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AN ACT

RELATING TO RETIREMENT; ALLOWING COST-OF-LIVING ADJUSTMENT
INCREASES TO RETIRED LAW ENFORCEMENT OFFICERS HIRED AS SCHOOL
SECURITY PERSONNEL.

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

SECTION 1. Section 10-11-8 NMSA 1978 (being Laws 1987,
Chapter 253, Section 8, as amended by Laws 2014, Chapter 35,
Section 1 and by Laws 2014, Chapter 39, Section 1 and also by
Laws 2014, Chapter 43, Section 1) is amended to read:

"10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--
BENEFITS CONTINUED--CONTRIBUTIONS.--

A. A member may retire upon fulfilling the
following requirements prior to the selected date of
retirement:

(1) a written application for normal
retirement, in the form prescribed by the association, is
filed with the association;

(2) employment is terminated with all
employers covered by any state system or the educational
retirement system;

(3) the member selects an effective date of
retirement that is the first day of a calendar month; and

(4) the member meets the age and service
credit requirement for normal retirement specified in the

1 coverage plan applicable to the member.

2 B. The amount of normal retirement pension is
3 determined in accordance with the coverage plan applicable to
4 the member.

5 C. Except as provided in Subsection E of this
6 section, on or after July 1, 2010, a retired member may be
7 subsequently employed by an affiliated public employer only
8 pursuant to the following provisions:

9 (1) the retired member has not been employed
10 as an employee of an affiliated public employer or retained
11 as an independent contractor by the affiliated public
12 employer from which the retired member retired for at least
13 twelve consecutive months from the date of retirement to the
14 commencement of subsequent employment or reemployment with an
15 affiliated public employer;

16 (2) the retired member's pension shall be
17 suspended upon commencement of the subsequent employment;

18 (3) except as provided in Subsection G of
19 this section, the retired member shall not become a member
20 and shall not accrue service credit, and the retired member
21 and that person's subsequent affiliated public employer shall
22 not make contributions under any coverage plan pursuant to
23 the Public Employees Retirement Act; and

24 (4) upon termination of the subsequent
25 employment, the retired member's pension shall resume in

1 accordance with the provisions of Subsection A of this
2 section.

3 D. Notwithstanding the provisions of Subsection B
4 of Section 10-11-118 NMSA 1978, on and after July 1, 2013, if
5 a retired member becomes employed with an employer pursuant
6 to the Educational Retirement Act, and effective
7 July 1, 2014, if a retired member who, subsequent to
8 retirement, is employed and covered pursuant to the Judicial
9 Retirement Act, and, effective July 1, 2014, if a retired
10 member who, subsequent to retirement, is employed and covered
11 pursuant to the Magistrate Retirement Act:

12 (1) the retired member's cost-of-living
13 pension adjustment shall be suspended upon commencement of
14 the employment, unless that retired member is a retired law
15 enforcement officer who is employed as school security
16 personnel; and

17 (2) upon termination of the employment, the
18 retired member's suspended cost-of-living pension adjustment
19 shall be reinstated as provided under Subsection B of
20 Section 10-11-118 NMSA 1978, unless that retired member is a
21 retired law enforcement officer who is employed as school
22 security personnel.

23 E. The provisions of Subsections C, H and I of
24 this section do not apply to:

25 (1) a retired member employed by the

1 legislature for legislative session work;

2 (2) a retired member employed temporarily as
3 a precinct board member for a municipal election or an
4 election covered by the Election Code; or

5 (3) a retired member who is elected to serve
6 a term as an elected official in an office covered pursuant
7 to the Public Employees Retirement Act; provided that:

8 (a) the retired member files an
9 irrevocable exemption from membership with the association
10 within thirty days of taking office; and

11 (b) the irrevocable exemption shall be
12 for the elected official's term of office.

13 F. A retired member who returns to employment
14 during retirement pursuant to Subsection E of this section is
15 entitled to receive retirement benefits but is not entitled
16 to accrue service credit or to acquire or purchase service
17 credit in the future for the period of the retired member's
18 subsequent employment with an affiliated public employer.

