

AN ACT

RELATING TO MAGISTRATE RETIREMENT; AMENDING THE MAGISTRATE RETIREMENT ACT TO PROVIDE FOR PURCHASE OF SERVICE CREDIT OF ONE YEAR BY ANY MEMBER.

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

Section 1. Section 10-12C-5 NMSA 1978 (being Laws 1992, Chapter 118, Section 5, as amended) is amended to read:

"10-12C-5. SERVICE CREDIT--REINSTATEMENT OF FORFEITED SERVICE--PRIOR SERVICE--MILITARY SERVICE.--

A. Personal service rendered by a member shall be credited to the member's service credit account in accordance with board rules and regulations. Service shall be credited to the nearest month. In no case shall any member be credited with a year of service for less than twelve months of service in any calendar year or more than a month of service for all service in any calendar month or more than a year of service for all service in any calendar year.

B. Service credit shall be forfeited if a member leaves office and withdraws the member's accumulated member contributions. A member or former member who is a member of another state system or the educational retirement system who has forfeited service credit by withdrawal of member contributions may reinstate the forfeited service credit by repaying the amount withdrawn plus compound interest from the

date of withdrawal to the date of repayment at a rate set by the board. Withdrawn member contributions may be repaid in increments of one year in accordance with procedures established by the board. Full payment of each one-year increment shall be made in a single lump-sum amount in accordance with procedures established by the board.

C. Service credit that a member would have earned if the member had not elected to be excluded from membership may be purchased if the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section.

D. A member who during a term of office enters a uniformed service of the United States shall be given service credit for periods of service in the uniformed services subject to the following conditions:

(1) the member returns to office within ninety days following termination of the period of intervening service in the uniformed services or the affiliated employer certifies in writing to the association that the member is entitled to reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994;

(2) the member retains membership in the association during the period of service in the uniformed services;

(3) free service credit shall not be given

for periods of intervening service in the uniformed services following voluntary reenlistment. Service credit for such periods shall only be given after the member pays the association the sum of the contributions that the person would have been required to contribute had the person remained continuously employed throughout the period of intervening service following voluntary reenlistment, which payment shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's intervening service in the uniformed services following voluntary reenlistment, not to exceed five years;

(4) service credit shall not be given for periods of intervening service in the uniformed services that are used to obtain or increase a benefit from another state system or the retirement program provided under the Educational Retirement Act; and

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

Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended.

United States may purchase service credit for periods of active duty in the uniformed services, subject to the following conditions:

(1) the member pays the purchase cost determined pursuant to the provisions of Subsection F of this section;

(2) the member has five or more years of service credit accrued according to the provisions of the Magistrate Retirement Act;

(3) the aggregate amount of service credit purchased pursuant to the provisions of this subsection does not exceed five years, reduced by any period of service credit acquired for military service under any other provision of the Magistrate Retirement Act;

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

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

F. The purchase cost for each year of service credit purchased pursuant to the provisions of this section shall be the increase in the actuarial present value of the pension of the member under the Magistrate Retirement Act as a

consequence of the purchase, as determined by the association. Full payment shall be made in a single lump-sum amount in accordance with procedures established by the board. Except as provided in Subsection G of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership.

G. A member shall be refunded, after retirement and upon written request filed with the association, the portion of the purchase cost of service credit purchased pursuant to the provisions of this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

H. At any time prior to retirement, a member may purchase service credit in monthly increments, subject to the following conditions:

(1) the member has at least five years of service credit acquired as a result of personal service rendered under the Magistrate Retirement Act;

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

(3) the member pays full actuarial present

value of the amount of the increase in the member's pension as a consequence of the purchase, as determined by the association;

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

(5) the purchase of service credit under this subsection cannot be used to exceed the pension maximum."