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HOUSE BILL 631

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; AMENDING THE EDUCATIONAL
RETIREMENT ACT TO CHANGE RETIREMENT ELIGIBILITY FOR MEMBERS
FIRST EMPLOYED ON OR AFTER JULY 1, 2010.

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

Section 1. Section 22-11-23 NMSA 1978 (being Laws 1981,
Chapter 293, Section 2, as amended) is amended to read:

"22-11-23. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP
PRIOR TO JULY 1, 2010.--

A. [~~On and after July 1, 1984~~] The retirement
eligibility for a member who either was a member on June 30,
2010, or was a member at any time prior to that date and had
not, on that date, been refunded all member contributions
pursuant to Subsection A of Section 22-11-15 NMSA 1978, is as
follows:

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1 (1) a member shall be eligible for retirement
2 benefits pursuant to the Educational Retirement Act when either
3 of the following conditions occurs:

4 (a) the sum of the member's age and
5 years of earned service-credit equals seventy-five; or

6 (b) upon completion of five years of
7 earned service-credit and upon becoming sixty-five years of
8 age;

9 (2) a member under sixty years of age eligible
10 to retire under Paragraph (1) of this subsection may retire and
11 receive retirement benefits pursuant to the Educational
12 Retirement Act that ~~[he]~~ the member would be eligible to
13 receive if ~~[he]~~ the member were to retire at the age of sixty
14 years reduced by six-tenths of one percent for each one-fourth,
15 or portion thereof, year that retirement occurs prior to the
16 member's sixtieth ~~[birthdate]~~ birthday but after the fifty-
17 fifth ~~[birthdate]~~ birthday, and one and eight-tenths percent
18 for each one-fourth, or portion thereof, year that retirement
19 occurs prior to age fifty-five; or

20 (3) a member under sixty years of age
21 acquiring twenty-five or more years of earned and allowed
22 service credit may retire and receive retirement benefits
23 pursuant to the Educational Retirement Act computed on the same
24 basis as if the member were sixty years of age.

25 B. A member shall be subject to the provisions of

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1 Paragraphs (2) and (3) of Subsection A of this section as they
2 existed at the beginning of [~~his~~] the member's last cumulated
3 four quarters of earned service-credit, regardless of later
4 amendment."

5 Section 2. A new section of the Educational Retirement
6 Act, Section 22-11-23.1 NMSA 1978, is enacted to read:

7 "22-11-23.1. [NEW MATERIAL] RETIREMENT ELIGIBILITY--
8 INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2010.--

9 A. A member who initially became a member on or
10 after July 1, 2010 or a member who was a member at any time
11 prior to that date and had, before that date, been refunded all
12 member contributions pursuant to Subsection A of Section
13 22-11-15 NMSA 1978 shall be eligible for retirement benefits
14 pursuant to the Educational Retirement Act when one of the
15 following conditions occurs:

16 (1) the member is any age and has thirty or
17 more years of earned service credit;

18 (2) the member is at least sixty-five years of
19 age and has five or more years of earned service credit; or

20 (3) the sum of the member's age and years of
21 earned service credit equals at least eighty; provided that a
22 member who retires pursuant to this paragraph shall be subject
23 to the benefit reductions provided in Paragraphs (1) and (2) of
24 Subsection H of Section 22-11-30 NMSA 1978.

25 B. A member shall be subject to the provisions of

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1 this section as they existed at the beginning of the member's
2 last cumulated four quarters of earned service credit,
3 regardless of later amendment."

4 Section 3. Section 22-11-30 NMSA 1978 (being Laws 1967,
5 Chapter 16, Section 153, as amended) is amended to read:

6 "22-11-30. RETIREMENT BENEFITS.--

7 A. Retirement benefits for a member retired
8 pursuant to the Educational Retirement Act on or before
9 June 30, 1967 shall be paid monthly and shall be one-twelfth of
10 a sum equal to one and one-half percent of the first four
11 thousand dollars (\$4,000) of the member's average annual salary
12 and one percent of the remainder of the member's average annual
13 salary multiplied by the number of years of the member's total
14 service credit.

15 B. Retirement benefits for a member retired
16 pursuant to the Educational Retirement Act on or after July 1,
17 1967 but on or before June 30, 1971 shall be paid monthly and
18 shall be one-twelfth of a sum equal to one and one-half percent
19 of the first six thousand six hundred dollars (\$6,600) of the
20 member's average annual salary and one percent of the remainder
21 of the member's average annual salary multiplied by the number
22 of years of the member's total service credit.

