

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 507

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

INTRODUCED BY

Michael S. Sanchez

AN ACT

RELATING TO PUBLIC EMPLOYEES RETIREMENT; PROVIDING A NEW
COVERAGE PLAN FOR CONSERVATION OFFICERS; RECONCILING
CONFLICTING AMENDMENTS TO A CERTAIN SECTION OF THE NMSA 1978.

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 and
any public employer affiliated with the association as provided

underscored material = new
[bracketed material] = delete

1 in the Public Employees Retirement Act, but does not include an
2 employer pursuant to the Magistrate Retirement Act, the
3 Judicial Retirement Act or the Educational Retirement Act;

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

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

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

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

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

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

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

25 J. "form of payment" means the applicable form of

underscored material = new
[bracketed material] = delete

1 payment of a pension provided for in Section 10-11-117 NMSA
2 1978;

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

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

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

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

19 (2) "conservation officer member" means a
20 member who is an officer of the department of game and fish and
21 who has taken the oath prescribed for such officers;

22 [~~(2)~~] (3) "hazardous duty member" means a
23 member who is a juvenile correctional officer employed by the
24 children, youth and families department or its successor
25 agency;

. 152824. 2

underscored material = new
[bracketed material] = del ete

1 [~~(3)~~] (4) "municipal detention officer member"
2 means a member who is employed by an affiliated public employer
3 other than the state and who has inmate custodial
4 responsibilities at a facility used for the confinement of
5 persons charged with or convicted of a violation of a law or
6 ordinance;

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

11 [~~(5)~~] (6) "municipal police member" means any
12 member who is employed as a police officer by an affiliated
13 public employer, other than the state, and who has taken the
14 oath prescribed for police officers; and

15 [~~(6)~~] (7) "state police member" means any
16 member who is an officer of the New Mexico state police and who
17 has taken the oath prescribed for such officers;

18 N. "membership" means membership in the
19 association;

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

23 P. "public employer" means the state, any
24 municipality, city, county, metropolitan arroyo flood control
25 authority, economic development district, regional housing

underscored material = new
[bracketed material] = delete

1 authority, soil and water conservation district, entity created
2 pursuant to a joint powers agreement, council of government,
3 conservancy district, water and sanitation district, water
4 district and metropolitan water board, including the boards,
5 departments, bureaus and agencies of a public employer, so long
6 as these entities fall within the meaning of governmental plan
7 as that term is used in Section 414(d) of the Internal Revenue
8 Code of 1986, as amended;

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

18 R. "retire" means to:

19 (1) terminate employment with all employers
20 covered by any state system or the educational retirement
21 system; and

22 (2) receive a pension from a state system or
23 the educational retirement system;

24 S. "retired member" means a person who has met all
25 requirements for retirement and who is receiving a pension from

. 152824. 2

underscored material = new
[bracketed material] = delete

1 the fund;

2 T. "retirement board" means the retirement board
3 provided for in the Public Employees Retirement Act;

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

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

25 W. "state retirement system acts" means

. 152824. 2

underscored material = new
[bracketed material] = delete

1 collectively the Public Employees Retirement Act, the
2 Magistrate Retirement Act, the Judicial Retirement Act and the
3 Volunteer Firefighters Retirement Act; and

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

8 Section 2. Section 10-11-27 NMSA 1978 (being Laws 1987,
9 Chapter 253, Section 27, as amended by Laws 2003, Chapter 268,
10 Section 9 and by Laws 2003, Chapter 269, Section 1) is amended
11 to read:

12 "10-11-27. STATE POLICE MEMBER, ADULT CORRECTIONAL
13 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN
14 1--APPLICABILITY. --

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

. 152824. 2

underscored material = new
[bracketed material] = delete

1 of state police member, adult correctional officer member and
2 conservation officer member coverage plan 1.

