member coverage plan 3, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive but not necessarily continuous months of service credit. Under local government hazardous duty member coverage plan, if a member has less than thirty-six months of service credit, the final average salary is the aggregate amount of salary paid a member for the member's period of service credit divided by the member's service credit. "

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

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN--



**MEMBER CONTRIBUTION RATE.** -- A member under local government hazardous duty member coverage plan shall contribute a percentage of salary as set by the retirement board starting with the first full pay period that ends within the calendar month in which local government hazardous duty member coverage plan becomes applicable to the member. "

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

**"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN-- STATE CONTRIBUTION RATE.** -- The local government shall contribute a percentage of salary of each member covered as set by the retirement board starting with the first full pay period that ends within the calendar month in which local government hazardous duty member coverage plan becomes applicable to the member. "

Section 8. A new section of the Public Employees Retirement Act is enacted to read:

**"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN-- SERVICE CREDIT UNDER THIS PLAN REQUIRED.** -- Notwithstanding the provisions of Section 2 of this act, to qualify for payment under local government hazardous duty member coverage plan, a member shall have three years of service credit earned under the local government hazardous duty member coverage plan subsequent to July 1, 2002. "

Section 9. A new section of the Public Employees Retirement Act is enacted to read:

"LOCAL GOVERNMENT HAZARDOUS DUTY MEMBER COVERAGE PLAN--  
ELECTION.--On or before October 1, 2001, the retirement  
board shall conduct an election to submit to potential  
members of a local government hazardous duty member coverage  
plan the question of adopting a local government hazardous  
duty coverage plan. The election shall be conducted in  
accordance with procedures adopted by the retirement board,  
and the retirement board shall certify the results of the  
election to the secretary of state on or before November 1,  
2001. "

Section 10. EFFECTIVE DATE.--The effective date of the  
provisions of this act is July 1, 2001. \_\_\_\_\_