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SENATE BILL 52

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

George K. Munoz and Luciano "Lucky" Varela

AN ACT

RELATING TO PRECINCT BOARD MEMBERS; ALLOWING SEASONAL EMPLOYEES  
TO WORK TEMPORARILY AS PRECINCT BOARD MEMBERS WITHOUT  
SUSPENDING THEIR PENSION BENEFITS; DECLARING AN EMERGENCY.

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

**SECTION 1.** Section 1-2-16 NMSA 1978 (being Laws 1969,  
Chapter 240, Section 36, as amended) is amended to read:

"1-2-16. PRECINCT BOARD--COMPENSATION.--

A. Members of a precinct board shall be compensated  
for their services at the rate of not less than the federal  
minimum hourly wage rate nor more than two hundred dollars  
(\$200) for an election day.

B. Members of a precinct board assigned to  
alternate voting locations or absent voter precincts may be  
compensated at an hourly rate set by the county clerk.

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1 C. Compensation shall be paid within thirty days  
2 following the date of election.

3 D. For purposes of determining eligibility for  
4 membership in the public employees retirement association and  
5 pursuant to the provisions of Subsection B of Section 10-11-3  
6 NMSA 1978, precinct board members are designated as seasonal  
7 employees."

8 SECTION 2. Section 10-11-8 NMSA 1978 (being Laws 1987,  
9 Chapter 253, Section 8, as amended) is amended to read:

10 "10-11-8. NORMAL RETIREMENT--RETURN TO EMPLOYMENT--  
11 BENEFITS CONTINUED--EMPLOYER CONTRIBUTIONS.--

12 A. A member may retire upon fulfilling the  
13 following requirements prior to the selected date of  
14 retirement:

15 (1) a written application for normal  
16 retirement, in the form prescribed by the association, is filed  
17 with the association;

18 (2) employment is terminated with all  
19 employers covered by any state system or the educational  
20 retirement system;

21 (3) the member selects an effective date of  
22 retirement that is the first day of a calendar month; and

23 (4) the member meets the age and service  
24 credit requirement for normal retirement specified in the  
25 coverage plan applicable to the member.

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1           B. The amount of normal retirement pension is  
2 determined in accordance with the coverage plan applicable to  
3 the member.

4           C. Except as provided in Subsection D of this  
5 section, on or after July 1, 2010, a retired member may be  
6 subsequently employed by an affiliated public employer only  
7 pursuant to the following provisions:

8                   (1) the retired member has not been employed  
9 as an employee of an affiliated public employer or retained as  
10 an independent contractor by the affiliated public employer  
11 from which the retired member retired for at least twelve  
12 consecutive months from the date of retirement to the  
13 commencement of employment or reemployment with an affiliated  
14 public employer;

15                   (2) the retired member's pension shall be  
16 suspended upon commencement of the employment;

17                   (3) except as provided in Subsection F of this  
18 section, the previously retired member shall not become a  
19 member and thus the previously retired member shall accrue no  
20 service credit and the previously retired member and that  
21 person's affiliated public employer shall make no contributions  
22 under any coverage plan pursuant to the Public Employees  
23 Retirement Act; and

24                   (4) upon termination of the subsequent  
25 employment, the previously retired member's pension shall

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1 resume in accordance with the provisions of Subsection A of  
2 this section.

3 D. The provisions of Subsection C of this section  
4 do not apply to:

5 (1) a retired member employed by the  
6 legislature for legislative session work; [~~or~~]

7 (2) a retired member employed temporarily as a  
8 precinct board member for a municipal election or an election  
9 covered by the Election Code; or

10 [~~(2)~~] (3) a retired member who is elected to  
11 serve a term as an elected official; provided that:

12 (a) the retired member files an  
13 irrevocable exemption from membership with the association  
14 within thirty days of taking office; and

15 (b) the irrevocable exemption shall be  
16 for the elected official's term of office.

17 E. A retired member who returns to employment  
18 during retirement pursuant to Subsection D of this section is  
19 entitled to receive retirement benefits but is not entitled to  
20 accrue service credit or to acquire or purchase service credit  
21 in the future for the period of the previously retired member's  
22 reemployment with an affiliated public employer.

23 F. At any time during a previously retired member's  
24 subsequent employment pursuant to Subsection C of this section,  
25 the previously retired member may elect to become a member and

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1 the following conditions shall apply:

2 (1) the previously retired member and the  
3 subsequent affiliated public employer shall make the required  
4 employee and employer contributions, and the previously retired  
5 member shall accrue service credit for the period of subsequent  
6 employment; and

7 (2) when the previously retired member  
8 terminates the subsequent employment with an affiliated public  
9 employer, the previously retired member shall retire according  
10 to the provisions of the Public Employees Retirement Act,  
11 subject to the following conditions:

12 (a) payment of the pension shall resume  
13 in accordance with the provisions of Subsection A of this  
14 section;

15 (b) unless the previously retired member  
16 accrued at least three years of service credit on account of  
17 the subsequent employment, the recalculation of pension shall:  
18 1) employ the form of payment selected by the previously  
19 retired member at the time of the first retirement; and 2) use  
20 the provisions of the coverage plan applicable to the member on  
21 the date of the first retirement; and

22 (c) the recalculated pension shall not  
23 be less than the amount of the suspended pension.

24 G. A previously retired member who returned to work  
25 with an affiliated public employer prior to July 1, 2010 shall

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1 be subject to the provisions of this section in effect on the  
2 date the previously retired member returned to work; provided  
3 that, on and after July 1, 2010, the previously retired member  
4 shall pay the employee contribution in an amount specified in  
5 the Public Employees Retirement Act for the position in which  
6 the previously retired member is employed.

7 H. The pension of a member who has three or more  
8 years of service credit under each of two or more coverage  
9 plans shall be determined in accordance with the coverage plan  
10 that produces the highest pension. The pension of a member who  
11 has service credit under two or more coverage plans but who has  
12 three or more years of service credit under only one of those  
13 coverage plans shall be determined in accordance with the  
14 coverage plan in which the member has three or more years of  
15 service credit. If the service credit is acquired under two  
16 different coverage plans applied to the same affiliated public  
17 employer as a consequence of an election by the members,  
18 adoption by the affiliated public employer or a change in the  
19 law that results in the application of a coverage plan with a  
20 greater pension, the greater pension shall be paid a member  
21 retiring from the affiliated public employer under which the  
22 change in coverage plan took place regardless of the amount of  
23 service credit under the coverage plan producing the greater  
24 pension; provided the member has three or more years of  
25 continuous employment with that affiliated public employer

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1 immediately preceding or immediately preceding and immediately  
2 following the date the coverage plan changed. The provisions  
3 of each coverage plan for the purpose of this subsection shall  
4 be those in effect at the time the member ceased to be covered  
5 by the coverage plan. "Service credit", for the purposes of  
6 this subsection, shall be only personal service rendered an  
7 affiliated public employer and credited to the member under the  
8 provisions of Subsection A of Section 10-11-4 NMSA 1978.  
9 Service credited under any other provision of the Public  
10 Employees Retirement Act shall not be used to satisfy the  
11 three-year service credit requirement of this subsection."

12 SECTION 3. EMERGENCY.--It is necessary for the public  
13 peace, health and safety that this act take effect immediately.