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SENATE BILL 86

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO PENSIONS; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO PROVIDE A LIMIT IN THE CALCULATION OF THE FINAL AVERAGE SALARY OF NON-PUBLIC SAFETY MEMBERS; DEFINING "PUBLIC SAFETY MEMBER"; AMENDING THE EDUCATIONAL RETIREMENT ACT TO PROVIDE A LIMIT IN THE CALCULATION OF ANNUAL AVERAGE SALARY.

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

SECTION 1. Section 10-11-14.6 NMSA 1978 (being Laws 2009, Chapter 288, Section 12) is amended to read:

"10-11-14.6. CALCULATION OF FINAL AVERAGE SALARY--  
LIMITATIONS.--

A. Under each coverage plan of the Public Employees Retirement Act, ~~the~~ a member's final average salary is one thirty-sixth of the greatest aggregate amount of salary paid ~~a~~ the member for thirty-six consecutive but not necessarily

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1 continuous months of service credit; provided, however, for all  
2 members except public safety members as defined in Subsection B  
3 of this section, if the member's salary paid in any year  
4 beginning on or after July 1, 2013 is an amount that exceeds  
5 that of the previous year by more than twenty percent:

6 (1) the amount in excess of twenty percent  
7 shall be excluded in the computation of the member's final  
8 average salary; and

9 (2) the salary, as adjusted to exclude any  
10 increase in excess of the twenty percent limitation as provided  
11 in this subsection, shall be used to determine if the salary  
12 paid in the subsequent year exceeds the twenty percent  
13 limitation.

14 B. As used in this section, "public safety member"  
15 means a peace officer under state general member coverage plan  
16 3 or a member under:

17 (1) state police member and adult correctional  
18 officer member coverage plan 1;

19 (2) state hazardous duty member coverage plan  
20 1;

21 (3) state hazardous duty member coverage plan  
22 2;

23 (4) municipal police member coverage plan 1;

24 (5) municipal police member coverage plan 2;

25 (6) municipal police member coverage plan 3;

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- 1                   (7) municipal police member coverage plan 4;  
2                   (8) municipal police member coverage plan 5;  
3                   (9) municipal fire member coverage plan 1;  
4                   (10) municipal fire member coverage plan 2;  
5                   (11) municipal fire member coverage plan 3;  
6                   (12) municipal fire member coverage plan 4;  
7                   (13) municipal fire member coverage plan 5; or  
8                   (14) municipal detention officer member  
9                   coverage plan 1."

10                   SECTION 2. Section 22-11-30 NMSA 1978 (being Laws 1967,  
11 Chapter 16, Section 153, as amended by Laws 2009, Chapter 286,  
12 Section 3 and by Laws 2009, Chapter 288, Section 17) is amended  
13 to read:

14                   "22-11-30. RETIREMENT BENEFITS.--

15                   A. Retirement benefits for a member retired  
16 pursuant to the Educational Retirement Act on or before  
17 June 30, 1967 shall be paid monthly and shall be one-twelfth of  
18 a sum equal to one and one-half percent of the first four  
19 thousand dollars (\$4,000) of the member's average annual salary  
20 and one percent of the remainder of the member's average annual  
21 salary multiplied by the number of years of the member's total  
22 service credit.

23                   B. Retirement benefits for a member retired  
24 pursuant to the Educational Retirement Act on or after July 1,  
25 1967 but on or before June 30, 1971 shall be paid monthly and

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1 shall be one-twelfth of a sum equal to one and one-half percent  
2 of the first six thousand six hundred dollars (\$6,600) of the  
3 member's average annual salary and one percent of the remainder  
4 of the member's average annual salary multiplied by the number  
5 of years of the member's total service credit.

6 C. Retirement benefits for a member retired  
7 pursuant to the Educational Retirement Act on or after July 1,  
8 1971 but on or before June 30, 1974 shall be paid monthly and  
9 shall be one-twelfth of a sum equal to one and one-half percent  
10 of the member's average annual salary multiplied by the number  
11 of years of the member's total service credit.

12 D. Retirement benefits for a member retired  
13 pursuant to the Educational Retirement Act on or before  
14 June 30, 1974 but returning to employment on or after July 1,  
15 1974 for a cumulation of one or more years shall be computed  
16 pursuant to Subsection E of this section. Retirement benefits  
17 for a member retired pursuant to the Educational Retirement Act  
18 on or before June 30, 1974 but returning to employment on or  
19 after July 1, 1974 for a cumulation of less than one year shall  
20 be computed pursuant to Subsection A of this section if the  
21 member's date of last retirement was on or before June 30, 1967  
22 or pursuant to Subsection B of this section if the member's  
23 date of last retirement was on or after July 1, 1967 but not  
24 later than June 30, 1971 or pursuant to Subsection C of this  
25 section if the member's date of last retirement was on or after

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1 July 1, 1971 but not later than June 30, 1974.

