

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS RETIREMENT; REQUIRING CERTAIN ADMINISTRATIVE PROCEDURES; CHANGING THE REQUIREMENTS FOR ESTABLISHING SERVICE CREDIT; AUTHORIZING A DEPENDENT CHILD TO BE DESIGNATED AS A BENEFICIARY.

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

Section 1. Section 10-11A-2 NMSA 1978 (being Laws 1983, Chapter 263, Section 2, as amended) is amended to read:

"10-11A-2. DEFINITIONS.--As used in the Volunteer Firefighters Retirement Act:

A. "association" means the public employees retirement association;

B. "board" means the retirement board of the association;

C. "fire department" means a fire department with volunteer members that is certified by the fire marshal division of the public regulation commission;

D. "fund" means the volunteer firefighters retirement fund; and

E. "member" means a volunteer nonsalaried firefighter who is listed as an active member on the rolls of a fire department and whose first year of service credit was accumulated during or after the year the member attained the age of sixteen. A volunteer firefighter who receives

reimbursement for personal out-of-pocket costs shall not be considered a salaried firefighter."

Section 2. Section 10-11A-4 NMSA 1978 (being Laws 1983, Chapter 263, Section 4) is amended to read:

"10-11A-4. ADMINISTRATION OF THE VOLUNTEER FIREFIGHTERS RETIREMENT ACT, PROGRAM AND FUNDS BY THE BOARD--ANNUAL ACTUARIAL EVALUATION.--

A. The provisions of the Volunteer Firefighters Retirement Act and the volunteer firefighters retirement program authorized under that act shall be administered by the board. The provisions of law relating to the administration and investment of retirement funds administered by the board shall apply to all funds transferred and paid into the fund. In its administration of the volunteer firefighters retirement program, the board is authorized to promulgate rules and regulations.

B. The board shall provide for an annual actuarial evaluation of the fund and shall make recommendations to the legislature for any changes necessary to maintain the actuarial soundness of the fund.

C. The association shall remove a member's information file from the association's active database and enter it into an inactive database if qualifying documentation for the member has not been provided to the association for five consecutive years. A member's information file that has

been entered into an inactive database shall not be included in the board's annual actuarial evaluation of the fund. The association shall return a member's information file to the association's active database if the association receives new qualifying documentation for the member."

Section 3. Section 10-11A-5 NMSA 1978 (being Laws 1983, Chapter 263, Section 5) is amended to read:

"10-11A-5. RETIREMENT BENEFITS--ELIGIBILITY.--

A. Any member who attains the age of fifty-five years and has twenty-five years or more of service credit shall be eligible to receive a retirement annuity of two hundred dollars (\$200), payable monthly from the fund during the remainder of the member's life.

B. Any member who attains the age of fifty-five years and has at least ten but less than twenty-five years or more of service credit shall be eligible to receive a retirement annuity of one hundred dollars (\$100), payable monthly from the fund during the remainder of the member's life.

C. Any member who ceases to be a volunteer nonsalaried firefighter after completing at least ten but less than twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of one hundred dollars (\$100), payable monthly from the fund during the remainder of the member's

life.

D. Any member who ceases to be a volunteer nonsalaried firefighter after completing twenty-five years of service credit is eligible to receive upon attaining the age of fifty-five years a retirement annuity of two hundred dollars (\$200), payable monthly from the fund during the remainder of the member's life.

E. Any member who qualifies for and receives a retirement annuity pursuant to this section may continue as an active member on the rolls of a fire department. However, such member shall not accrue additional service credit for the purpose of increasing the amount of the member's retirement annuity."

Section 4. Section 10-11A-6 NMSA 1978 (being Laws 1983, Chapter 263, Section 6, as amended) is amended to read:

"10-11A-6. DETERMINATION OF SERVICE CREDIT.--

A. A member may claim one year of service credit for each year in which a fire department certifies that the member:

(1) attended fifty percent of all scheduled fire drills for which the fire department held the member responsible to attend;

(2) attended fifty percent of all scheduled business meetings for which the fire department held the member responsible to attend; and

(3) participated in at least fifty percent of all emergency response calls for which the fire department held the member responsible to attend.

B. The chief of each fire department shall submit to the association by March 31 of each year documentation of the qualifications of each member for the preceding calendar year; provided that the chief shall:

(1) submit the documentation on forms provided by the association;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

C. For service credit that has been earned, but not credited pursuant to Subsection B of this section, a member may post or adjust service credit earned for one or more calendar years beginning on or after January 1, 1979; provided that the member shall:

(1) file with the association a completed "Corrected Qualification Record" or "Adjusted Qualification Record" as prescribed by the board;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

D. The association may request the fire marshal division of the public regulation commission to verify member qualifications submitted to the association."

Section 5. Section 10-11A-7 NMSA 1978 (being Laws 1983, Chapter 263, Section 7) is amended to read:

"10-11A-7. RETIREMENT ANNUITY--SURVIVING BENEFICIARY.--A member may designate a spouse or dependent child as a beneficiary. In the event a retirement annuitant dies, the surviving beneficiary shall receive an annuity equal to two-thirds of the retirement annuity being paid to the retirement annuitant at the time of death; provided that the annuity paid to a beneficiary spouse shall cease upon the surviving spouse's marriage or death and the annuity paid to a beneficiary dependent child shall cease upon the child reaching eighteen years of age or upon the child's death, whichever comes first."

Section 6. A new section of the Volunteer Firefighters

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Retirement Act is enacted to read:

"RETROACTIVITY--APPLICATION OF 2003 LAW.--

A. The change in law made by Laws 2003, Chapter 370, Section 2 eliminating a maximum age for a volunteer nonsalaried firefighter to establish a first year of service credit under the Volunteer Firefighters Retirement Act shall apply to a volunteer nonsalaried firefighter who was listed as an active member on the rolls of a fire department before the effective date of Laws 2003, Chapter 370, Section 2.

B. A volunteer nonsalaried firefighter who retired before the effective date of Laws 2003, Chapter 370, Section 2 shall be entitled to receive retirement benefits under the Volunteer Firefighters Retirement Act if otherwise qualified under that act."
