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SENATE BILL 339

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Pete Campos

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
Retirement Act or the Public Employees Retirement Reciprocity**

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1 Act or an employee of an independent public employer;

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

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

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

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

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

19 (1) a spouse;

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

22 (a) a natural child;

23 (b) a legally adopted child;

24 (c) a stepchild living in the same
25 household who is primarily dependent on the eligible retiree

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1 for maintenance and support;

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

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

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

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

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1 board;

2 (5) a surviving spouse defined as follows:

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

5 (b) "surviving spouse" means the spouse
6 to whom a deceased vested active employee was married at the
7 time of death; or

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

11 G. "eligible employer" means either:

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

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

24 H. "eligible retiree" means:

25 (1) a "nonsalaried eligible participating

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1 entity governing authority member", [~~who is~~] which means a
2 person who is not a retiree and who:

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

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

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

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

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

24 (a) has served with salary as a member
25 of the governing authority of an employer eligible to

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1 participate in the benefits of the Retiree Health Care Act;

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

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

10 (d) if a person eligible under
11 Subparagraph (a) of this paragraph applies before August 1,
12 1993 to the authority to participate in the program, then he
13 will be eligible to participate notwithstanding the provisions
14 of Subparagraphs (b) and (c) of this paragraph; ~~[or]~~

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

17 (a) falls within the definition of a
18 retiree, has made contributions to the fund for at least five
19 years prior to retirement and whose eligible employer during
20 that period of time made contributions as a participant in the
21 Retiree Health Care Act on the person's behalf, unless that
22 person retires on or before July 1, 1995, in which event the
23 time period required for employee and employer contributions
24 shall become the period of time between July 1, 1990 and the
25 date of retirement, and who is certified to be a retiree by

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1 the educational retirement director, the executive secretary
2 of the public employees retirement board or the governing
3 authority of an independent public employer;

4 (b) falls within the definition of a
5 retiree, retired prior to July 1, 1990 and is certified to be
6 a retiree by the educational retirement director, the
7 executive secretary of the public employees retirement
8 association or the governing authority [~~or~~] of an independent
9 public employer; but this paragraph does not include a retiree
10 who was an employee of an eligible employer who exercised the
11 option not to be a participating employer pursuant to the
12 Retiree Health Care Act and did not after January 1, 1993
13 elect to become a participating employer; unless the retiree:
14 1) retired on or before June 30, 1990; and 2) at the time of
15 retirement did not have a retirement health plan or retirement
16 health insurance coverage available from his employer; or

17 (c) is a retiree who: 1) was at the
18 time of retirement an employee of an eligible employer who
19 exercised the option not to be a participating employer
20 pursuant to the Retiree Health Care Act, but which eligible
21 employer subsequently elected after January 1, 1993 to become
22 a participating employer; 2) has made contributions to the
23 fund for at least five years prior to retirement and whose
24 eligible employer during that period of time made
25 contributions as a participant in the Retiree Health Care Act

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1 on the person's behalf, unless that person retires less than
2 five years after the date participation begins, in which event
3 the time period required for employee and employer
4 contributions shall become the period of time between the date
5 participation begins and the date of retirement; and 3) is
6 certified to be a retiree by the educational retirement
7 director, the executive secretary of the public employees
8 retirement board or the governing authority of an independent
9 public employer;

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

15 (5) a "former eligible participating entity
16 governing authority member", which means a person who is not a
17 retiree and who served as a member of the governing authority
18 of an eligible participating entity for at least four years
19 but is no longer a member of the governing authority and is
20 certified to be such by the chief executive officer of the
21 eligible participating entity;

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

23 J. "group health insurance" means coverage that
24 includes but is not limited to life insurance, accidental
25 death and dismemberment, hospital care and benefits, surgical

1 care and treatment, medical care and treatment, dental care,
2 eye care, obstetrical benefits, prescribed drugs, medicines
3 and prosthetic devices, medicare supplement, medicare
4 carveout, medicare coordination and other benefits, supplies
5 and services through the vehicles of indemnity coverages,
6 health maintenance organizations, preferred provider
7 organizations and other health care delivery systems as
8 provided by the Retiree Health Care Act and other coverages
9 considered by the board to be advisable;

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

12 (1) those dependents created by common law
13 relationships;

14 (2) dependents while in active military
15 service;

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

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

23 L. "participating employee" means an employee of a
24 participating employer, which employee has not been excluded
25 from participation in the Retiree Health Care Act pursuant to

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1 Section 10-7C-10 NMSA 1978;

2 M "participating employer" means an eligible
3 employer who has satisfied the conditions for participating in
4 the benefits of the Retiree Health Care Act, including the
5 requirements of Subsection M of Section 10-7C-7 NMSA 1978 and
6 Subsection D or E [~~or G~~] of Section 10-7C-9 NMSA 1978, as
7 applicable;

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

12 O. "retiree" means a person who:

13 (1) is receiving:

14 (a) a disability or normal retirement
15 benefit or survivor's benefit under the Educational Retirement
16 Act;

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

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

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1 (2) is not receiving a survivor's benefit but
2 is the eligible dependent of a person who received a
3 disability or normal retirement benefit pursuant to the
4 Educational Retirement Act, the Public Employees Retirement
5 Act, the Judicial Retirement Act, the Magistrate Retirement
6 Act or the Public Employees Retirement Reciprocity Act. "

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

9 "10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE
10 PLANS. --

11 A. Each eligible retiree shall pay a monthly
12 premium for the basic plan in an amount set by the board not
13 to exceed fifty dollars (\$50.00) plus the amount, if any, of
14 the compounded annual increases authorized by the board, which
15 increases shall not exceed nine percent in any fiscal year.
16 In addition to the monthly premium for the basic plan, each
17 current retiree and nonsalaried eligible participating entity
18 governing authority member who becomes an eligible retiree
19 shall also pay monthly an additional participation fee set by
20 the board. That fee shall be five dollars (\$5.00) plus the
21 amount, if any, of the compounded annual increases authorized
22 by the board, which increases shall not exceed nine percent in
23 any fiscal year. The additional monthly participation fee
24 paid by the current retirees and nonsalaried eligible
25 participating entity governing authority members who become

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1 eligible retirees shall be a consideration and a condition for
2 being permitted to participate in the Retiree Health Care Act.
3 A legislative member and a former eligible participating
4 entity governing authority member shall pay a monthly premium
5 for any selected plan equal to one-twelfth of the annual cost
6 of the claims and administrative costs of that plan allocated
7 to the member by the board. In addition, a legislative member
8 and a former eligible participating entity governing authority
9 member shall pay the additional monthly participation fee set
10 by the board pursuant to this subsection as a consideration
11 and condition for participation in the Retiree Health Care
12 Act. Eligible dependents shall pay monthly premiums in
13 amounts that with other money appropriated to the fund shall
14 cover the cost of the basic plan for the eligible dependents.

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

24 C. The participating employers, active employees
25 and retirees are responsible for the financial viability of

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1 the program. The overall financial viability is not an
2 additional financial obligation of the state.

3 D. For eligible retirees who become eligible for
4 participation on or after July 1, 2001, the board may
5 determine monthly premiums based on the retirees' years of
6 credited service with participating employers. "

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