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HOUSE BILL 116

**52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

INTRODUCED BY

Jimmie C. Hall

AN ACT

RELATING TO PUBLIC EMPLOYEES; PROVIDING THAT PROVISIONAL MEMBER  
EMPLOYEES UNDER THE EDUCATIONAL RETIREMENT ACT SHALL CHOOSE OR  
DECLINE PARTICIPATION IN THE RETIREE HEALTH CARE ACT.

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

**SECTION 1.** Section 10-7C-9 NMSA 1978 (being Laws 1990,  
Chapter 6, Section 9, as amended) is amended to read:

"10-7C-9. PARTICIPATION.--

A. All eligible employers shall participate in the  
Retiree Health Care Act, except as provided in Subsection [~~D or~~  
~~Subsection~~] B, E or F of this section. Participating employers  
are required to continue existing group health insurance  
coverages until such time as similar coverages are offered by  
the board.

B. An eligible employee who is a "provisional

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1 member" as defined in the Educational Retirement Act may  
2 decline to participate in the Retiree Health Care Act.

3 ~~[B-]~~ C. Participation in the basic health insurance  
4 coverages provided by the authority shall be conditioned upon  
5 receipt by the board of a certificate of eligibility from the  
6 educational retirement director, the executive secretary of the  
7 public employees retirement association, the executive director  
8 of the public school insurance authority or the governing body  
9 of an independent public employer. Once eligibility is  
10 established for each eligible retiree, the board shall  
11 contribute from money in the fund the authority's portion of  
12 the premium for the basic plan of benefits commencing no  
13 earlier than January 1, 1991 plus the balance of the premium,  
14 which shall be collected from the retiree.

15 ~~[G-]~~ D. Each eligible retiree shall accept or  
16 reject enrollment in the basic plan of benefits on an  
17 enrollment form provided by the board. An eligible retiree who  
18 rejects enrollment or fails to return a properly executed  
19 enrollment form within the open enrollment period as  
20 established by the board forfeits all entitlement and  
21 eligibility for benefits under the Retiree Health Care Act  
22 until the next open enrollment period as established by the  
23 board.

24 ~~[D-]~~ E. On or before January 1, 1991,  
25 municipalities, counties and institutions of higher education

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1 that are retirement system employers may at their option  
2 determine by ordinance, or for institutions of higher  
3 education, by resolution, to be excluded from coverage under  
4 the Retiree Health Care Act; that determination shall be  
5 subject to the following conditions:

6 (1) any contributions paid into the fund by a  
7 municipality, county or institution of higher education that  
8 exercises timely an irrevocable option not to participate in  
9 the Retiree Health Care Act under this subsection shall be  
10 returned without interest to that municipality, county or  
11 institution of higher education for return of the employee  
12 contributions to the employees and for crediting of the  
13 employer contributions to the appropriate fund of the  
14 municipality, county or institution of higher education. If  
15 the determination to be excluded from coverage is exercised by  
16 a municipality, county or institution of higher education prior  
17 to July 1, 1990, then that municipality, county or institution  
18 of higher education shall not be required to make the  
19 contributions that would otherwise be required by Section  
20 10-7C-15 NMSA 1978;

21 (2) any municipality, county or institution of  
22 higher education, in addition to complying with all other  
23 required notice and public hearing or meeting requirements,  
24 shall, no less than thirty days prior to the public hearing or  
25 public meeting on a proposed ordinance or proposed resolution,

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1 notify the authority of the public hearing or public meeting by  
2 certified mail; and

3 (3) in the event that:

4 (a) the number of active employees  
5 employed by municipalities contributing to the fund reaches a  
6 number equaling sixty percent or more of all active employees  
7 employed by all municipalities that are retirement system  
8 employers, the municipal position on the board of the authority  
9 shall be restored within sixty days of the date that percentage  
10 is reached; provided, however, that if a municipality with a  
11 population greater than one hundred thousand that is located in  
12 a class A county exercises this option, then the sixty-percent  
13 requirement shall be applied to the remaining municipalities  
14 only;

15 (b) the number of active employees  
16 employed by counties contributing to the fund reaches a number  
17 equaling sixty percent or more of all active employees employed  
18 by all counties that are retirement system employers, the  
19 county position on the board of the authority shall be restored  
20 within sixty days of the date that percentage is reached;  
21 provided, however, that if a class A county exercises this  
22 option, then the eighty-percent requirement shall be applied to  
23 the remaining counties only; or

24 (c) the number of active employees  
25 employed by institutions of higher learning contributing to the

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1 fund reaches a number equaling seventy percent or more of all  
2 active employees employed by an institution of higher education  
3 contributing to the educational retirement fund, the  
4 institution of higher education position on the board shall be  
5 restored within sixty days of the date that percentage is  
6 reached.

7 ~~[E-]~~ F. An independent public employer may become a  
8 participating employer if that employer satisfies the  
9 requirements imposed pursuant to Subsection M of Section  
10 10-7C-7 NMSA 1978 and if that employer also files with the  
11 authority on or prior to January 1, 1991 or prior to July 1,  
12 1993 or July 1 of any year a written irrevocable election by  
13 the governing body of that employer to participate in the  
14 Retiree Health Care Act. Any such independent public employer  
15 or retirement system employer, as defined in Subsection G of  
16 Section 10-7C-4 NMSA 1978, that chooses to become a  
17 participating employer after January 1, 1998 shall begin making  
18 the appropriate employer and employee contributions to the fund  
19 on the July 1 immediately following the adoption of the  
20 ordinance or resolution. On the following January 1, eligible  
21 retirees of those participating employers and their eligible  
22 dependents shall be eligible to receive group health insurance  
23 coverage pursuant to the provisions of the Retiree Health Care  
24 Act.

25 ~~[F-]~~ G. A municipality or county that enacted an

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1 ordinance or an institution of higher education that enacted a  
2 resolution prior to January 1, 1991 pursuant to Subsection [D]  
3 E of this section to be excluded from coverage under the  
4 Retiree Health Care Act may become a participating employer if  
5 that employer satisfies the requirements imposed pursuant to  
6 Subsection M of Section 10-7C-7 NMSA 1978 and if that employer  
7 also enacts an ordinance or resolution, as applicable, after a  
8 public hearing and published notice of the hearing, prior to  
9 July 1, 1993 or July 1 of any year to choose to become a  
10 participating employer under the Retiree Health Care Act. Any  
11 such municipality, county or institution of higher education  
12 that chooses to become a participating employer after January  
13 1, 1998 shall begin making the appropriate employer and  
14 employee contributions determined by the board to the fund on  
15 the July 1 immediately following the adoption of the ordinance  
16 or resolution. On the following January 1, eligible retirees  
17 of those participating employers and their eligible dependents  
18 shall be eligible to receive group health insurance coverage  
19 pursuant to the provisions of the Retiree Health Care Act."