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HOUSE BILL 1067

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING THAT CERTAIN SEASONAL EMPLOYEES MAY PURCHASE CREDITED SERVICE.

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

Section 1. Section 10-11-4 NMSA 1978 (being Laws 1987, Chapter 253, Section 4, as amended) is amended to read:

"10-11-4. SERVICE CREDIT--REQUIREMENTS FOR--FORFEITURE--REINSTATEMENT.--

A. Personal service rendered an affiliated public employer by a member shall be credited to the member's service credit account in accordance with retirement board rules and regulations. Service shall be credited to the nearest month.

In no case shall ~~any~~ a member be credited with a year of service for less than twelve months of service in any calendar year or, except as provided in Subsection E of Section 10-11-7

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1 NMSA 1978, more than a month of service for all service in any  
2 calendar month or more than a year of service for all service  
3 in any calendar year. In no case shall any member be allowed  
4 to purchase service credit unless the purchase is authorized in  
5 the Public Employees Retirement Act.

6 B. Personal service rendered an affiliated public  
7 employer prior to August 1, 1947 shall be credited to a member  
8 if the member acquires one year of service credit for personal  
9 service rendered an affiliated public employer.

10 C. Personal service rendered an affiliated public  
11 employer after July 31, 1947 but prior to the date the public  
12 employer became an affiliated public employer is prior service  
13 and shall be credited to a member if:

14 (1) the member acquires five years of service  
15 credit for personal service rendered an affiliated public  
16 employer; and

17 (2) the member pays the association the amount  
18 determined in accordance with Subsection D of this section.

19 D. The purchase cost for each month of service  
20 credit purchased under the provisions of this section is equal  
21 to the member's final average salary multiplied by the sum of  
22 the member contribution rate and employer contribution rate  
23 determined in accordance with the coverage plan applicable to  
24 the member at the time of the written election to purchase.

25 Full payment shall be made in a single lump-sum amount in

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1 accordance with the procedures established by the retirement  
2 board. The portion of the purchase cost derived from the  
3 employer contribution rate shall be credited to the ~~[employer]~~  
4 employer's accumulation fund and shall not be refunded to the  
5 member in the event of cessation of membership. In no case  
6 shall any member be credited with a month of service for less  
7 than the purchase cost as defined in this section.

8 E. Service credit shall be forfeited if a member  
9 terminates employment with an affiliated public employer and  
10 withdraws the member's accumulated member contributions.

11 F. A member or former member who is a member of  
12 another state system or the educational retirement system and  
13 who has forfeited service credit by withdrawal of member  
14 contributions may reinstate the forfeited service credit by  
15 repaying the amount withdrawn plus compound interest from the  
16 date of withdrawal to the date of repayment at the rate set by  
17 the retirement board. Withdrawn member contributions may be  
18 repaid in increments of one year in accordance with the  
19 procedures established by the retirement board. Full payment  
20 of each one-year increment shall be made in a single lump-sum  
21 amount in accordance with procedures established by the  
22 retirement board."

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

25 "10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

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1           A. A member who entered a uniformed service of the  
2 United States may purchase service credit for periods of active  
3 duty in the uniformed services subject to the following  
4 conditions:

5                   (1) the member pays the association the  
6 purchase cost determined according to Subsection ~~[E]~~ F of this  
7 section;

8                   (2) the member has five or more years of  
9 service credit acquired as a result of personal service  
10 rendered in the employ of an affiliated public employer;

11                   (3) the aggregate amount of service credit  
12 purchased pursuant to this subsection does not exceed five  
13 years reduced by any period of service credit acquired for  
14 military service pursuant to any other provision of the Public  
15 Employees Retirement Act;

16                   (4) service credit may not be purchased for  
17 periods of service in the uniformed services that are used to  
18 obtain or increase a benefit from another retirement program;  
19 and

20                   (5) the member must not have received a  
21 discharge or separation from uniformed service under other than  
22 honorable conditions.

23           B. A member who was a civilian prisoner of war  
24 captured while in service to the United States as an employee  
25 of the federal government or as an employee of a contractor

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1 with the federal government may purchase service credit for the  
2 period of internment as a civilian prisoner of war, provided  
3 that:

4 (1) the member provides proof of employment  
5 with the federal government or as a contractor to the federal  
6 government in a form acceptable to the association;

7 (2) the member provides proof of the period of  
8 internment in a form acceptable to the association;

9 (3) the member has at least five years of  
10 service credit acquired as a result of personal service  
11 rendered in the employ of an affiliated public employer;

12 (4) the aggregate amount of service credit  
13 purchased pursuant to this subsection does not exceed five  
14 years reduced by any period of service credit acquired for  
15 military service pursuant to any other provision of the Public  
16 Employees Retirement Act;

17 (5) service credit may not be purchased for  
18 periods of service in internment as a civilian prisoner of war  
19 if such periods are used to obtain or increase a benefit from  
20 another retirement program; and

21 (6) the member pays the association the  
22 purchase cost determined according to Subsection [E] F of this  
23 section.

