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HOUSE BILL 459

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

FOR THE CORRECTIONS OVERSIGHT COMMITTEE

AN ACT

**RELATING TO RETIREMENT FOR STATE HAZARDOUS DUTY MEMBERS;
CREATING A NEW COVERAGE PLAN FOR STATE HAZARDOUS DUTY MEMBERS;
PROVIDING FOR AN ELECTION; AMENDING AND ENACTING SECTIONS OF
THE PUBLIC EMPLOYEES RETIREMENT ACT.**

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

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

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

**A. "accumulated 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 to that account;**

B. "affiliated public employer" means the state

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1 and any public employer affiliated with the association as
2 provided in the Public Employees Retirement Act, but does not
3 include an employer pursuant to the Magistrate Retirement Act,
4 the Judicial Retirement Act or the Educational Retirement Act;

5 C. "association" means the public employees
6 retirement association established under the Public Employees
7 Retirement Act;

8 D. "disability retired member" means a retired
9 member who is receiving a pension pursuant to the disability
10 retirement provisions of the Public Employees Retirement Act;

11 E. "disability retirement pension" means the
12 pension paid pursuant to the disability retirement provisions
13 of the Public Employees Retirement Act;

14 F. "educational retirement system" means that
15 retirement system provided for in the Educational Retirement
16 Act;

17 G. "employee" means any employee of an affiliated
18 public employer;

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

23 I. "final average salary" means the final average
24 salary calculated in accordance with the provisions of the
25 applicable coverage plan;

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1 J. "form of payment" means the applicable form of
2 payment of a pension provided for in Section 10-11-117 NMSA
3 1978;

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

8 L. "fund" means the funds included under the
9 Public Employees Retirement Act;

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

16 (1) "hazardous duty member" means [~~a state~~
17 ~~policeman who is a member and who is a juvenile or~~] an adult
18 correctional officer employed by a corrections facility of the
19 corrections department or its successor agency;

20 (2) "municipal fire member" means any member
21 who is employed as a full-time nonvolunteer firefighter by an
22 affiliated public employer and who has taken the oath
23 prescribed for firefighters;

24 (3) "municipal police member" means any
25 member who is employed as a police officer by an affiliated

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1 public employer, other than the state, and who has taken the
2 oath prescribed for police officers; and

3 (4) "state police member" means any member
4 who is an officer of the New Mexico state police and who has
5 taken the oath prescribed for such officers;

6 N. "membership" means membership in the
7 association;

8 O. "pension" means a series of monthly payments to
9 a retired member or survivor beneficiary as provided in the
10 Public Employees Retirement Act;

11 P. "public employer" means the state, any
12 municipality, city, county, metropolitan arroyo flood control
13 authority, economic development district, regional housing
14 authority, soil and water conservation district, entity
15 created pursuant to a joint powers agreement, council of
16 government, conservancy district, water and sanitation
17 district, water district and metropolitan water board,
18 including the boards, departments, bureaus and agencies of a
19 public employer, so long as these entities fall within the
20 meaning of governmental plan as that term is used in Section
21 414(d) of the Internal Revenue Code of 1986, as amended;

22 Q. "refund beneficiary" means a person designated
23 by the member, in writing, in the form prescribed by the
24 association, as the person who would be refunded the member's
25 accumulated member contributions payable if the member dies

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1 and no survivor pension is payable or who would receive the
2 difference between pension paid and accumulated member
3 contributions if the retired member dies before receiving in
4 pension payments the amount of the accumulated member
5 contributions;

6 R. "retire" means to:

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

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

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

15 T. "retirement board" means the retirement board
16 provided for in the Public Employees Retirement Act;

17 U. "salary" means the base salary or wages paid a
18 member, including longevity pay, for personal services
19 rendered an affiliated public employer. "Salary" shall not
20 include overtime pay, allowances for housing, clothing,
21 equipment or travel, payments for unused sick leave, unless
22 the unused sick leave payment is made through continuation of
23 the member on the regular payroll for the period represented
24 by that payment, and any other form of remuneration not
25 specifically designated by law as included in salary for

