

AN ACT

RELATING TO PUBLIC EMPLOYEES' RETIREMENT; EXEMPTING RETIREES WHO RETURN TO WORK FOR THE LEGISLATURE DURING A LEGISLATIVE SESSION FROM THE CONTRIBUTION REQUIREMENTS OF THE PUBLIC EMPLOYEES RETIREMENT ACT; DECLARING AN EMERGENCY.

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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--RETURN TO EMPLOYMENT-- BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

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

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

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

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

C. A retired member may be subsequently employed by an affiliated public employer if the following conditions apply:

(1) the member has not been employed as an employee of an affiliated public employer for at least ninety consecutive days from the date of retirement to the commencement of employment or re-employment with an affiliated public employer. If the retired member returns to employment without first completing ninety consecutive days of retirement, the retired member shall remove himself from retirement;

(2) a retired member who returns to employment shall be required to make contributions to the fund as specified in the Public Employees Retirement Act. The affiliated public employer's contributions as specified in that act or as adjusted for full actuarial cost at the determination of the association shall be paid to the fund; and

(3) a retired member who returns to employment during retirement pursuant to this subsection is entitled to receive retirement benefits but is not entitled to acquire service credit or to acquire or purchase service credit in the future for the period of the retired member's re-employment with an affiliated public employer.

D. The provisions of Paragraph (2) of Subsection C of this section do not apply to a retired member employed by the legislature for legislative session work.

E. The pension of a member who has three or more years of service credit under each of two or more coverage plans shall be determined in accordance with the coverage plan that produces the highest pension. The pension of a

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member who has service credit under two or more coverage plans but who has three or more years of service credit under only one of those coverage plans shall be determined in accordance with the coverage plan in which the member has three or more years of service credit. If the service credit is acquired under two different coverage plans applied to the same affiliated public employer as a consequence of an election by the members, adoption by the affiliated public employer or a change in the law that results in the application of a coverage plan with a greater pension, the greater pension shall be paid a member retiring from the affiliated public employer under which the change in coverage plan took place regardless of the amount of service credit under the coverage plan producing the greater pension; provided the member has three or more years of continuous employment with that affiliated public employer immediately preceding or immediately preceding and immediately following the date the coverage plan changed. The provisions of each coverage plan for the purpose of this subsection shall be those in effect at the time the member ceased to be covered by the coverage plan. "Service credit", for the purposes of this subsection, shall be only personal service rendered an affiliated public employer and credited to the member under the provisions of Subsection A of Section 10-11-4 NMSA 1978. Service credited under any other provision of the Public Employees Retirement Act shall not be used to satisfy the three-year service credit requirement of this subsection."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety ~~that~~ this act take effect immediately.