2 E. Retirement benefits for a member age sixty years  
3 or [~~over~~] older, retired pursuant to the Educational Retirement  
4 Act on or after July 1, 1974 but not later than June 30, 1987,  
5 shall be paid monthly and shall be one-twelfth of a sum equal  
6 to:

7 (1) one and one-half percent of the member's  
8 average annual salary multiplied by the number of years of  
9 service credit for:

10 (a) prior employment; and

11 (b) allowed service credit for service  
12 performed prior to July 1, 1957, except United States military  
13 service credit purchased pursuant to Paragraph (3) of  
14 Subsection A of Section 22-11-34 NMSA 1978; plus

15 (2) two percent of the member's average annual  
16 salary multiplied by the number of years of service credit for:

17 (a) contributory employment;

18 (b) allowed service credit for service  
19 performed after July 1, 1957; and

20 (c) United States military service  
21 credit for service performed prior to July 1, 1957 and  
22 purchased pursuant to Paragraph (3) of Subsection A of Section  
23 22-11-34 NMSA 1978.

24 F. Retirement benefits for a member age sixty  
25 years or [~~over~~] older, retired pursuant to the Educational

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1 Retirement Act on or after July 1, 1987 but not later than June  
2 30, 1991, shall be paid monthly and shall be one-twelfth of a  
3 sum equal to two and fifteen hundredths percent of the member's  
4 average annual salary multiplied by the number of years of the  
5 member's total service credit; provided that this subsection  
6 shall not apply to any member who was retired in any of the  
7 four quarters ending on June 30, 1987 without having  
8 accumulated not less than 1.0 years earned service credit after  
9 June 30, 1987.

10 G. Retirement benefits for a member age sixty  
11 years or [~~over~~] older, retired pursuant to Section 22-11-23  
12 NMSA 1978 on or after July 1, 1991, shall be paid monthly and  
13 shall be one-twelfth of a sum equal to two and thirty-five  
14 hundredths percent of the member's average annual salary  
15 multiplied by the number of years of the member's total service  
16 credit; provided that this subsection shall not apply to any  
17 member who was retired in any of the four consecutive quarters  
18 ending on June 30, 1991 without having accumulated at least one  
19 year earned service credit beginning on or after July 1, 1991.

20 H. Retirement benefits for a member, retired  
21 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid monthly  
22 and shall be one-twelfth of a sum equal to two and thirty-five  
23 hundredths percent of the member's average annual salary  
24 multiplied by the number of years of the member's total service  
25 credit; provided that the benefit for a member retiring

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1 pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1  
2 NMSA 1978 shall be reduced by:

3 (1) six-tenths of one percent for each one-  
4 fourth, or portion thereof, year that retirement occurs prior  
5 to the member's sixty-fifth birthday but after the sixtieth  
6 birthday; and

7 (2) one and eight-tenths percent for each one-  
8 fourth, or portion thereof, year that retirement occurs prior  
9 to the member's sixtieth birthday.

10 I. A member's average annual salary, pursuant to  
11 this section, shall be computed on the basis of the last five  
12 years for which contribution was made or upon the basis of any  
13 consecutive five years for which contribution was made by the  
14 member, whichever is higher; provided, however [~~that lump-sum~~  
15 ~~payments made after July 1, 2010 of accrued sick leave or~~  
16 ~~annual leave shall be excluded from the calculation of salary]:~~

17 (1) if the salary paid in any year beginning  
18 on or after July 1, 2013 exceeds that of the previous year by  
19 more than twenty percent:

20 (a) the amount in excess of twenty  
21 percent shall be excluded in the computation of average annual  
22 salary; and

23 (b) the salary, as adjusted to exclude  
24 any increase of the twenty percent limitation, shall be used  
25 to determine if the salary paid in the subsequent year exceeds

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1 the twenty percent limitation; and

2 (2) lump-sum payments made after July 1, 2013  
3 of accrued sick leave or annual leave shall be excluded from  
4 the calculation of salary.

5 J. Unless otherwise required by the provisions of  
6 the Internal Revenue Code of 1986, members shall begin  
7 receiving retirement benefits by age seventy and six months, or  
8 upon termination of employment, whichever occurs later."

9 SECTION 3. EFFECTIVE DATE.--The effective date of the  
10 provisions of this act is July 1, 2013.

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