24 C. A member who was employed by a utility company,  
25 library, museum, transit company or nonprofit organization

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1 administering federally funded public service programs, which  
2 utility company, library, museum, transit company or nonprofit  
3 organization administering federally funded public service  
4 programs or federally funded public service programs  
5 administered by a nonprofit organization are subsequently taken  
6 over by an affiliated public employer, or a member who was  
7 employed by an entity created pursuant to a joint powers  
8 agreement between two or more affiliated public employers for  
9 the purpose of administering or providing drug or alcohol  
10 addiction treatment services irrespective of whether the entity  
11 is subsequently taken over by an affiliated public employer,  
12 may purchase credited service for the period of employment  
13 subject to the following conditions:

14 (1) the member pays the association the  
15 purchase cost determined according to Subsection ~~[E]~~ F of this  
16 section;

17 (2) the member has five or more years of  
18 credited service acquired as a result of personal service  
19 rendered in the employ of an affiliated public employer; and

20 (3) the aggregate amount of credited service  
21 purchased pursuant to this subsection does not exceed five  
22 years.

23 D. A member who was appointed to participate in a  
24 cooperative work study training program established jointly by  
25 the ~~[state highway and]~~ department of transportation

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1 [department] and the university of New Mexico or New Mexico  
2 state university may purchase credited service for the period  
3 of participation subject to the following conditions:

4 (1) the member pays the association the  
5 purchase cost determined according to Subsection [E] F of this  
6 section;

7 (2) the member has five or more years of  
8 credited service acquired as a result of personal service  
9 rendered in the employ of an affiliated public employer; and

10 (3) the aggregate amount of credited service  
11 purchased pursuant to this subsection does not exceed five  
12 years.

13 E. A member who was employed by the legislative  
14 branch during a regular session of the legislature and who did  
15 not acquire service credit solely because the affiliated public  
16 employer designated the employee as seasonal pursuant to  
17 Section 10-11-3 NMSA 1978 may purchase credited service subject  
18 to the following conditions:

19 (1) the member pays the association the  
20 purchase cost determined according to Subsection F of this  
21 section; and

22 (2) the member may purchase three months of  
23 credited service for each regular sixty-day session in which  
24 the member was employed and may purchase two months of credited  
25 service for each regular thirty-day session in which the member

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1 was employed.

2           ~~[E.]~~ F. Except for service to be used under a state  
3 legislator coverage plan, the purchase cost for each month of  
4 credited service purchased pursuant to the provisions of this  
5 section is equal to the member's final average salary  
6 multiplied by the sum of the member contribution rate and  
7 employer contribution rate. The contribution rates and final  
8 average salary shall be determined in accordance with the  
9 coverage plan and salary history applicable to the member at  
10 the time of the written election to purchase. The purchase  
11 cost for each year of credited service to be used under a state  
12 legislator coverage plan is equal to three times the normal  
13 member contribution per year of credited service under the  
14 state legislator coverage plan applicable to the member. Full  
15 payment shall be made in a single lump sum within sixty days of  
16 the date the member is informed of the amount of the payment.  
17 The portion of the purchase cost derived from the employer  
18 contribution rate shall be credited to the employer's  
19 accumulation fund and shall not be paid out of the association  
20 in the event of cessation of membership. In no case shall a  
21 member be credited with a month of service for less than the  
22 purchase cost as defined in this section.

23           ~~[F.]~~ G. A member shall be refunded, upon written  
24 request filed with the association, the portion of the purchase  
25 cost of credited service purchased pursuant to this section

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1 that the association determines to have been unnecessary to  
2 provide the member with the maximum pension applicable to the  
3 member. The association shall not pay interest on the portion  
4 of the purchase cost refunded to the member.

5 ~~[G.]~~ H. A member of the magistrate retirement  
6 system who during his service as a magistrate was eligible to  
7 become a member of the public employees retirement system and  
8 elected not to become a member of that system may purchase  
9 service credit pursuant to the public employees retirement  
10 system for the period for which the magistrate elected not to  
11 become a public employees retirement system member, by paying  
12 the amount of the increase in the actuarial present value of  
13 the magistrate pension as a consequence of the purchase as  
14 determined by the association. Full payment shall be made in  
15 a single lump-sum amount in accordance with procedures  
16 established by the retirement board. Except as provided in  
17 Subsection ~~[F]~~ G of this section, seventy-five percent of the  
18 purchase cost shall be considered to be employer  
19 contributions and shall not be refunded to the member in the  
20 event of cessation of membership.

21 ~~[H.]~~ I. At any time prior to retirement, any  
22 member may purchase service credit in monthly increments,  
23 subject to the following conditions:

24 (1) the member has at least five years of  
25 service credit acquired as a result of personal service

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1 rendered in the employ of an affiliated public employer;

2 (2) the aggregate amount of service credit  
3 purchased pursuant to this subsection does not exceed one  
4 year;

5 (3) the member pays full actuarial present  
6 value of the amount of the increase in the employee's pension  
7 as a consequence of the purchase as determined by the  
8 association;

9 (4) the member pays the full cost of the  
10 purchase within sixty days of the date the member is informed  
11 of the amount of the payment; and

12 (5) the purchase of service under this  
13 subsection cannot be used to determine the final average  
14 salary or the pension factor or be used to exceed the pension  
15 maximum."

16 Section 3. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2005.