

1 AN ACT
2 RELATING TO PUBLIC EMPLOYEE RETIREMENT; INCLUDING OVERTIME
3 PAY REQUIRED FOR A REGULAR SCHEDULED TOUR OF DUTY IN THE
4 DEFINITION OF "SALARY" IN THE PUBLIC EMPLOYEES RETIREMENT
5 ACT; INCREASING EMPLOYEE CONTRIBUTION RATES FOR ALL MUNICIPAL
6 FIRE MEMBER COVERAGE PLANS.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

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

13 A. "accumulated member contributions" means the
14 amounts deducted from the salary of a member and credited to
15 the member's individual account, together with interest, if
16 any, credited to that account;

17 B. "affiliated public employer" means the state
18 and any public employer affiliated with the association as
19 provided in the Public Employees Retirement Act, but does not
20 include an employer pursuant to the Magistrate Retirement
21 Act, the Judicial Retirement Act or the Educational
22 Retirement Act;

23 C. "association" means the public employees
24 retirement association established under the Public Employees
25 Retirement Act;

1 D. "coverage plan funded ratio" means the ratio of
2 the actuarial value of the assets of a coverage plan to the
3 actuarial accrued liability of the association for payments
4 from the coverage plan, as determined by the association's
5 actuaries;

6 E. "disability retired member" means a retired
7 member who is receiving a pension pursuant to the disability
8 retirement provisions of the Public Employees Retirement Act;

9 F. "disability retirement pension" means the
10 pension paid pursuant to the disability retirement provisions
11 of the Public Employees Retirement Act;

12 G. "educational retirement system" means that
13 retirement system provided for in the Educational Retirement
14 Act;

15 H. "employee" means any employee of an affiliated
16 public employer;

17 I. "federal social security program" means that
18 program or those programs created and administered pursuant
19 to the act of congress approved August 14, 1935, Chapter 531,
20 49 Stat. 620, as that act may be amended;

21 J. "final average salary" means the final average
22 salary calculated in accordance with the provisions of the
23 applicable coverage plan;

24 K. "form of payment" means the applicable form of
25 payment of a pension provided for in Section 10-11-117

1 NMSA 1978;

2 L. "former member" means a person who was
3 previously employed by an affiliated public employer, who has
4 terminated that employment and who has received a refund of
5 member contributions;

6 M. "fund" means the funds included under the
7 Public Employees Retirement Act;

8 N. "member" means a currently employed,
9 contributing employee of an affiliated public employer, or a
10 person who has been but is not currently employed by an
11 affiliated public employer, who has not retired and who has
12 not received a refund of member contributions; "member" also
13 includes the following:

14 (1) "adult correctional officer member"
15 means a member who is employed as an adult correctional
16 officer or an adult correctional officer specialist by a
17 state correctional facility of the corrections department or
18 its successor agency;

19 (2) "adult probation and parole officer
20 member" means a member who is employed as a probation and
21 parole officer by the corrections department or its successor
22 agency;

23 (3) "juvenile correctional officer member"
24 means a member who is employed as a juvenile correctional
25 officer by the children, youth and families department or its

1 successor agency;

2 (4) "juvenile probation and parole officer
3 member" means a member who is employed as a probation and
4 parole officer by the children, youth and families department
5 or its successor agency;

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

12 (6) "municipal fire member" means any member
13 who is employed as a full-time nonvolunteer firefighter by an
14 affiliated public employer and who has taken the oath
15 prescribed for firefighters;

16 (7) "municipal police member" means any
17 member who is employed as a police officer by an affiliated
18 public employer, other than the state, and who has taken the
19 oath prescribed for police officers; and

20 (8) "state police member" means a member who
21 is an officer of the New Mexico state police and who has
22 taken the oath prescribed for such officers, except that a
23 state police member shall not include a member who is an
24 officer of the New Mexico state police division and who was
25 certified and commissioned as of June 30, 2015 in the former

1 motor transportation division or the former special
2 investigations division of the department of public safety;

3 O. "membership" means membership in the
4 association;

5 P. "pension" means a series of monthly payments to
6 a retired member or survivor beneficiary as provided in the
7 Public Employees Retirement Act;

