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SENATE BILL 502

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

John T. L. Grubestic

AN ACT

RELATING TO RETIREMENT; AMENDING THE RETIREE HEALTH CARE ACT.

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

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "affidavit of domestic partnership" means an affidavit that includes the full names of the state employee

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1 and the domestic partner; the date they entered into a domestic  
2 partnership and a statement that the two are in a mutually  
3 exclusive, intimate and committed relationship, have shared a  
4 primary residence for twelve or more consecutive months, are  
5 jointly responsible for the common welfare of each other and  
6 share financial obligations;

7 ~~[B.]~~ C. "authority" means the retiree health care  
8 authority created pursuant to the Retiree Health Care Act;

9 ~~[G.]~~ D. "basic plan of benefits" means only those  
10 coverages generally associated with a medical plan of benefits;

11 ~~[D.]~~ E. "board" means the board of the retiree  
12 health care authority;

13 ~~[E.]~~ F. "current retiree" means an eligible retiree  
14 who is receiving a disability or normal retirement benefit  
15 under the Educational Retirement Act, the Public Employees  
16 Retirement Act, the Judicial Retirement Act, the Magistrate  
17 Retirement Act, the Public Employees Retirement Reciprocity Act  
18 or the retirement program of an independent public employer on  
19 or before July 1, 1990;

20 G. "domestic partner" means one of two persons who  
21 are in a mutually exclusive, intimate and committed  
22 relationship and who share a primary residence for twelve or  
23 more consecutive months, are jointly responsible for the common  
24 welfare of each other and share financial obligations. Each  
25 person shall be capable of consenting to be in the domestic

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1 partnership and have no blood relationship that would prohibit  
2 their marriage under Section 40-1-7 NMSA 1978. Neither person  
3 in a domestic partnership may be married to someone else or be  
4 a member of another domestic partnership that has not been  
5 terminated, dissolved or adjudged a nullity;

6 [F-] H. "eligible dependent" means a person  
7 obtaining retiree health care coverage based upon that person's  
8 relationship to an eligible retiree as follows:

- 9 (1) a spouse;
- 10 (2) an unmarried child under the age of  
11 nineteen who is:
- 12 (a) a natural child;
- 13 (b) a legally adopted child;
- 14 (c) a stepchild living in the same  
15 household who is primarily dependent on the eligible retiree  
16 for maintenance and support;
- 17 (d) a child for whom the eligible  
18 retiree is the legal guardian and who is primarily dependent on  
19 the eligible retiree for maintenance and support, as long as  
20 evidence of the guardianship is evidenced in a court order or  
21 decree; or
- 22 (e) a foster child living in the same  
23 household;
- 24 (3) a child described in Subparagraphs (a)  
25 through (e) of Paragraph (2) of this subsection who is between

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1 the ages of nineteen and twenty-five and is a full-time student  
2 at an accredited educational institution; provided that  
3 "full-time student" shall be a student enrolled in and taking  
4 twelve or more semester hours or its equivalent contact hours  
5 in primary, secondary, undergraduate or vocational school or a  
6 student enrolled in and taking nine or more semester hours or  
7 its equivalent contact hours in graduate school;

8 (4) a dependent child over nineteen who is  
9 wholly dependent on the eligible retiree for maintenance and  
10 support and who is incapable of self-sustaining employment by  
11 reason of mental retardation or physical handicap; provided  
12 that proof of incapacity and dependency shall be provided  
13 within thirty-one days after the child reaches the limiting age  
14 and at such times thereafter as may be required by the board;

15 (5) a surviving spouse or surviving domestic  
16 partner defined as follows:

17 (a) "surviving spouse" or "surviving  
18 domestic partner" means the spouse or surviving domestic  
19 partner to whom a retiree was married or with whom the retiree  
20 lived as a legal domestic partner at the time of death; or

21 (b) "surviving spouse" or "surviving  
22 domestic partner" means the spouse or domestic partner to whom  
23 a deceased vested active employee was married or with whom the  
24 deceased vested active employee lived as a legal domestic  
25 partner at the time of death; or

