

AN ACT  
RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL  
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT TO PROVIDE  
THAT METROPOLITAN COURT JUDGES BE COVERED PURSUANT TO THE  
JUDICIAL RETIREMENT ACT.

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

Section 1. Section 10-12B-2 NMSA 1978 (being Laws  
1992, Chapter 111, Section 2) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial  
Retirement Act:

A. "association" means the public employees  
retirement association provided for in the Public Employees  
Retirement Act;

B. "board" means the retirement board provided  
for in the Public Employees Retirement Act;

C. "current judge or justice" means a judge or  
justice who occupied such an office on July 1, 1980 but who  
elected to be covered under the provisions of the retirement  
plan in effect at that time;

D. "dependent child" means a natural or adopted  
child who is physically or mentally incapable of financial  
self-support, regardless of age;

E. "educational retirement system" means the  
retirement system provided for in the Educational Retirement

Act;

F. "effective date of retirement" means the first day of the month following the month in which the member met all requirements for retirement;

G. "former judge or justice" means a judge or justice who occupied such an office prior to July 1, 1980, but had ceased to hold such an office prior to that date and who elected to be excluded from the provisions of the Judicial Retirement Act;

H. "former member" means a person no longer in office who was previously covered pursuant to the provisions of Sections 10-12-1 through 10-12-18 NMSA 1978, but who has not retired pursuant to the provisions of the Judicial Retirement Act and who has received a refund of member contributions pursuant to the provisions of Sections 10-12-1 through 10-12-18 NMSA 1978;

I. "fund" means the judicial retirement fund;

J. "judge" means a judge of the metropolitan court, district court or court of appeals of New Mexico;

K. "justice" means a justice of the supreme court of New Mexico;

L. "member" means any judge or justice who is in office and covered pursuant to the provisions of the Judicial Retirement Act, or any person no longer in office who was previously a judge or justice covered pursuant to the provisions of the Judicial Retirement Act, who has not

retired and who has not received a refund of member contributions from the fund;

M. "member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited thereto;

N. "minor child" means a natural or adopted child who has not reached his eighteenth birthday and who has not been emancipated by marriage or otherwise;

O. "new judge or justice" means:

(1) a judge or justice who first occupied such an office after July 1, 1980; or

(2) a judge or justice who occupied such an office on or before July 1, 1980 and who has elected to be covered under the provisions of the Judicial Retirement Act;

P. "pension" means a series of monthly payments to a retired member or survivor beneficiary pursuant to the provisions of the Judicial Retirement Act;

Q. "refund beneficiary" means a person designated by the member, in writing in the form prescribed by the association, as the person who would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable, or who would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated

member contributions;

R. "retire" means to:

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

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

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

T. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered; provided that salary does not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary pursuant to the provisions of the Judicial Retirement Act;

U. "state system" means the retirement programs provided pursuant to the provisions of the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

V. "surviving spouse" means the spouse to whom the member was married at the time of the member's death;

W. "survivor beneficiary" means a person who receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member; and

X. "years of service" means a period of time beginning on the date a person commences to hold office as a judge or justice because of appointment or election and ending on the date a person ceases to hold office as a judge or justice because of expiration of the judge's or justice's term, voluntary resignation, death or disability and shall include any fractions of years of service."

Section 2. Section 10-12B-3 NMSA 1978 (being Laws 1992, Chapter 111, Section 3, as amended) is amended to read:

"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 of money received from docket fees of metropolitan courts, district courts, the court of appeals and the supreme court, employer and employee contributions and any investment earnings on fees and contributions. 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 and regulations. 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 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 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. "

Section 3. Section 10-12B-11 NMSA 1978 (being Laws 1992, Chapter 111, Section 11) is amended to read:

"10-12B-11. EMPLOYER CONTRIBUTIONS. --

A. The member's court shall contribute nine percent of salary for each member in office to the fund.

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 civil jury fee paid in metropolitan court shall be paid by the court clerk to the employer's accumulation fund. "

Section 4. Section 10-12C-2 NMSA 1978 (being Laws

1992, Chapter 118, Section 2) is amended to read:

"10-12C-2. DEFINITIONS.--As used in the Magistrate Retirement Act:

A. "association" means the public employees retirement association provided for in the Public Employees Retirement Act;

B. "board" means the retirement board provided for in the Public Employees Retirement Act;

C. "dependent child" means a natural or adopted child who is physically or mentally incapable of financial self-support, regardless of age;

D. "educational retirement system" means the retirement system provided for in the Educational Retirement Act;

E. "effective date of retirement" means the first day of the month following the month in which the member met all requirements for retirement;

F. "former member" means a person no longer in office who was previously covered pursuant to the provisions of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has not retired pursuant to the provisions of the Magistrate Retirement Act and who has received a refund of member contributions pursuant to the provisions of Sections 10-12A-1 through 10-12A-13 NMSA 1978;

G. "fund" means the magistrate retirement fund;

H. "magistrate" means a magistrate judge;

I. "member" means any magistrate who is in office and covered pursuant to the provisions of the Magistrate Retirement Act, or any person no longer in office who was previously a magistrate covered pursuant to the provisions of the Magistrate Retirement Act, who has not retired and who has not received a refund of member contributions from the fund;

J. "member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited thereto;

K. "minor child" means a natural or adopted child who has not reached his eighteenth birthday and who has not been emancipated by marriage or otherwise;

L. "pension" means a series of monthly payments to a retired member or survivor beneficiary pursuant to the provisions of the Magistrate Retirement Act;

M. "refund beneficiary" means a person designated by the member, in writing in the form prescribed by the association, as the person who would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable, or as the person who would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

N. "retire" means to:

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

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

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

P. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered; provided that salary does not include overtime pay, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary pursuant to the provisions of the Magistrate Retirement Act;

Q. "state system" means the retirement programs provided pursuant to the provisions of the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

R. "surviving spouse" means the spouse to whom the member was married at the time of the member's death;

S. "survivor beneficiary" means a person who

receives a pension or who has been designated to be paid a pension as a result of the death of a member or retired member; and

T. "years of service" means a period of time beginning on the date a person commences to hold office as a magistrate because of appointment or election and ending on the date a person ceases to hold office as a magistrate because of expiration of the magistrate's term, voluntary resignation, death or disability and shall include any fractions of years of service. "

Section 5. 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 of money received from docket fees of magistrate courts, employer and member contributions and any investment earnings on fees and contributions. 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 Magistrate Retirement Act shall be administered by the board. The board is authorized to promulgate rules and regulations. 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 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.

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. "

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Section 6. Section 10-12C-11 NMSA 1978 (being Laws 1992, Chapter 118, Section 11) is amended to read:

"10-12C-11. EMPLOYER CONTRIBUTIONS. --

A. The state, through the administrative office of the courts, shall contribute nine percent of salary for each member in office to the fund.

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 7. EFFECTIVE DATE. --The effective date of the provisions of this act is July 1, 2001. \_\_\_\_\_