3 B. State police member, adult correctional officer
4 member and conservation officer member coverage plan 1 is
5 applicable to adult correctional officer members in the first
6 full pay period after July 1, 2004, if the retirement board
7 certifies to the secretary of state that, of those adult
8 correctional officer members to be covered under state police
9 member, adult correctional officer member and conservation
10 officer member coverage plan 1, a majority of the members
11 voting has voted to approve adoption of that plan at an
12 election conducted pursuant to Laws 2003, Chapter 268, Section
13 16.

14 C. State police member, adult correctional officer
15 member and conservation officer member coverage plan 1 is
16 applicable to conservation officer members in the first full
17 pay period after July 1, 2006, if the retirement board
18 certifies to the secretary of state that, of those conservation
19 officer members to be covered under state police member, adult
20 correctional officer member and conservation officer member
21 coverage plan 1, a majority of the members voting have voted to
22 approve adoption of that plan at an election."

23 Section 3. Section 10-11-27.1 NMSA 1978 (being Laws 2003,
24 Chapter 268, Section 10) is amended to read:

25 "10-11-27.1. STATE POLICE MEMBER, [AND] ADULT

. 152824. 2

underscored material = new
[bracketed material] = delete

1 CORRECTIONAL OFFICER MEMBER AND CONSERVATION OFFICER MEMBER
2 COVERAGE PLAN 1--SERVICE CREDIT REQUIRED. --Notwithstanding the
3 provisions of Section [~~10-11-27~~] 10-11-28 NMSA 1978, to qualify
4 for payment under state police member, [~~and~~] adult correctional
5 officer member and conservation officer member coverage plan 1,
6 an adult correctional officer member shall have eighteen months
7 of service credit earned under the state police member, [~~and~~]
8 adult correctional officer member and conservation officer
9 member coverage plan 1 subsequent to July 1, 2004, and a
10 conservation officer member shall have thirty-six months
11 service credit earned under the state police, adult
12 correctional officer and conservation officer member coverage
13 plan 1 subsequent to July 1, 2006. "

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

16 "10-11-28. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
17 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN
18 1--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
19 state police member, [~~and~~] adult correctional officer member
20 and conservation officer member coverage plan 1, the age and
21 service requirements for normal retirement are:

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

24 B. age sixty-four years and eight or more years of
25 credited service;

. 152824. 2

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

13 "10-11-29. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
14 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN
15 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state police
16 member, [~~and~~] adult correctional officer member and
17 conservation officer member coverage plan 1, the amount of
18 pension under form of payment A is equal to three percent of
19 final average salary multiplied by credited service. The
20 amount shall not exceed eighty percent of the final average
21 salary. "

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

24 "10-11-30. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
25 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN

. 152824. 2

underscored material = new
[bracketed material] = del etc

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

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

14 "10-11-31. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
15 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN
16 1--MEMBER CONTRIBUTION RATE.--A member under state police
17 member, [~~and~~] adult correctional officer member and
18 conservation officer member coverage plan 1 shall contribute
19 seven and six-tenths percent of salary. "

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

22 "10-11-32. STATE POLICE MEMBER, [~~AND~~] ADULT CORRECTIONAL
23 OFFICER MEMBER AND CONSERVATION OFFICER MEMBER COVERAGE PLAN
24 1--STATE CONTRIBUTION RATE.--The state shall contribute twenty-
25 five and one-tenth percent of the salary of each member under

. 152824. 2

1 state police member, [~~and~~] adult correctional officer member
2 and conservation officer member coverage plan 1. "

3 Section 9. TEMPORARY PROVISION--ELECTION--COVERAGE FOR
4 CONSERVATION OFFICERS.--On or before October 1, 2005, the
5 retirement board shall conduct an election to submit to
6 conservation officer members the question of adopting a state
7 police member, adult correctional officer member and
8 conservation officer member coverage plan 1. The election
9 shall be conducted in accordance with procedures adopted by the
10 retirement board, and the retirement board shall certify the
11 results of the election to the secretary of state on or before
12 November 1, 2005.

13 Section 10. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2005.

15 - 12 -
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete