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SENATE BILL 195

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

INTRODUCED BY

Michael S. Sanchez

FOR THE CORRECTIONS OVERSIGHT AND JUSTICE COMMITTEE

AN ACT

RELATING TO RETIREMENT FOR ADULT CORRECTIONAL OFFICERS;
REVISING THE STATE POLICE MEMBER COVERAGE PLAN 1 TO INCLUDE
ADULT CORRECTIONAL OFFICERS; 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;

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

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

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

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

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

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

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

24 I. "final average salary" means the final average
25 salary calculated in accordance with the provisions of the

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1 applicable coverage plan;

2 J. "form of payment" means the applicable form of
3 payment of a pension provided for in Section 10-11-117 NMSA
4 1978;

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

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

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

17 (1) "adult correctional officer member" means
18 a member who is an adult correctional officer or an adult
19 correctional officer specialist employed by a corrections
20 facility of the corrections department or its successor
21 agency;

22 [~~(1)~~] (2) "hazardous duty member" means a
23 [~~state policeman who is a member and who is a juvenile or~~
24 ~~adult correctional officer employed by a corrections facility~~
25 ~~of the corrections department or its successor agency] member~~

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1 who is a juvenile correctional officer employed by the
2 children, youth and families department or its successor
3 agency;

4 [~~(2)~~] (3) "municipal fire member" means any
5 member who is employed as a full-time nonvolunteer firefighter
6 by an affiliated public employer and who has taken the oath
7 prescribed for firefighters;

8 [~~(3)~~] (4) "municipal police member" means any
9 member who is employed as a police officer by an affiliated
10 public employer, other than the state, and who has taken the
11 oath prescribed for police officers; and

12 [~~(4)~~] (5) "state police member" means any
13 member who is an officer of the New Mexico state police and
14 who has taken the oath prescribed for such officers;

15 N. "membership" means membership in the
16 association;

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

20 P. "public employer" means the state, any
21 municipality, city, county, metropolitan arroyo flood control
22 authority, economic development district, regional housing
23 authority, soil and water conservation district, entity
24 created pursuant to a joint powers agreement, council of
25 government, conservancy district, water and sanitation

1 district, water district and metropolitan water board,
2 including the boards, departments, bureaus and agencies of a
3 public employer, so long as these entities fall within the
4 meaning of governmental plan as that term is used in Section
5 414(d) of the Internal Revenue Code of 1986, as amended;

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

15 R. "retire" means to:

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

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

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

24 T. "retirement board" means the retirement board
25 provided for in the Public Employees Retirement Act;

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1 U. "salary" means the base salary or wages paid a
2 member, including longevity pay, for personal services
3 rendered an affiliated public employer. "Salary" shall not
4 include overtime pay, allowances for housing, clothing,
5 equipment or travel, payments for unused sick leave, unless
6 the unused sick leave payment is made through continuation of
7 the member on the regular payroll for the period represented
8 by that payment, and any other form of remuneration not
9 specifically designated by law as included in salary for
10 Public Employees Retirement Act purposes. Salary in excess of
11 the limitations set forth in Section 401(a) (17) of the
12 Internal Revenue Code of 1986, as amended shall be
13 disregarded. The limitation on compensation for eligible
14 employees shall not be less than the amount that was allowed
15 to be taken into account under the state retirement system
16 acts in effect on July 1, 1993. For purposes of this section,
17 "eligible employee" means an individual who was a member of a
18 state system before the first plan year beginning after
19 December 31, 1995;

20 V. "state system" means the retirement programs
21 provided for in the Public Employees Retirement Act, the
22 Magistrate Retirement Act and the Judicial Retirement Act;

23 W. "state retirement system acts" means
24 collectively the Public Employees Retirement Act, the
25 Magistrate Retirement Act, the Judicial Retirement Act and the

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1 Volunteer Firefighters Retirement Act; and

2 X. "survivor beneficiary" means a person who
3 receives a pension or who has been designated to be paid a
4 pension as a result of the death of a member or retired
5 member. "

6 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
7 Chapter 253, Section 27) is amended to read:

8 "10-11-27. STATE POLICE MEMBER AND ADULT CORRECTIONAL
9 OFFICER MEMBER COVERAGE PLAN 1--APPLICABILITY. --

10 A. State police member and adult correctional
11 officer member coverage plan 1 is applicable to state police
12 members and adult correctional officer members who are not
13 specifically covered by another coverage plan. The credited
14 service of a state police member who has held the permanent
15 rank of patrolman or sergeant and does not hold an exempt rank
16 or who is assigned to the aircraft division as a pilot or the
17 credited service of an adult correctional officer member shall
18 have actual credited service increased by twenty percent for
19 the purposes of state police member and adult correctional
20 officer member coverage plan 1.

