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SENATE BILL 87

**56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024**

INTRODUCED BY

Craig W. Brandt and Daniel A. Ivey-Soto

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT TO ALLOW MEMBERS WHO WERE EMPLOYED AS CERTIFIED OR OTHERWISE QUALIFIED LAW ENFORCEMENT OFFICERS IN ANOTHER STATE OR OF THE FEDERAL GOVERNMENT AND WHO ARE SUBSEQUENTLY EMPLOYED BY AN AFFILIATED PUBLIC EMPLOYER TO PURCHASE UP TO FIVE YEARS OF SERVICE CREDIT; ALLOWING CERTAIN PUBLIC SAFETY EMPLOYEES TO RETURN TO WORK UNDER CERTAIN CONDITIONS.

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

SECTION 1. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. SERVICE CREDIT--PURCHASE OF SERVICE.--

A. A member who entered a uniformed service of the United States may purchase service credit for periods of active

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1 duty in the uniformed services subject to the following  
2 conditions:

3 (1) the member pays the association the  
4 purchase cost determined according to Subsection ~~[E]~~ F of this  
5 section;

6 (2) the member has the applicable minimum  
7 number of years of service credit required for normal  
8 retirement. As used in this paragraph, "service credit" means  
9 only the service credit earned by the member during periods of  
10 employment with an affiliated public employer;

11 (3) the aggregate amount of service credit  
12 purchased pursuant to this subsection does not exceed five  
13 years reduced by any period of service credit acquired for  
14 military service pursuant to any other provision of the Public  
15 Employees Retirement Act;

16 (4) service credit may not be purchased for  
17 periods of service in the uniformed services that are used to  
18 obtain or increase a benefit from another retirement program;  
19 and

20 (5) the member must not have received a  
21 discharge or separation from uniformed service under other than  
22 honorable conditions.

23 B. A member who was a civilian prisoner of war  
24 captured while in service to the United States as an employee  
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the  
2 period of internment as a civilian prisoner of war, provided  
3 that:

4 (1) the member provides proof of employment  
5 with the federal government or as a contractor to the federal  
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of  
8 internment in a form acceptable to the association;

9 (3) the member has the applicable minimum  
10 number of years of service credit required for normal  
11 retirement. As used in this paragraph, "service credit" means  
12 only the service credit earned by the member during periods of  
13 employment with an affiliated public employer;

14 (4) the aggregate amount of service credit  
15 purchased pursuant to this subsection does not exceed five  
16 years reduced by any period of service credit acquired for  
17 military service pursuant to any other provision of the Public  
18 Employees Retirement Act;

19 (5) service credit may not be purchased for  
20 periods of service in internment as a civilian prisoner of war  
21 if such periods are used to obtain or increase a benefit from  
22 another retirement program; and

23 (6) the member pays the association the  
24 purchase cost determined according to Subsection [E] F of this  
25 section.

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1           C. A member who was a certified or otherwise  
2 qualified law enforcement officer in another state or of the  
3 federal government, who was a full-time employee with a duty to  
4 maintain public order and to make arrests for crime, whether  
5 that duty extended to all crimes or was limited to specific  
6 crimes, may purchase service credit for that period of  
7 employment subject to the following conditions:

8                   (1) the member pays the association the  
9 purchase cost determined according to Subsection F of this  
10 section;

11                   (2) the member has the applicable minimum  
12 number of years of service credit required for normal  
13 retirement. As used in this paragraph, "service credit" means  
14 only the service credit earned by the member during periods of  
15 employment with an affiliated public employer;

16                   (3) the aggregate amount of service credit  
17 purchased pursuant to this subsection does not exceed five  
18 years; and

19                   (4) the member provides proof of the period of  
20 relevant employment in a form acceptable to the association.