8 Q. "public employer" means the state, any
9 municipality, city, county, metropolitan arroyo flood control
10 authority, economic development district, regional housing
11 authority, soil and water conservation district, entity
12 created pursuant to a joint powers agreement, council of
13 government, conservancy district, irrigation district, water
14 and sanitation district, water district and metropolitan
15 water board, including the boards, departments, bureaus and
16 agencies of a public employer, so long as these entities fall
17 within the meaning of governmental plan as that term is used
18 in Section 414(d) of the Internal Revenue Code of 1986, as
19 amended;

20 R. "refund beneficiary" means a person designated
21 by the member, in writing, in the form prescribed by the
22 association, as the person who would be refunded the member's
23 accumulated member contributions payable if the member dies
24 and no survivor pension is payable or who would receive the
25 difference between pension paid and accumulated member

1 contributions if the retired member dies before receiving in
2 pension payments the amount of the accumulated member
3 contributions;

4 S. "retire" means to:

5 (1) terminate employment with all employers
6 covered by any state system or the educational retirement
7 system; and

8 (2) receive a pension from a state system or
9 the educational retirement system;

10 T. "retired member" means a person who has met all
11 requirements for retirement and who is receiving a pension
12 from the fund;

13 U. "retirement board" means the retirement board
14 provided for in the Public Employees Retirement Act;

15 V. "salary" means the base salary or wages paid a
16 member, including longevity pay, for personal services
17 rendered an affiliated public employer. "Salary" shall not
18 include overtime pay, unless the overtime payment is required
19 for a regular scheduled tour of duty as set forth in
20 Section 207(k) of Title 29 of the United States Code and is
21 made on the regular payroll for the period represented by
22 that payment, allowances for housing, clothing, equipment or
23 travel, payments for unused sick leave, unless the unused
24 sick leave payment is made through continuation of the member
25 on the regular payroll for the period represented by that

1 payment, and any other form of remuneration not specifically
2 designated by law as included in salary for Public Employees
3 Retirement Act purposes. Salary in excess of the limitations
4 set forth in Section 401(a)(17) of the Internal Revenue Code
5 of 1986, as amended, shall be disregarded. The limitation on
6 compensation for eligible employees shall not be less than
7 the amount that was allowed to be taken into account under
8 the state retirement system acts in effect on July 1, 1993.
9 For purposes of this subsection, "eligible employee" means an
10 individual who was a member of a state system before the
11 first plan year beginning after December 31, 1995;

12 W. "state system" means the retirement programs
13 provided for in the Public Employees Retirement Act, the
14 Magistrate Retirement Act and the Judicial Retirement Act;

15 X. "state retirement system acts" means
16 collectively the Public Employees Retirement Act, the
17 Magistrate Retirement Act, the Judicial Retirement Act and
18 the Volunteer Firefighters Retirement Act; and

19 Y. "survivor beneficiary" means a person who
20 receives a pension or who has been designated to be paid a
21 pension as a result of the death of a member or retired
22 member."

23 SECTION 2. Section 10-11-90 NMSA 1978 (being Laws 1987,
24 Chapter 253, Section 90, as amended) is amended to read:

25 "10-11-90. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--

1 MEMBER CONTRIBUTION RATE.--A member under municipal fire
2 member coverage plan 1 shall contribute eight percent of
3 salary with the first full pay period in the calendar month
4 in which municipal fire member coverage plan 1 becomes
5 applicable to the member, except that a member whose annual
6 salary is greater than twenty-five thousand dollars (\$25,000)
7 shall contribute:

8 A. beginning July 1, 2021 and continuing through
9 June 30, 2022, eleven percent of salary;

10 B. beginning July 1, 2022 and continuing through
11 June 30, 2023, eleven and one-half percent of salary;

12 C. beginning July 1, 2023 and continuing through
13 June 30, 2024, twelve percent of salary;

14 D. beginning July 1, 2024 and continuing through
15 June 30, 2025, twelve and one-half percent of salary; and

16 E. beginning July 1, 2025 and thereafter, thirteen
17 percent of salary."

18 SECTION 3. Section 10-11-96 NMSA 1978 (being Laws 1987,
19 Chapter 253, Section 96, as amended) is amended to read:

20 "10-11-96. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--
21 MEMBER CONTRIBUTION RATE.--A member under municipal fire
22 member coverage plan 2 shall contribute eight percent of
23 salary with the first full pay period in the calendar month
24 in which municipal fire member coverage plan 2 becomes
25 applicable to the member, except that a member whose annual

1 salary is greater than twenty-five thousand dollars (\$25,000)
2 shall contribute:

3 A. beginning July 1, 2021 and continuing through
4 June 30, 2022, eleven percent of salary;

5 B. beginning July 1, 2022 and continuing through
6 June 30, 2023, eleven and one-half percent of salary;

7 C. beginning July 1, 2023 and continuing through
8 June 30, 2024, twelve percent of salary;

9 D. beginning July 1, 2024 and continuing through
10 June 30, 2025, twelve and one-half percent of salary; and

11 E. beginning July 1, 2025 and thereafter, thirteen
12 percent of salary."

13 SECTION 4. Section 10-11-102 NMSA 1978 (being
14 Laws 1987, Chapter 253, Section 102, as amended) is amended
15 to read:

16 "10-11-102. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--
17 MEMBER CONTRIBUTION RATE.--A member under municipal fire
18 member coverage plan 3 shall contribute eight percent of
19 salary with the first full pay period in the calendar month
20 in which municipal fire member coverage plan 3 becomes
21 applicable to the member, except that a member whose annual
22 salary is greater than twenty-five thousand dollars (\$25,000)
23 shall contribute:

24 A. beginning July 1, 2021 and continuing through
25 June 30, 2022, eleven percent of salary;

1 B. beginning July 1, 2022 and continuing through
2 June 30, 2023, eleven and one-half percent of salary;

3 C. beginning July 1, 2023 and continuing through
4 June 30, 2024, twelve percent of salary;

5 D. beginning July 1, 2024 and continuing through
6 June 30, 2025, twelve and one-half percent of salary; and

7 E. beginning July 1, 2025 and thereafter, thirteen
8 percent of salary."

9 SECTION 5. Section 10-11-108 NMSA 1978 (being
10 Laws 1987, Chapter 253, Section 108, as amended) is amended
11 to read:

12 "10-11-108. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--
13 MEMBER CONTRIBUTION RATE.--A member under municipal fire
14 member coverage plan 4 shall contribute twelve and
15 eight-tenths percent of salary with the first full pay period
16 in the calendar month in which municipal fire member coverage
17 plan 4 becomes applicable to the member, except that a member
18 whose annual salary is greater than twenty-five thousand
19 dollars (\$25,000) shall contribute:

20 A. beginning July 1, 2021 and continuing through
21 June 30, 2022, fifteen and eight-tenths percent of salary;

22 B. beginning July 1, 2022 and continuing through
23 June 30, 2023, sixteen and three-tenths percent of salary;

24 C. beginning July 1, 2023 and continuing through
25 June 30, 2024, sixteen and eight-tenths percent of salary;

1 D. beginning July 1, 2024 and continuing through
2 June 30, 2025, seventeen and three-tenths percent of salary;
3 and

4 E. beginning July 1, 2025 and thereafter,
5 seventeen and eight-tenths percent of salary."

6 SECTION 6. Section 10-11-114 NMSA 1978 (being
7 Laws 1987, Chapter 253, Section 114, as amended) is amended
8 to read:

9 "10-11-114. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--
10 MEMBER CONTRIBUTION RATE.--A member under municipal fire
11 member coverage plan 5 shall contribute sixteen and
12 two-tenths percent of salary with the first full pay period
13 in the calendar month in which municipal fire member coverage
14 plan 5 becomes applicable to the member, except that a member
15 whose annual salary is greater than twenty-five thousand
16 dollars (\$25,000) shall contribute:

17 A. beginning July 1, 2021 and continuing through
18 June 30, 2022, nineteen and two-tenths percent of salary;

19 B. beginning July 1, 2022 and continuing through
20 June 30, 2023, nineteen and seven-tenths percent of salary;

21 C. beginning July 1, 2023 and continuing through
22 June 30, 2024, twenty and two-tenths percent of salary;

23 D. beginning July 1, 2024 and continuing through
24 June 30, 2025, twenty and seven-tenths percent of salary; and

25 E. beginning July 1, 2025 and thereafter,

1 twenty-one and two-tenths percent of salary."

2 SECTION 7. APPLICABILITY.--The provisions of Section 1
3 of this act apply to a member's salary or wages earned on or
4 after the effective date of this act.

5 SECTION 8. EFFECTIVE DATE.--The effective date of the
6 provisions of this act is July 1, 2021. _____

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