23 C. Retirement benefits for a member retired
24 pursuant to the Educational Retirement Act on or after July 1,
25 1971 but on or before June 30, 1974 shall be paid monthly and

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1 shall be one-twelfth of a sum equal to one and one-half percent
2 of the member's average annual salary multiplied by the number
3 of years of the member's total service credit.

4 D. Retirement benefits for a member retired
5 pursuant to the Educational Retirement Act on or before
6 June 30, 1974 but returning to employment on or after July 1,
7 1974 for a cumulation of one or more years shall be computed
8 pursuant to Subsection E of this section. Retirement benefits
9 for a member retired pursuant to the Educational Retirement Act
10 on or before June 30, 1974 but returning to employment on or
11 after July 1, 1974 for a cumulation of less than one year shall
12 be computed pursuant to Subsection A of this section if [~~his~~]
13 the member's date of last retirement was on or before June 30,
14 1967 or pursuant to Subsection B of this section if [~~his~~] the
15 member's date of last retirement was on or after July 1, 1967
16 but not later than June 30, 1971 or pursuant to Subsection C of
17 this section if [~~his~~] the member's date of last retirement was
18 on or after July 1, 1971 but not later than June 30, 1974.

19 E. Retirement benefits for a member age sixty or
20 over, retired pursuant to the Educational Retirement Act on or
21 after July 1, 1974 but not later than June 30, 1987, shall be
22 paid monthly and shall be one-twelfth of a sum equal to:

23 (1) one and one-half percent of the member's
24 average annual salary multiplied by the number of years of
25 service credit for:

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- 1 (a) prior employment; and
2 (b) allowed service credit for service
3 performed prior to July 1, 1957, except United States military
4 service credit purchased pursuant to Paragraph (3) of
5 Subsection A of Section 22-11-34 NMSA 1978; plus
6 (2) two percent of the member's average annual
7 salary multiplied by the number of years of service credit for:
8 (a) contributory employment;
9 (b) allowed service credit for service
10 performed after July 1, 1957; and
11 (c) United States military service
12 credit for service performed prior to July 1, 1957 and
13 purchased pursuant to Paragraph (3) of Subsection A of Section
14 22-11-34 NMSA 1978.

15 F. Retirement benefits for a member age sixty or
16 over, retired pursuant to the Educational Retirement Act on or
17 after July 1, 1987 but not later than June 30, 1991, shall be
18 paid monthly and shall be one-twelfth of a sum equal to two and
19 fifteen hundredths percent of the member's average annual
20 salary multiplied by the number of years of the member's total
21 service credit; provided that this subsection shall not apply
22 to any member who was retired in any of the four quarters
23 ending on June 30, 1987 without having accumulated not less
24 than 1.0 years earned service credit after June 30, 1987.

25 G. Retirement benefits for a member age sixty or

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1 over, retired pursuant to [~~the Educational Retirement Act~~]
2 Section 22-11-23 NMSA 1978 on or after July 1, 1991, shall be
3 paid monthly and shall be one-twelfth of a sum equal to two and
4 thirty-five hundredths percent of the member's average annual
5 salary multiplied by the number of years of the member's total
6 service credit; provided that this subsection shall not apply
7 to any member who was retired in any of the four consecutive
8 quarters ending on June 30, 1991 without having accumulated at
9 least one year earned service credit beginning on or after July
10 1, 1991.

11 H. Retirement benefits for a member, retired
12 pursuant to Section 22-11-23.1 NMSA 1978, shall be paid monthly
13 and shall be one-twelfth of a sum equal to two and thirty-five
14 hundredths percent of the member's average annual salary
15 multiplied by the number of years of the member's total service
16 credit; provided that the benefit for a member retiring
17 pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1
18 NMSA 1978 shall be reduced by:

19 (1) six-tenths of one percent for each one-
20 fourth, or portion thereof, year that retirement occurs prior
21 to the member's sixty-fifth birthday but after the sixtieth
22 birthday; and

23 (2) one and eight-tenths percent for each one-
24 fourth, or portion thereof, year that retirement occurs prior
25 to the member's sixtieth birthday.

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[H.] I. A member's average annual salary, pursuant to this section, shall be computed on the basis of the last five years for which contribution was made or upon the basis of any consecutive five years for which contribution was made by the member, whichever is higher.

J. Unless otherwise required by the provisions of the Internal Revenue Code of 1986, members shall begin receiving retirement benefits by age seventy and six months, or upon termination of employment, whichever occurs later."

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2010.