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HOUSE BILL 210

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Dianne Hamilton

AN ACT

RELATING TO RETIREMENT BENEFITS; INCREASING THE ANNUAL EARNINGS CAP FOR PUBLIC EMPLOYEE RETIREES RETURNING TO WORK WITH AN AFFILIATED PUBLIC EMPLOYER.

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

Section 1. Section 10-11-8 NMSA 1978 (being Laws 1987, Chapter 253, Section 8, as amended) is amended to read:

"10-11-8. NORMAL RETIREMENT--SUSPENSION.--

A. A member may retire upon fulfilling the following requirements:

(1) a written application for normal retirement, in the form prescribed by the association, is filed with the association prior to the selected date of retirement;

(2) employment is terminated with all

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1 employers covered by any state system or the educational
2 retirement system prior to the selected date of retirement;

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

5 (4) the member meets the age and service
6 credit requirement for normal retirement specified in the
7 coverage plan applicable to the member.

8 B. The amount of normal retirement pension is
9 determined in accordance with the coverage plan applicable to
10 the member.

11 C. If a member retires and is subsequently
12 employed by ~~[any]~~ an affiliated public employer, the retired
13 member's pension will be suspended effective the first day of
14 the month following the month in which the previously retired
15 member earns one hundred percent or more of the amount that
16 causes a decrease or suspension of an old age benefit under
17 the federal social security program or fifteen thousand
18 dollars (\$15,000), whichever is less; except that after
19 January 1, 2002, no pension shall be suspended until the first
20 day of the month following the month in which the previously
21 retired member earns one hundred percent or more of the amount
22 that causes a decrease or suspension of an old age benefit
23 under the federal social security program or twenty-five
24 thousand dollars (\$25,000), whichever is less. When the
25 pension is suspended, the following conditions shall apply:

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1 (1) the retired member who is subsequently
2 employed by an affiliated public employer shall become a
3 member. The previously retired member and the subsequent
4 affiliated public employer shall make the required employee
5 and employer contributions, and the previously retired member
6 shall accrue service credit for the period of subsequent
7 employment; and

8 (2) when a previously retired member
9 terminates the subsequent employment with an affiliated public
10 employer, he shall retire according to the provisions of the
11 Public Employees Retirement Act, subject to the following
12 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
17 member accrued at least three years of service credit on
18 account of the subsequent employment, the recalculation of
19 pension shall: 1) employ the form of payment selected by the
20 previously retired member at the time of the first retirement;
21 and 2) use the provisions of the coverage plan applicable to
22 the member on 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 D. The provisions of Subsection C of this section

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1 shall not apply to a retired member who is appointed chief of
2 police of an affiliated public employer, other than of the
3 affiliated public employer from which retired, or who is
4 appointed undersheriff if the retired member files an
5 irrevocable exemption from membership with the association
6 within thirty days of appointment. For purposes of this
7 subsection, each sheriff's office shall be limited to one
8 undersheriff. The irrevocable exemption shall be for the
9 chief of police's or the undersheriff's term of office.
10 Filing of an irrevocable exemption shall irrevocably bar the
11 retired member from acquiring service credit for the period of
12 exemption from membership.

13 E. The provisions of Subsection C of this section
14 shall not apply to any retired member who is subsequently
15 employed by an employer who is not an affiliated public
16 employer.

17 F. The provisions of Subsection C of this section
18 shall not apply to a retired member who is elected to serve a
19 term as an elected official if the retired member files an
20 irrevocable exemption from membership with the association
21 within thirty days of taking office. Filing of an irrevocable
22 exemption shall irrevocably bar the retired member from
23 acquiring service credit for the period of exemption from
24 membership.

25 G. The pension of a member who has three or more

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1 years of service credit under each of two or more coverage
2 plans shall be determined in accordance with the coverage plan
3 that produces the highest pension. The pension of a member
4 who has service credit under two or more coverage plans but
5 who has three or more years of service credit under only one
6 of those coverage plans shall be determined in accordance with
7 the coverage plan in which the member has three or more years
8 of service credit. If the service credit is acquired under
9 two different coverage plans applied to the same affiliated
10 public employer as a consequence of an election by the
11 members, adoption by the affiliated public employer or a
12 change in the law that results in the application of a
13 coverage plan with a greater pension, the greater pension
14 shall be paid a member retiring from the affiliated public
15 employer under which the change in coverage plan took place
16 regardless of the amount of service credit under the coverage
17 plan producing the greater pension, provided the member has
18 three or more years of continuous employment with that
19 affiliated public employer immediately preceding or
20 immediately preceding and immediately following the date the
21 coverage plan changed. The provisions of each coverage plan
22 for the purpose of this subsection shall be those in effect at
23 the time the member ceased to be covered by the coverage plan.
24 "Service credit", for the purposes of this subsection, shall
25 be only personal service rendered an affiliated public

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1 employer and credited to the member under the provisions of
2 Subsection A of Section 10-11-4 NMSA 1978. Service credited
3 under any other provision of the Public Employees Retirement
4 Act shall not be used to satisfy the three-year service credit
5 requirement of this subsection. "

6 Section 2. TEMPORARY PROVISION--REFUND OF SUSPENDED
7 PENSIONS.--If, after January 1, 2002 and before the effective
8 date of this act, pensions have been suspended pursuant to
9 Subsection C of Section 10-11-8 NMSA 1978 that would not have
10 been suspended had this act been in effect on January 1, 2002,
11 then, on the effective date of this act, the suspended
12 pensions and any resulting employee and employer contributions
13 shall be refunded.