21 B. State police member and adult correctional
22 officer member coverage plan 1 is applicable to adult
23 correctional officer members in the first full pay period
24 after July 1, 2003 if the retirement board certifies to the
25 secretary of state that, of those adult correctional officer

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1 members to be covered under state police member and adult
2 correctional officer member coverage plan 1, a majority of the
3 members voting has voted to approve adoption of this plan at
4 an election conducted pursuant to Section 9 of this act."

5 Section 3. A new Section 10-11-27.1 NMSA 1978 is enacted
6 to read:

7 "10-11-27.1. [NEW MATERIAL] STATE POLICE MEMBER AND
8 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--SERVICE
9 CREDIT REQUIRED. --Notwithstanding the provisions of Section
10 10-11-27 NMSA 1978, to qualify for payment under state police
11 member and adult correctional officer member coverage plan 1,
12 an adult correctional officer member shall have three years of
13 service credit earned under the state police member and adult
14 correctional officer member coverage plan 1 subsequent to July
15 1, 2002."

16 Section 4. Section 10-11-28 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 28) is amended to read:

18 "10-11-28. STATE POLICE MEMBER AND ADULT CORRECTIONAL
19 OFFICER MEMBER COVERAGE PLAN 1--AGE AND SERVICE REQUIREMENTS
20 FOR NORMAL RETIREMENT. --Under state police member and adult
21 correctional officer member coverage plan 1, the age and
22 service requirements for normal retirement are:

23 A. age sixty-five years or older and five or more
24 years of credited service;

25 B. age sixty-four years and eight or more years of

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1 credited service;

2 C. age sixty-three years and eleven or more years
3 of credited service;

4 D. age sixty-two years and fourteen or more years
5 of credited service;

6 E. age sixty-one years and seventeen or more years
7 of credited service;

8 F. age sixty years and twenty or more years of
9 credited service; or

10 G. any age and twenty-five or more years of
11 credited service. "

12 Section 5. Section 10-11-29 NMSA 1978 (being Laws 1987,
13 Chapter 253, Section 29) is amended to read:

14 "10-11-29. STATE POLICE MEMBER AND ADULT CORRECTIONAL
15 OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF
16 PAYMENT A.--Under state police member and adult correctional
17 officer member coverage plan 1, the amount of pension under
18 form of payment A is equal to three percent of final average
19 salary multiplied by credited service. The amount shall not
20 exceed eighty percent of the final average salary. "

21 Section 6. Section 10-11-30 NMSA 1978 (being Laws 1987,
22 Chapter 253, Section 30) is amended to read:

23 "10-11-30. STATE POLICE MEMBER AND ADULT CORRECTIONAL
24 OFFICER MEMBER COVERAGE PLAN 1--FINAL AVERAGE SALARY.--Under
25 state police member and adult correctional officer member

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1 coverage plan 1, the final average salary is one thirty-sixth
2 of the greatest aggregate amount of salary paid a member for
3 thirty-six consecutive months of credited service. Under
4 state police member and adult correctional officer member
5 coverage plan 1, if a member has less than thirty-six months
6 of credited service, the final average salary is the aggregate
7 amount of salary paid a member for the member's period of
8 credited service divided by the member's credited service. "

9 Section 7. Section 10-11-31 NMSA 1978 (being Laws 1987,
10 Chapter 253, Section 31) is amended to read:

11 "10-11-31. STATE POLICE MEMBER AND ADULT CORRECTIONAL
12 OFFICER MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE. --A
13 member under state police member and adult correctional
14 officer member coverage plan 1 shall contribute seven and six-
15 tenths percent of salary. "

16 Section 8. Section 10-11-32 NMSA 1978 (being Laws 1987,
17 Chapter 253, Section 32) is amended to read:

18 "10-11-32. STATE POLICE MEMBER AND ADULT CORRECTIONAL
19 OFFICER MEMBER COVERAGE PLAN 1--STATE CONTRIBUTION RATE. --The
20 state shall contribute twenty-five and one-tenth percent of
21 the salary of each member under state police member and adult
22 correctional officer member coverage plan 1. "

23 Section 9. TEMPORARY PROVISION--STATE POLICE MEMBER AND
24 ADULT CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 1--ELECTION. --

25 On or before October 1, 2002, the retirement board shall

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1 conduct an election to submit to adult correctional officer
2 members currently contributing under hazardous duty coverage
3 plan 2 the question of adopting a state police member and
4 adult correctional officer member coverage plan 1. The
5 election shall be conducted in accordance with procedures
6 adopted by the retirement board, and the retirement board
7 shall certify the results of the election to the secretary of
8 state on or before November 1, 2002.

9 Section 10. EFFECTIVE DATE. --The effective date of the
10 provisions of this act is July 1, 2002.