

SENATE BILL 123

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Jacob R. Candelaria

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

ENDORSED BY THE INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

AN ACT

RELATING TO JUDICIAL RETIREMENT; PROVIDING THAT CERTAIN AMOUNTS OF THE CIVIL DOCKET AND JURY FEES BE DEPOSITED INTO THE GENERAL FUND; INCREASING CONTRIBUTIONS TO THE JUDICIAL AND MAGISTRATE RETIREMENT FUNDS; PROVIDING THAT CONTRIBUTIONS TO JUDICIAL AND MAGISTRATE RETIREMENT BE PROVIDED FROM THE GENERAL FUND; MAKING AN APPROPRIATION.

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

SECTION 1. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

.216014.1SAAIC February 10, 2020 (12:01pm)

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"10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--

ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "judicial retirement fund". The fund [~~is comprised~~] consists of money received from [~~docket and jury fees of metropolitan courts, district courts, the court of appeals and the supreme court~~] SPAC→**appropriations**,←SPAC employer and employee contributions and [~~any~~] all income derived from the investment [~~earnings on fees and contributions~~] of the fund. The board is the trustee of the fund and shall administer and invest the fund. Investment of the fund shall be conducted pursuant to the provisions of the Public Employees Retirement Act. The provisions of the Judicial Retirement Act shall be administered by the board. The board is authorized to promulgate rules. Expenses related to the investment of the fund and administration of the Judicial Retirement Act shall be paid from the fund.

B. For purposes of this section, the accounting funds shall be known as the "member contribution fund", "employer's accumulation fund", "retirement reserve fund" and "income fund". The maintenance of separate accounting funds shall not require the actual segregation of the assets of the fund.

C. The accounting funds provided for in this section are trust funds and shall be used only for the purposes

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provided for in the Judicial Retirement Act.

D. The member contribution fund is the accounting fund in which shall be accumulated contributions of members and from which shall be made refunds and transfers of accumulated member contributions as provided in the Judicial Retirement Act. The member's court shall cause member contributions to be deducted from the salary of the member and shall remit the deducted member contributions to the association in accordance with procedures and schedules established by the association. The association may assess an interest charge and a penalty charge on any late remittance. Each member shall be deemed to consent and agree to the deductions made and provided for in this section. Contributions by members shall be credited to the members' individual accounts in the member contribution fund. A member's accumulated member contributions shall be transferred to the retirement reserve fund when a pension becomes payable.

E. The employer's accumulation fund is the accounting fund in which shall be accumulated the contributions paid by the state through the member's court. The state, through the member's court, shall remit its contributions to the association in accordance with procedures and schedules established by the association. The board may assess an interest charge and a penalty charge on any late remittance.

F. The retirement reserve fund is the accounting

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fund from which shall be paid all pensions to retired members and survivor beneficiaries and all residual refunds to refund beneficiaries of retired members and survivor beneficiaries.

G. Each year, following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid and likely to be paid to retired members and survivor beneficiaries and residual refunds likely to be paid to refund beneficiaries of retired members and survivor beneficiaries over the balance in the retirement reserve fund shall be transferred to the retirement reserve fund from the employer's accumulation fund.

H. The income fund is the accounting fund to which shall be credited all interest, dividends, rents and other income from investments of the fund, all gifts and bequests, all unclaimed member contributions and all other money the disposition of which is not specifically provided for in the Judicial Retirement Act. Expenses related to the administration of the Judicial Retirement Act shall be paid for from the income fund.

I. The association shall at least annually distribute all or a portion of the balance in the income fund to the member contribution fund, the retirement reserve fund and the employer's accumulation fund. Distribution rates shall be determined by the board and may vary for the respective accounting funds."

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SECTION 2. Section 10-12B-11 NMSA 1978 (being Laws 1992, Chapter 111, Section 11, as amended) is amended to read:

"10-12B-11. EMPLOYER CONTRIBUTIONS.--[A.] The member's court shall contribute [~~fifteen~~] SPAC→~~thirty~~←SPAC SPAC→~~twenty-nine and eight-tenths~~←SPAC percent of salary to the fund for each member in office.

[~~B. Thirty-eight dollars (\$38.00) from each civil case docket fee paid in the district court, twenty-five dollars (\$25.00) from each civil docket fee paid in metropolitan court and ten dollars (\$10.00) from each jury fee paid in metropolitan court shall be paid by the court clerk to the employer's accumulation fund.~~]"

SECTION 3. Section 10-12C-3 NMSA 1978 (being Laws 1992, Chapter 118, Section 3, as amended) is amended to read:

"10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

A. There is established in the state treasury the "magistrate retirement fund". The fund [~~is comprised~~] consists of money received from [~~docket fees of magistrate courts~~] SPAC→appropriations,←SPAC employer and member contributions and [~~any~~] all income derived from the investment [~~earnings on fees and contributions~~] of the fund. The board is the trustee of the fund and shall administer and invest the fund. Investment of the fund shall be conducted pursuant to the provisions of the Public Employees Retirement Act. The

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provisions of the Magistrate Retirement Act shall be administered by the board. The board is authorized to promulgate rules. Expenses related to the investment of the fund and administration of the Magistrate Retirement Act shall be paid from the fund.

B. For purposes of this section, the accounting funds shall be known as the "member contribution fund", "employer's accumulation fund", "retirement reserve fund" and "income fund". The maintenance of separate accounting funds shall not require the actual segregation of the assets of the fund.

C. The accounting funds provided for in this section are trust funds and shall be used only for the purposes provided for in the Magistrate Retirement Act.

D. The member contribution fund is the accounting fund in which shall be accumulated contributions of members and from which shall be made refunds and transfers of accumulated member contributions as provided in the Magistrate Retirement Act. The member's court shall cause member contributions to be deducted from the salary of the member and shall remit the deducted member contributions to the association in accordance with procedures and schedules established by the association. The association may assess an interest charge and a penalty charge on any late remittance. Each member shall be deemed to consent and agree to the deductions made and provided for in

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this section. Contributions by members shall be credited to the members' individual accounts in the member contribution fund. A member's accumulated member contributions shall be transferred to the retirement reserve fund when a pension becomes payable.

E. The employer's accumulation fund is the accounting fund in which shall be accumulated the contributions paid by the state through the administrative office of the courts. The state, through the administrative office of the courts, shall remit its contributions to the association in accordance with procedures and schedules established by the association. The board may assess an interest charge and a penalty charge on any late remittance.

F. The retirement reserve fund is the accounting fund from which shall be paid all pensions to retired members and survivor beneficiaries and all residual refunds to refund beneficiaries of retired members and survivor beneficiaries.

G. Each year, following receipt of the report of the annual actuarial valuation, the excess, if any, of the reported actuarial present value of pensions being paid and likely to be paid to retired members and survivor beneficiaries and residual refunds likely to be paid to refund beneficiaries of retired members and survivor beneficiaries over the balance in the retirement reserve fund shall be transferred to the retirement reserve fund from the employer's accumulation fund.

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H. The income fund is the accounting fund to which shall be credited all interest, dividends, rents and other income from investments of the fund, all gifts and bequests, all unclaimed member contributions and all other money the disposition of which is not specifically provided for in the Magistrate Retirement Act. Expenses related to the administration of the Magistrate Retirement Act shall be paid for from the income fund.

I. The association shall at least annually distribute all or a portion of the balance in the income fund to the member contribution fund, the retirement reserve fund and the employer's accumulation fund. Distribution rates shall be determined by the board and may vary for the respective accounting funds."

SECTION 4. Section 10-12C-11 NMSA 1978 (being Laws 1992, Chapter 118, Section 11, as amended by Laws 2014, Chapter 39, Section 8 and by Laws 2014, Chapter 43, Section 8) is amended to read:

"10-12C-11. EMPLOYER CONTRIBUTIONS.--[A.] The state, through the administrative office of the courts, shall contribute to the fund [fifteen] SPAC→~~twenty-two~~←SPAC SPAC→~~twenty-one and seven-tenths~~←SPAC percent of salary for each member in office. [~~except that, from July 1, 2014 through June 30, 2015, the state contribution rate shall be eleven percent of salary for each member in office.~~]

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~~B. Twenty-five dollars (\$25.00) from each civil case docket fee paid in magistrate court and ten dollars (\$10.00) from each civil jury fee paid in magistrate court shall be paid by the court clerk to the employer's accumulation fund.]"~~

SECTION 5. Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF "CONVICTED".--

A. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00;
docket fee, to be collected prior to docketing any other
criminal action, except as provided in Subsection B
of Section 35-6-3 NMSA 1978. 20.00.
Proceeds from this docket fee shall be transferred
to the administrative office of the courts for
deposit in the court facilities fund;
docket fee, twenty dollars (\$20.00) of which shall be
deposited in the court automation fund [~~and~~],
fifteen dollars (\$15.00) of which shall be deposited
in the civil legal services fund and twenty-five
dollars (\$25.00) of which shall be deposited in the

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general fund, to be collected prior to docketing any civil action, except as provided in Subsection A of Section 35-6-3 NMSA 1978 72.00;
jury fee, to be collected from the party demanding trial by jury in any civil action at the time the demand is filed or made 25.00;
copying fee, for making and certifying copies of any records in the court, for each page copied by photographic process 0.50.
Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund; and
copying fee, for computer-generated or electronically transferred copies, per page 1.00.
Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court automation fund.

Except as otherwise specifically provided by law, docket fees shall be paid into the court facilities fund.

B. Except as otherwise provided by law, no other costs or fees shall be charged or collected in the magistrate or metropolitan court.

C. The magistrate or metropolitan court may grant free process to any party in any civil proceeding or special statutory proceeding upon a proper showing of indigency. The

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magistrate or metropolitan court may deny free process if it finds that the complaint on its face does not state a cause of action.

D. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate or metropolitan judge, either after trial, a plea of guilty or a plea of nolo contendere. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

(1) corrections fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as follows:

- in a county with a metropolitan court \$10.00;
- in a county without a metropolitan court 20.00;

(2) court automation fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment. 10.00;

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(3) traffic safety fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle 3.00;

(4) judicial education fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment. 3.00;

(5) jury and witness fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment 5.00;

(6) brain injury services fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle 5.00;

and

(7) court facilities fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a

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petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as follows:

in a county with a metropolitan court 24.00;
in any other county 10.00.

E. Metropolitan court judges shall assess and collect and shall not waive, defer or suspend as costs a mediation fee not to exceed five dollars (\$5.00) for the docketing of small claims and criminal actions specified by metropolitan court rule. Proceeds of the mediation fee shall be deposited into the metropolitan court mediation fund."

SECTION 6. APPROPRIATION.--SPAC→~~Three million dollars~~
~~(\$3,000,000)~~←SPAC SPAC→Two million seven hundred thirty-three
thousand three hundred seventy-eight dollars (\$2,733,378)←SPAC

is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2021 and subsequent fiscal years for distribution to the supreme court, court of appeals, district courts, Bernalillo county metropolitan court and administrative office of the courts to pay increased employer retirement contributions. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

SFC→SECTION 7. EFFECTIVE DATE.--The effective date of
the provisions of this act is July 1, 2020.←SFC