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1 (6) a surviving dependent child who is the  
2 dependent child of a deceased eligible retiree whose other  
3 parent is also deceased;

4 [~~G.~~] I. "eligible employer" means either:

5 (1) a "retirement system employer", which  
6 means an institution of higher education, a school district or  
7 other entity participating in the public school insurance  
8 authority, a state agency, state court, magistrate court,  
9 municipality, county or public entity, each of which is  
10 affiliated under or covered by the Educational Retirement Act,  
11 the Public Employees Retirement Act, the Judicial Retirement  
12 Act, the Magistrate Retirement Act or the Public Employees  
13 Retirement Reciprocity Act; or

14 (2) an "independent public employer", which  
15 means a municipality, county or public entity that is not a  
16 retirement system employer;

17 [~~H.~~] J. "eligible retiree" means:

18 (1) a "nonsalaried eligible participating  
19 entity governing authority member", which means a person who is  
20 not a retiree and who:

21 (a) has served without salary as a  
22 member of the governing authority of an employer eligible to  
23 participate in the benefits of the Retiree Health Care Act and  
24 is certified to be such by the executive director of the public  
25 school insurance authority;

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1 (b) has maintained group health  
2 insurance coverage through that member's governing authority if  
3 such group health insurance coverage was available and offered  
4 to the member during the member's service as a member of the  
5 governing authority; and

6 (c) was participating in the group  
7 health insurance program under the Retiree Health Care Act  
8 prior to July 1, 1993; or

9 (d) notwithstanding the provisions of  
10 Subparagraphs (b) and (c) of this paragraph, is eligible under  
11 Subparagraph (a) of this paragraph and has applied before  
12 August 1, 1993 to the authority to participate in the program;

13 (2) a "salaried eligible participating entity  
14 governing authority member", which means a person who is not a  
15 retiree and who:

16 (a) has served with salary as a member  
17 of the governing authority of an employer eligible to  
18 participate in the benefits of the Retiree Health Care Act;

19 (b) has maintained group health  
20 insurance through that member's governing authority, if such  
21 group health insurance was available and offered to the member  
22 during the member's service as a member of the governing  
23 authority; and

24 (c) was participating in the group  
25 health insurance program under the Retiree Health Care Act

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1 prior to July 1, 1993; or

2 (d) notwithstanding the provisions of  
3 Subparagraphs (b) and (c) of this paragraph, is eligible under  
4 Subparagraph (a) of this paragraph and has applied before  
5 August 1, 1993 to the authority to participate in the program;

6 (3) an "eligible participating retiree", which  
7 means a person who:

8 (a) falls within the definition of a  
9 retiree, has made contributions to the fund for at least five  
10 years prior to retirement and whose eligible employer during  
11 that period of time made contributions as a participant in the  
12 Retiree Health Care Act on the person's behalf, unless that  
13 person retires on or before July 1, 1995, in which event the  
14 time period required for employee and employer contributions  
15 shall become the period of time between July 1, 1990 and the  
16 date of retirement, and who is certified to be a retiree by the  
17 educational retirement director, the executive secretary of the  
18 public employees retirement board or the governing authority of  
19 an independent public employer;

20 (b) falls within the definition of a  
21 retiree, retired prior to July 1, 1990 and is certified to be a  
22 retiree by the educational retirement director, the executive  
23 secretary of the public employees retirement association or the  
24 governing authority of an independent public employer; but this  
25 paragraph does not include a retiree who was an employee of an

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1 eligible employer who exercised the option not to be a  
2 participating employer pursuant to the Retiree Health Care Act  
3 and did not after January 1, 1993 elect to become a  
4 participating employer; unless the retiree: 1) retired on or  
5 before June 30, 1990; and 2) at the time of retirement did not  
6 have a retirement health plan or retirement health insurance  
7 coverage available from ~~his~~ the retiree's employer; or

