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HOUSE BILL 165

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY
Rhonda S. King

AN ACT

RELATING TO PUBLIC EMPLOYEE RETIREMENT; CREATING A RETIREMENT
PLAN FOR DISTRICT ATTORNEYS AND CERTAIN ATTORNEYS EMPLOYED BY
DISTRICT ATTORNEYS.

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

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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

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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) "district attorney member" means a member
20 who is employed full time by an affiliated public employer as a
21 district attorney, a chief deputy district attorney, a deputy
22 district attorney or a senior trial prosecutor;

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

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1 agency;

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

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

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

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

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

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

24 P. "public employer" means the state, any
25 municipality, city, county, metropolitan arroyo flood control

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1 authority, economic development district, regional housing
2 authority, soil and water conservation district, entity created
3 pursuant to a joint powers agreement, council of government,
4 conservancy district, irrigation district, water and sanitation
5 district, water district and metropolitan water board,
6 including the boards, departments, bureaus and agencies of a
7 public employer, so long as these entities fall within the
8 meaning of governmental plan as that term is used in Section
9 414(d) of the Internal Revenue Code of 1986, as amended;

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

19 R. "retire" means to:

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

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

25 S. "retired member" means a person who has met all

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1 requirements for retirement and who is receiving a pension from
2 the fund;

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

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

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

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1 W. "state retirement system acts" means
2 collectively the Public Employees Retirement Act, the
3 Magistrate Retirement Act, the Judicial Retirement Act and the
4 Volunteer Firefighters Retirement Act; and

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

9 Section 2. A new section of the Public Employees
10 Retirement Act is enacted to read:

11 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
12 APPLICABILITY.--District attorney member coverage plan 1 is
13 applicable to district attorney members on the first day of the
14 calendar month following certification of the election adopting
15 district attorney member plan 1 by an affirmative vote of the
16 majority of district attorney members. The election shall be
17 conducted by the retirement board, and the board shall certify
18 the results. The election procedures shall afford all district
19 attorney members an opportunity to vote. An election adopting
20 district attorney member coverage plan 1 is irrevocable for the
21 purpose of subsequently adopting a coverage plan that would
22 decrease employer or employee contributions with respect to all
23 current and future district attorney members."

24 Section 3. A new section of the Public Employees
25 Retirement Act is enacted to read:

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1 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
2 AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under
3 district attorney member coverage plan 1, the age and service
4 requirements for normal retirement are:

5 A. age sixty-five years or older and five or more
6 years of credited service;

7 B. age sixty-four years and eight or more years of
8 credited service;

9 C. age sixty-three years and eleven or more years
10 of credited service;

11 D. age sixty-two years and fourteen or more years
12 of credited service;

13 E. age sixty-one years and seventeen or more years
14 of credited service; or

15 F. any age and twenty or more years of credited
16 service."

17 Section 4. A new section of the Public Employees
18 Retirement Act is enacted to read:

19 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
20 AMOUNT OF PENSION--FORM OF PAYMENT A.--Under district attorney
21 member coverage plan 1, the amount of pension under form of
22 payment A is equal to three and one-half percent of the final
23 average salary multiplied by credited service; provided that
24 the amount shall not exceed eighty percent of the final average
25 salary."

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1 Section 5. A new section of the Public Employees
2 Retirement Act is enacted to read:

3 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
4 FINAL AVERAGE SALARY.--Under district attorney member coverage
5 plan 1, the final average salary is one thirty-sixth of the
6 greatest aggregate amount of salary paid a district attorney
7 member for thirty-six consecutive months of credited service.
8 Under district attorney member coverage plan 1, if a member has
9 less than thirty-six months of credited service, the final
10 average salary is the aggregate amount of salary paid a member
11 for the member's period of credited service divided by the
12 member's credited service."

13 Section 6. A new section of the Public Employees
14 Retirement Act is enacted to read:

15 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
16 MEMBER CONTRIBUTION RATE.--A member under district attorney
17 member coverage plan 1 shall contribute ten and fifteen
18 hundredths percent of salary starting with the first full pay
19 period in the calendar month in which the district attorney
20 member coverage plan 1 becomes applicable to the member."

21 Section 7. A new section of the Public Employees
22 Retirement Act is enacted to read:

23 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
24 AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated
25 public employer shall contribute twenty-two and sixty-eight

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1 hundredths percent of the salary of each member who it employs
2 and who is covered under district attorney member coverage plan
3 1."

4 Section 8. A new section of the Public Employees
5 Retirement Act is enacted to read:

6 "[NEW MATERIAL] DISTRICT ATTORNEY MEMBER COVERAGE PLAN 1--
7 SERVICE CREDIT REQUIRED FOR DISTRICT ATTORNEY MEMBERS.--
8 Notwithstanding other provisions of the Public Employees
9 Retirement Act, to qualify for retirement pursuant to district
10 attorney member coverage plan 1, a district attorney member
11 shall have eighteen months of service credit earned under that
12 coverage plan."

13 Section 9. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2008.