21           [~~C.~~] D. A member who was employed by a utility  
22 company, library, museum, transit company or nonprofit  
23 organization administering federally funded public service  
24 programs, which utility company, library, museum, transit  
25 company or nonprofit organization administering federally

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1 funded public service programs or federally funded public  
2 service programs administered by a nonprofit organization are  
3 subsequently taken over by an affiliated public employer, or a  
4 member who was employed by an entity created pursuant to a  
5 joint powers agreement between two or more affiliated public  
6 employers for the purpose of administering or providing drug or  
7 alcohol addiction treatment services irrespective of whether  
8 the entity is subsequently taken over by an affiliated public  
9 employer, may purchase service credit for the period of  
10 employment subject to the following conditions:

11 (1) the member pays the association the  
12 purchase cost determined according to Subsection ~~[E]~~ F of this  
13 section;

14 (2) the member has the applicable minimum  
15 number of years of service credit required for normal  
16 retirement. As used in this paragraph, "service credit" means  
17 only the service credit earned by the member during periods of  
18 employment with an affiliated public employer; and

19 (3) the aggregate amount of service credit  
20 purchased pursuant to this subsection does not exceed five  
21 years.

22 ~~[D.]~~ E. A member who was appointed to participate  
23 in a cooperative work study training program established  
24 jointly by a state agency and a state post-secondary  
25 educational institution may purchase service credit for the

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1 period of participation subject to the following conditions:

2 (1) the member pays the association the full  
3 actuarial present value of the amount of the increase in the  
4 employee's pension as a consequence of the purchase as  
5 determined by the association;

6 (2) the member pays the full cost of the  
7 purchase within sixty days of the date the member is informed  
8 of the amount of the payment;

9 (3) the member has the applicable minimum  
10 number of years of service credit required for normal  
11 retirement. As used in this paragraph, "service credit" means  
12 only the service credit earned by the member during periods of  
13 employment with an affiliated public employer; and

14 (4) the aggregate amount of service credit  
15 purchased pursuant to this subsection does not exceed five  
16 years.

17 ~~[E.]~~ F. Except for service to be used under a state  
18 legislator coverage plan, the purchase cost for each month of  
19 service credit purchased pursuant to the provisions of this  
20 section is equal to the member's final average salary  
21 multiplied by the sum of the member contribution rate and  
22 employer contribution rate, determined in accordance with the  
23 coverage plan applicable to the member at the time of the  
24 written election to purchase. The purchase cost for each year  
25 of service credit to be used under a state legislator coverage

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1 plan is equal to three times the normal member contribution per  
2 year of service credit under the state legislator coverage plan  
3 applicable to the member. Full payment shall be made in a  
4 single lump sum within sixty days of the date the member is  
5 informed of the amount of the payment. The portion of the  
6 purchase cost derived from the employer contribution rate shall  
7 be credited to the employer's accumulation fund and shall not  
8 be paid out of the association in the event of cessation of  
9 membership. In no case shall a member be credited with a month  
10 of service for less than the purchase cost as defined in this  
11 section.

12 ~~[F.]~~ G. A member shall be refunded, upon written  
13 request filed with the association, the portion of the purchase  
14 cost of service credit purchased pursuant to this section that  
15 the association determines to have been unnecessary to provide  
16 the member with the maximum pension applicable to the member.  
17 The association shall not pay interest on the portion of the  
18 purchase cost refunded to the member.

19 ~~[G.]~~ H. A member of the magistrate retirement  
20 system who during the member's service as a magistrate was  
21 eligible to become a member of the public employees retirement  
22 system and elected not to become a member of that system may  
23 purchase service credit pursuant to the public employees  
24 retirement system for the period for which the magistrate  
25 elected not to become a public employees retirement system

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1 member by paying the amount of the increase in the actuarial  
2 present value of the magistrate pension as a consequence of the  
3 purchase as determined by the association. Full payment shall  
4 be made in a single lump-sum amount in accordance with  
5 procedures established by the retirement board. Except as  
6 provided in Subsection [F] G of this section, seventy-five  
7 percent of the purchase cost shall be considered to be employer  
8 contributions and shall not be refunded to the member in the  
9 event of cessation of membership.