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

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

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

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

22 Section 2. A new section of the Public Employees
23 Retirement Act is enacted to read:

24 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
25 3--APPLICABILITY.--State hazardous duty member coverage plan 3

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1 is applicable to state hazardous duty members in the first
2 full pay period after July 1, 2002 if the retirement board
3 certifies to the secretary of state that, of those members to
4 be covered under state hazardous duty member coverage plan 3,
5 a majority of the members voting has voted to approve adoption
6 of this plan at an election conducted pursuant to Section 9 of
7 this act. "

8 Section 3. A new section of the Public Employees
9 Retirement Act is enacted to read:

10 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
11 3--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL
12 RETIREMENT.--Under state hazardous duty member coverage plan
13 3, the age and service credit requirements for normal
14 retirement are:

15 A. age sixty-five years or older and five or more
16 years of credited service;

17 B. age sixty-four years and eight or more years of
18 credited service;

19 C. age sixty-three years and eleven or more years
20 of credited service;

21 D. age sixty-two years and fourteen or more years
22 of credited service;

23 E. age sixty-one years and seventeen or more years
24 of credited service; or

25 F. any age and twenty or more years of credited

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1 service. "

2 Section 4. A new section of the Public Employees
3 Retirement Act is enacted to read:

4 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
5 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state
6 hazardous duty member coverage plan 3, the amount of pension
7 under form of payment A is equal to three and one-half percent
8 of final average salary multiplied by service credit. The
9 amount shall not exceed eighty percent of the final average
10 salary. "

11 Section 5. A new section of the Public Employees
12 Retirement Act is enacted to read:

13 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
14 3--FINAL AVERAGE SALARY.--Under state hazardous duty member
15 coverage plan 3, the final average salary is one thirty-sixth
16 of the greatest aggregate amount of salary paid a member for
17 thirty-six consecutive but not necessarily continuous months
18 of service credit. Under state hazardous duty member coverage
19 plan 3, if a member has less than thirty-six months of service
20 credit, the final average salary is the aggregate amount of
21 salary paid a member for the member's period of service credit
22 divided by the member's service credit. "

23 Section 6. A new section of the Public Employees
24 Retirement Act is enacted to read:

25 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN

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1 3--MEMBER CONTRIBUTION RATE.--A member under state hazardous
2 duty member coverage plan 3 shall contribute four and seventy-
3 eight hundredths percent of salary starting with the first
4 full pay period that ends within the calendar month in which
5 state hazardous duty member coverage plan 3 becomes applicable
6 to the member. "

7 Section 7. A new section of the Public Employees
8 Retirement Act is enacted to read:

9 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
10 3--STATE CONTRIBUTION RATE.--The state shall contribute
11 thirty-eight and two hundredths percent of the salary of each
12 member covered by state hazardous duty member coverage plan 3
13 starting with the first full pay period that ends within the
14 calendar month in which state hazardous duty member coverage
15 plan 3 becomes applicable to the member. "

16 Section 8. A new section of the Public Employees
17 Retirement Act is enacted to read:

18 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
19 3--SERVICE CREDIT UNDER THIS PLAN REQUIRED.--Notwithstanding
20 the provisions of Section 2 of this act, to qualify for
21 payment under state hazardous duty member coverage plan 3, a
22 member shall have three years of service credit earned under
23 the state hazardous duty member coverage plan 3 subsequent to
24 July 1, 2002. "

25 Section 9. A new section of the Public Employees

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1 Retirement Act is enacted to read:

2 "[NEW MATERIAL] STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN
3 3--ELECTION.--On or before October 1, 2001, the retirement
4 board shall conduct an election to submit to members currently
5 contributing under state hazardous duty member coverage plan 2
6 the question of adopting a state hazardous duty coverage plan
7 3. The election shall be conducted in accordance with
8 procedures adopted by the retirement board, and the retirement
9 board shall certify the results of the election to the
10 secretary of state on or before November 1, 2001. "

11 Section 10. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2001.