19 G. At any time during a retired member's
20 subsequent employment pursuant to Subsection C of this
21 section, the retired member may elect to become a member and
22 the following conditions shall apply:

23 (1) the previously retired member and the
24 subsequent affiliated public employer shall make the required
25 employee and employer contributions, and the previously

1 retired member shall accrue service credit for the period of
2 subsequent employment; and

3 (2) when the previously retired member
4 terminates the subsequent employment with an affiliated
5 public employer, the previously retired member shall retire
6 according to the provisions of the Public Employees
7 Retirement Act, subject to the following conditions:

8 (a) payment of the pension shall resume
9 in accordance with the provisions of Subsection A of this
10 section;

11 (b) unless the previously retired
12 member accrued at least three years of service credit on
13 account of the subsequent employment, the recalculation of
14 pension shall: 1) employ the form of payment selected by the
15 previously retired member at the time of the first
16 retirement; and 2) use the provisions of the coverage plan
17 applicable to the member on the date of the first retirement;
18 and

19 (c) the recalculated pension shall not
20 be less than the amount of the suspended pension.

21 H. A retired member who returned to work with an
22 affiliated public employer prior to July 1, 2010 shall be
23 subject to the provisions of this section in effect on the
24 date the retired member returned to work; provided that:

25 (1) on and after July 1, 2010, the retired

1 member shall pay the employee contribution in an amount
2 specified in the Public Employees Retirement Act for the
3 position in which the retired member is subsequently
4 employed;

5 (2) notwithstanding the provisions of
6 Subsection B of Section 10-11-118 NMSA 1978, on and after
7 July 1, 2013, the retired member's cost-of-living pension
8 adjustment shall be suspended, unless that retired member is
9 a retired law enforcement officer who is employed as school
10 security personnel; and

11 (3) upon termination of the subsequent
12 employment with the affiliated public employer, the retired
13 member's cost-of-living pension adjustment shall be
14 reinstated as provided in Subsection B of Section 10-11-118
15 NMSA 1978, unless that retired member is a retired law
16 enforcement officer who is employed as school security
17 personnel.

18 I. Effective July 1, 2014, if a retired member
19 who, subsequent to retirement, is employed and covered
20 pursuant to the provisions of the Magistrate Retirement Act
21 or Judicial Retirement Act, during the period of subsequent
22 employment:

23 (1) the member shall be entitled to receive
24 retirement benefits;

25 (2) the retired member's cost-of-living

1 pension adjustment shall be suspended upon commencement of
2 the employment; and

3 (3) upon termination of the employment, the
4 retired member's suspended cost-of-living pension adjustment
5 shall be reinstated as provided under Subsection B of Section
6 10-11-118 NMSA 1978.

7 J. The pension of a member who has earned service
8 credit under more than one coverage plan shall be determined
9 as follows:

10 (1) the pension of a member who has three or
11 more years of service credit earned on or before
12 June 30, 2013 under each of two or more coverage plans shall
13 be determined in accordance with the coverage plan that
14 produces the highest pension;

15 (2) the pension of a member who has service
16 credit earned on or before June 30, 2013 under two or more
17 coverage plans but who has three or more years of service
18 credit under only one of those coverage plans shall be
19 determined in accordance with the coverage plan in which the
20 member has three or more years of service credit. If the
21 service credit is acquired under two different coverage plans
22 applied to the same affiliated public employer as a
23 consequence of an election by the members, adoption by the
24 affiliated public employer or a change in the law that
25 results in the application of a coverage plan with a greater

1 pension, the greater pension shall be paid a member retiring
2 from the affiliated public employer under which the change in
3 coverage plan took place regardless of the amount of service
4 credit under the coverage plan producing the greater pension;
5 provided that the member has three or more years of
6 continuous employment with that affiliated public employer
7 immediately preceding or immediately preceding and
8 immediately following the date the coverage plan changed;

9 (3) the pension of a member who has service
10 credit earned on or before June 30, 2013 under each of two or
11 more coverage plans and who has service credit earned under
12 any coverage plan on or after July 1, 2013 shall be equal to
13 the sum of:

14 (a) the pension attributable to the
15 service credit earned on or before June 30, 2013 determined
16 pursuant to Paragraph (1) or (2) of this subsection; and

17 (b) the pension attributable to the
18 service credit earned under each coverage plan on or after
19 July 1, 2013;

20 (4) the pension of a member who has service
21 credit earned only on and after July 1, 2013 shall be equal
22 to the sum of the pension attributable to the service credit
23 the member has accrued under each coverage plan; and

24 (5) the provisions of each coverage plan for
25 the purpose of this subsection shall be those in effect at the

1 time the member ceased to be covered by the coverage plan.
2 "Service credit", for the purposes of this subsection, shall
3 be only personal service rendered an affiliated public
4 employer and credited to the member under the provisions of
5 Subsection A of Section 10-11-4 NMSA 1978. Service credited
6 under any other provision of the Public Employees Retirement
7 Act shall not be used to satisfy the three-year service credit
8 requirement of this subsection."

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