10 ~~[H.]~~ I. At any time prior to retirement, any member  
11 may purchase service credit in monthly increments, subject to  
12 the following conditions:

13 (1) the member has the applicable minimum  
14 number of years of service credit required for normal  
15 retirement. As used in this paragraph, "service credit" means  
16 only the service credit earned by the member during periods of  
17 employment with an affiliated public employer;

18 (2) the aggregate amount of service credit  
19 purchased pursuant to this subsection does not exceed one  
20 year;

21 (3) the member pays full actuarial present  
22 value of the amount of the increase in the employee's pension  
23 as a consequence of the purchase as determined by the  
24 association;

25 (4) the member pays the full cost of the

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1 purchase within sixty days of the date the member is informed  
2 of the amount of the payment; and

3 (5) the purchase of service credit under this  
4 subsection cannot be used to determine the final average salary  
5 or the pension factor or be used to exceed the pension maximum.

6 ~~[F.]~~ J. A member receiving service credit under  
7 this section who enrolls in the retiree health care authority  
8 shall make contributions pursuant to Subsection C of Section  
9 10-7C-15 NMSA 1978."

10 SECTION 2. Section 10-11-8 NMSA 1978 (being Laws 1987,  
11 Chapter 253, Section 8, as amended) is amended to read:

12 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--  
13 BENEFITS CONTINUED--CONTRIBUTIONS.--

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

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

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

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

25 (4) the member meets the age and service

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1 credit requirement for normal retirement specified in the  
2 coverage plan applicable to the member.

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

6 C. Except as provided in ~~[Subsection]~~ Subsections  
7 D, J and K of this section, on or after July 1, 2010, a retired  
8 member may be subsequently employed by an affiliated public  
9 employer only pursuant to the following provisions:

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

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

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

25 (4) upon termination of the subsequent

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1 employment, the retired member's pension shall resume in  
2 accordance with the provisions of Subsection A of this section.

3 D. The provisions of Subsections C, G, [~~and~~] H, J  
4 and K of this section do not apply to:

5 (1) a retired member employed by the  
6 legislature for legislative session work;

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

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

13 (a) the retired member files an  
14 irrevocable exemption from membership with the association  
15 within thirty days of taking office; and

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

18 E. A retired member who returns to employment  
19 during retirement pursuant to Subsection D of this section is  
20 entitled to receive retirement benefits but is not entitled to  
21 accrue service credit or to acquire or purchase service credit  
22 in the future for the period of the retired member's subsequent  
23 employment with an affiliated public employer.

24 F. At any time during a retired member's subsequent  
25 employment pursuant to Subsection C of this section, the

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1 retired member may elect to become a member and the following  
2 conditions shall apply:

3 (1) the previously retired member and the  
4 subsequent affiliated public employer shall make the required  
5 employee and employer contributions, and the previously retired  
6 member shall accrue service credit for the period of subsequent  
7 employment; and

8 (2) when the previously retired member  
9 terminates the subsequent employment with an affiliated public  
10 employer, the previously retired member shall retire according  
11 to the provisions of the Public Employees Retirement Act,  
12 subject to the following conditions:

13 (a) payment of the pension shall resume  
14 in accordance with the provisions of Subsection A of this  
15 section;

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

23 (c) the recalculated pension shall not  
24 be less than the amount of the suspended pension.

25 G. A retired member who returned to work with an

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1 affiliated public employer prior to July 1, 2010 shall be  
2 subject to the provisions of this section in effect on the date  
3 the retired member returned to work; provided that on and after  
4 July 1, 2010, the retired member shall pay the employee  
5 contribution in an amount specified in the Public Employees  
6 Retirement Act for the position in which the retired member is  
7 subsequently employed.

8 H. Effective July 1, 2014, if a retired member who,  
9 subsequent to retirement, is employed and covered pursuant to  
10 the provisions of the Magistrate Retirement Act or Judicial  
11 Retirement Act, during the period of subsequent employment:

12 (1) the member shall be entitled to receive  
13 retirement benefits;

14 (2) the retired member's cost-of-living  
15 pension adjustment shall be suspended upon commencement of the  
16 employment; and

17 (3) upon termination of the employment, the  
18 retired member's suspended cost-of-living pension adjustment  
19 shall be reinstated as provided under Section 10-11-118 NMSA  
20 1978.

