

AN ACT
RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A NEW RETIREMENT
PLAN FOR MUNICIPAL DETENTION OFFICERS; REVISING THE STATE POLICE
MEMBER COVERAGE PLAN 1 TO INCLUDE ADULT CORRECTIONAL OFFICERS;
PROVIDING FOR ELECTIONS; AMENDING AND ENACTING CERTAIN SECTIONS OF
THE PUBLIC EMPLOYEES RETIREMENT ACT.

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

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

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

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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;

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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) "adult correctional officer member" means a member who is an adult correctional officer or an adult correctional officer specialist employed by a correctional facility of the corrections department or its successor agency;

(2) "hazardous duty member" means a member who is a

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juvenile correctional officer employed by the children, youth and families department or its successor agency;

(3) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(4) "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;

(5) "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; and

(6) "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;

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

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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

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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 subsection, "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:

"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--
APPLICABILITY.--Municipal detention officer member coverage plan 1 is applicable to municipal detention officer members on the later of July 1, 2004 or the first day of the calendar month following certification of the election adopting municipal detention officer member coverage plan 1 by an affirmative vote of the majority of the affiliated public employer's municipal detention officer members. The election shall be conducted by the affiliated public employer. The certification shall be in the form

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prescribed by the retirement board. The election procedures shall afford all municipal detention officer members of the affiliated public employer an opportunity to vote. An election adopting municipal detention officer member coverage plan 1 for a given affiliated public employer is irrevocable for the purpose of subsequently adopting a coverage plan that would decrease employer or employee contributions with respect to all current and future municipal detention officer members of that affiliated public employer."

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

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"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT --CALCULATION OF CREDITED SERVICE.--

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A. Under municipal detention officer member coverage plan 1, the age and service requirements for normal retirement are:

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- (1) age sixty-five years or older and five or more years of credited service;
- (2) age sixty-four years and eight or more years of credited service;
- (3) age sixty-three years and eleven or more years of credited service;
- (4) age sixty-two years and fourteen or more years of credited service;
- (5) age sixty-one years and seventeen or more years of credited service;

(6) age sixty years and twenty or more years of credited service; or
(7) any age and twenty-five or more years of credited service.

B. In calculating credited service for the purposes of determining retirement eligibility and amount of pension, the credited service of a municipal detention officer member shall have actual credited service increased by twenty percent for the purposes of municipal detention officer member coverage plan 1."

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

"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal detention officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. 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:

"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under municipal detention officer member coverage plan 1, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive months of credited service."

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

"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal detention officer member

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coverage plan 1 shall contribute sixteen and sixty-five hundredths percent of salary starting with the first full pay period that ends within the calendar month in which municipal detention officer member coverage plan 1 becomes applicable to the member."

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

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"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute sixteen and sixty-five hundredths percent of the salary of each member under municipal detention officer member coverage plan 1 starting with the first pay period that ends within the calendar month in which municipal detention officer member coverage plan 1 becomes applicable to the member."

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

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"MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED FOR MUNICIPAL DETENTION OFFICER MEMBERS.-- Notwithstanding other provisions of the Public Employees Retirement Act, to qualify for retirement pursuant to municipal detention officer member coverage plan 1, a municipal detention officer member shall have eighteen months of service credit earned under that coverage plan."

Section 9. Section 10-11-27 NMSA 1978 (being Laws 1987, Chapter 253, Section 27) is amended to read:

"10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY.--

A. State police member and adult correctional officer member coverage plan 1 is applicable to state police members who are not specifically covered by another coverage plan and adult correctional officer members. The credited service of a state police member who has held the permanent rank of patrolman or sergeant and does not hold an exempt rank or who is assigned to the aircraft division as a pilot, or of an adult correctional officer member, shall have actual credited service increased by twenty percent for the purposes of state police member and adult correctional officer member coverage plan 1.

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B. State police member and adult correctional officer member coverage plan 1 is applicable to adult correctional officer members in the first full pay period after July 1, 2004 if the retirement board certifies to the secretary of state that, of those adult correctional officer members to be covered under state police member and adult correctional officer member coverage plan 1, a majority of the members voting have voted to approve adoption of that plan at an election conducted pursuant to Section 16 of this 2003 act."

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Section 10. A new section of the Public Employees Retirement Act, Section 10-11-27.1 NMSA 1978, is enacted to read:

"10-11-27.1. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--SERVICE CREDIT REQUIRED.--

Notwithstanding the provisions of Section 10-11-27 NMSA 1978, to qualify for payment under state police member and adult correctional officer member coverage plan 1, an adult correctional officer member shall have eighteen months of service credit earned under the state police member and adult correctional officer member coverage plan 1 subsequent to July 1, 2004."

Section 11. Section 10-11-28 NMSA 1978 (being Laws 1987, Chapter 253, Section 28) is amended to read:

"10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under state police member and adult correctional officer member coverage plan 1, the age and service 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;
- F. age sixty years and twenty or more years of credited service; or
- G. any age and twenty-five or more years of credited service."

Section 12. Section 10-11-29 NMSA 1978 (being Laws 1987, Chapter 253, Section 29) is amended to read:

"10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.-- Under state police member and adult correctional officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by credited service. The amount shall not exceed eighty percent of the final average salary."

Section 13. Section 10-11-30 NMSA 1978 (being Laws 1987, Chapter 253,

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Section 30) is amended to read:

"10-11-30. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under state police member and adult correctional officer member coverage plan 1, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive months of credited service. Under state police member and adult correctional officer member coverage plan 1, if a state police member has less than thirty-six months of credited service, the final average salary is the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service."

Section 14. Section 10-11-31 NMSA 1978 (being Laws 1987, Chapter 253, Section 31) is amended to read:

"10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under state police member and adult correctional officer member coverage plan 1 shall contribute seven and six-tenths percent of salary."

Section 15. Section 10-11-32 NMSA 1978 (being Laws 1987, Chapter 253, Section 32) is amended to read:

"10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-five and one-tenth percent of the salary of each member under state police member and adult correctional officer member coverage plan 1."

Section 16. TEMPORARY PROVISION--STATE POLICE MEMBER AND ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTIONS.--On or

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before October 1, 2003, the retirement board shall conduct an election to submit to adult correctional officer members currently contributing under hazardous duty coverage plan 2 the question of adopting a state police member and adult correctional officer member coverage plan 1. 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, 2003.

Section 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2003.

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