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SENATE BILL 79

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

INTRODUCED BY

Nancy Rodriguez

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.