8 (c) is a retiree who: 1) was at the  
9 time of retirement an employee of an eligible employer who  
10 exercised the option not to be a participating employer  
11 pursuant to the Retiree Health Care Act, but which eligible  
12 employer subsequently elected after January 1, 1993 to become a  
13 participating employer; 2) has made contributions to the fund  
14 for at least five years prior to retirement and whose eligible  
15 employer during that period of time made contributions as a  
16 participant in the Retiree Health Care Act on the person's  
17 behalf, unless that person retires less than five years after  
18 the date participation begins, in which event the time period  
19 required for employee and employer contributions shall become  
20 the period of time between the date participation begins and  
21 the date of retirement; and 3) is certified to be a retiree by  
22 the educational retirement director, the executive director of  
23 the public employees retirement board or the governing  
24 authority of an independent public employer;

25 (4) a "legislative member", which means a

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1 person who is not a retiree and who served as a member of the  
2 New Mexico legislature for at least two years, but is no longer  
3 a member of the legislature and is certified to be such by the  
4 legislative council service; or

5 (5) a "former participating employer governing  
6 authority member", which means a person, other than a  
7 nonsalaried eligible participating entity governing authority  
8 member or a salaried eligible participating entity governing  
9 authority member, who is not a retiree and who served as a  
10 member of the governing authority of a participating employer  
11 for at least four years but is no longer a member of the  
12 governing authority and whose length of service is certified by  
13 the chief executive officer of the participating employer;

14 [~~F.~~] K. "fund" means the retiree health care fund;

15 [~~J.~~] L. "group health insurance" means coverage  
16 that includes but is not limited to life insurance, accidental  
17 death and dismemberment, hospital care and benefits, surgical  
18 care and treatment, medical care and treatment, dental care,  
19 eye care, obstetrical benefits, prescribed drugs, medicines and  
20 prosthetic devices, medicare supplement, medicare carveout,  
21 medicare coordination and other benefits, supplies and services  
22 through the vehicles of indemnity coverages, health maintenance  
23 organizations, preferred provider organizations and other  
24 health care delivery systems as provided by the Retiree Health  
25 Care Act and other coverages considered by the board to be

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1       advisable;

2               ~~[K.]~~ M. "ineligible dependents" include:

3                       (1) those dependents created by common law  
4       relationships;

5                       (2) dependents while in active military  
6       service;

7                       (3) parents, aunts, uncles, brothers, sisters,  
8       grandchildren and other family members left in the care of an  
9       eligible retiree without evidence of legal guardianship; and

10                      (4) anyone not specifically referred to as an  
11       eligible dependent pursuant to the rules and regulations  
12       adopted by the board;

13               ~~[L.]~~ N. "participating employee" means an employee  
14       of a participating employer, which employee has not been  
15       expelled from participation in the Retiree Health Care Act  
16       pursuant to Section 10-7C-10 NMSA 1978;

17               ~~[M.]~~ O. "participating employer" means an eligible  
18       employer who has satisfied the conditions for participating in  
19       the benefits of the Retiree Health Care Act, including the  
20       requirements of Subsection M of Section 10-7C-7 NMSA 1978 and  
21       Subsection D or E of Section 10-7C-9 NMSA 1978, as applicable;

22               ~~[N.]~~ P. "public entity" means a flood control  
23       authority, economic development district, council of  
24       governments, regional housing authority, conservancy district  
25       or other special district or special purpose government; and

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1                   [~~Θ-~~] Q. "retiree" means a person who:

2                               (1) is receiving:

3                                       (a) a disability or normal retirement  
4 benefit or survivor's benefit pursuant to the Educational  
5 Retirement Act;

6                                       (b) a disability or normal retirement  
7 benefit or survivor's benefit pursuant to the Public Employees  
8 Retirement Act, the Judicial Retirement Act, the Magistrate  
9 Retirement Act or the Public Employees Retirement Reciprocity  
10 Act; or

11                                      (c) a disability or normal retirement  
12 benefit or survivor's benefit pursuant to the retirement  
13 program of an independent public employer to which that  
14 employer has made periodic contributions; or

15                                      (2) is not receiving a survivor's benefit but  
16 is the eligible dependent of a person who received a disability  
17 or normal retirement benefit pursuant to the Educational  
18 Retirement Act, the Public Employees Retirement Act, the  
19 Judicial Retirement Act, the Magistrate Retirement Act or the  
20 Public Employees Retirement Reciprocity Act."