21 I. The pension of a member who has earned service  
22 credit under more than one coverage plan shall be determined as  
23 follows:

24 (1) the pension of a member who has three or  
25 more years of service credit earned on or before June 30, 2013

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1 under each of two or more coverage plans shall be determined in  
2 accordance with the coverage plan that produces the highest  
3 pension;

4 (2) the pension of a member who has service  
5 credit earned on or before June 30, 2013 under two or more  
6 coverage plans but who has three or more years of service  
7 credit under only one of those coverage plans shall be  
8 determined in accordance with the coverage plan in which the  
9 member has three or more years of service credit. If the  
10 service credit is acquired under two different coverage plans  
11 applied to the same affiliated public employer as a consequence  
12 of an election by the members, adoption by the affiliated  
13 public employer or a change in the law that results in the  
14 application of a coverage plan with a greater pension, the  
15 greater pension shall be paid a member retiring from the  
16 affiliated public employer under which the change in coverage  
17 plan took place regardless of the amount of service credit  
18 under the coverage plan producing the greater pension; provided  
19 that the member has three or more years of continuous  
20 employment with that affiliated public employer immediately  
21 preceding or immediately preceding and immediately following  
22 the date the coverage plan changed;

23 (3) the pension of a member who has service  
24 credit earned on or before June 30, 2013 under each of two or  
25 more coverage plans and who has service credit earned under any

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1 coverage plan on or after July 1, 2013 shall be equal to the  
2 sum of:

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

6 (b) the pension attributable to the  
7 service credit earned under each coverage plan on or after July  
8 1, 2013;

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

13 (5) the provisions of each coverage plan for  
14 the purpose of this subsection shall be those in effect at the  
15 time the member ceased to be covered by the coverage plan.  
16 "Service credit", for the purposes of this subsection, shall be  
17 only personal service rendered an affiliated public employer  
18 and credited to the member under the provisions of Subsection A  
19 of Section 10-11-4 NMSA 1978. Service credited under any other  
20 provision of the Public Employees Retirement Act shall not be  
21 used to satisfy the three-year service credit requirement of  
22 this subsection.

23 J. The following retired members may be  
24 subsequently employed pursuant to the provisions of Subsection  
25 K of this section; provided that the retired member has not

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1 been employed as an employee of an affiliated public employer  
2 or retained as an independent contractor by the affiliated  
3 public employer from which the retired member retired for at  
4 least ninety consecutive days from the date of retirement to  
5 the commencement of subsequent employment or reemployment with  
6 an affiliated public employer:

7 (1) a retired member who was a certified law  
8 enforcement officer under any municipal police member coverage  
9 plan;

10 (2) a retired member who was a certified law  
11 enforcement officer under the state police member, correctional  
12 officer member and probation and parole officer member coverage  
13 plan 1; or

14 (3) a retired member who was a municipal  
15 detention officer member.

16 K. For a retired member provided in Subsection J of  
17 this section, the:

18 (1) retired member's pension, including any  
19 cost-of-living adjustment, shall continue to be paid during the  
20 period of subsequent employment;

21 (2) retired member shall not become a member  
22 during the period of subsequent employment;

23 (3) retired member shall not accrue service  
24 credit for any portion of the period of subsequent employment;

25 (4) retired member and the retired member's

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1 subsequent affiliated public employer shall make the  
2 contributions that would be required for members and employers  
3 under the applicable coverage plan during the entire period of  
4 subsequent employment;

5 (5) contributions paid by or on behalf of the  
6 retired member during the term of subsequent employment shall  
7 not be refundable at the termination of the subsequent  
8 employment;

9 (6) retired member shall have no limitation on  
10 the length of time that the retired member can be subsequently  
11 employed or reemployed by an affiliated public employer;

12 (7) retired member shall have no limitation on  
13 the salary paid to the retired member during subsequent  
14 employment or reemployment by an affiliated public employer;  
15 and

16 (8) subsequent employment occurs prior to July  
17 1, 2027."

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2024.